

**CITY OF BURLINGTON
INCLUSIONARY ZONING/DENSITY BONUS**

Prepared for the Chapter 115 Committee
November 28, 2001

Legislative Intent

- Adopted by the City Council in 1990, the intent and purpose of this ordinance is:

"To meet the specific mandates of 24 V.S.A. Sec. 4302 (ACT 200) related to housing opportunities for all of Vermont's citizens, particularly for those citizens of low or moderate income;

To mitigate the impact of market rate housing construction on the limited supply of available land suitable for housing, thus preventing the City's zoning ordinances, which currently allow residential development, from having the effect of excluding housing that meets the needs of all economic groups within the municipality;

To prevent overcrowding and deterioration of the limited supply of affordable housing, and thereby promote the public health, safety and general welfare."

Covered Projects

- The creation of **five (5)** or more dwelling units through new construction and/or substantial rehabilitation of existing structures; or
- The creation of **ten (10)** or more dwelling units through adaptive reuse or conversion of a nonresidential use to residential use.
- Multiple developments by the same applicant within any consecutive twelve month period that in the aggregate equal or exceed the above criteria are subject to these regulations.

General Requirements for Affordable Housing

- For rental projects, fifteen percent (15%) of all units in the project shall be designated as affordable inclusionary units, except that in any waterfront zoning district, twenty-five percent (25%) all units shall be designated as affordable inclusionary units. Inclusionary rental units shall be rented at a price which, on average, is affordable for a household with an annual income that is sixty-five percent (65%) of median income adjusted for household size.
- For owner-occupied projects, inclusionary units shall be designated in accordance with the table on page 14-2 of the ordinance.
- Inclusionary units for sale shall be sold at a price which is affordable for a household with an annual income that is seventy-five percent (75%) of median income adjusted for household size.

Density Bonus

- All covered projects are entitled to an increase in the maximum coverage allowed for the site on which the project is located following the calculation of density, height, lot coverage, setbacks, and parking improvements for the site. Calculations for the density and/or lot coverage bonus are based on a table contained in the ordinance.
- In most cases in Burlington, developers cannot make use of the density bonus because the number of units in any given project are reduced in order to satisfy concerns of neighboring property owners. The only way that a density or lot coverage bonus can be of value to a developer is if they are permitted to build to the maximum number of allowable units on a given site.

Continued Affordability Requirements

- Inclusionary units are required to be continually affordable for no less than ninety-nine (99) years. If a developer can establish that it is impossible to provide the required inclusionary units, the zoning board of adjustment may modify the duration of the period of continued affordability only to the extent to render the project feasible.
- The continued affordability is ensured through deed restrictions that limit equity appreciation to an amount not to exceed twenty-five percent (25%) of the inclusionary unit's value as determined by a formula prescribed in the ordinance.

Off-Site Option

- Except in waterfront zoning districts, the planning commission may allow a developer to comply with the inclusionary requirements by constructing inclusionary units on a site other than that on which the covered project is located, subject to several conditions.

- In addition to several other conditions, the number of inclusionary units to be provided by the developer or by the developer's designee through the off-site development shall be no fewer than 1.25 times the number otherwise required by the ordinance.

Exemptions and Administrative Relief

- Projects located in the University Campus zoning district are exempt, as are units that are created under the City's housing replacement ordinance.
- The zoning board of adjustment may waive all or part of the inclusionary requirements of this article in the case of any covered project where the applicant can provide clear and convincing evidence that the imposition of the ordinance renders the project unfeasible.