

DRAFT – CLEAN EDITION - DRAFT

Amendments shown with ~~struck through~~ text are to be removed and underlined text is to be added, such ~~struck through~~ and underlines will be removed prior to publication in Zoning Bylaw upon approval.

I. Amend the Natick Zoning Bylaw by amending Section 200 Definitions relative to the deletion of existing § III-F Cluster Development Allowed in Certain Districts and § III-F.1 Single-Family Residential Cluster Option – RSA, RSB, and RSC, and the addition of a new § III-F Open Space Residential Development (OSRD) Bylaw, as follows:

Affordable Dwelling Units: please refer to Affordable Housing Unit (AHU) definition

Affordable Housing: Housing which is permanently restricted, by deed or otherwise, for sale, lease or rental and which qualifies for inclusion in the Town’s Subsidized Housing Inventory (SHI) as defined in 760 CMR 56, or, housing which meets the criteria for recognition as Affordable Housing Units under a Local Initiative Program (LIP) or other program administered or authorized by the Department of Housing and Community Development (DHCD) and which meets the criteria noted above. The required number of Affordable Housing Units (AHU) calculated under any applicable Section of this By-Law that includes the term(s) “a minimum” or “at least” shall be rounded to the next highest whole number. (Art. 52 Fall A.T.M. 10/17/17)

Affordable Housing Standard: please refer to Section V-J.2

Affordable Housing Unit (AHU): is a residential unit that is restricted in its sale, lease, and/or rental to a Qualified Income-Eligible Household at specific price limits that qualify such residential unit for inclusion in the Massachusetts Department of Housing and Community Development’s (DHCD) Subsidized Housing Inventory (SHI).

Area Median Income (AMI): The median family income, adjusted for household size, for the metropolitan area that include the Town of Natick, as determined by the U.S. Department of Housing and Urban Development.

Fee In-lieu: The fee paid to the Natick Affordable Housing Trust (NAHT) in-lieu of the construction or provision of Affordable Housing Units (AHU) as required under Section V-J.

Local Initiative Program (LIP): A program administered by the Massachusetts Department of Housing and Community Development (DHCD) to encourage cities and towns to create low and moderate-income housing through means other than a comprehensive permit under MGL c. 40B.

Market-rate Unit: A residential unit that is not restricted in its sale, lease, and/or rental at specific price limits.

Moderate Affordable Units (MAU): Residential dwelling units intended for households earning between 80 and 120 percent of the area median income (AMI). A minimum of 50 percent of the MAU at the development must be affordable for households earning between 80 and 100 percent of the AMI. Such housing shall be governed by an affordable housing deed restriction in accordance with MGL c 184, Section 31-33, and shall be reported annually to the Natick Affordable Housing Trust and the Department of Community & Economic Development.

Qualified Income- Eligible Household: A household with combined incomes that do not exceed 80 percent of the median income for the Boston Metropolitan Statistical Area, with adjustments for household size as

Commented [LA1]: 02.23.2023 Update Section 200 based on terms used in the bylaw, or provided clarification of existing terms

Commented [LA2]: 02.23.2023 The term Affordable Housing Unit and Affordable Dwelling Units used throughout the bylaw. Appears that AHU is used more so directed Affordable Dwelling Units to AHU definition. Updated definition

reported by the most recent information from the United States Department of Housing and Urban Development (HUD), or successor, and/or the Massachusetts Department of Housing and Community Development (DHCD), or successor.

Residential Project: Development projects with residential uses including, but not limited to, 1, 1A, 2, 3, 4, 5, and 50B Listed in Use Regulation Schedule III-A.2 and residential overlay districts (including developments with a mix of residential and non-residential uses) shall be subject to Section V-J. This definition does not apply to dwellings developed in a Smart Growth Overlay (SGO) district under the provisions of Section III-A.6.C. (Art. 32, Fall TM 10/16/18)

Subsidized Housing Inventory (SHI) A measurement of a community's stock of low- or moderate income housing compiled as a list by the Massachusetts Department of Housing and Community Development (DHCD) containing the count of low- or moderate income housing units by city or town.

Total Development Cost: The sum of all costs for site acquisition, relocation (if applicable), design, engineering, environmental testing and remediation, demolition, construction, interest, and carrying charges necessary to produce the required number of complete a Market-rate Unit, for determination of the Fee In-lieu for the Affordable Housing Units (AHU). (Art. 32, Fall TM 10/16/18)

Unregulated Dwelling Units: please refer to Market-rate Unit

Commented [LA3]: 02.23.2023 is this definition needed? Section V-J provides clarification as to which bylaws require this. Plus all sections point now to V-J

III. Amend the Natick Zoning Bylaw by amending § III-A.6.A.3, deleting § III-A.6.A.4 and 5 to provide clear direction for the creation of Affordable Housing Units (AHU), as follows

- 3- Affordable Housing Units (AHU) shall be provided in compliance with Section V-J.
- 4- Reserved
- 5- Reserved

Commented [LA4]: 02.23.2023: Information provided in Section V-J

IV. Amend the Natick Zoning Bylaw by amend § III-A.6.B.3 Density and 8. Affordability requirements for the creation of Affordable Housing Units (AHU), as follows

- 3. DENSITY
 - a) The maximum number of dwelling units allowed in the Housing Overlay Option Plan – I (HOOP - I) District shall equal the net land area which shall mean the gross area of the parcel divided by 2,500 square feet, rounded to the nearest whole number.
 - b) The maximum number of dwelling units allowed in the Housing Overlay Option Plan – II (HOOP - II) District shall equal the net land area which shall mean the gross area of the parcel divided by 3,500 square feet, rounded to the nearest whole number.
 - c) The number of dwelling units allowed in the HOOP - I and HOOP – II Districts may be limited by the ability to provide adequate off-street parking, in accordance with the requirements of Section V-D of these By-Laws.
- 8. AFFORDABILITY
Affordable Housing Units (AHU) shall be created in compliance with Section V.J.

Commented [LA5]: 02.23.2023: Information provided in Section V-J

Commented [LA6]: 02.23.2023: This information is in Section V-J

Commented [LA7]: 02.23.2023: This information is in Section V-J

Commented [LA8]: 02.23.2023 Affordability information is in Section V.

V. Amend the Natick Zoning Bylaw by amending Section III-I.2 Independent Senior Living Overlay Option Plan, Subsection 2.6, as follows

- 2.6 Affordability Requirements: The Applicant shall make provisions for affordable housing by complying with all the requirements of Section V-J. (Art. 32, Fall TM 10/16/18)

Commented [LA9]: 02.23.2023 information moved to Section V-J

VI. Amend the Natick Zoning Bylaw by amending Section III-I.2 Independent Senior Living Overlay Option Plan, Subsection 2.7, as follows

2.7 Affordability Requirements:

An ALOOP project shall comply with Section V.J.

Commented [LA10]: 02.23.2023 Information in Section V.J

VII. Amend the Natick Zoning Bylaw by amending Section V-E.4.b, as follows

- b. No waivers and/or modifications can be granted with regard to FAR Bonus or Bonus Density provisions or Inclusionary Housing (Section V-J) requirements of this zoning by law. No waivers and/or modifications can be granted if the effect of such waiver and /or modification is to grant or to create additional density and/or intensity without strict compliance with Section 9 of MGL Chapter 40A section 9 and the applicable FAR Bonus or Bonus Density provisions of this zoning by law.

VIII. Amend the Natick Zoning Bylaw by amending § V-J Inclusionary Affordable Housing Requirements by deleting subsection XXXX, as follows

Commented [LA11]: 02.23.2023 This section is specifically for the creation of the units and regulations.

SECTION V-J INCLUSIONARY HOUSING

1. Purpose and Intent

The purpose of the Inclusionary Housing Bylaw is to serve as a mechanism for the creation and retention of housing that is affordable to eligible households. Section V-J, in concert with Natick 2030+ and the Natick Housing Production Plan intends to

- a. To ensure that all residential development or redevelopment project with four or more dwelling units contributes to the creation of affordable housing; and
- b. To ensure that such affordable housing is made available to all eligible households on a non-discriminatory basis in accordance with the Federal Fair Housing Act of 1968 and MGL, c. 151, as amended, and any regulations promulgated under federal and state law.

2. Applicability

- a. The provisions of Section V-J shall apply to any proposed development or redevelopment of four or more new dwelling units, located on one or more contiguous parcels.
- b. Developments proposed under a process pursuant to MGL c. 40A, Section 9; Section III-A.2, Lines 1, 1A, 2, 3, 4, 5, and 50B; within a residential overlay district; or part of a by-right multi-family or mixed-use with residential project with 6 or more new units shall contribute a minimum of 15 percent of the dwelling units as Affordable Housing Units (AHU). Unless the following applies:
 - i. Any development or redevelopment in the Downtown Mixed Use (DM) Zoning District, with 30 or more new units shall contribute a minimum of 20 percent of the dwelling units as AHU;
 - ii. Any development or redevelopment in Regional Center Mixed-Use Development, located in one or more buildings shall provide 16 percent of the units as AHU if such units are created on-site; or if the applicant elects and the Planning Board grants a special permit therefor under Section 323.1.9 where the number of the affordable units are not located on the same parcel as a Regional Center Mixed-Use Development, they shall be not less than 22 percent of the total number of units in the project; or such combination of affordable units located in part on the same

- parcel as the Regional Center Mixed-Use Development and in part on another parcel as the Planning Board may authorize under the terms of such special permit; or
- iii. Any Independent Senior Living Overlay Option Plan (Section III-I.2) and Assisted Living Overlay Option Plan (Section III-I.3) shall provide a 10 percent of units as AHU
 - b. Any development or redevelopment subject to Section V.J, with five or less new units shall provide an equivalent fee-in-lieu of the units per Section V-J.4 or buildable land in fee simple, on or off-site, that the SPGA in its sole discretion determines is suitable for the construction of affordable dwelling units.
 - c. Each AHU shall comply with DHCD's Local Initiative Program (LIP) Guidelines for units not created under a MGL c 40B comprehensive permit.
 - d. Fractional units shall be rounded up to the next whole number. Nothing shall preclude an applicant from providing more AHUs than the number required herein.
 - e. No building permit shall be issued for any unit in the development until the Building Commissioner receives verification that the AHR has been approved by DHCD and the Town Administrator, or designee, and has been recorded with the Middlesex South Registry of Deeds, and that the affirmative fair housing market plan under Subsection X, below has been approved by DHCD.
3. Affordable Housing Regulations

Pursuant to MGL c. 40A, Section 9, the Planning Board shall adopt and maintain a set of Affordable Housing Regulations that contain the necessary policies, procedures, and requirements to implement the provisions of this Section V-J.
 4. Fee In-lieu
 - a. A Fee In-lieu is determined by the Total Development Costs (TDC) per unit on-site, calculated by the Project Manager, and confirmed by the Building Commissioner and Town Assessor. The median of 50 percent of the total units shall be the number used to determine the Fee In-lieu payment. The calculation is as follows
 - a. Total fee in-lieu for a 4 unit project: 40 percent multiplied by the TDC for the median unit
 - b. Total fee in-lieu for a 5 unit project: 50 percent multiplied by the TDC for the median unit
 - c. Total fee in-lieu for a 6 unit project: 60 percent multiplied by the TDC for the median unit
 - b. Fractional units shall be rounded up to the next whole number.
 - c. Any AHU cash payment shall be paid in full to the Town prior to the granting of any Certificate of Occupancy for more than half the units on-site.
 - d. Funds received shall be used for the restoration, creation, preservation, associated support services, and monitoring of deed-restricted AHU with annual gross incomes at or below 80 percent AMI, to the extent practical.
 5. Provisions Applicable to Affordable Dwelling Units On- and Off-Site
 - A. All AHUs constructed under Section V-J shall be distributed proportionately within the development so as not to be in less desirable locations than market-rate units in the development and shall, be no less accessible to public and private amenities, such as open space.
 - B. All AHU created under Section V-J shall comply with the Design and Construction Standards for Local Initiative Units specified by DHCD in the Guidelines for the Local Initiative Program (LIP). AHU shall be integrated with the rest of the development, shall be proportionately distributed in terms of unit size/type, accessibility, and shall be comparable in exterior design, appearance, construction, and quality of materials with market-rate units.

- C. AHU shall be provided coincident to the development of market-rate units, but in no event shall the development of AHU be delayed beyond the schedule noted below:
 - E. Local Preference. Unless otherwise regulated by an applicable Federal or State agency under a financing or other subsidy program, at least fifty percent (50%) of the affordable units shall be initially offered for 180 days in the following priority, to:
 - 1. Persons who currently reside within the Town of Natick;
 - 2. Persons who are employed by the Town of Natick;
 - 3. Persons who are employed by businesses located within the Town of Natick.
 - F. Applicants shall submit a marketing plan or other method approved by the Town through its Housing Production Plan to the Planning Board for its approval. The marketing plan shall describe how the AHU will be marketed to potential home buyers or tenants.
6. Density Bonus
- a. Applicants may be granted a density bonus for the inclusion of Moderate Affordable Units (MAU) equal to or greater than the number of AHU within the project. Such density shall be 2:1 for each MAU created. (Example: Total number of units equals 10, of which two are AHU, the Applicant can create 4 additional market rate units for a total of 14 units, if two are restricted as MAH).
 - b. MAU shall follow the same procedures as the AHU, with the exception that all required documentation will be submitted to the Department of Community & Economic Development, and reviewed by the Natick Affordable Housing Trust.
 - c. The MAU density bonus may not be combined with any other density bonus to increase the number of units. At the discretion of the Planning Board, an applicant may choose to utilize Section V.J.6 instead of an alternative density bonus.
7. Restrictions
- a. AHU and MAUs created under this section shall remain affordable in perpetuity or for the longest period of time allowed by law. All restrictive documents shall be enforceable and renewable by the Town pursuant to applicable law.
 - b. A development shall not be phased or segmented in a manner to avoid compliance with Section V-J. The Planning Board shall not approve any application for development or redevelopment that results in ten or more new dwelling units if the land or parcels of land were held in common ownership (including ownership by related or jointly controlled persons or entities) and were subdivided or otherwise modified to avoid compliance.
Dwelling units shall be considered as part of a single development if located on a single parcel or contiguous parcels of land that have been in the same common ownership at any time subsequent to the date of adoption of this Section V-J. The Inclusionary Housing Bylaw shall be enforceable also against purchasers of land previously held in common ownership with land that received, after the date of adoption of this Section V-J, approvals or permits for development, to the effect that units developed under such previous development shall be counted toward the calculation of the number of units under Section V-J.2 or V.J.6.
 - c. A AHU shall be restricted in its initial and any subsequent sale, lease, and/or rental to a Qualified Income-Eligible Household at a specific price limit that will qualify such residential unit for inclusion in the DHCD SHI.
 - d. There shall be a fair and reasonable procedure in compliance with fair housing laws for the selection of tenants for affordable rental units and for the selection of homeowners for

affordable homeownership units. The Town may contract with a quasi-public, public, and/or private entity, experienced in an affordable housing operation, for provision of tenant and homeowner selection services but shall be required to monitor the performance of any private entity providing such services and shall retain final responsibility for ensuring compliance.

8. Conflict with Other Bylaws

The provisions of Section V-J shall be considered supplemental to existing zoning bylaws except for the provisions of Section III-A.6.C (Smart Growth Overlay (SGO)). To the extent that a conflict exists between this section and others, the more restrictive bylaws or provisions therein shall apply.

IX. Amend the Natick Zoning Bylaw by creating a new §III - XX Inclusionary Housing Development (IHD), as follows

SECTION III-XX INCLUSIONARY HOUSING DEVELOPMENT (IHD)

1. Purpose and Intent

An Inclusionary Housing Development (IHD) is an alternative design option for the construction of residential neighborhoods that create a mixture of new housing for a variety of income levels. The IHD Bylaw advances the goals of Natick's Comprehensive Plan (Natick 2030+) and Natick Housing Production Plan for division of land that is either approved or endorsed through the Rules and Regulations Governing the Division of Land in Natick.

2. Applicability and Requirements

- a. A project approved by-right under the Rules and Regulations Governing the Division of Land in Natick, without waivers.
- b. An IHD is permitted by a special permit from the Planning Board (SPGA).

3. Density Bonus

- a. A division of land, under the Rules and Regulations Governing the Subdivision of Land in Natick may by special permit increase the number of Market-rate Lots by the following
 - i. The creation of five or fewer new lots shall be permitted to increase the project by one additional Market-rate Unit in return for Fee In-lieu payment as calculated in Section V-J for one unit; or
 - ii. The creation of six or more new lots shall be permitted to increase the project by two additional Market-rate Units in return for each Affordable Housing Unit (AHU).
- b. To accommodate the additional lots on site, the SPGA may modify minimum lot sizes and any other intensity or density regulations, except height, normally required in Section IV.B in the applicable zoning district. Such modification shall not exceed a maximum cumulative increase of 35 percent or, calculated separately, a maximum cumulative decrease of 35 percent. These shall be calculated according to the provisions of Section V-E.3, to accommodate up to two additional market-rate lots on a site for each one Affordable Housing Unit (AHU).

4. The Planning Board shall adopt and maintain a set of IHD regulations that contain the necessary policies, procedures, and requirements to implement the provisions of a IHD development.

5. Inclusionary Housing Requirements

An IHD shall comply with Section V-J (Inclusionary Affordable Housing Requirements), herein.

6. Waivers

The Planning Board may waive strict compliance with the provisions of this Section III-XX, by a four-fifths vote if it is found that the granting of such a waiver will benefit the neighborhood in which the IHD is located; result in the creation of additional AHU or Moderate Housing Units (MHU); or yield a superior design in terms of location of building sites, alignment of roadways and driveways, layout and location of parking, pedestrian and bicycle access and circulation, location of open space and recreational facilities, and other related and similar considerations.