

Article __: To see if the Town will amend its Zoning Bylaws to establish Section 5-J: Inclusionary Zoning Requirement, as written herein, or do or act anything in relation thereto (Petition of the Planning Board)

Section 5-J. INCLUSIONARY HOUSING REQUIRMENT

1. Purpose

The purposes of the Inclusionary Housing Requirement Bylaw are to produce high-quality dwelling units affordable to low- or moderate-income households, to encourage the provision of more housing choices in Walpole, to promote geographic distribution of affordable housing units throughout the Town and avoid over-concentration, to prevent the displacement of low- or moderate-income residents of Walpole, to assist the Town in addressing "local housing need" as defined in MGL c. 40B, §§ 20 through 23.

2. Definitions

As used in this bylaw, the following shall have the definitions indicated:

ACCESSIBLE - As applied to the design, construction, or alteration of a dwelling unit, accessible housing is a housing unit that can be approached, entered, and used by individuals with mobility impairments.

AFFORDABLE HOUSING RESTRICTION - A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Walpole, that effectively restricts occupancy of an affordable housing unit to a qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. An affordable housing restriction shall be enforceable under the provisions of MGL c. 184, § 32, and be approved by the Executive Office of Housing and Livable Communities, or their successor, through the Local Initiative Program.

AFFORDABLE HOUSING UNIT - A dwelling unit that is affordable to and occupied by a low- or moderate-income household, meets the definition of low- or moderate-income housing at 760 CMR 56.02, and is eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program.

DWELLING UNIT - A dwelling unit or a unit within an assisted-living facility.

LOCAL INITIATIVE PROGRAM - A program administered by the Massachusetts Executive Office of Housing and Livable Communities (EOHLC), pursuant to 760 CMR 56.00 et seq. and the Local Initiative Program Guidelines to develop and implement local housing initiatives that produce low- and moderate-income housing.

LOW- OR MODERATE-INCOME HOUSEHOLD - A household with income at or below 80% of area median income, adjusted for household size, for the metropolitan or non-metropolitan area that includes the Town of Walpole as determined annually by the U. S. Department of Housing and Urban Development (HUD).

MAXIMUM AFFORDABLE PURCHASE PRICE OR RENT - A selling price or monthly rent, exclusive of utilities, that meets the maximum purchase price or rent guidelines of the Local Initiative Program.

QUALIFIED PURCHASER - A low- or moderate-income household that purchases and occupies an affordable housing unit as its principal residence.

QUALIFIED RENTER - A low- or moderate-income household that rents and occupies an affordable housing unit as a tenant.

SUBSIDIZED HOUSING INVENTORY - The Executive Office of Housing and Livable Communities Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 56.02.

3. Applicability

- a. This bylaw applies to all developments involving the creation of six or more dwelling units or six or more lots for residential use. Developments may not be segmented to avoid compliance with this bylaw.
- b. This bylaw does not apply to any development under Subdivision Control Law, nor will it conflict with the requirements established for Age Qualified Villages already permitted within these Zoning Bylaws.

4. Mandatory provision of affordable housing units

In any development subject to this bylaw, the sixth housing unit and every seventh unit thereafter shall be an affordable housing unit. Nothing in this section shall preclude a developer from providing more affordable housing units than required under the provisions of this bylaw.

5. Methods of providing affordable housing units

The Planning Board, in its discretion, may approve one or more of the following methods, or any combination thereof, for the provision of affordable housing units by a development that is subject to this bylaw:

- a. The affordable housing units may be constructed or rehabilitated on the locus of the development.

- b. The affordable housing units may be constructed or rehabilitated on a locus different than that of the development. The Planning Board, in its discretion, may allow a developer of non-rental dwelling units to develop, construct or otherwise provide affordable units equivalent to those required by this bylaw in an off-site location in the Town of Walpole. All requirements of this bylaw that apply to on-site provision of affordable units shall apply to provision of off-site affordable units. In addition, the location of the off-site units shall be approved by the Planning Board as an integral element of the development's site plan review and approval process.
6. Administration, location of affordable units, selection of purchasers or renters
- a. The Planning Board shall be charged with administering this bylaw and shall be reviewed within the process of Site Plan Review. At the Board's discretion they shall promulgate rules and regulations to implement the provisions of this bylaw, including but not limited to submission requirements and procedures, methods of setting the maximum affordable sale price or rent, minimum requirements for a marketing plan, and documentation required by the Town to qualify the affordable housing units for listing on the Chapter 40B Subsidized Housing Inventory.
 - b. Affordable dwelling units shall be dispersed throughout the building(s) in a development and shall be comparable to market housing units in terms of location, quality and character, room size, bedroom distribution, and external appearance.
 - c. The selection of qualified purchasers or qualified renters shall be carried out under an approved marketing plan. The duration and design of this plan shall reasonably inform all those seeking affordable housing, both within and outside the Town, of the availability of such units. The marketing plan must describe how the applicant will accommodate local preference requirements, in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program. To the maximum extent permitted by law, including the regulations of EOHLC, any development permitted hereunder shall include a condition that a preference for existing Walpole residents, Town of Walpole employees, employees of Walpole businesses, and families of students attending Walpole schools shall be included as part of the lottery and marketing plan for the affordable units.
7. Timing of construction
- a. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule below. Fractions of units shall not be counted.

Percentage of Market-Rate Units	Percentage of Affordable Housing Units
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%

- b. Certificates of occupancy for any market-rate housing units shall be issued at a ratio of certificates of occupancy for required affordable housing units or fees paid in lieu of units in accordance with the schedule above.

8. Preservation of affordability and restrictions on resale

- a. An affordable housing unit created in accordance with this bylaw shall be subject to an affordable housing restriction or regulatory agreement that contains limitations on use, resale and rents. The affordable housing restriction or regulatory agreement shall meet the requirements of the Local Initiative Program, and shall be in force for the maximum period allowed by law.
- b. The affordable housing restriction or regulatory agreement shall be enforceable under the provisions of MGL c. 184, § 32.
- c. The Planning Board shall require that the applicant comply with the mandatory provision of affordable housing units and accompanying restrictions on affordability, including the execution of the affordable housing restriction or regulatory agreement.
- d. All documents necessary to ensure compliance with this bylaw shall be subject to the review and approval of the Planning Board and, as applicable, Town Counsel. Such documents shall be executed prior to and as a condition of the issuance of any certificate of occupancy.

9. Severability

- a. To the extent that a conflict exists between this bylaw and other bylaws of the Town of Walpole, the more restrictive provisions shall apply.
- b. If a court of competent jurisdiction holds any provision of this bylaw invalid, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections, or parts of any section or sections, of this bylaw shall not affect the validity of the remaining sections or parts of sections or the other bylaws of the Town of Walpole.