

TOWN OF BURRILLVILLE

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Town of Burrillville Public Hearing

Notice is hereby given that a Public Hearing will be held on Wednesday, December 8, 2021 at 7:00 P.M. at which time the Town Council of the Town of Burrillville will consider for adoption amendments to the Revised General Ordinance of the Town of Burrillville, RI, 2004.

The Town Council of the Town of Burrillville hereby ordains as follows:

The Revised General Ordinances, Town of Burrillville, RI, 2004, Chapter 30 entitled *Zoning*, is hereby amended, as follows:

By adding:

Sec. 30-164. Inclusionary zoning.

(a) *Purposes.* The purposes of this section of the Burrillville Zoning Ordinance are as follows:

- (1) Respect and perpetuate the historic diversity of the community through the development of housing for all populations within the Town, including, but not limited to, housing for residents with a range of incomes;
- (2) Promote mixed-income development in housing development projects throughout the Town;
- (3) Encourage the development and availability of housing that qualifies as low and moderate income (LMI) housing as mandated by R.I.G.L. 45-53, the Rhode Island Low and Moderate Income Housing Act, and the Rhode Island Comprehensive Housing Production and Rehabilitation Act of 2004, as amended, and maintain greater than 10% of the Town's total housing stock as LMI;
- (4) Promote LMI housing production in the Town in accordance with the goals and policies of the Burrillville Comprehensive Plan's Housing Chapter and Affordable Housing Strategy; and
- (5) Allow landowners and/or developers a reasonable return in all residential development for which Inclusionary Zoning applies.

(b) *Applicability.*

- (1) The inclusionary zoning requirements found in this chapter of the Zoning Ordinance shall apply to any subdivision or land development project in the Town of Burrillville that has the capacity to yield six (6) or more lots or units of housing with no regulatory relief required. However, inclusionary zoning shall not be applied in the F-5 or F-2 districts.
- (2) Inclusionary zoning under this section of the Zoning Ordinance shall not be applied to village planned development land development projects. The requirements for affordable housing specifically provided in Section 30-209. Village planned development land development project shall govern those applications.

- (3) Applicants must acknowledge and demonstrate to the Planning Board the applicability or inapplicability of the inclusionary zoning requirements through a letter and supporting documentation during the pre-application phase of review. The applicant shall develop a conventional Yield Plan per the requirements of the Subdivision Regulations for determining the Basic Maximum Number of dwelling units.
- (4) When a subdivision or land development project application that creates fewer than six (6) dwelling units is approved and leaves a portion of the same parcel undeveloped, the portion left undeveloped shall not be further subdivided or developed for a total of six (6) or more dwelling units on the parcel within twenty (20) years of final approval of the first development unless the undeveloped portion is subject to the inclusionary requirements of this Chapter. The number of inclusionary units required in the subsequent development shall be calculated as if the earlier development were part of it. This provision does not come into effect when an entire parcel receives Master Plan approval and is developed in phases.

(c) Requirements for LMI Housing.

- (1) Any subdivision or land development project to which this ordinance applies in accordance with Section (b) shall include a minimum of 15% of housing units that qualify as LMI housing as defined in R.I.G.L. 45-53. These units shall be deed restricted to households making 80% of the Area Median Income or less for rental and 100% of the Area Median Income or less for homeownership units.
- (2) The Planning Board may adjust these income limits in response to unique opportunities associated with an individual project if an adjustment is deemed to be consistent with the Comprehensive Plan. Financial hardship on the part of the applicant shall not be considered just cause for adjusting the target income limits.

(d) Density bonuses. The Town of Burrillville herein acknowledges the requirement under state law to establish incentives that will offset the cost differential associated with LMI housing. To meet this requirement, the Town establishes the following process.

- (1) The applicant shall add pairs of housing units, one market rate unit and one inclusionary unit, to the Basic Maximum Number only until the percent of deed restricted units equals or exceeds 15% of the total number of housing units. The resulting total number of units at that point shall be the Maximum Bonus Number of dwelling units.
- (2) The Maximum Bonus Number of dwelling units for subdivisions with a Basic Maximum number of between six (6) and thirty (30) units is provided below for reference. Where the Basic Maximum Number exceeds thirty (30) units, the applicant shall be responsible for calculating the correct Maximum Bonus Number of dwelling units.

Basic Maximum Number	Additional Market Rate Units	Additional Deed Restricted Units	Maximum Bonus Number	Percent Deed Restricted Affordable Housing
6	2	2	10	20.0%
7	2	2	11	18.2%
8	2	2	12	16.7%
9	2	2	13	15.4%
10	3	3	16	18.8%
11	3	3	17	17.6%

Basic Maximum Number	Additional Market Rate Units	Additional Deed Restricted Units	Maximum Bonus Number	Percent Deed Restricted Affordable Housing
12	3	3	18	16.7%
13	3	3	19	15.8%
14	3	3	20	15.0%
15	4	4	23	17.4%
16	4	4	24	16.7%
17	4	4	25	16.0%
18	4	4	26	15.4%
19	5	5	29	17.2%
20	5	5	30	16.7%
21	5	5	31	16.1%
22	5	5	32	15.6%
23	5	5	33	15.2%
24	6	6	36	16.7%
25	6	6	37	16.2%
26	6	6	38	15.8%
27	6	6	39	15.4%
28	6	6	40	15.0%
29	7	7	43	16.3%
30	7	7	44	15.9%

- (3) The Maximum Bonus Number described above in Subsection (d)(1) shall be considered the default target for the Planning Board. The applicant shall show a conceptual layout of the subdivision with the Maximum Bonus Number at the Pre-Application Meeting. The conceptual plan shall, at a minimum, contain the same information as the Yield Plan.
- (4) The applicant and the Planning Board may mutually agree to pursue a smaller number of bonus units during the Pre-Application Meeting with the following limitations:
 - a. Where LMI housing will be provided on-site or on another site, the percent of LMI units for the entire proposal shall never be less than 10% per state law requirements.
 - b. The Planning Board may not require more than half of the bonus units to be LMI housing.
 - c. Elimination of the obligation to provide any LMI housing is at the discretion of the Planning Board and may only occur where the Board can demonstrate there is no further need for LMI units in the town.

(e) Design requirements and reduction of dimensional requirements.

- (1) *Design of housing.* The exterior appearance of the inclusionary units in any development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for inclusionary units as for market rate units. In the context of a subdivision of single-family homes, inclusionary units shall have the appearance of a single-family home when more than one unit is proposed for a building.

(2) *Housing types.* Applicants are encouraged to explore the development of a mix of housing types within a single subdivision or development. Allowable housing types are those permitted in the underlying zoning.

(3) *Reduction in dimensional standards.* In order to accommodate housing at a density that exceeds the Basic Maximum Number of units, the Planning Board may approve proposed deviations from the dimensional requirements in the form of reduced frontage, reduced setbacks, or increased building coverage with the following stipulations:

- a. Minimum yard setbacks in the rear and side yards shall not be reduced where they are adjacent to another residentially zoned lot that is separate from the proposal.
- b. In the R-12, R-20, and R-40 districts, where cluster development is not proposed, deviations from dimensional requirements proposed by the applicant shall be of a magnitude reasonably necessary to accommodate the total number of units.
- c. In the R-12, R-20, and R-40 districts, where cluster development is proposed, the Planning Board, at its discretion, may further deviate from the dimensional standards in Sec. 30-203 Cluster development and/or reduce the amount of required open space in order to accommodate the increased number of residential units.
- d. The Planning Board is authorized to allow for multiple structures/units on a single lot. In these instances, restrictions under Section 30-152 Multiple Structure on One Lot shall not apply.

(4) *Considerations for approval:* When considering any proposed reduction in dimensional requirements, the Planning Board shall consider whether the proposal provides for:

- a. Site design that integrates market rate and inclusionary units into a cohesive neighborhood;
- b. Site layout that is suitable to the housing types proposed by the applicant. For example, very small setbacks between dense housing types may not be appropriate for the neighborhood or conducive to quality of life for residents;
- c. Reduced setbacks that are reasonably compatible with neighborhood development patterns;
- d. Proposed units that have adequate access to private or shared yard space for recreation and enjoyment; and
- e. Proposed access for utilities and public safety that are deemed adequate.

(f) *Alternatives to on-site construction of inclusionary units.* The applicant may propose, and the Planning Board may approve, an alternative method of increasing the number of LMI housing units in the Town. The options available are listed below. The applicant may satisfy all or a portion of the inclusionary housing requirements with any one or both alternatives at the sole discretion of the Planning Board.

(1) *General criteria.* In addition to any specific criteria listed below for each alternative, the Planning Board will consider whether:

- a. Existing physical conditions on the site present unusual challenges to development of increased housing density (e.g., high water table, presence of wildlife habitat, lot geometry, etc.);
 - b. An alternative approach furthers the housing needs of the community as specifically identified in the Comprehensive Plan; or
 - c. An alternative approach would create higher quality housing or would develop housing in a location that provides greater access to amenities, jobs, and/or transit.
- (2) *Land Dedication.* Applicants may propose donations of land in fee simple, on- or off-site, that the Town, at its sole discretion, determines are suitable for the construction of inclusionary units. In addition to the criteria provided in Section (f)(1) above, the Planning Board shall consider the following:
- a. Whether the site can accommodate the number of inclusionary units proposed to be accommodated through this alternative approach.
 - b. Whether there are environmental constraints, legal encumbrances or other conditions that would otherwise limit the development potential of the site.
- (3) *Off-site New Construction.* Applicants may propose the construction of the required number of inclusionary units on a site or sites other than the one that is the subject of the application. The construction of any off-site units shall follow the requirements of Section (g) unless an alternative schedule is approved by the Planning Board.
- (4) *Off-site Rehabilitation.* Applicants may propose the required number of inclusionary units through the rehabilitation of existing structures on a site or sites other than the one that is the subject of the application. The rehabilitation of any off-site units shall follow the requirements of Section (g) unless an alternative schedule is approved by the Planning Board. Rehabilitated off-site units shall be in full compliance with all applicable construction and occupancy codes and shall be sufficiently maintained or rehabilitated so that all major systems meet standards comparable to new construction. In addition, such units must constitute a net increase in the number of LMI units town wide.

(g) *Timing of construction.* The Planning Board, at its discretion, may require that inclusionary units be built (a unit is considered “built” upon the issuance of an Occupancy Permit) using the schedule noted below as a guide:

Market Rate Units (% built)	Inclusionary Housing Units (% built)
Up to 30%	None required
30% to 50%	At least 30%, or not less than 1 housing unit
51% to 75%	At least 75%
76% or more	100%

Approval of the final plan associated with any application that triggers Inclusionary Zoning shall include a final construction schedule that details the number of inclusionary units that shall be constructed in comparison with the construction schedule for market rate units.

(h) *Certifying buyers and maintaining affordability.*

- (1) *Basic requirement.* All inclusionary units required under this section shall be eligible for the Town of Burrillville's official inventory of LMI housing as maintained by Rhode Island Housing. The required minimum term of affordability shall be in perpetuity (i.e., 99 years) and shall be renewable for the same term upon resale of the unit prior to expiration of the term. All deed restriction documents shall be provided to the Town and found acceptable prior to final plan approval.
- (2) *Eligible occupants.* Ownership inclusionary units shall be occupied by their purchasers as their primary residence and not rented for any other occupancy. Rental inclusionary units may not be sub-leased.
- (3) *Qualification and monitoring.* The developer or owner shall contract with a monitoring agency approved by Rhode Island Housing and the Planning Board for the following purposes:
 - a. To determine pricing for initial sale, resale, lease, transfer or sublease of the inclusionary units.
 - b. To qualify purchasers or renters for initial occupancy based on household size and income, and to monitor ongoing compliance.
 - c. To assist in the development of a marketing and resident selection plan that meets state and federal fair housing requirements, to be approved by the Planning Board.
- (4) *Long-term affordability.* Long-term affordability shall be assured through a land lease and/or deed restriction recorded in the Town's land evidence records before the sale or lease of the inclusionary unit. The lease or deed restriction shall include information regarding:
 - a. The basis for calculation of the maximum allowable sales or rental price for the inclusionary unit both initially and for future buyers or renters.
 - b. Restrictions concerning who may occupy the inclusionary unit, and for what period.
 - c. A marketing plan that meets local preferences and state and federal fair housing requirements.
 - d. Provisions for monitoring and assurance of compliance over time.
 - e. Provisions under which the Town, a non-profit organization designated by the Town, or Rhode Island Housing may exercise a right of first refusal to purchase an inclusionary unit being offered for sale.

And by amending *Sec. 30-204.-Multiunit dwellings*, as follows:

Sec. 30-204. Multiunit dwellings.

All multiunit dwellings as defined in section 30-3, and all townhouses, as defined in section 30-3 of this chapter shall conform to the following regulations and standards:

- (1) *Standards for development.*
 - a. No more than six dwelling units shall be permitted in a structure.

- b. No more than one multiunit dwelling structure shall be allowed on any one lot of record unless allowed at the Planning Board's discretion as part of an application subject to inclusionary zoning.
 - c. All multiunit structures shall be serviced by a public sewerage system and a public water system. If public sewers are not available, a private sewerage system (ISDS) may be substituted for the public system, provided that such system meets Rhode Island Department of Environmental Management regulations and standards. Where local, state or other standards are in conflict, the severest standard shall prevail.
 - d. Maximum lot coverage. The total ground area occupied by all principal buildings, together with all accessory buildings, shall not exceed 35 percent of the total area.
- (2) *Dimensional regulations.* Unless different lot sizes are approved as part of an application subject to inclusionary zoning, ~~Each~~ zoning lot shall meet the following minimum lot size and front, side and rear yard dimensions:
- Minimum front yard depth (feet): 55.
 - Combined minimum width of side yard (feet): 40.
 - Minimum width of any one side yard (feet): 15.
 - Minimum rear yard depth (feet): 30.
- a. *Height.* Principal building shall not exceed 35 feet in height; no accessory or other structure shall exceed 15 feet in height.
 - b. *Buffer strip.* The governing authority shall determine the need for and size of a landscaped buffer strip to be located along the rear and side lot lines.
 - c. *Special buffer requirements adjacent to other residential zones.* Along any boundary line adjacent to a residential zone that requires a greater side or rear yard than those required in the apartment development standards, a buffer strip equal to the difference shall be provided, measured from the property line.
 - d. *Rubbish disposal.* Each building shall be provided with an enclosed fireproof waste pen of sufficient size to accommodate all trash and waste stored on the premises. Waste pen and utility area shall be properly screened and buffered from all buildings and property lines.
- (3) *Density requirements.* Unless different lot sizes are approved as part of an application subject to inclusionary zoning, ~~Multiunit~~multiunit dwellings shall be limited in number to total lot size in accordance with following: 15,000 square feet of area for each of the first two units, and then all additional units in conformance with the following table:

<i>Apartment Type</i>	<i>Unit Lot Requirements (square feet)</i>
0—1 bedroom	1,500
2 bedrooms	3,000
3 bedrooms	4,500

- a. *[Additional rooms.]* Rooms designated as dens or similar connotations, which could be converted to use as bedroom(s), shall be considered as bedrooms for the purpose of this section.
- b. *Distances between buildings on the same lot.* If approved as part of a cluster development, the minimum distances between two buildings or any two rows of buildings substantially parallel to each other shall be 50 feet. The minimum distance between two abutting ends of buildings in the same general plane row shall be 25 feet.
- c. *Off-street parking.* Minimum off-street parking shall be provided and maintained as follows:
 - 1. Two car spaces per dwelling unit (270 square feet per space, including access, egress and general circulation).
 - 2. No parking line shall be permitted within ten feet of any boundary line or within the required minimum front yard.
 - 3. The circulation system, including roads, entrances, exits and other means of access constructed as part of a multifamily dwelling development shall be constructed so as to accommodate emergency vehicles, including fire apparatus.

This amendment shall take effect upon passage. The proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the public hearing.

by order of the Town Council
Vicki T. Martin, Town Clerk