

PETITION FOR AN ORDINANCE TEXT and MAP AMENDMENT TO THE NEW HAVEN
ZONING ORDINANCE TO REQUIRE AND INCENTIVIZE THE INCLUSION OF
AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

SCHEDULE A
Draft Inclusionary Zoning Policy

Article 1, § 1 – Definitions [To be modified and/or added to Section 1 in alphabetical order].

“AFFORDABLE HOUSING” or “AFFORDABLE UNIT” means residential housing, which is restricted for occupancy by households that have a combined total annual income for all members that does not exceed a designated area median income (AMI) as defined by HUD. This term refers to the broad classification, and should not be confused with more specific terms that define different income divisions.

AREA MEDIAN INCOME means the median income by household size for New Haven County, as adopted by HUD.

AVERAGE GROSS FLOOR AREA PER DWELLING UNIT means the gross floor area of the principal building or buildings divided by the total number of housing units in the inclusionary development.

ELDERLY HOUSING UNIT means a dwelling unit specifically designed for the needs of an elderly person or persons, and conforming to the requirements of state and/or federal programs providing for housing for the elderly and deed restricted as such. Elder Housing Units may be in the context of Senior Living Facilities or independent from a larger facility.

FLOOR AREA RATIO or “FAR” means the ratio of the *gross floor area* of the *principal building or principal buildings* on a lot to the total lot area.

“HUD” means the United States Department of Housing and Urban Development.

“INCLUSIONARY DEVELOPMENT” means a development containing both affordable and market rate units.

“IZO” – means Inclusionary Zoning Overlay District.

LARGE-SCALE INCLUSIONARY DEVELOPMENT means a development anywhere in the City that proposes seventy-five (75) or more Residential dwelling units, which is required to be an Inclusionary Development under the Inclusionary Zoning policy.

LOW-INCOME HOUSEHOLD means a household in which the combined total annual income for all members of a household does not exceed fifty percent (50%) of the area median income. These income limits are adjusted by household size based on multipliers used by HUD to adjust area median income by household size.

MARKET-RATE UNITS means housing not restricted to low-income households that may sell or rent at any price that the market may bear.

RESTRICTED UNIT means a dwelling unit, whether a rental unit or ownership unit, that is subject to affordability controls.

SENIOR LIVING FACILITIES means assisted living facilities, independent living facilities, or group housing for the elderly specifically designed for the needs of an elderly person or persons, and conforming to the requirements of state and/or federal programs providing for housing for the elderly and deed restricted as such.

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AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

STUDENT HOUSING means a subtype of the multi-family residential dwelling units and is characterized as housing principally serving undergraduate or graduate college students. Student Housing is leased by room or bed rather than entire dwelling unit and may be on- or off-campus. Student housing is sometimes, but not always, rented for less than 1-year terms or follows an academic calendar schedule.

Article VI. – Other Districts. § 50. – Inclusionary Zoning Overlay Zone. [Move § 50 to Article VI; Delete “Reserved” and replace with the following language in its entirety.]

§ 50(a). – Purpose, Overlay Area, & Effective Date

- (1) Purpose. The purpose of this ordinance is to create mixed-income housing through new construction, conversion or renovation that assists the City in promoting the creation of Inclusionary Developments and Affordable Housing as the City grows and attracts new market-rate residential development. By linking the production of affordable housing to private market development, this inclusionary zoning policy aims to expand the supply of affordable housing. The effect is to foster mixed-income communities and create housing choice in high-opportunity areas. This policy will support the provision of safe and affordable housing options in areas of opportunity, especially for communities that have been historically marginalized, including low-income and communities of color.
- (2) Mapped area. The boundaries of the IZO and its tiered areas are established on the map entitled “INCLUSIONARY ZONING: Overlay District and Markets for Payment in Lieu of Creating Affordable Housing.” The City Plan Commission will prepare updates to this map every 3 years (together with the in-lieu fee schedule) to properly represent current housing markets. The map is available in the New Haven Affordable Housing Manual and is on file and available for public inspection with the City Plan Department and the Livable City Initiative (as staff to the Affordable Housing Commission). The IZO is comprised of two sub-districts:
 - A. Core Market. The Core Market represents locations where the majority of new market-rate development is occurring today, rents are highest, and where the majority of new market rate development is anticipated.
 - B. Strong Market. The Strong Market represents areas that have potential to support new market-rate development today and in the immediate future.
- (3) The Effective Date of this Section will be upon the creation of the Affordable Housing Trust Fund or the published notice of this Section’s passage, whichever is later. [We will need to assess the City’s administrative and financial ability to take payment in-lieu and adjust the Effective Date accordingly.]

§ 50(b). - Set-Aside of Affordable Housing.

- (1) Applicability (herein referred to as “Applicable Developments”). This Section applies to all new construction and any rehabilitation, conversion, or renovation of existing buildings that is valued

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ZONING ORDINANCE TO REQUIRE AND INCENTIVIZE THE INCLUSION OF
AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

greater than 50% of the existing assessed value of the property and meets any of the below:

- A. Mandatory Market-Driven Inclusionary Developments. After the Effective Date of this Section, compliance with this Section is required for all properties or developments with a Residential component that are proposing ten (10) or more dwelling units that are located within the IZO.
- B. Large-Scale Inclusionary Developments. After the Effective Date of this Section, compliance with this Section is required for all properties or developments proposing 75 dwelling units or more (herein referred to as “*Large-Scale Residential Developments*”), outside of the IZO.
- C. Voluntary Inclusionary Developments. After the Effective Date of this Section, compliance with this Section is optional for all properties or developments with a Residential component of (i) less than 75 dwelling units outside the IZO and (ii) less than 10 dwelling units within the IZO that opt to construct Affordable Housing, consistent with this Section in exchange for certain zoning bonuses as outlined in herein.
- D. Applicable Developments within an existing PDD or a PDU are subject to this policy. A new PDD or PDU may not create an exemption from this policy.

(2) Exemptions.

- A. Any project which is to be undertaken by the New Haven Housing Authority.
- B. Any project that proposes Senior Living Facilities, Student Housing, or Rooming, Boarding or Lodging Houses.
- C. Rezoning initiated by the City as a result of a Master Plan Update or Amendment or Market Analysis Updates.

(3) **Inclusionary Housing Set-Aside**

- A. In the Core Market of the IZO, Applicable Developments must set aside not less than ten percent (10%) of the total number of dwelling units as Affordable Housing priced at 50% of AMI as defined by HUD. The IZO applicable developments shall prioritize an additional five percent (5%) of the total number of dwelling units for persons or families with Housing Choice (Section 8) vouchers. If tenants with Housing Choice vouchers are not able to be placed and proper documentation is approved by the City, a unit with Housing Choice priority may be rented at no more than 80% of AMI until vacancies recur, at which time Housing Choice tenants will be re-prioritized.
- B. In the Strong Market of the IZO, Applicable Developments must set aside not less than five percent (5%) of the total number of dwelling units as Affordable Housing for Low-Income Households.
- C. City-Wide Inclusionary Housing Set-Aside. Outside of the IZO, Large-Scale Inclusionary Developments must set aside not less than five percent (5%) of the total number of dwelling units as Affordable Housing for Low-Income Households.
- D. Voluntary Inclusionary Set-Aside.
 - i. Outside of the IZO, a development of less than seventy-five (75) dwelling units,

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ZONING ORDINANCE TO REQUIRE AND INCENTIVIZE THE INCLUSION OF
AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

may set aside five percent (5%) of the total number of dwelling units as Affordable Housing for Low-Income Households on a voluntary basis. A development that opts in will be required to comply with the provisions of this Section.

- ii. Within the IZO, any project involving 10 dwelling units or less may opt into this policy based on the number of units required in A. and B. above, as applicable. If the calculation results in a partial unit, it is rounded up to the nearest whole unit for the purposes of calculating the units to be provided on site. If the calculation results in less than .5 units, then one affordable unit will be required to opt into this policy and receive the incentives. For a payment in-lieu of constructing the unit, the developer pays the in-lieu fee based on the share of total units required under A. and B. above, as applicable. If the calculation results in a partial unit, the in-lieu fee is calculated based on the partial unit (e.g. if the unit calculation requires .5 dwelling units, the developer pays 50% of the established in-lieu fee).
 - E. This Inclusionary Housing Set-Aside applies to rental units. All affordable units must be constructed and maintained in a manner consistent with market rate units provided as part of the Inclusionary Development.
 - F. The set-aside units must be priced using the AMI levels specified in this section, and the units will be income-restricted by deed for a minimum of 99 years. The deed restriction will be recorded on the New Haven Land Records in advance of final Certificate of Occupancy.
 - G. Rounding. When any calculation of the mandatory set aside results in a fractional income-restricted unit, the fraction is rounded to the nearest whole unit. If the calculation results in less than .5 units total (which would be rounded to zero under this subsection), then one affordable unit will be required.
 - H. Affordable Unit requirements.
 - i. Affordable Units must be evenly distributed throughout the Inclusionary Development, including across project phases.
 - ii. Affordable Units must be a mix of unit types and sizes that matches the overall mix of unit types and sizes in the Inclusionary Development.
 - iii. Affordable Units must have comparable finishes and access to amenities to Market Rate Units in the Inclusionary Development.
 - I. A payment may be made in lieu of on-site construction, in accordance with Subsection 59(c) below.
- (4) Approving Authority. All Applicable Developments must be reviewed and approved by the City Plan Commission as part of Site Plan Review or Detailed Site Plan Review in accordance with Section 64 and Section 50(e) below.

§ 50(c). – Incentives for the Development of Affordable Housing Units.

- A. All applicable Inclusionary Developments, whether mandatory or voluntary, are eligible for the following incentives, the purpose of which is to offset the cost burden of constructing and

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ZONING ORDINANCE TO REQUIRE AND INCENTIVIZE THE INCLUSION OF
AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

maintaining affordable units.

1. FAR Bonus. The Inclusionary Development is entitled to a bonus in FAR of up to 25% over the permitted FAR in the underlying zone in which the property is located, but may be otherwise limited by height restrictions and other bulk area requirements of the underlying zone.
2. Waived Parking Minimums. The Inclusionary Development does not have a minimum amount of automobile parking required for Residential uses but may elect to include parking as part of the development. Sections 29 and 45 of the Zoning Ordinance, as they relate to parking for Residential uses, are waived; however, notwithstanding the foregoing, the Inclusionary Development must comply with bicycle parking requirements. As part of its review, the City Plan Commission may require additional bicycle parking as a condition of approval. Where (i) the Inclusionary Development is mixed-use with a commercial component or (ii) parking is provided voluntarily, the Inclusionary Development must also include loading spaces in accordance with Section 45(a)(1)b. and must provide a Traffic Impact Study as part of the site plan review application in accordance with Section [redacted] of the New Haven Zoning Ordinance. [We will be proposing a separate and simultaneous zoning amendment to the City Plan Commission criteria with regard to a Traffic Impact Study.]
3. Density Bonus. Irrespective of density limitations in the underlying zone, the Inclusionary Development is entitled to a density of six hundred (600) square feet for the average **gross floor area** per dwelling unit. This reduction is applicable to all structures, regardless of age and lot size, whether conforming or nonconforming, so long as they are permissible under applicable building codes.
4. In addition to Zoning Incentives, Tax Abatement benefits shall be addressed under [redacted]

§ 50(d). – Payment In Lieu of Developing Affordable Housing Units

For projects meeting Section 50(b)(1) A. and B., the property owner/developer may pay a fee in lieu of building on-site affordable units for some or all the obligation in accordance with the following:

- A. A developer may provide a payment in lieu of constructing the affordable housing obligation into the City of New Haven’s [Affordable Housing Trust Fund]. A developer may build a portion of the required Affordable Units and provide a payment in lieu of the remainder of the required Affordable Units. However, the policy of this Section favors construction of on-site affordable units.
- B. Payment in-lieu fee. The amount of the payment-in-lieu figure is based upon a tiered payment-in-lieu system that will be reassessed every 3 years from the effective date of this Section’s adoption. The fees and any assessed premium is available in the New Haven Affordable Housing Manual and is on file with City Plan Department and the Livable City Initiative.
- C. Condition of Approval. In advance of Site Plan Review by the City Plan Commission, the developer must supply the Affordable Housing Agreement, deed restriction, and Payment in Lieu of Agreement to the Director of the Livable City Initiative. [These documents are currently under development.]

PETITION FOR AN ORDINANCE TEXT and MAP AMENDMENT TO THE NEW HAVEN
ZONING ORDINANCE TO REQUIRE AND INCENTIVIZE THE INCLUSION OF
AFFORDABLE HOUSING UNITS IN MARKET RATE DEVELOPMENT

§ 50(e). – Performance and compliance.

- A. Inclusionary housing units and developments containing one or more affordable housing unit(s) must meet all applicable requirements under the laws of the State of Connecticut.
- B. All Inclusionary Zoning applications will be formalized with an Affordable Housing Agreement. The Affordable Housing Agreement is required for all Applicable Projects. The Affordable Housing Agreement must be to the satisfaction of the Director of the Livable City Initiative before the project's Site Plan Review or Detailed Site Plan Review application is reviewed by the City Plan Department.
- C. All Inclusionary Developments will comply with tenant screening processes for available affordable units as described in the New Haven Affordable Housing Manual on file with City Plan Department and the Livable City Initiative.
- D. All Inclusionary Developments will be required to certify compliance, including certification of incomes of tenants in affordable units, annually and submit a Compliance Report to the Director of the Livable City Initiative. Information on income certification processes and tenant eligibility is provided in the New Haven Affordable Housing Manual and is on file with City Plan Department and the Livable City Initiative. [Note: addition of this clause will require development of an Compliance Report document]
- E. [Additional CPC review criteria.]

§ 50(f). – Violation, default and remedies

Upon a violation of any of the provisions of the affordable housing agreement, the Zoning Enforcement Officer will give written notice to the developer or property owner specifying the nature of the violation and require corrective action within a reasonable period of time. If the developer or property owner does not reply or correct the violation within the time specified, they will, for each and every violation, be fined up to a maximum of \$250 a day that such violation continues after such notice.

§ 50(g). - Severability.

If any Section, Subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion is deemed a separate, distinct and independent provision, and such holding does not affect the validity of the remaining portions thereof.