

**Article 9: Amend Zoning Bylaws: Amend Zoning Bylaws: To adopt the Town of Ashland Zoning Bylaws Chapter 282 Section 7.8 Affordable Housing  
Sponsor: Select Board and Planning Board**

**(A) To see if the Town will adopt Town of Ashland Zoning Bylaw Chapter 282, Section 7.8:**

**7.8 AFFORDABLE HOUSING**

**7.8.1 Purpose.** The purpose of this section is to expand Affordable Housing options in Ashland in furtherance of the Town’s housing goals articulated in the Town’s Housing Production Plan (HPP), including: Provide and preserve housing for all incomes and ages; adopt inclusive zoning that facilitates the development of diverse housing typologies and Affordable Housing; and Affirmatively further fair housing to promote equal housing opportunities for people of color and all classes protected under the federal and state Fair Housing laws. This section implements priority recommendation one of the Town’s HPP: to adopt an inclusionary housing by-law.

At a minimum, Affordable Housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other Affordable Housing programs developed by state and Town. It is intended that the Affordable Housing units that result from this bylaw be considered as Local Action Units, in compliance with the requirements specified by the Massachusetts Department of Housing and Community Development (DHCD) Local Initiative Program.

**7.8.2 Applicability.** This Section 7.8 shall apply to any subdivision or development involving the creation of six (6) or more dwelling units on one or more contiguous parcels, whether by new construction or by the conversion, alteration, redevelopment, change of use, or expansion of an existing structure.

1. This Section applies to all residential dwelling types as defined by the Ashland Zoning Bylaw with the exception of lodging or boarding houses, assisted living facilities, and nursing or convalescent homes.
2. Developments shall not be segmented or phased to avoid compliance with this Section 7.8. “Segmentation” shall mean any development or any division of land that would cumulatively result in an increase of six or more residential lots or dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership up to twenty-four months prior to the application. Where such segmentation occurs, it shall be subject to this Section. A subdivision or division of land shall mean any subdivision as defined in the Subdivision Control Law, G.L. c.41, §81K-81GG, or any division of land under G.L. c.41, §81P, into lots for residential use.

**7.8.3 Administration.**

1. No building permit shall be issued until the Planning Board has reviewed and acted upon a site plan submitted by the applicant in accordance with this section.
2. A development that requires site plan review under Section 9.4 shall be reviewed in accordance with the provisions of said section. The Planning Board may request information in addition to the required materials in Section 9.4.4, including but not limited to a plan showing the proposed location of the affordable housing units, and

impose conditions on its approval of the site plan to assure that the development complies with this Section 7.8.

3. For a development that is not already subject to Section 9.4, the applicant shall submit a site plan that conforms to the application requirements set forth in that section. The Planning Board shall conduct an administrative review of the site plan at a posted open meeting, and may impose conditions on its approval of the site plan to assure that the development complies with this Section 7.8. The Planning Board shall take final action on the site plan according to the procedures set forth in Section 9.4.
4. For any development that requires a special permit under this article, the Planning Board shall be the special permit granting authority. Application, review and decision procedures shall be in accordance with Section 9.3.

#### **7.8.4 General Requirements.**

1. No special permit or site plan review for a development requiring a special permit or site plan review, and no building permit for a use permitted as of right, shall be issued for a development subject to this Section 7.8 unless the applicant provides the percentage of the total dwelling units in the development as Affordable Housing as described herein.
  - a. For all projects 6-19 units in size, excluding any additional units allowed under Section 7.8.5, twelve (12) percent of the dwelling units shall be Affordable Housing. For all projects 20 units or greater in size, excluding any additional units allowed under Section 7.8.5, fifteen (15) percent of the dwelling units shall be Affordable Housing.
  - b. For multifamily projects, half of the required Affordable Housing units shall be affordable to households with incomes at or below 60% of Area Median Income (AMI), and half of the required Affordable Housing units shall be affordable to households with incomes at or below 80% AMI. If the required number of Affordable Housing units is an odd number, the odd Affordable Unit may be affordable to a household earning at or below 80% AMI.
  - c. For single family projects, all of the required Affordable Housing units shall be affordable to households with incomes at or below 80% AMI.
2. When the requirement for Affordable Housing units results in a fraction of a unit equal to one-half or above, the requirement shall be rounded up to the next highest whole number.
3. Affordable Housing units shall be made available to eligible low-income households at the income limits determined by the U.S. Department of Housing and Urban Development (HUD) applicable to the Town of Ashland, at purchase prices or rents that comply with the Massachusetts Department of Housing and Community Development (DHCD) Local Initiative Program regulations.
4. Nothing in this Section shall preclude the applicant from providing additional Affordable Housing units, or greater affordability, or both, than the minimum requirements.

**7.8.5 Density and parking regulations for on-site units.** To facilitate the objectives of this Section 7.8, the following density and parking regulations shall apply to any development that provides the required Affordable Housing units.

- 1. Additional units.** For developments that provide the required Affordable units on-site per Section 7.8.6.1 below, the total allowed number of dwelling units shall be increased by a number equal to the number of affordable unit(s) provided on-site. The allowable density normally required in the applicable zoning district shall be increased, or the minimum lot size or lot area per unit normally required shall be decreased, by that amount necessary to permit the additional bonus units. For example, in a development that would otherwise be allowed 18 units, if the two required Affordable units are provided on-site, then the total number of units would equal 20 units, including two Affordable units.
  - a.** The additional units shall be permitted by right for developments in compliance with the requirements of this Section 7.8. No additional units shall be permitted when the requirements of this Section are met through a payment-in-lieu of units pursuant to 7.8.6.2 below.
  - b.** To accommodate the additional units described in 7.8.5.1, the applicant may apply to the Planning Board for a special permit for relief from one or more of the dimensional requirements specified in Section 4.
- 2. Parking reduction.** The applicant shall be permitted to reduce the total number of required parking spaces by 25%. For developments with more than one use, the parking reduction shall apply only to parking requirements for residential use.

#### **7.8.6 Compliance methods.**

- 1. On-site.** Construction of Affordable Housing units on the locus of the development ("on-site units") shall be permitted as of right in any development and is the preferred method of providing Affordable Housing units under this Section.
- 2. Off-site.**
  - a.** The Planning Board, in consultation with the Ashland Affordable Housing Trust, may grant a special permit to satisfy the requirements of this Section 7.8 through the construction or provision of comparable affordable units on another site in Ashland. All requirements of this Section that apply to on-site provision of affordable units shall apply to provision of off-site affordable units.
  - b.** The applicant shall provide a demonstration of the following: necessary financing to complete the off-site units, control of the site, that the site meets Site Plan Review standards, that the plan includes an architect's conceptual site plan with unit designs and architectural elevations, and agreement that the off-site units will comply with this Section.
  - c.** Preservation of existing dwelling units for affordable housing, rather than construction of off-site units, may be accomplished by purchasing deed restrictions and providing funds for capital improvements to create housing with equal or greater value than new-construction units.
  - d.** The location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the review and approval process.
- 3. Payment in lieu.**

- a.** Projects up to fifteen units in size shall have the option to satisfy the requirements of this Section 7.8 by making a cash payment in lieu of on-site Affordable Housing units to the Ashland Affordable Housing Trust Fund.
- b.** For projects greater than fifteen units in size, in extraordinary circumstances the Planning Board, in consultation with the Ashland Affordable Housing Trust, may grant a special permit to provide a cash payment in lieu of on-site Affordable Housing units. In granting the special permit, the Planning Board must find that the applicant has clearly demonstrated that providing the required unit(s) on-site would create significant hardship and that a cash payment in lieu of on-site affordable unit(s) is in the best interest of the Town. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable dwelling units and/or related requirements, such as height, setbacks, or parking. Hardship shall not be considered due to financial or marketing considerations.
- c.** The payment for each required affordable unit shall be based on the average construction cost per unit, determined by the construction cost reported on the project's building permit application, exclusive of structured parking or nonresidential portions of the project, by the number of residential units.

#### **7.8.7 Requirements for Affordable Housing units.**

- 1.** Location. Affordable Housing units shall be dispersed evenly throughout the development in terms of both location and type of unit.
- 2.** Exterior design. The exterior of Affordable Housing units must be indistinguishable from the market-rate units in terms of design, appearance, materials, and quality of construction. Residents of Affordable Housing units shall have similar access to all building and site common areas and amenities as residents of market-rate units.
- 3.** Interior design. The size and interior finishes of the Affordable Housing units may differ from the market-rate units within the parameters described herein.
  - a.** Affordable Housing units shall have the same floor area as the median market-rate units of the same number of bedrooms within a margin of 20%, provided that units are not smaller than the minimum size set forth by DHCD in the most recent Local Initiative Program design and construction standards.
  - b.** The bedroom mix in the Affordable Housing units shall be proportionate to the bedroom mix of the market-rate units.
  - c.** Affordable Housing units must be supplied with the same mechanical systems and energy efficiency features as market-rate units, including windows, insulation, plumbing, and heating and cooling systems, as determined by the Building Inspector.
  - d.** Interior features of Affordable Housing units shall be comparable to the standard package for market-rate units, though designer and high-end finishes, fixtures, and appliances are not required. Units shall comply with the Local Initiative Program's (LIP) minimum design, size and construction standards.

4. Timing for phased construction. Affordable Housing units shall be constructed, or otherwise provided through payment in-lieu fee or provision of off-site units, in proportion to market-rate units. Proportionality shall be determined by the number of building or occupancy permits issued for affordable and market-rate units, or lot releases, as applicable. Affordable Housing units shall not be the last units to be built in any development covered by this article.
5. Resident Selection and Marketing. Applicants creating new Affordable Housing units under this Section 7.8 are required to select qualified homebuyers or renters via lottery under an Affirmative Fair Housing Marketing Plan (AFHMP) that complies with federal and state fair housing laws and any applicable local fair housing guidelines. The AFHMP shall be prepared and submitted by the applicant and approved by the Ashland Planning Department and DHCD as part of the Local Initiative Program. The marketing plan shall comply with federal and state fair housing laws and guidelines in effect on the date of filing of the special permit or other permit application with the Town. No Certificate of Occupancy for a development subject to this Section 7.8 shall be issued unless the Ashland Planning Department has determined that the applicant's AFHMP complies with this requirement. The affirmative marketing costs for the Affordable Housing units shall be the responsibility of the applicant.
6. Preservation. Affordable Housing units created in accordance with this Section 7.8 shall be subject to an Affordable Housing Restriction that contains limitations on use, occupancy, resale and rents, and provides for periodic monitoring to verify compliance with and enforce said restriction. The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability and affordability for the designated income group(s).
  - a. Affordability restrictions shall be contained in applicable Affordable Housing restrictions, regulatory agreements, deed restrictions, contractual agreements, land trust arrangements and/or other mechanisms to ensure compliance with the affordability requirements of this Section 7.8 (collectively, "Affordable Housing Restriction").
  - b. The Affordable Housing restriction shall comply with Local Initiative Program requirements or any other applicable guidelines issued by DHCD, acceptable to the Planning Board, that ensures Affordable Housing units can be counted toward Ashland's Subsidized Housing Inventory.
  - c. The Affordable Housing restriction shall run with the land and be in force in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of MGL c. 184, § 26 or §§ 31 and 32.
  - d. The Affordable Housing restriction shall provide that initial sales and rentals of Affordable Housing units and subsequent re-sales and rentals shall comply with federal, state and local fair housing laws, regulations and policies, and DHCD Local Initiative Program guidelines. For Affordable homeownership units, the procedure for resale and the responsibilities of the homeowner, the Town and/or its monitoring agent, and DHCD are described in detail in DHCD's Local Initiative Program regulations.

- e. The restriction shall provide for monitoring intended to verify that Affordable homeownership units remain owner-occupied and are resold at a price affordable to low- or moderate-income homebuyers, and that Affordable rental units are occupied by low- or moderate-income tenants at rents they can afford. The applicant is responsible for providing ongoing monitoring through an organization qualified to serve as a monitoring agent on behalf of the Town.
- f. For Affordable ownership units, the restriction shall grant the Town of Ashland or its designee the right of first refusal to purchase the property.
- g. The Affordable Housing restriction shall provide that, in the event that any Affordable rental unit is converted to a condominium unit, the condominium unit shall be restricted in perpetuity as Affordable to the income level required for Affordable ownership units in Section 7.8.4. The Affordable Housing Restriction for the rental project shall include a provision which reflects this section.
- h. When Affordable Housing units are provided on-site, no Certificate of Occupancy, or lot releases in the case of a subdivision, shall be issued until the applicant executes an enforceable affordable housing restriction with the Town and provides evidence acceptable to the Ashland Planning Development that the affordable housing deed rider has been recorded at the Middlesex County Registry of Deeds and, in the case of affordable ownership units, signed by the homebuyer. It is the applicant's responsibility to prepare a complete regulatory agreement and supporting documentation, for review and approval by the Town, to obtain the necessary signatures and to record a fully executed agreement at the Registry of Deeds.
- i. When affordable requirements are met through an in-lieu payment, no Certificate of Occupancy, or lot releases in the case of a subdivision, shall be issued until the applicant pays 100% of the required in-lieu payment. The Applicant shall be required to record an Affordable Housing Payment In Lieu Covenant prior to the issuance of any building permit for a project. Said Covenant shall be released by the Town upon receipt of payment in accordance herewith.

**7.8.8 Conflict with other sections.** Where the requirements of this Section 7.8 differ from or conflict with the requirements of other Sections in the Bylaw, the requirements of this Section 7.8 shall apply.

**7.8.9 Severability.** If any portion of this Section 7.8 is declared to be invalid, the remainder shall continue to be in full force and effect.

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**(B) To see if the Town will adopt the following additions to Town of Ashland Zoning Bylaw Chapter 282, Section 10 (Definitions):**

**Affordable Housing Restriction:** A contract, mortgage agreement, deed restriction or other legal instrument, acceptable in form and substance to the Town, that effectively restricts occupancy of an

Affordable Housing Unit to a qualified purchaser or 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 allowed by law, and be entered into and enforceable under the provisions of G.L. c. 184, §§ 31-33.

**Affordable Housing Unit:** A dwelling unit that is affordable to and occupied by a low- or moderate-income household and meets the requirements of the Massachusetts Department of Housing and Community Development Local Initiative Program, for inclusion on the Chapter 40B Subsidized Housing Inventory.

**Area Median Income (AMI):** The median income for households within the metropolitan area that includes the Town of Ashland, as defined in the annual schedule of low- and moderate-income limits published by the U.S. Department of Housing and Urban Development, adjusted for household size.

**Ashland Affordable Housing Trust:** An organization established by the Town pursuant to M.G.L. Chapter 44, Section 55C, to support the creation and preservation of affordable housing for low- and moderate-income households.

**Ashland Affordable Housing Trust Fund:** A fund account established and operated by the Town pursuant to M.G.L. Chapter 44, Section 55C, for the purpose of creating or preserving affordable housing opportunities for low- and moderate-income households.

**Local Initiative Program:** A program administered by the Massachusetts Department of Housing and Community Development (DHCD) pursuant to 760 CMR 56.00 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 area that includes the Town of Ashland, as determined annually by the United States 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.

**Subsidized Housing Inventory:** The Department of Housing and Community Development Chapter 40B Subsidized Housing Inventory as provided in 760 CMR 56.02.

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**(C.) To see if the Town will vote to remove the entirety of the Town of Ashland Zoning Bylaw Chapter 282, Section 7.3 Cluster Development, subsection 7.3.7 Development Incentives for Affordable Housing:**

~~7.3.7—Development Incentive for Affordable Housing.~~

~~1. — An applicant may apply to increase the number of dwelling units up to a maximum of twenty five percent (25%) of the units otherwise permitted on the tract under this section, provided that a minimum of ten percent (10%) of all units in the tract are affordable. In all cases affordable units shall be mingled with market rate housing units.~~

~~2. — The applicant for the development incentive shall document the affordable units' sales prices and how that affordability will be guaranteed over time. For the purposes of this section, the affordability criteria and standards for affordability guarantees of the Ashland Affordable Housing Committee shall be~~

used. In the absence of such criteria, the criteria and standards of the Massachusetts Home Ownership Program shall be used. In cases involving the sale of units to the Ashland Housing Authority, the Commonwealth of Massachusetts Executive Office of Communities and Development's standards and regulations governing such sales shall apply.

3. ~~The Planning Board shall have the discretion to allow the use of attached dwelling units in a project developed under this section. No more than two (2) dwelling units per structure shall be allowed. Attached dwelling units shall be allowed upon meeting the following conditions:~~

a. ~~Attached units shall not visually detract from the surrounding neighborhood.~~

b. ~~Attached units will not result in an inappropriate density for the site.~~

c. ~~Attached units will result in a greater amount and more beneficial use of open space.~~

4. ~~The Planning Board may require as a condition of this section that, in lieu of all or some of the affordable units being provided within the development, the developer shall:~~

a. ~~Provide all or some of the required affordable units on a site different from the development, and provided that in all cases it is reasonably mixed with market rate housing; or~~

b. ~~Provide all or some of the required affordable housing through an alternative means other than those already listed in this subsection.~~

5. ~~In the case of a development of five (5) or fewer dwelling units or a development sponsored and operated by a nonprofit or charitable organization, the Planning Board may, at its discretion, modify the requirements of this section to avoid economic hardships.~~

**(D) To see if the Town will vote to remove in its entirety the Town of Ashland Zoning Bylaw Chapter 282, Section 8.6 Wildwood Mixed Used District, subsection 8.6.6.3:**

3. ~~At least 10% of all housing units in "Area A" shall be affordable as defined by the Commonwealth.~~

~~No single building shall contain more than 25% affordable housing.~~

**(E) To see if the Town will vote to remove the following stricken language in Town of Ashland Zoning Bylaw Chapter 282, Section 8.6 Wildwood Mixed Used District, subsection 8.6.6.10.a:**

Provisions for multifamily dwellings units— A multifamily project is limited to 115 units, except as noted hereinafter, ~~and must have 15% of the units as affordable units.~~ A multifamily project must set aside a minimum sized area of 80,000 square feet for commercial development (the "Commercial Development Area" or "CDA"). This CDA will have frontage along Waverly Street, can be a separate lot from the multifamily project or can be incorporated into the multifamily project. The CDA can be used for a mixed-use building (where the first floor is a commercial use and floors above include residential units). As part of the CDA an additional 25 multifamily units are permitted to be constructed. These units can be within the CDA in a mixed use building or outside of the CDA as part of the multifamily project that triggered the CDA. Waivers of dimensional requirements may be granted by the permit granting authority for the multifamily project and the CDA. Unit affordability will be determined by the standards of the Commonwealth of Massachusetts. Affordable units constructed will be spread among the market rate units in a project.

**(F) To see if the Town will remove the following stricken language in Town of Ashland Zoning Bylaw Chapter 282, Section 8.6 Wildwood Mixed Used District, subsection 8.6.6.11.a**

Provisions for multifamily dwellings units - A multifamily project is limited to a maximum of eight (8) units .9 acres of land, ~~and must have 15% of the units as affordable units.~~ Waivers of dimensional requirements may be granted by the permit granting authority for the multifamily project. Unit affordability will be determined by the standards of the Commonwealth of

Massachusetts. Affordable units constructed will be spread among the market rate units in a project.

**(G) To see if the Town will vote to remove the entirety of the Town of Ashland Zoning Bylaw Chapter 282, Section 8.8 Pond Street Mixed Use Overlay District, subsection 8.8.7 Affordable Housing:**

~~Affordable Housing-~~

~~1.—As a condition of the grant of any special permit in the PSMUOD creating more than ten (10) residential units, a minimum of the following total number of dwelling units shall be restricted as affordable for a period of not less than ninety nine (99) years. Fractions of .49 or less shall be rounded down and .50 or more rounded up. The form of the ninety nine year restriction shall be approved by legal counsel to the SPGA, and a right of first refusal upon the transfer of such restricted units shall be granted to the Town of Ashland for a period of not less than 90 days after notice thereof.~~

~~a.—10% of the units shall be affordable to persons or families qualifying as low to moderate income. Low to moderate income shall mean affordable to persons whose annual income does not exceed eighty percent (80%) of the Area Median Income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.~~

~~b.—The SPGA may grant a density bonus in the event the developer proposes more affordable units than required. Said bonus shall be negotiated between the SPGA and developer.~~

~~2.—The affordable units shall be developed under the Local Initiative Program of the Massachusetts Department of Housing and Community Development or another subsidy program that allows housing to count towards the statutory affordable housing requirement of Chapter 40B of Massachusetts General Laws.~~

~~3.—The affordable units must be subject to use restrictions, deed restrictions, or other legally binding instruments to ensure that the units remain affordable and available for the term, exclusively to people with qualifying incomes. The units must be sold or rented on a fair and open basis, and the owners of the units must adopt an affirmative fair marketing plan.~~

~~4.—Affordable residential units shall be subject to a deed rider to ensure continued compliance with these provisions. The Town may require, for itself or its designee, an option to purchase or lease affordable units for rents, sale prices, or resale prices that are affordable to eligible households. The option shall apply to the initial and any subsequent sale or lease of affordable units.~~

or take any action relative thereto