

# RULES AND REGULATIONS

relative to the administration of Section XVIB

## INCLUSIONARY ZONING

of the

### Wellesley Zoning Bylaw



adopted by vote of the Planning Board on September 20, 2005

## A. AUTHORITY.

The Planning Board has adopted these Rules and Regulations pursuant to the Wellesley Zoning Bylaw SECTION XVIB. INCLUSIONARY ZONING. If any requirement of these Rules and Regulations conflicts with a provision of the Wellesley Zoning Bylaw the latter shall govern.

## B. DEFINITIONS.

These Rules and Regulations may contain terms not defined below. Where those terms are defined in the Zoning Bylaw those definitions are hereby incorporated herein by reference.

“affordable housing trust fund”-	a fund, established pursuant to Chapter 311 of the Acts of 1998, the purpose of which is to provide for the creation of affordable housing in Wellesley through the purchase of land or units, the development of new units or the rehabilitation of existing dwelling units.
“application” -	application for a special permit under these Rules and Regulations.
“applicant” -	a person submitting an application with the approval and endorsement of the land owner.
“assisted unit ratio”-	the formula for determining the number of assisted units required to be provided pursuant to the Zoning Bylaw.
“Board” -	the Wellesley Planning Board unless otherwise indicated.
“cash contribution”-	a payment-in-lieu of providing required assisted units as provided in the Zoning Bylaw.
“development area” –	a parcel or contiguous parcels which are under one ownership.
“market rate units” -	dwelling units available to the general public on the open market without price restrictions or consumer income limitations.
“current median sale price” –	the current median sale price for an equivalent market rate unit determined, with consideration given to the changing nature of the housing market, on a project by project basis by the Planning Board in consultation with the office of the Wellesley Board of Assessors.
“fractional assisted unit”-	that fractional portion of an assisted unit based on the numeric calculation of required assisted units pursuant to the Zoning Bylaw.
“Housing Development Corporation” –	the Wellesley Housing Development Corporation established pursuant to Chapter 311 of the Acts of 1998.

“mixed use project”- a project consisting of some combination of commercial floor area and residential dwelling units.

“Planning Department” the Wellesley Planning Department.

“project” - a project subject to SECTION XVIB. INCLUSIONARY ZONING. of the Wellesley Zoning Bylaw.

“on-site”- located within the development area

“Rules and Regulations”- Rules and Regulations Relative to the Administration of SECTION XVIB. INCLUSIONARY ZONING of the Wellesley Zoning Bylaw.

“Special Permit Granting Authority” - for the purposes of SECTION XVIB. INCLUSIONARY ZONING of the Wellesley Zoning Bylaw and these Rules and Regulations, the Special Permit Granting Authority shall be the Wellesley Planning Board.

“Town Counsel” - Wellesley Town Counsel

“Zoning Bylaw” - the Zoning Bylaw of the Town of Wellesley, Massachusetts.

## C. APPLICABILITY

These Rules and Regulations shall apply wherever Inclusionary Zoning provisions of the Zoning Bylaw shall apply.

## D. ASSISTED UNITS

Due to the limited availability of land and sites in Wellesley applicants are strongly encouraged to incorporate the required assisted units into the project within the development area. Where inclusion of assisted units within the development area is demonstrated to the satisfaction of the Planning Board not to be practicable, consideration will be given to either provision of the required assisted units on an alternate site or sites and/or to payment-in-lieu as provided under paragraph F. 2. hereof.

### 1. Determination of Number Required

The number of assisted units required in conjunction with a project shall be determined by the Planning Board. The applicant shall request such a determination of the Board in writing. In such request the applicant shall specify the proposed square footage of non-residential floor area and the proposed number of dwelling units in the project. Within 21 days the Planning Board, at a regular meeting, shall determine the number of assisted units required in conjunction with a project and shall so notify the applicant in writing.

### 2. Project Change

If there is subsequently a change in the proposed non-residential square footage or a change in the number of dwelling units in a project, the applicant shall so notify the Planning Board in writing. In such circumstances the Planning Board shall recalculate the number of assisted units required and shall so notify the applicant in writing.

### 3. Fractional Units

The applicant is encouraged to “round up” to the nearest whole number in the provision of assisted units in a project on-site but may request to make a payment-in-lieu for the fractional units.

### 4. Selection of Tenants/Buyers

The Housing Development Corporation shall conduct the tenant/buyer selection process according to its own regulations. It may seek the assistance of others in this effort including the Director of the Wellesley Housing Authority in carrying out this function.

### 5. Re-tenanting and Resale of Units

Upon the vacancy of any assisted unit the same process shall be used for filling the vacant unit as used for the selection of the qualified first tenant/buyer.

### 6. Compliance with State and Federal Law

The selection of tenants/buyers shall comply with all applicable state and federal laws and the local fair housing guidelines. The selection of qualified tenants/buyers shall be consistent with the guidelines and standards of MGL Chapter 40B, Sections 20-24 and 760 CMR 45.

### 7. Deed Restrictions

Deed restrictions necessary to insure compliance with these Rules and Regulation shall be submitted to Town Counsel and to the Planning Board for review and approval. The restrictions shall run with the land in perpetuity. The applicant shall furnish proof that the restrictions have been recorded at the Registry of Deeds prior to the issuance of a building permit for the project.

Restrictions shall be recorded in the first position, superior to mortgages, loans, other liens and encumbrances except for liens to secure payment of real estate taxes and assessments and non-monetary matters which do not, in the opinion of Town Counsel, unreasonably impede the implementation of purposes of the Zoning Bylaw and these Rules and Regulations.

### 8. Home Owners Association

Condominium projects shall have a home owners association as required by State Law. The provisions for home owners associations for projects subject to Section XVIB of the Zoning Bylaw and these Rules and Regulations are subject to review and approval by Town Counsel and the Planning Board.

## E. PRELIMINARY REVIEW

Prior to submission of an application the applicant shall meet with the Planning and Building

Department staffs and shall provide to the staff the following information:

1. the proposed floor area of the project in square feet according to the definition of floor area contained in the Zoning Bylaw.
2. the number of dwelling units proposed to be contained in the project (if any), the size of each dwelling unit and the approximate location of each dwelling unit
3. separately, the floor area in the project dedicated to commercial use and the floor area dedicated to residential use
4. a written statement indicating whether the required assisted units are to be provided within the development area in accordance with Part C of Section XVIB.
5. a plan showing the location of the assisted units in the project.
6. a site plan showing any required assisted units proposed to be located on a site other than the development area..

## F. SPECIAL PERMITS

Application for a special permit may be made at any time after completion of the Preliminary Staff Review detailed under paragraph E. above or fourteen days after submission of materials for preliminary review whichever occurs sooner.

### 1. Alternate Sites

The Planning Board shall seek the recommendation of the Housing Development Corporation relative to any alternate site proposed. The Planning Board shall consider whether the alternate site or sites is accessible on foot to: public transportation, community services, grocery shopping, pharmacy, public or branch library, parks, playgrounds, walking/hiking trails.

Deed restrictions consistent with the requirements of D. 7. hereof shall be required in conjunction with any alternate site.

### 2. Sequencing of Construction of Assisted Units

A building permit for a project shall not be issued prior to the expiration of any appeal period following the issuance of a building permit for the construction of required assisted units. Construction of the assisted units shall proceed to completion without undue interruption. The Certificate of Occupancy for a project shall not be issued prior to the Certificate of Occupancy for assisted units.

### 3. Payments-in Lieu

Approval of a payment-in-lieu of providing assisted units shall require a special permit from the Planning Board. The amount of the cash contribution shall be determined by the Planning Board in accordance with the provisions of paragraph E. of Section XVIB. INCLUSIONARY ZONING. of the Zoning Bylaw. The Planning Board shall seek the recommendation of the Housing

Development Corporation relative to any proposal for payment in lieu.

Checks shall be made payable to "WHDC" and mailed to Treasurer/Collector, Town Hall, 525 Washington Street, Wellesley, MA 02482. Checks shall be accompanied by a letter to the Town Treasurer noting name and address of the project and that the payment is made to the "Trust Account." A copy of this letter shall be sent to the Inspector of Buildings and the Planning Director.

Upon receipt of the payment the Housing Development Corporation shall notify the Planning Board Office and the Inspector of Buildings.

One-half of the cash contribution shall be made prior to the issuance of a building permit for a project. The remainder of the cash contribution shall be made prior to the issuance of a Certificate of Occupancy for the project. If a temporary Certificate of Occupancy is sought by the applicant 5% of the balance of the remaining cash contribution shall be paid prior to the issuance of such temporary Certificate of Occupancy with the remaining balance being paid prior to the issuance of the final Certificate of Occupancy.

#### 4. Contribution of Land

The Planning Board acting as Special Permit Granting Authority may, in consultation with the Housing Development Corporation, accept a contribution of land to satisfy the payment-in-lieu requirement. This land contribution shall have been approved by the Housing Development Corporation. The land shall equal or exceed the value of the payment-in-lieu otherwise required and/or the gifted land can reasonably be used to accommodate the number of assisted units required for the project. The title to the land is to be held by the Housing Development Corporation. Future disposition of the land with improvements thereon shall be governed by the provisions of Chapter 311 of the Acts of 1998.

#### 5. Submission

Submission for a special permit shall be made at the Planning Board Office during regular business hours.

#### 6. Application Filing Fee

The Special Permit application filing fee shall be \$500 (in the form of a check made payable to the "Town of Wellesley")

#### 7. Application Form

Application shall be made on the form provided attached hereto.

### G. RELATIONSHIP TO PROJECT OF SIGNIFICANT IMPACT

Application for approval of a Project of Significant Impact shall not be made prior to the issuance of a special permit under these Rules and Regulations.