

## Town of Yarmouth Affordable Housing Standards

February 18, 2010, Revised May 14, 2013, June 3, 2014, ~~May 2024~~.

The Yarmouth Community Housing Committee has developed the following standards for affordable housing developments seeking approval by the Town. The intent of this document is to:

1. provide predictability for affordable housing developments that are reviewed by the Community Housing Committee; and
2. ensure that the affordable units created qualify for inclusion in the Town's Ch. 40B Subsidized Housing Inventory and contribute toward the Town's goal of 10% affordable housing in Yarmouth.

For projects seeking a Ch 40B Comprehensive Permit or that are required by the Yarmouth Zoning Bylaw to be in compliance with M.G.L. c. 40B (typically as Local Action Units) approval as Local Initiative Program (LIP) Local Action Units (LAU) project proponents- applicants should also refer to Massachusetts Comprehensive Permit Law (M.G.L. c. 40B, §§ 20-23), Chapter 40B Regulations ("760 CMR 56.00: Comprehensive Permit: Low or Moderate Income Housing") and the Massachusetts Executive Office of Housing and Livable Communities (HLC) (formerly the Department of Housing and Community Development (DHCD) "Comprehensive Permit Guidelines" updated May 20132014. Project seeking Low Income Housing Tax Credit should contact HLC for the most current Qualified Allocation Plan (QAP).

### TERMS OF AFFORDABILITY

All affordable units are required to serve households or individuals earning no more than 80% of the Area Median Income as determined annually by the U.S. Department of Housing and Urban Development (HUD) with housing costs totaling no more than 30% of said income. Some units may be required to meet lower income limits, depending on the program. All affordable units are required to be restricted as affordable housing, by a deed rider or a regulatory agreement, in perpetuity or to the longest extent allowable by law. A project proponent may petition the Town to convert an affordable rental project to an affordable homeownership project 15 years after the recording of the original affordable rental housing restriction.

### PERCENTAGE OF AFFORDABILITY

Except for age-restricted developments, Low-Income Housing Tax Credit (LIHTC) developments, group homes or assisted living facilities serving disabled individuals or households, developments with twenty-five (25) or more units ~~shall-should~~ be mixed income with some market-rate units. Project proponents of by-right projects should refer to the Town of Yarmouth Zoning Bylaw ~~Sections 407 Accessory Apartments, Sections~~ 404 Motels and 412 Affordable Housing for the minimum percentage of affordable units required for a project. Project proponents seeking a Ch40B Comprehensive Permit should refer to Massachusetts Comprehensive Permit Law (M.G.L. c. 40B, §§ 20-23), Chapter 40B Regulations ("760 CMR 56.00: Comprehensive Permit: Low or Moderate Income Housing") and the HLC "Comprehensive Permit Guidelines" updated May ~~2013-2014~~.

### LOCAL PREFERENCE FOR AFFORDABLE UNITS

The Town of Yarmouth supports the use of a local selection preference in lottery plans for up to 70% of the affordable units in the development. (HLC does not allow more than 70% local preference.) In Yarmouth, local preference applies to households which consist of at least one current Yarmouth

resident, one current Yarmouth municipal employee, one current employee of a Yarmouth business, and/or one child attending a Yarmouth school.

## RENTS and LEASES

Affordable rents shall include all utilities except telephone, internet, and cable, and shall be

1. no more than the current Federal Fair Market rents as set by US HUD annually;
2. affordable to a household earning 65% of the area median income adjusted for household size
3. at least 10% lower than the market rate rents of comparable units within the development.
4. For units that do not meet the minimum room sizes set by HLC for LIP Units, or in need of major rehabilitation, the maximum allowable monthly rents shall be reduced proportionally.

Upon approval by the Town and HLC, landlords may require tenants pay for their utilities provided the landlord owners may subtracts out a utility allowance from the monthly rental payment. The utility allowance is calculated based upon the Yarmouth Housing Authority's Utility Allowance Worksheet.

Owners of affordable rental units shall enter into a lease with each affordable tenant for a minimum term of one year. The lease must meet the standards set by HLC in the "Comprehensive Permit Guidelines" dated May 2014 and be approved by the Town and HLC.

All rental units must be registered with the Town of Yarmouth Board of Health on an annual basis.

## RELOCATION OF CURRENT OCCUPANTS

All efforts shall be made to avoid the displacement or relocation of current occupants and tenants. It is required that priority placement in any new or rehabilitated affordable unit shall be given to existing occupants and tenants who meet program requirements, and have conformed to lease requirements, property management rules and agreements.

## ACCESSIBLE UNITS

All efforts shall be made to provide affordable units which are fully accessible within the development, especially for development received a town subsidy or which have residential units on the ground floor.

**Commented [WK1]:** Why would we accept it at all if it needs Major Rehabilitation?

**Commented [MW2R1]:** Good question! It is my understanding if a unit has no health or safety code violations, and no emergency repairs needed, and is similar in quality to the market-rate units, the CHC and the state cannot deny the unit as an affordable unit. Case in point was 77 Rt 28.

In the standards we are trying to provide an economic incentive to rehab the unit. We could use the word "improvement" or "overhaul" but it just weakens the policy.

## **AFFIRMATIVE FAIR HOUSING MARKETING**

The project proponent shall prepare and comply with an Affirmative Fair Housing Marketing Plan (AFHMP) which meets the standards set forth by HLC. HLC and the Town of Yarmouth must approve the AFHMP before the marketing process commences. Project proponents shall use plan administrators acceptable to the Town and HLC.

Some affordable rental developments may be eligible to use the affirmatively marketed Cape Cod Ready Renters List (RRR List) to select tenants. The RRR List is subsidized by the Yarmouth Affordable Housing Trust in an effort to lower marketing costs for smaller affordable housing developments. ~~In 2014-2016 the rates charged to landlords are \$500 per tenant placed in an affordable rental unit, and \$250 per tenant placed in an affordable accessory apartment (which are in owner-occupied homes).~~

Discrimination in housing on the basis of race, color, national origin, disability, age, ancestry, children, familial status, genetic information, marital status, public assistance reciprocity, religion, sex, sexual orientation, gender identity, veteran/military status, or any other basis prohibited by law is specifically prohibited in the selection of applicants for this housing opportunity.

Disabled persons are entitled to request a reasonable accommodation of rules, policies, practices, or services, or to request a reasonable modification of the housing, when such accommodations or modifications are necessary to afford the disabled person equal opportunity to apply for, use and enjoy the housing to satisfy state and federal laws.

## **OCCUPANCY and HOUSEHOLD SIZE**

Household size should be appropriate for the number of bedrooms in the affordable unit. There should be at least one occupant per bedroom. A husband or wife, or those in a similar living arrangement, are required to share a bedroom unless there is reliable medical documentation supporting the need for separate bedrooms. Otherwise, the household size cannot exceed the State Sanitary Code requirements for occupancy of a unit (see 105 CMR 400). ~~Special consideration regarding occupancy may be given by the Town in the case of affordable accessory apartments which are in owner-occupied homes; however, it should be noted that these units may not be eligible for the Subsidized Housing Inventory.~~

## **MONITORING of AFFORDABLE RENTAL UNITS**

The owner shall monitor and report to the Town on the affordable rental units annually by December in compliance with HLC Regulations and Guidelines for LIP/LAU Affordable Rental Units.

## **OUT-YEAR AFFORDABILITY OF RENTS AND CONDOMINIUM FEES**

In out-years, owners of Affordable Units must comply with all terms and conditions set forth by the Affordable Housing Restriction on the property, typically a deed-rider in the case of an Affordable Housing Homeownership Unit and an Affordable Housing Regulatory Agreement in the case of rental property.

Condominium Fees of Affordable Units will be reduced in order to preserve the affordability of the unit and shall increase no more than any concurrent increase in the Area Median Income, but in no case to an amount where the current affordable owner pays more than 40% of their actual income on mortgage and condominium fees.

Rent of Affordable Units will be reduced in order to preserve the affordability of the unit, and shall increase in out-years no more than any concurrent increase in the Area Median Income, but in no case to an amount where the current affordable tenant pays more than 40% of their actual income. Initial rent reductions and restrictions due to unit size or quality shall be maintained in out years, and rent increases shall be confined to these extra reductions regardless of current tenants income, ability to pay or possession of a rental voucher, or changes in the AMI.

### SUBSIDIES and FUNDING

Project proponents are encouraged to ~~should~~ contact the Dept. of Community Development at (508) 398-2231 x 1275 and the Barnstable County HOME Consortium at (508) 362-3828 to see what, if any, financial assistance is available for the proposed project.

### DESIGN AND CONSTRUCTION CRITERIA

All developments, whether new construction or rehabilitation of an existing structure, must comply with all local, state and federal requirements including zoning, building code, sanitary code, historic preservation, sewage/septic systems, and environmental protection, where applicable. All affordable units must be integrated and dispersed throughout the development. The affordable and the market-rate units must not be distinguishable from each other.

Each unit must contain complete living facilities, including at a minimum: a bathroom, a living area, bedroom (excepting zero bedroom units), a dedicated kitchen, adequate storage space for seasonal items, space and plumbing hook ups for a washer and dryer unless common facilities are available. The kitchen must at a minimum contain a stove with oven, microwave, sink, kitchen cabinets, counter and a refrigerator.

New affordable units must be designed and constructed same in appearance and quality with the other units in the development. Where Affordable Units are developed off-site and/or in existing buildings, the level of design and construction undertaken shall result in units which are new or "good as new."

The level of rehabilitation and quality of equipment and materials will result in a like new condition for the affordable units and (i) assure durability and minimize future maintenance costs, (ii) include energy efficient and water conserving building elements typical of new construction (with regard to the building envelope, HVAC and plumbing systems), (iii) be compatible with contemporary standards with regard to amenities (such as kitchen cabinets; size of appliances; electric, telephone and cable service, etc.), and (iv) be free of such potentially hazardous conditions as asbestos, lead water pipes and lead paint, and be free of any major repairs for the next five (5) years.

It is ~~encouraged-expected~~ that developments with affordable units will have a variety of bedroom sizes.

**Commented [WK3]:** Could this mean less than the 65% rental rate if the current affordable tenant makes less?

**Commented [MW4R3]:** Possibly yes. Capn Gladclif has a unit with a lower than affordable rent due to the size of the unit. This rent reduction/restriction did not make it into the Regulatory Agreement and the owner would not recognize the reduced rent when they requested an increase in rent. The owner wanted all rents to equal the rate set by the Federal Fair Market Rate Rents (or the Sec 8 rents). The Town agreed to this for 6 of the 7 units, as these six tenants have Sec 8 vouchers that would cover the increase. The 7<sup>th</sup> tenant did not have a voucher and could not afford the increase. So to prevent homelessness the Town approved a rent increase limited to 40% of the tenant's actual income.

**Commented [WK5]:** Same question as above. Not sure what this phrase means.

**Commented [MW6R5]:** I hope the answer above clarifies this section of the standards.

Projects seeking a Ch 40B Comprehensive Permit should refer to the design and construction standards found in the *Comprehensive Permit Guidelines* issued by [HLC](#). For projects not seeking a Ch 40B

Comprehensive Permit, the affordable units must meet the following design and construction standards shown below:

Minimum Size Requirements for Affordable Units in Square Footage

	Sec 412 Zoning Bylaw or by Special Permit	Sec 412 Zoning Bylaw or by Special Permit	Sec. 404 Zoning Bylaw		<del>See 407- Zoning Bylaw</del>
	New Construction	Rehabilitation or remodeling of existing building	<del>Units created through motel conversion provision</del>	Units created through raze and replace provision	<del>Affordable Accessory Apartments</del>
Studio	550	500	<del>400</del>	600	<del>500</del>
1 Bedroom	700	600	<del>600</del>	600	<del>600</del>
2 Bedroom	900	750	<del>700</del>	700	<del>700</del>
3 Bedroom	1200	1000	<del>900</del>	900	
4 Bedroom	1400	1150			

Bathroom Requirements for Affordable Units	
	Required Number of Bathrooms
Studio	1 bathroom
One Bedroom	1 bathroom
Two Bedroom	1 bathroom
Three Bedroom	1 and ½ Bathrooms
Four Bedroom	2 bathrooms *

All rooms should have functional dimensions, no extraneous interior walls or bump-outs/bump-ins. In no case shall any habitable room be less than seven (7) feet in any dimension. ~~There may be exceptions for kitchens.~~ Square footage under a slanted interior ceiling of less than 5.5" shall not be considered as contributing toward the minimum size requirements. Square footage shall be measured from the interior surface of the interior walls.

Requirements of Kitchen for Affordable Units		
	Required Counter Space in Linear Feet **	Minimum Width/Circulation in Feet
Studio	4	4
1 Bedroom	6	4
2 Bedroom	8	4
3+ Bedroom	10	4

#### SPECIAL PERMITS AND MODEL LANGUAGE FOR AFFORDABLE HOUSING UNITS

From time to time a Special Permit Granting Authority (SPGA) may grant a Special Permit with a condition that the project provide affordable units. The CHC recommends the following model language for use in special permits in order to ensure these units will qualify for the Town's Chapter 40B Subsidized Housing Inventory:

The project shall consist of (#) affordable units. The affordable units shall qualify as low or moderate income units for the purposes of M.G.L. Ch 40B, sec. 20-23 and shall be in compliance with 760 CMR 56.00 the Local Initiative Program (LIP) and meet the guidelines and standards there under promulgated thereunder by the [HLC](#) for the inclusion in the [HLC](#) Ch 40B Subsidized Housing Inventory as Local Action Units. The affordable units shall comply with the Town of Yarmouth Affordable Housing Standards.

#### **CONFORMITY WITH THE REQUIREMENTS OF CHAPTER 40B**

These guidelines are not intended to supersede any requirements of MGL Ch 40B, Town of Yarmouth Zoning Bylaws or the regulations and guidelines for affordable housing promulgated by the Massachusetts Department of Housing and Community Development.

## REVIEW PROCESS FOR LIP Friendly CH40B and LIP LOCAL ACTION UNITS:

- 1. Department of Community Development 508-398-2231 x1275 mwaygan@yarmouth.ma.us**
  - a. In order to ensure that projects will meet eligibility requirements, project proponents are encouraged to meet with the Department of Community Development as early on in the process as possible.
- 2. Community Housing Committee**
  - a. The Community Housing Committee will review the quality of life aspects of the project, as well as the project's compliance with town and state affordable housing requirements.
- 3. LIP**
  - a. Project is introduced to HLC via a LIP Application found at HLC's website: <http://www.mass.gov/hed/housing/> There are separate applications for LIP Ch40B and LIP LAU (Local Action Units)
  - b. LIP Application once deemed complete is the formally reviewed by:
    - i. Town of Yarmouth Community Housing Committee
    - ii. Town of Yarmouth Select Board
    - iii. HLC LIP
- 4. The project then proceeds with formal permitting under local zoning of a LIP Chapter 40B**

~~In order to ensure that projects will meet eligibility requirements, project proponents are encouraged to meet with the Department of Community Development as early on in the process as possible. Please contact the Department of Community Development at 508-398-2231 Ext 1275 (TTD 508-398-2231).~~

~~It is also recommended that the proponent bring the project to formal Site Plan Review prior to meeting with the Community Housing Committee. Please contact the Building Department at 508-398-2231 Ext 1261 (TDD 508-398-2231) to schedule a review.~~

~~To request a meeting with the Community Housing Committee, complete the attached CHC Request for Information. Informal reviews by the Committee are available. The Community Housing Committee meets on the first Monday of the month in Room A of the Yarmouth Town Hall at 1146 Route 28, South Yarmouth, MA. This location is handicap accessible. To schedule a time on the Committee's agenda, or for more information, please contact the Department of Community Development at 508-398-2231 Ext 1275 (TTD 508-398-2231)~~

**Town of Yarmouth  
Community Housing Committee  
Information Request**  
~~Local Action Units & Non-Comp Permit Units~~

**Project Information:** Date: \_\_\_\_\_

Project Sponsor: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Property Owner: \_\_\_\_\_

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Project Site: \_\_\_\_\_ Map: \_\_\_\_\_ Lot: \_\_\_\_\_

Project Address: \_\_\_\_\_

Lottery Administrator: \_\_\_\_\_

Monitoring Agent: \_\_\_\_\_

**Review Type:** ☐ Formal **Project Type:** ☐ Rental  
☐ Informal ☐ Homeownership [Fee Simple](#)

**Lottery Type:** ☐ Local Preference ☐ Homeownership Condominium

**Project Summary:**

Lot Size (acreage) \_\_\_\_\_ # Studio Units \_\_\_\_\_

# Affordable Dwelling Units \_\_\_\_\_ # One Bedroom Units \_\_\_\_\_

# Market Rate Dwelling Units: \_\_\_\_\_ # Two Bedroom Units \_\_\_\_\_

# Dwelling Units Total \_\_\_\_\_ # Three Bedroom Units \_\_\_\_\_

# Dwelling Units per Acre: \_\_\_\_\_ ([Zoning Bylaw Sec 404.8.2 & 404.9.1 allows for 16 units per acre](#))

# Affordable Dwelling Units per Acre: \_\_\_\_\_

Does each unit in the property have the following?

Bathroom ☐ Yes ☐ No Living area ☐ Yes ☐ No

Bedroom(s) ☐ Yes ☐ No Kitchen ☐ Yes ☐ No

Space and plumbing hook ups for a washer and dryer unless or common laundry facilities ☐ Yes ☐ No

Are there any proposed limits on occupancy (ie. are you looking to limit a small studio to one-person)? ☐ Yes ☐ No

**Project Description:**

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**UNIT COMPOSITION:**

Type of Unit (Circle One) Homeownership Homeownership Condo Rental	Total # Dwelling Units of this type	# Bedrms	# Baths	Gross Sq Feet	Livable Sq Feet	Proposed Sale Price or Monthly Rent	Proposed Monthly Condo Fee
Affordable Units:							
Market Rate Units							

Answer the following for any rental units:

Are utilities included in rents?

Are affordable rate rents less than market rate rents? \_\_\_\_\_

If so, by what percentage? \_\_\_\_\_

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~~The Community Housing Committee encourages all project proponents to bring their project to **informal Site Plan Review** prior to bringing the project before the Community Housing Committee. To schedule an informal Site Plan Review, contact the Building Department at 508-398-2231 Ext 1261 (TDD 508-398-2231).~~

~~**Informal review by the Community Housing Committee** is available and encouraged. The Community Housing Committee meets on the first Monday of the month in Room A of the Yarmouth Town Hall at 1146 Route 28, South Yarmouth, MA. This location is handicap accessible. To schedule a time on the Committee's agenda, or for more information, please contact the Department of Community Development at 508-398-2231 Ext 1275 (TTD 508-398-2231)~~

~~For a **formal review by the Community Housing Committee**, please provide the following documents:-~~

<del>Required Documents and Plans For Formal Review by the Community Housing Committee</del>	
<del>Rental Projects</del>	<del>Homeownership Projects</del>
<ul style="list-style-type: none"> <li><del>Regulatory Agreement *</del></li> <li><del>Monitoring Agreement *</del></li> <li><del>Affirmative Marketing and Fair Lottery Plan (note if plan includes local preference) **</del></li> <li><del>Comments from Formal Site Plan Review (if project is required to go before Site Plan Review)</del></li> <li><del>Plot Plan of Proposed Project Clearly Showing Affordable Units</del></li> <li><del>Floor Plans and Elevations (Existing and Proposed, multiple copies may be required)</del></li> <li><del>Photos of existing conditions for rehabilitation projects</del></li> <li><del>List of all mortgagees holding mortgages on the property</del></li> <li><del>Documentation of authority to sign on behalf of the Project Sponsor</del></li> <li><del>MEPA ENF Certification (form attached) ***</del></li> </ul>	<ul style="list-style-type: none"> <li><del>Regulatory Agreement *</del></li> <li><del>Monitoring Agreement *</del></li> <li><del>Deed Rider (Use the Fannie Mae Universal Rider)**</del></li> <li><del>Affirmative Marketing and Fair Lottery Plan (note if plan includes local preference) **</del></li> <li><del>Comments from Formal Site Plan Review (if project is required to go before Site Plan Review)</del></li> <li><del>Plot Plan of Proposed Project Clearly Showing Affordable Units</del></li> <li><del>Floor Plans and Elevations (Existing and Proposed, multiple copies may be required)</del></li> <li><del>Photos of existing conditions for rehabilitation projects</del></li> <li><del>If a condominium, provide the Schedule of Beneficial Interest and Master Deed</del></li> <li><del>List of all mortgagees holding mortgages on the property</del></li> <li><del>Documentation of authority to sign on behalf of the Project Sponsor</del></li> <li><del>MEPA ENF Certification (form attached) ***</del></li> </ul>
<del>The Community Housing Committee may request additional information in order to complete the review of the project or to complete DHCD's review of the project for inclusion on the Ch 40B Subsidized Housing Inventory.</del>	

~~\* Changes to any DHCD model documents must be clearly redlined. All modifications must be reviewed and approved by DHCD and the Town, and may take additional time to process.~~

~~\*\*No modification of the Fannie Mae Universal Deed Rider is allowed.~~

~~\*\*\* Additional guidance regarding MEPA thresholds are available on line at <http://www.mass.gov/envir/mepa/> and <http://www.mass.gov/envir/mepa/thirdlevelpages/thresholds.htm>~~

~~If units are currently occupied, submit relocation or rehousing plan.~~

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Commonwealth of Massachusetts  
**DEPARTMENT OF HOUSING &  
COMMUNITY DEVELOPMENT**

Deval L. Patrick, Governor ♦ Timothy P. Murray, Lt. Governor ♦ Tina Brooks, Undersecretary

**FOR DHCD USE ONLY:**

Pursuant to 301 CMR 11.03(2), DHCD hereby determines that no ENF Must Be Filed.

\_\_\_\_\_ date

\_\_\_\_\_ signature  
for DHCD Division of Housing Development

**MEPA ENF Certification**

Project Name: \_\_\_\_\_

City/Town: \_\_\_\_\_

Project Sponsor: \_\_\_\_\_

I hereby certify, pursuant to the Massachusetts Environmental Policy Act (MEPA, G.L., c. 30, ss. 61-62H) and regulations (301 CMR 11.00) as follows:

The development will alter 25 or more acres of land. ☐ Yes ☐ No

The development will create 5 or more acres of impervious area. ☐ Yes ☐ No

The development meets or exceeds one of the SS 11.03 review thresholds. ☐ Yes ☐ No

The development is in an Area of Critical Environmental Concern  
(see G.L., c. 21A, s. 2 (7); St. 1974, c. 806, s. 40 (e) ) ☐ Yes ☐ No

The Fail Safe provision in s. 11.04 has been invoked with regard to this  
development. ☐ Yes ☐ No

The Secretary of Environmental Affairs has required filing of an Environmental  
Notification Form (ENF). ☐ Yes ☐ No

An ENF or Environmental Impact Report is required for this development for  
other reasons. ☐ Yes ☐ No

For the Project Sponsor,

\_\_\_\_\_ (signature)

\_\_\_\_\_ (print name)

\_\_\_\_\_ (title)

\_\_\_\_\_ (date)

