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5.6 INCLUSIONARY HOUSING

5.6.1 Purpose and Intent

This Section is intended to promote the public health, safety and welfare of the Town by promoting quality housing in neighborhoods throughout the Town for households of a variety of income levels, ages and sizes to meet the Town's goal of preserving and promoting a culturally and economically diverse population in our community.

The regulations set forth in this Section further a key goal of the Town's Comprehensive Housing Strategy to create and preserve affordable housing opportunities. These regulations also support other goals of the Town including the reduction of traffic congestion and associated air pollution and the prevention of sprawl. These regulations are intended to provide a structure for cooperative participation by the public and private sectors in the production of affordable housing. These regulations are also intended to promote voluntary action on the part of the developer when requesting additional density beyond the stated by-right density in any district, where provided.

5.6.2 Applicability

This Section applies to all new development (including phases) for all residential types within the Town.

5.6.3 Development Bonuses and Incentives

- (1) **Density Bonuses.** It is the intent of the Town to facilitate the provision of affordable housing and compliance with these requirements by incorporating development bonuses to accompany and support the affordable housing requirements. In any instance where additional residential density may be granted through the issuance of a Conditional Use Permit (CUP) as identified in Table 3.4.2 of the Town's Zoning Ordinance, the additional stated density may be allowed without a Conditional Use Permit when the total number of additional units are Affordable Dwelling Units as contemplated by this section and the requirements of this Section are otherwise met.
- (2) **Development Fees.** The Town agrees to refund certain development-related fees for projects that are subject to these requirements. If an application proposes development in compliance with the provisions of this Section, all Town-related development fees and costs which would otherwise be due to the Town may be refunded for the Affordable Dwelling Units component of the Application.
 - (i) This refund does not apply to any Payment-in-Lieu made pursuant to Section 5.6.4(1), and does not apply to any market rate units, or to any fees associated with water, wastewater, storm water, or other utilities.
 - (ii) Refund requests for development-related fees must be submitted in writing and shall only be granted upon approval and issuance of the Certificate of Occupancy and when the Affordable Housing Performance Agreement is fully executed and recorded. If application fees are paid for a proposed development that subsequently adds additional affordable dwelling units to the development plan, a pro rata refund of such fees may be provided to the applicant upon approval and issuance of the Certificate of Occupancy to reflect the additional affordable units.

- (3) **Composition of affordable units.** To calculate the number of Affordable Dwelling Units, the total number of all units for the entire development shall be used and shall be distributed in accordance with Table 5.6.1 below. If the product contains a fraction, a fraction of .5 or more shall be rounded up, and a fraction of less than .5 shall be rounded down.

TABLE 5.6.1 DISTRIBUTION TABLE	
% OF AMI	PERCENTAGE
LOW INCOME (50-80% AMI)*	0-70% (as % of total)
MODERATE INCOME (80-100% AMI)*	0-40% (as % of total)

*Income limits may be exceeded by 10% upon approval of the Planning Director

(4) **Character of Affordable Dwelling Units**

(i) **Location.** Except as otherwise specifically authorized by this Section, the Affordable Dwelling Units shall be located within the development subject to these regulations and shall be sited and dispersed in multiple locations within the development, as approved by the Planning Director.

(ii) **Phasing of Construction.** An Affordable Housing Plan and an Affordable Housing Performance Agreement as set out in Section 5.6.5 herein shall include a phasing plan that provides for the timely and integrated development of the Affordable Dwelling Units as the development project subject to these regulations is built out. The phasing plan shall provide for the development of the Affordable Dwelling Units concurrently with the market rate units.

(iii) **Appearance.** The interior and exterior appearance of the Affordable Dwelling Units in any development subject to these regulations shall be compatible in style and quality with the market rate units in the development.

(iv) **Bedrooms in Affordable Units.** The Affordable Dwelling Units shall have a number of bedrooms in the Affordable Dwelling Units in the same proportion as the market rate units.

(v) **Floor Area.** The Affordable Dwelling Units shall have a floor area comparable to market rate units in the same building and found throughout the development.

5.6.4 Alternative Compliance.

This Section provides alternatives to the construction of Affordable Dwelling Units onsite as a way to comply with this Section. Sections 5.6.4(2), (3), and (4) are subject to review and approval by the Town Board of Commissioners.

- (1) **Payment-in-Lieu.** In any instance where additional residential density may be granted through the issuance of a Conditional Use Permit (CUP) as identified in Table 3.4.2 of the Town's Zoning Ordinance, the additional stated density may be allowed without a Conditional Use Permit if a payment-in-lieu is provided for each unit approved above the base density. The payment-in-lieu shall be made in accordance with the following:

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- (i) Where permitted by this ordinance, the applicant may make a payment in lieu of providing the Affordable Dwelling Units. The Town shall establish the in-lieu per-unit payment on written recommendation of the Planning Director and adopt it as part of the Town's fee schedule. At least once every three years, the Town Board shall, with the written recommendation of the Planning Director review the per unit payment and, if necessary, amend the fees.
- (ii) Payments made in lieu of providing the Affordable Dwelling Units shall be received by the Town and placed in a separate fund used solely and exclusively for affordable housing activities, including the acquisition of land for, or the construction and marketing of, Affordable Dwelling Units. These funds shall not be commingled with the Town's General Fund.
- (iii) For purposes of determining whether an applicant may make a payment in-lieu pursuant to this subsection, all adjacent parcels under common ownership shall be considered. Parcels shall not be subdivided in order to avoid compliance with this Section.

(2) Land Dedication. Subject to Board approval, land may be dedicated in-lieu of providing affordable housing on-site under the following requirements:

- (i) The land must be conveyed to the Town or its designee;
- (ii) The land must be located within the Town of Mooresville's planning jurisdiction, and shall be suitable for development as determined by the Town Board;
- (iii) The value of land to be transferred in satisfaction of this alternative means of compliance and its suitability shall be determined, at the cost of the developer, by an independent certified appraiser and by such alternative and means of valuation as approved by the Town Board;
- (iv) Land deeded to the Town must be zoned as to allow construction of at least that number of dwelling units for which the obligation of construction is being satisfied by the transfer of land. Land so deeded to the Town or its designee shall be of equivalent or greater value than the payment in lieu contribution that would be allowed under this Section; or, if the land is of lesser value, the transfer of the land shall be accompanied by a payment in lieu equivalent to the difference.
- (v) The land shall be served by adequate infrastructure (water, sewer, roads) to allow construction of residential dwelling units. The deed shall convey a fee simple interest, at no cost to the Town, without any liens or encumbrances.

(3) Dedication of Existing Units: Subject to Board approval, existing units may be dedicated as Affordable Dwelling Units in-lieu of providing affordable housing on site under the following requirements:

- (i) The off-site units must be restricted through covenants, contractual arrangements, or other restrictions as suitable Affordable Dwelling Units. The Town Attorney shall determine whether the form and content of the restrictions comply with this Section.
- (ii) The off-site units must be located within the Town of Mooresville's planning jurisdiction;

- (iii) The restriction of such existing units must result in the creation of units that are of equivalent value, quality, and size of the Affordable Dwelling Units that would have been constructed on-site if this alternative had not been utilized. Where a proposed development consists of ownership units, units created under this Section shall be ownership units.
 - (iv) The value of dwelling units created pursuant to this Section as a way of meeting the Affordable Dwelling Unit requirement shall be determined, at the expense of the developer, by a certified appraiser or by such alternative means of valuation as approved by the Town Board.
- (4) Alternative Plan.** Subject to Board approval, an applicant may submit an alternative proposal that directly provides or enables the provision of affordable housing units within the Town as contemplated by this Section.

5.6.5. Affordable Housing Plan

- (1) Applicability.** Applications made pursuant to this Section shall include an Affordable Housing Plan as described below. An Affordable Housing Plan describes how the application complies with each of the applicable requirements of this Section.
- (2) Approval.**
- (i) The Affordable Housing Plan along with the application must be considered together and both must be approved to become valid.
 - (ii) Affordable Housing Plans that specify an alternative means of compliance through Land Dedication (Section 5.6.4(2)), Dedication of Existing Units (Section 5.6.4(3)), or Alternative Compliance (Section 5.6.4(4)), are subject to approval by the Board of Commissioners. All other Affordable Housing Plans made pursuant to this Section are subject to approval by the Planning Director.
- (3) Contents.** The Affordable Housing Plan shall include at least all of the following:
- (i) General information about the nature and scope of the development subject to these regulations.
 - (ii) For applicants that request an alternative to on-site provision of affordable housing, evidence that the proposed alternative will further affordable housing opportunities in the Town to an equivalent or greater extent than compliance with the otherwise applicable on-site requirements of this Section.
 - (iii) The total number and location of market rate units and Affordable Dwelling Units in the development.
 - (iv) The number of bedrooms and bathrooms in each unit.
 - (v) The approximate square footage of each unit.
 - (vi) The approximate location within any development of each Affordable Dwelling Unit.

- (vii) The pricing or rent for each Affordable Dwelling Unit. The pricing or rent of each unit shall be determined at time of approval.
- (viii) The order of completion or phasing of the market rate versus Affordable Dwelling Units.
- (ix) Documentation and specifications regarding the interior and exterior appearance, materials and finishes of the development for the entire project.
- (x) Documentation of features incorporated into the design of the Affordable Dwelling Units that accommodate lifelong living and aging in place. Examples of such features, also referred to as components of "Universal Design," are elements that provide increased accessibility to and throughout the dwelling such as accessible points of entrance to the dwelling, wider doorways, and bedrooms accessible without steps.
- (xi) Any and all other information that the Planning Director may require that is needed to achieve the Board's affordable housing goals.

5.6.6. Recorded Agreements, Conditions and Restrictions

- (1) An Affordable Housing Performance Agreement shall be executed between the Town and the Applicant, in a form approved by the Town Attorney, based on the Affordable Housing Plan described in Section 5.6.5, which formally sets forth development approval and requirements to achieve affordable housing in accordance with this ordinance. The Agreement shall identify:
 - (i) the location, number, type, and size of Affordable Dwelling Units to be constructed;
 - (ii) sales and/or rental terms;
 - (iii) occupancy requirements;
 - (iv) a timetable for completion of the units;
 - (v) restrictions to be placed on the units to ensure their Permanent Affordability;
 - (vi) any land to be conveyed as part of compliance with these requirements, including a description of the land to be conveyed, its fair market value, and the time at which the land will be conveyed.
 - (vii) any payment-in-lieu shall identify the amount to be paid and the time of payment.
 - (viii) the long-term management strategy for the project.
- (2) The applicant or owner shall execute any and all documents deemed necessary by the Planning Director, including, without limitation, restrictive covenants and other related instruments, to ensure the Permanent Affordability of the affordable housing units in accordance with this Section. Any deed conveying title to the Affordable Dwelling Unit shall reference the restrictions and state that the property is income restricted.

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- (i) The applicant or owner must prepare and record all documents, restrictive covenants, and/or agreements that are specified by the Town as conditions of approval of the application prior to issuance of a Zoning Compliance Permit for any development subject to this Section.
- (ii) Documents described above shall be recorded in the Iredell County Registry of Deeds and shall create an obligation that runs with the land.

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Section 3. Appendix "A" to the Mooresville Land Use Management Ordinance, Definitions, is hereby amended to add the following words, terms and phrases alphabetically under the subsection entitled "List of Terms or Words":

Affordable Dwelling Unit

A dwelling unit that is restricted for occupancy by a household within the target income prescribed by Section 5.6 and Table 5.6.1 of this Ordinance.

Area Median Income or "AMI"

The midpoint of regional income distribution, which is published annually by the U.S. Department of Housing and Urban Development.

Bedroom

A separate room or space used or intended to be used for sleeping purposes.

Lot, Single-Family

A Lot that is located in a subdivision within a zoning district that allows single-family dwelling units, and that does not include covenants, restrictions, or conditions of approval that prohibit the construction of a single-family dwelling unit on the lot.

Low Income Household

A household whose income is more than fifty percent (50%), and does not exceed eighty percent (80%), of area median income (AMI).

Moderate Income Household

A household whose income is more than eighty percent (80%), and does not exceed one-hundred percent (100%), of area median income (AMI).

Non-Profit Housing Entity

A community housing development organization (CHDO) defined in 24 C.F.R. § 92.2, including any community land trust as defined in 42 U.S.C.A. § 12773.

Permanent Affordability or Permanently Affordable

A requirement that Affordable Dwelling Units that are required by Section 9.5 remain affordable for at least 30 years, to the extent permitted by law.

Reconfiguration

A change in the form or design of an existing development or structure.

Reconstruction

The act of putting a structure back in working order, in approximately its original form.

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Renovation

The act of improving a structure or development by renewing and restoring component parts.

Town Attorney

The Town Attorney of the Town of Mooresville, or his or her designee

Two-Family Lot

See "Dwelling, Duplex"