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*Board of Appeals*  
*Planning Board*

**Legal Notice – Maynard Planning Board**

Pursuant to Massachusetts General Laws, Chapter 40A s.5, the Maynard Planning Board will hold a public hearing on Tuesday, January 23, 2018 at 7:00 p.m. at the Maynard Town Building, 195 Main Street, Maynard, Room 201 to discuss proposed changes to Section 7.9 of the Maynard Protective Zoning By-laws. The Planning Board will also consider whether or not to recommend approval of the proposed Zoning By-law changes to the Town Meeting (date TBD). Town Meeting approval is required in order for a proposed Zoning By-Law to become effective. The following changes are proposed, and will be discussed at the Planning Board public hearing on January 23, 2018:

**SECTION 7.9 INCLUSIONARY HOUSING**

**7.9.1 PURPOSE AND INTENT**

The purpose of this Inclusionary Housing bylaw is to expand and diversify the Town of Maynard’s housing stock; to encourage development of new housing that is affordable to low- and moderate-income households in Maynard; and to produce affordable housing units that are adaptable and accessible to seniors and those with physical disabilities.

At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24, except as provided herein, and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw be considered as Local Initiative Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD). Definitions pertaining to this section can be found in the Definitions portion of this Bylaw (Section 7.9.11).

**7.9.2 APPLICABILITY**

1. §7.9 applies to any subdivision or development, whether new construction, conversion, adaptive reuse or expansion of an existing structure, involving the creation of at least six (6) dwelling units. It applies to all residential dwelling types as defined by the Maynard Zoning Bylaw with the

exception of assisted living residences/facilities, independent living residences, and continuing care retirement communities as defined in Section 7.9.11 of the Zoning By-laws.

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.

Developments may not be segmented or phased to avoid compliance with this Section. Any segmentation on a single parcel shall be subject to this Section as a covered development and completed within a five-year period. An extension shall require Planning Board approval.

2. §7.9 does not apply to the rehabilitation of any building or structure, all of or substantially all of which is destroyed or damaged by fire or other casualty or a natural disaster; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof except in conformance with this Section.
3. No special permit for a development requiring a special permit and no building permit for a use permitted as of right shall be issued for a development subject to §7.9 unless the applicant provides the percentage of the total dwelling units in the development as affordable housing as described herein.

### 7.9.3 SPECIAL PERMIT

Development pursuant to this Section shall be allowed as of right if the required affordable housing is provided on-site. Alternatively, if the applicant provides the affordable housing off-site or makes a payment-in-lieu of developing units, the project will require a special permit to be issued by the Planning Board. A special permit will also be required for development under §7.9.4.3 Density Bonus.

### 7.9.4 MANDATORY PROVISION OF AFFORDABLE UNITS

1. Affordable housing requirement. As a condition of development, the applicant shall contribute to the local stock of affordable housing in accordance with the following requirements:
  - a. In any development subject to this Section, at least ten (10) percent of the dwelling units shall be affordable to households with incomes at 80% of Area Median Income (AMI) or below. The percentage of affordable housing units required will increase with the total size of a given residential project, inclusive of bonus units, as described in the following table, “Affordable Units Required by Project Size”:

Affordable Units Required by Project Size		
Project Size (Units)	Percent Affordable Units (Ownership Project)	Percent Affordable Units (Rental Project)
6-12*	10%	10%

Affordable Units Required by Project Size		
Project Size (Units)	Percent Affordable Units (Ownership Project)	Percent Affordable Units (Rental Project)
13-17	12%	12%
18-20	15%	25%
21 and over	20%	25%

\*Residential and mixed use projects of 6 or more dwelling units require an affordable set-aside. Projects consisting solely of fewer than 10 detached single-family houses do not require an affordable set-aside.

- b. In the event that the applicant provides units for households earning between 30% and 60% of AMI, the Planning Board may count them as 1.2 affordable units each and reduce by special permit the total number of affordable units required by this Section. However, the total number required shall not be reduced to fewer than 10% of the project size.
  - c. Nothing in this Section shall preclude the applicant from providing additional affordable units, or greater affordability, or both, than the minimum requirements. In no instance shall any permit or special permit approval create less than one affordable housing unit.
2. Fractions. For projects providing on- or off-site units, a fractional affordable housing unit of 0.5 or higher shall be rounded up to the next whole number. For fractional housing units of less than 0.5 the applicant shall have the choice to round up to the next whole number or convert to a cash payment equal to the product of the fraction multiplied by the cash contribution for a whole affordable housing unit as specified in 7.9.5.2.b below.
3. Density Bonus.
- a. The Planning Board may allow an increase in the total number of market-rate units by a number equal to the required affordable unit(s), not to exceed 10 bonus units. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by that amount necessary to permit the additional market rate and bonus units. For example, in a development that must provide two (2) affordable units, an additional one (1) market-rate unit may be allowed through the reduction in minimum lot area per dwelling unit. All other Standard Dimensional Requirements in §4.1.1.1 shall be met. The density bonus may only be granted for developments that provide affordable units on-site pursuant to Subsection 7.9.5, below.
  - b. New residential development allowed by right that is not subject to this bylaw can provide affordable units should the applicant volunteer, and therefore be eligible for the same benefits specified above.
  - c. Projects where the applicant chooses to convert a fractional unit(s) to a cash payment per Subsection 7.9.4.2 are eligible for density bonus.
  - d. No density bonus shall be granted when the requirements of this Section are met with a payment-in-lieu-of units pursuant to Subsection 7.9.5.2.b, below.

- e. The development must be of a use allowed in the district. For example, multifamily housing shall not be constructed under this provision on lots zoned for single family housing.
- 4. Affordable Units shall be provided as occupiable in accordance with the timing of compliance schedule set forth in Section 7.9.6.4.

#### **7.9.5 METHODS OF PROVIDING AFFORDABLE HOUSING UNITS**

- 1. On-site units. If the affordable housing requirements of this section are met exclusively through on-site construction or provision, development shall be permitted as of right.
- 2. The Planning Board may grant a special permit for one or more of the following methods.
  - a. Off-site units. Construction or provision of comparable affordable units on another site in Maynard. All requirements of this Section that apply to on-site provision of affordable units shall apply to provision of off-site affordable units.
    - i. 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.
    - ii. 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.
    - iii. 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.
  - b. Payment in lieu of units. As an alternative to construction of affordable units within the locus of the proposed development or at another locus, an equivalent payment in lieu of units (PILU) may be made to the Maynard Affordable Housing Trust Fund.
    - i. The payment shall be an amount equal to the required number of affordable housing units multiplied by the median price of a Maynard market-rate home comparable in type, size, and number of bedrooms reported for a minimum of three (3) home sales over a period of twelve (12) months prior to the date of application submission, if available. Median home cost utilized in the formula must be approved by the Maynard Affordable Housing Trust, or designee. The applicant shall calculate the proposed sum based on an appraisal of the comparable home sales and submit documentation of the relevant data source(s) as part of the application.
    - ii. If there is not a comparable housing unit, the payment shall be equal to the most current Total Development Cost as articulated in DHCD's Qualified Allocation Plan for Low Income Housing Tax Credit, for the areas described as Within Metro Boston/Suburban Area, as adjusted for the type of project and number of units.

- iii. PILU shall not be accepted as part of rental development, either multifamily or mixed-use.
  - iv. PILU shall be made according to the timing of compliance schedule set forth in Subsection 7.9.6.4 herein.
  - v. Cash contributions made to the Town's Housing Trust in accordance with this Section shall be used only for purposes of providing for the creation and preservation of affordable housing for low- and moderate-income household in accordance with the municipal Declaration of Trust and action, strategic, or other plan, as well as the Municipal Affordable Housing Trust Fund Law G.L. c. 44 § 55C, as it may be amended.
3. In no event shall the total number or value of off-site units or cash payments provided be less than the equivalent number or value of affordable housing units that could be built on-site pursuant to Subsection 7.9.4.1, above.

### **7.9.6 PROVISIONS APPLICABLE TO AFFORDABLE HOUSING UNITS, ON- AND OFF-SITE, AND PILU**

1. Unit mix.
  - a. The bedroom mix in the affordable units shall be proportionate to the market-rate units.
  - b. In any residential project where more than ten (10) affordable units will be built, a minimum of ten (10) percent of the affordable units shall have three (3) bedrooms. Fractional affordable units of 0.5 or more shall be rounded up; fractions of less than 0.5 shall be rounded down. This requirement is subject to the provisions of Section 7.9.4.2 of this bylaw.
2. Siting of affordable units. On-site affordable units constructed or otherwise provided under this Section shall be proportionately distributed throughout the project in terms of both location and unit size/type. For example, a development consisting of a mix of single-family homes, townhouses, and a small apartment building shall include affordable units of each housing type. Affordable units shall also be as accessible to common amenities as the market-rate units in the same development.
  - a. The special permit application shall include a plan showing the proposed location of the affordable housing units.
  - b. When a special permit is not required, the location of the affordable housing units shall be identified on plans submitted to the Town for any other required permit.
3. Minimum design and construction standards. Materials of affordable units shall be equal to that of market-rate units within the development. Units shall comply with the Local Initiative Program's (LIP) minimum design and construction standards as they may be amended.
  - a. The exterior of affordable units shall be comparable to the market-rate units in terms of design, appearance, quality of construction, and quality of materials.
  - b. Interior features of affordable units shall be comparable to the standard package for market-rate units, though designer and high-end finishes, fixtures, and appliances are not

required.

- c. Mechanical systems and energy efficiency shall conform to the same specifications as apply to the market-rate units.
  - d. Affordable units shall have the same floor area as the median market-rate units of the same number of bedrooms.
4. Timing of construction of affordable units and payment made. On- and off-site affordable units or payment in lieu of units shall be provided in proportion to market-rate units, but in no event shall the construction of affordable housing units or PILU be delayed beyond the schedule indicated below by the table, "Timing of Construction of Affordable Units." Proportionality shall be determined by the number of certificates of occupancy issued for affordable and market-rate units, or lot releases, as applicable. In accordance with the table below, affordable units shall not be the last units to be built in any development that is subject to §7.9.

<b>Timing of Construction of Affordable Units</b>	
<b>Percent Market-Rate Units Constructed</b>	<b>Required Affordable Units Constructed or Payment</b>
Up to 30%	None
31% -50%	The greater of 1 unit or 10% of required units or payment
51% - 60%	The greater of 2 units or 30% of required units or payment
61% - 75%	The greater of 3 units or 50% of required units or payment
76% - 90%	The greater of 70% of required units or payment
Over 90%	100% of required units or payment

5. Marketing plan for affordable units. Applicants creating new affordable units under this Section are required to select qualified homebuyers or renters via lottery under an Affirmative Fair Housing Marketing Plan prepared and submitted by the applicant and approved by the Planning Board and DHCD. 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 of Maynard. No building permit for a development subject to §7.9 shall be issued unless the Planning Division of Maynard has determined that the applicant's affirmative marketing plan complies with this requirement. The affirmative marketing costs for the affordable housing units shall be the responsibility of the applicant.

#### **7.9.7 MAXIMUM INCOMES AND SELLING PRICES: INITIAL SALE**

1. To ensure that only income-eligible households purchase affordable housing units, prospective homebuyers shall be required to submit to the lottery monitoring agent the information needed to

demonstrate that they meet the applicable requirements found in the DHCD LIP guidelines, as may be revised from time to time.

2. The maximum housing cost for affordable units created under this Section is established by DHCD LIP guidelines or by the Affordable Housing Trust, whichever is greater.

### **7.9.8 PRESERVATION OF AFFORDABILITY**

1. As a condition of development, all affordable housing units provided under §7.9 shall be subject to an affordable housing restriction in a form consistent with LIP or any other applicable guidelines issued by DHCD, acceptable to the Planning Board, and that ensures affordable units can be counted toward Maynard's Subsidized Housing Inventory. 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.
2. The affordable housing restriction shall contain limitations on use, occupancy, resale and rents, and provide for periodic monitoring, by the Town or its designee as named in the deed rider as the monitoring agent, to verify compliance with and enforce said restriction.
3. The restriction shall establish that affordable units created under the provisions of §7.9 shall remain affordable to the designated income group in perpetuity, or for as long as legally permissible, per affordable housing restrictions that comply with Local Initiative Program requirements as they may be amended for inclusion in the Chapter 40B Subsidized Housing Inventory and is enforceable under G.L. c. 184, § 26 or §§ 31-32.
4. 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 in the manner provided for by § 5.07(h)(1) above to ensure that it remains affordable to households in the same income range as prior to the condominium conversion.
5. The occupancy permit for development under §7.9 shall not be issued until the Regulatory Agreement are recorded at the Registry of Deeds or Registry District of the Land Court, and a copy provided to the Planning Board and the Building Commissioner.
6. The affordable housing restriction shall provide that initial sales and rentals of affordable housing units and subsequent re-sales and re-rentals shall comply with federal, state and local fair housing laws, regulations, and DHCD LIP guidelines.

### **7.9.9 CONFLICT WITH OTHER SECTIONS**

The provisions of this Section shall be considered supplemental of existing sections of this zoning bylaw. To the extent that a conflict exists between this Section and others, the more restrictive section, or provisions therein, shall apply.

## 7.9.10 SEVERABILITY

If any provision of this bylaw is held invalid by a court of competent jurisdiction, 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 remainder of Maynard's zoning bylaw.

## 7.9.11 DEFINITIONS

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

**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 or other equivalent state law.

**Area Median Income (AMI):** The median income for households within the designated statistical area that includes the Town of Maynard, as reported annually and adjusted for household size by the U.S. Department of Housing and Urban Development for the Boston Standard Metropolitan Statistical Area.

**Assisted Living Facility or Independent Living Residence** - Any entity, however organized, which meets each of the following three criteria: 1) Provides room and board to residents who do not require 24-hour skilled nursing care. 2) provides assistance with activities of daily living; 3) collects payments for the provision of these services; all as further defined in G.L. c. 19D, s. 1, as amended from time to time. A unit as defined in G.L. c. 19D, s. 1 shall be a dwelling unit under this By-law.

**Continuing Care Retirement Community ("CCRC")** - CCRCs provide housing and personal services which may include health care, usually at one location. CCRCs offer an environment and the services necessary for residents to age in place. The intent of the CCRC is to allow a person to remain at the retirement community as their personal and/or health care needs change.

**DHCD:** Massachusetts Department of Housing and Community Development.

**Eligible Household:** Any household whose total income does not exceed eighty (80) percent of the median income of households in the Boston Standard Metropolitan Statistical Area adjusted for family size, or such other equivalent income standard as may be determined by the Affordable Housing Trust Fund.

**LIP:** Massachusetts Local Initiative Program pursuant to M.G.L. c. 40B.

**Maximum Affordable Purchase Price or Rent:** A selling price or monthly rent that does not exceed the maximum purchase price or rent guidelines of the program used to qualify Affordable Housing Units for inclusion on the DHCD Chapter 40B Subsidized Housing Inventory.

**Maynard Affordable Housing Trust:** An organization established by the Town of Maynard pursuant to Massachusetts General Laws, Chapter 44, Section 55C, to support the creation and preservation of affordable housing in order to secure rental and homeownership opportunities for low- and moderate-income households.

**Maynard Affordable Housing Trust Fund:** A fund established by the Town of Maynard pursuant to Massachusetts General Laws, Chapter 44, Section 55C, for the purpose of receiving, holding, investing, and/or expending funds to reduce the cost of housing for Qualified Purchasers and Renters, or for the purpose of encouraging, creating, preserving, or subsidizing the construction or rehabilitation of housing for Qualified Purchasers and Renters. Sources of receipts for the Fund shall be as specified in the Maynard General Bylaws.

**Mixed-Income Housing:** Residential development that includes a combination of market-rate housing units and affordable housing units deed-restricted for households earning no more than eighty percent (80%) of the Area Median Income (AMI).

**Off-Site Unit:** An affordable housing unit produced by the applicant on a site other than the primary residential development in compliance with Section 7.9.5 of the Maynard Zoning Bylaw.

**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 its principal residence.

**Segmentation:** Any development, whether new construction, adaptive reuse, or redevelopment, or any division of land that would cumulatively result in an increase of six or more residential lots or dwelling units, or ten or more multifamily dwelling units above the number existing on a parcel of land or contiguous parcels in common ownership twenty-four (24) months prior to the application.

A copy of the Proposed Zoning Bylaw Changes is also on file with the Office of Municipal Services Office, Planning Division and the Town Clerk's Office and can be viewed during normal business hours.

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