

Section 6.6: Inclusionary Housing

6.6-1 **Purpose.** To promote the goal of increasing affordable housing as articulated in the Village of Bull Valley Comprehensive Plan and the Affordable Housing Plan, as defined by Public Act 93-0595; and

- (a) To require developers or redevelopers of three or more dwelling units to contribute a proportionate share of affordable housing, to ensure that an adequate stock of affordable housing is available to residents of the Village.
- (b) To allow developers or redevelopers of commercial structures to contribute a proportionate share of affordable housing, to ensure that an adequate stock of affordable housing is available to residents of the Village.

6.6-2 Definitions.

“ADMINISTRATOR” means the Administrator of the Village of Bull Valley.

“AFFORDABLE HOUSING” means decent, safe, and sanitary housing that is affordable to Eligible Households as defined below. The cost of such housing shall not exceed 30% of the Qualified Household’s gross income (the total income of all adults over eighteen years of age in said household).

“AFFORDABLE DWELLING UNIT” means any unit of affordable housing built to satisfy the requirements of this Section.

“APPLICANT” means any “Developer” who applies to the Village to receive approval of a “Covered Development” pursuant to this Section.

“AREA MEDIAN INCOME” means the median income level for this region, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, and adjusted for household size.

“COMMERCIAL DEVELOPMENT” means the construction of any retail planned development, commercial or industrial project, for which a tentative site plan or building permit application was received after the effective date of this ordinance and may include limited residential development as part of the plan.

“CONSUMER PRICE INDEX” has the meaning in the “Consumer Price Index for All Urban Consumers” (U.S. City Average, All Items: Base 1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics.

“COVERED DEVELOPMENT” means “Residential Development,” “Substantial Rehabilitation,” “Commercial Development,” “Mixed Use” or “New Use” including or resulting in three or more Dwelling Units on contiguous land under common ownership or control by an Applicant at one location within the Village, or any mixed use development. All developments, including phased developments, shall be subject to the provisions of this Section.

“DEVELOPER” means any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that applies to develop Dwelling Units, or Commercial Developments, but does not include any governmental entity or a Housing Provider as defined herein.

“ELIGIBLE HOUSEHOLD” Eligibility for rental or purchase of Affordable Dwelling Units shall be based on household size and income. The Affordable Dwelling Units shall be restricted to occupancy by households whose household income does not exceed Median Income at the time of purchase or rental.

“INCLUSIONARY HOUSING PLAN” has the meaning set forth in Section 6.6-7-B in this Section.

“MARKET RATE DWELLING UNITS” means all Dwelling Units in a Covered Development that are not Affordable Dwelling Units as defined herein.

MIXED USE means any development that combines any type of residential and commercial development in one plan.

“NEW USE” means the change of an existing building from non-residential to residential development or the redevelopment of a commercial structure from one purpose to another.

“SUBSTANTIAL REHABILITATION” means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure, or portion thereof requiring a permit issued by the Village

“RESIDENTIAL DEVELOPMENT” means new residential construction, including residential planned developments and subdivisions.

6.6-3 Applicability.

The provisions of this Section shall apply to all developments that result in or contain three or more residential dwelling units or commercial structures. The types of development subject to the provisions of this Section, shall be “Covered Developments” and include the following;

- A. A development that is a “Residential Development.”
- B. A development that is a “Commercial Development.”
- C. A development that is a “Mixed Use” Development.
- D. A development that involves “Substantial Rehabilitation.”
- E. A development that involves “New Use.”
- F. In addition, each Covered Development is subject to the underlying zoning of the relevant section of the municipal zoning code.

- G. Exemption: This Section does not apply to the rehabilitation of any building or structure, all of, or substantially all of which is destroyed or damaged by fire or other casualty or act of God; provided, however, no rehabilitation nor repair shall increase the density, bulk or size of any such building or structure which previously existed prior to the damage or destruction thereof without triggering the requirements of this Section.

6.6-4 Commercial Development.

Commercial Development/Mixed Use: An Applicant may propose to build the required Affordable Dwelling Units on the site of the Commercial Development or on another site sufficiently close to the Commercial Development site to serve the housing demand created by the development

6.6-5 Percentage of Affordable Dwelling Units Required in Covered Residential Developments.

- A. General requirement. A Covered Development is required to include a percentage of affordable housing. This percentage will be periodically reviewed for adequate progress toward IHDA goals and may change. It currently is set at 15%.
- B. Calculation. To calculate the number of Affordable Dwelling Units required in a Covered Development, the total number of proposed Dwelling Units shall be multiplied by the percentage required by Subsection A. In the event that such requirement results in a fraction of a unit, the fraction shall be rounded up to the nearest whole number.
- C. The percentage requirement may be waived or denied by the Village Board if the Village is currently meeting its required percent of affordable housing overall as determined by the IHDA standards. Alternatively, the Village may require a lesser or greater percentage of affordable units than proposed in the Covered Development in order to meet IHDA required percentages.
- D. The Developer may choose to construct the required affordable units as Accessory Living Quarters as defined under Section 11A of the Zoning Ordinance.

6.6-6 Eligible Households.

- A. Rental or purchase of Affordable Dwelling Units shall be based on household size and income.
- B. The Developer/Seller of an Affordable Dwelling Unit must certify that the buyer/renter is an Eligible Household.

6.6-7 Compliance Procedures.

- A. Application. For all Covered Developments, the Developer/Applicant shall engage in pre-Application discussions with the Village and file an application for approval on a form provided and required by the Village. The application shall require, and

the Applicant shall provide, among other things, general information about the nature and scope of the Covered Development, as well as other documents and information that the Village may require. The Application shall include, and the Applicant shall provide, the Inclusionary Housing Plan enumerated under Subsection (B) of this section.

- B. Inclusionary Housing Plan. As part of the approval of the Covered Development, the Applicant shall present to the Village for its approval an Inclusionary Housing Plan that outlines and specifies the Covered Development's compliance with each of the applicable requirements of this Section. The Inclusionary Housing Plan shall specifically contain, at a minimum, the following information regarding the Covered Development:
1. A general description of the Covered Development, including whether the Covered Development will contain rental Dwelling units or owner-occupied Dwelling Units, or both.
 2. The total number of Market Rate Dwelling Units and Affordable Dwelling Units in the Covered Development.
 3. The number of bedrooms in each Market Rate Dwelling Unit and each Affordable Dwelling Unit.
 4. The square footage of each Market Rate Dwelling Unit and each Affordable Dwelling Unit.
 5. The location within any multiple-family residential structure and any single-family residential development of each Market Rate Dwelling Unit and each Affordable Dwelling Unit.
 6. The pricing schedule for each Market Rate Dwelling Unit and each Affordable Dwelling Unit.
 7. The phasing and construction schedule that provides for completion of one Affordable Dwelling Unit prior to the start of construction on the first Market Rate Unit, and each subsequent Market Rate Unit and maintains a one to one ratio throughout the entire project construction until all Affordable Units are completed.
 8. Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the Covered Development and each of its Dwelling Units.
 9. A description of the marketing plan that the Applicant proposes to utilize and implement to promote the sale or rental of the Affordable Dwelling Units within the Covered Development.
 10. Any proposal to elect an Alternative to on-site Affordable Dwelling Units enumerated in Section 6.6-11 shall be described.

11. Any other documentation required by the underlying zoning process applicable to the development as identified by the Zoning Code.

- C. Agreement. Prior to issuance of a building permit for any Covered Development, the Applicant shall have entered into an agreement with the Village regarding the specific requirements and restrictions on the Covered Development. The Applicant shall agree to execute any and all documents deemed necessary by the Village, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the Affordable Dwelling Units in accordance with this Section. The Agreement shall set forth the commitments and obligations of the Village and the Applicant, and shall incorporate, among other documents, the Inclusionary Housing Plan. The Agreement shall also contain the applicability of any one or more of the alternatives to the provision of on-site affordable housing units as set forth in Section 6.6-11 of this Section. The Agreement may be modified by mutual consent of the Applicant and the Village, as long as the modified agreement remains in conformity with this Section.

6.6-8 Appropriate Rental and Sales Prices for Affordable Dwelling Units.

Pricing Schedule. The IHDA publishes a Pricing Schedule of rental and sales prices for Affordable Dwelling Units, calculated according to the IHDA affordability threshold in effect at the time of the lease or sale.

6.6-9 Integration of Affordable Dwelling Units.

- A. Location of Affordable Dwelling Units. Affordable Dwelling Units shall be dispersed among the Market Rate Dwelling Units throughout the Covered Development.
- B. Phasing of Construction. The Inclusionary Housing Plan shall include a phasing plan that provides for the timely and integrated development of the Affordable Dwelling Units throughout the Covered Development. The phasing plan shall provide for the development of the Affordable Dwelling Units concurrently with the Market Rate Dwelling Units. Building permits shall be issued for the Covered Development based upon the phasing plan. The phasing plan may be revised by the Commissioner at the request of the Applicant when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the Market Rate and the Affordable Dwelling Units. The phasing plan shall also provide that the Affordable Dwelling Units shall not be the last units to be built in any Covered Development.
- C. Exterior Appearance. The exterior appearance of the Affordable Dwelling Units in any Covered Development shall be visually compatible with the Market Rate Dwelling Units in the Covered Development. External building materials and finishes shall be substantially the same in type and quality for Affordable Dwelling Units as for Market Rate Dwelling Units.

- D. Interior Appearance and Finishes. Affordable Dwelling Units may differ from Market Rate Dwelling Units with regard to interior finishes and gross floor area provided that:
1. The bedroom mix of Affordable Dwelling Units shall be in equal proportion to the bedroom mix of the Market Rate Dwelling Units.
 2. The differences between the Affordable Dwelling Units and the Market Rate Dwelling Units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

6.6-10 Affordability Controls.

- A. Control Period (or Period of Affordability): In covered developments that contain for-sale units, affordable dwelling units shall be resold to eligible households in perpetuity or until determined by the Village to no longer be necessary to meet state mandated quotas. In covered developments that contain rental units, affordable dwelling units shall be rented to eligible households in perpetuity or until determined by the Village to no longer be necessary to meet state mandated quotas.
- B. The maximum sales price, with the exception of foreclosure sales, permitted on resale of an Affordable Dwelling Unit shall be the affordable sales price as determined by the IHDA at time of sale.

6.6-11 Alternatives to on-site Affordable Dwelling Units.

In lieu of the provision of affordable housing on the site of the Covered Development the Village Board may approve one or more of the following alternatives for affordable housing. Applicants may establish Affordable Dwelling Units either in combination with onsite Dwelling Units or as alternatives to onsite Dwelling Units by any combination of the listed alternatives. The Applicant must make the request in its Inclusionary Housing Plan submitted to the Village. To grant approval of this alternative, the Village must find that the Applicant has demonstrated that developing the Affordable Dwelling Units on-site would create a significant hardship or that the alternate means of compliance will further affordable housing opportunities in the Village to an equal or greater extent than compliance with the otherwise applicable on site requirements of this Section.

- A. Developing or otherwise producing 1.5 times the number of required Affordable Dwelling Units at a site within the Village other than the site of the Covered Development.
- B. Rehabilitating and preserving 1.5 times the number of required Affordable Dwelling Units in existing residential buildings

6.6-12 Enforcement.

- A. The provisions of this Section shall apply to all agents, successors and assignees of an Applicant.
- B. The Village may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this Section. In addition, any person, firm, or entity, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Section, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by the payment of a fine of not more than \$750 dollars per day. Such person, firm, or entity shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this Section is commenced, continued, or permitted by such person, firm, or entity, and shall be punishable as herein provided.
- C. An owner of an Affordable Dwelling Unit governed by this Section who does not occupy the unit as his or her primary residence shall be required to offer the unit for resale under the provisions of Section 6.6-10 of this ordinance.
- D. A lessee of an Affordable Dwelling Unit governed by this Section who does not occupy the unit as his or her primary residence shall be required to vacate said unit.

6.6-13 Severability.

In the event any part or parts of this Ordinance shall be found to be unlawful or unconstitutional by a court of competent jurisdiction, such unlawfulness or unconstitutionality shall not affect the validity of the remaining parts of this Ordinance.