

## Proposed Inclusionary Zoning Amendment

### Amend Chapter 701, Zoning, Article II by adding the following section:

#### DD. AFFORDABLE HOUSING PROGRAMS

It is within the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. This section outlines the Town of Yarmouth affordable housing programs.

##### 1. Affordable Housing Requirements

a. Purpose: The purpose of this section is to ensure that developments over a certain size provide a portion of affordable units and by doing so support the creation of more economically diverse and inclusive communities.

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##### b. Applicability:

i. This ordinance shall apply to development projects that create 10 or more net new dwelling units for rent through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of nonresidential use to residential use, or any combination of these elements.

ii. This ordinance shall apply to development projects that create 5 or more net new dwelling units for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of nonresidential use to residential use, or any combination of these elements.

iii. This ordinance shall not apply to projects using public financing requiring affordability restrictions, as defined by tax increment financing, U.S. Department of Housing and Urban Development funds such as HOME or CDBG, other federal, state, or local housing program, or the Low-Income Housing Tax Credit program.

**Deleted:** <#>This ordinance shall apply to development projects that create 5 or more net new lots in accordance with Town of Yarmouth Ordinance Chapter 601.¶

iv. This ordinance shall not apply to projects which have received final approval as a Major Subdivision per Town of Yarmouth Ordinance Chapter 601 and final approval as a Development Plan per Town of Yarmouth Ordinance Chapter 703 prior to October 1, 2022.

##### c. Standards: Development projects subject to this ordinance are subject to the following standards:

i. At least 10 percent of the units in the project shall meet the definition of affordable housing unit for rent or sale to an eligible household. Where the required number of units results in a fraction of less than 0.5, the required number of onsite units is rounded down to the nearest whole number. Where the required number of units results in a fraction of 0.5 or more, the development project shall have the option of paying a partial fee-in-lieu for the fractional value per paragraph d.ii below or rounding the number of onsite units up to the nearest whole number.

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ii. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units per phase unless otherwise permitted through by the Planning Authority.

## Proposed Inclusionary Zoning Amendment

- iii. Affordable units must be integrated with the rest of the development, must use a common entrance if in a structure containing multiple units, and must provide no indications from common areas that these units are affordable units.
  - iv. Affordable units shall be dispersed throughout the development and shall be comparable in size, number of bedrooms, materials, interior finishes, amenities and parking in dwelling units in the neighborhood and in the development in which they are located. Exteriors of affordable units shall be consistent with and indistinguishable from the exteriors of other units in the project.
  - v. Affordable housing units, whether for sale or for rent, shall not be used for short-term rentals.
- d. Alternative compliance options: Instead of on-site compliance, the requirements of this section may be satisfied in the following alternative ways:
- i. Offsite units may fulfill the purposes of this ordinance if the following conditions are present: located within the Town of Yarmouth; comparable or larger unit bedroom sizes to the average unit created on-site; comparable quality to the units being created on-site; same amenities provided whether in the unit or on the property as those offered for on-site units; same income level served as the on-site units; the term of affordability is the same as would have been provided through on-site compliance; and delivered safe in accordance with all federal, state, and local environmental regulations pertaining to hazardous conditions common to residential structures. The Certificate of Occupancy for any off-site units must be received prior to the Certificate of Occupancy for any on-site units.
  - ii. Projects may pay a fee-in-lieu of some or all of the units. In-lieu fees shall be deposited into a municipal account dedicated to creating and maintaining affordable housing within Yarmouth. The fee for affordable units not provided shall be \$150,000 per unit, adjusted by the cost of living identified in the most recent six-month Consumer Price Index for All Urban Consumers (Northeast, All Cities, All Items, Not Seasonally Adjusted) as released by the U.S. Bureau of Labor Statistics upon the date of submission for a final plan approval, but never less than \$150,000. The payment shall be required in conjunction with a request for a Certificate of Occupancy.
- e. Development Incentives for eligible projects: To facilitate the objectives of this section, the following expedited review process and modifications to the dimensional and parking requirements may be permitted.
- i. The Town shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope of thoroughness of its review. The expedited review shall consist of a pre-application meeting with Town of Yarmouth staff and Yarmouth Water District staff, and two Planning Board public hearings consisting of a preliminary review and a final review.
  - ii. In zoning districts or character districts that establish a minimum lot size or a minimum lot area per unit, for each affordable unit required, one additional unit may be included in the development project regardless of minimum lot size or minimum lot area per unit.

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**Moved up [1]:** <#>Affordable housing units, whether for sale or for rent, shall not be used for short-term rentals.¶

**Deleted:** <#>Development projects shall be subject to the Architectural and Landscape Standards of Town of Yarmouth Ordinance Chapter 703, Articles 5.M and 5.N.¶

**Proposed Inclusionary Zoning Amendment**

- iii. In the CD-4 and CD4-C Character Districts, for any mixed-use development [or multifamily development](#) project, the Planning Board may approve a structure height of 4 stories and 45 feet.
  - iv. In the Commercial Zoning District, for any mixed-use development project, the Planning Board may allow an increase in the residential floor area to [75%](#) and a structure height of four stories and 45 feet.
  - v. In any district, off-street parking may be reduced to 2 off-street parking spaces for every 3 units for the entire development project.
- f. Administration and Enforcement:
- i. The affordable units shall be subject to effective deed restrictions and covenants such as those used by MaineHousing which shall be recorded at the Cumberland County Registry of Deeds. The deed restriction shall outline sales prices, resale prices, initial rents and rent increases, and income verification processes, for affordable units to ensure affordability for the entire affordability term to the extent legally possible. The deed restriction shall also outline marketing and tenant selection for the affordable units consistent with state and federal fair housing laws. The deed restriction shall also identify a monitoring agent for the affordable units.
  - ii. The term of affordability for affordable units provided shall be 99 years from the date of the Certificate of Occupancy.
  - iii. Affordable housing units for sale, if converted to affordable housing units for rent, or vice versa, shall become subject to the income limits and other requirements of such units.
  - iv. [The Department of Planning & Development shall provide a report to the Planning Board and Town Council evaluating the efficacy of this ordinance and any recommended updates to the ordinance on a biannual basis from the effective date of this ordinance.](#)
- g. Effective Date: The effective date of this ordinance is January 1, 2024.

2. Reserved

**Amend Chapter 701, Zoning, Article I by adding the following definitions:**

- Affordable: The percentage of income an eligible household is charged in rent and other housing expenses, or must pay in monthly mortgage payments (including insurance, condominium or association fees, real estate taxes, mortgage insurance, and utilities) does not exceed 30% of a household's gross income.
- Affordable Unit: A designated unit that is affordable to Eligible Households.
- Eligible Household: A household which, at the time of the mortgage or rental application, with regard to household income does not exceed the Area Median Income for the [Portland, ME, HUD Fair Market Rent Area](#), adjusted for household size, published annually by the U.S. Department of Housing and Urban Development

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**Proposed Inclusionary Zoning Amendment**

(HUD); and the members of which do not, at the time of the mortgage or rental application, own residential real estate.

Affordable Rental Unit: An affordable rental unit is affordable to an eligible household earning up to 80% of the Area Median Income for the [Portland, ME, HUD Fair Market Rent Area](#), adjusted for household size, and published annually by the U.S. Department of Housing and Urban Development (HUD).

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Affordable Homeownership Unit: An affordable homeownership unit has a purchase price which is affordable to an eligible household earning up to 120% of the Area Median Income for the [Portland, ME, HUD Fair Market Rent Area](#), adjusted for household size, and published annually by the U.S. Department of Housing and Urban Development (HUD).

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