



Erin Zwirko, AICP, LEED AP
E-mail: ezwirko@yarmouth.me.us

Tel: 207-846-2401
Fax: 207-846-2438

TOWN OF YARMOUTH
200 Main Street, Yarmouth, Maine 04096
www.yarmouth.me.us

PLANNING BOARD REPORT

Chapter 701, Zoning Ordinance Amendment: Inclusionary Zoning
Yarmouth Affordable Housing Committee, Applicant
Prepared by: Erin Zwirko, Director of Planning & Development
Report Date: December 8, 2022; Meeting Date: December 14, 2022

Introduction

The Yarmouth Affordable Housing Committee proposes inclusionary zoning provisions for the Town of Yarmouth to be inserted in the Town of Yarmouth Ordinances Chapter 701, Zoning. The Grounded Solutions Network¹ describes inclusionary housing (IZ) as *“housing policies [that] tie the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing or commercial development. These policies leverage the profitability of new development to pay for new affordable housing units and support the creation more economically diverse and inclusive communities.”*

YAHC proposes an IZ ordinance that requires that rental and ownership projects that meet threshold requirements contribute 10% of the total units as deed-restricted affordable units. Affordable units are proposed be available to eligible households that earn up to 80% of the area median income for rental units and up to 120% of the area median income for homeownership units. Development incentives are also proposed.

The IZ proposal was introduced to the Town Council at two Council Operations Committee meetings on September 29 and October 13. The IZ proposal was on the Town Council’s November 15, 2022, voting meeting,² where the Council directed YAHC to submit the proposed ordinance to the Planning Board for consideration and that the Planning Board issue a recommendation to the Council by February 22, 2022. The Council indicated that if more time is needed for the Planning Board to review and issue a recommendation to the Council, it is available.

The proposed ordinance is on the Planning Board’s December 14, 2022, meeting for a workshop. Public comment will be received. No vote will be taken.

¹ <https://groundedsolutions.org/strengthening-neighborhoods/inclusionary-housing>

² The Town Council meeting may be watched on demand at <https://ymtv3.viebit.com/player.php?hash=ypSuMa9FELik>.

Yarmouth Affordable Housing Committee

The Yarmouth Affordable Housing Committee (YAHC) was created in December 2020 by order of the Town Council. Members were appointed in Spring 2021, and the first meeting was held in May 2021. As described in the Order creating YAHC, the following tasks were identified:

- Study the issues and make recommendations and proposed policies to encourage and support a balanced distribution of affordable housing throughout Yarmouth;
- Provide a report to the Town Council within the first six months from establishment on the Committee's work and its findings on housing trends and market conditions, projects, and factors to inform the Council on affordable home ownership and rental concerns in Yarmouth, and to provide the Town Council a report at least biannually thereafter;
- Provide education and outreach regarding affordable housing programs and encourage community input and participation; and
- Collaborate with nearby communities and state and regional organizations to advance the goals of affordable housing in Yarmouth and in the regional housing market area and to learn about other community's efforts seek that may be of assistance to Yarmouth.

The Order also identified an initial definition of affordable housing and an initial focus:

For the purposes of this Committee establishment Affordable Housing shall initially mean: Dwelling units for which the percentage of income a household pays in rent or other household expenses, or must pay in monthly mortgage payments (including taxes and insurance), does not exceed 30% of a household's income. After review and consideration, the AHC may modify or refine this definition.

For the purpose of this Committee establishment, the initial focus of the AHC should be on affordable housing for households with total annual income less than 80% and greater than 50% of the Median Family Income estimate for the Greater Portland metropolitan housing area as published annually by the US Department of Housing and Urban Development. After review and consideration, the AHC may modify or refine this definition.

YAHC has focused on the definition of affordable housing as well as the households intended to be served by any new affordable housing as outlined in the committee charge. Additionally, YAHC has also discussed housing production in general to combat the housing shortage experienced in the greater Portland area (and throughout the country) for all types of households at all income levels.

Comprehensive Plan

The housing crisis experienced by so many jurisdictions across the country and in southern Maine has reached a tipping point. While the issue in Maine is a statewide issue, the decisions about where new housing may be located are made at the local level. Zoning and land use compound this issue as many zoning and land use ordinances operate as exclusionary. Only now as communities across the country turn introspective and consider how these historical policies and regulations prevent the creation of new housing and new affordable housing are strides being made.

In Yarmouth, the need for affordable housing has been well documented, yet little has been done. The 1993 Comprehensive Plan included the lofty goal of creating 70 affordable homes in five years between 1991 and 1996. In describing this goal, the 1993 Comprehensive Plan states "Since affordable housing has not been built in Yarmouth under current zoning, it is necessary that the Town adopt land use policies and planning ordinances that provide developers with incentives to build affordable housing, and that the town provide assistance and support to developers in obtaining state monies and approvals for projects." There were a series of action items associated with this goal, and ultimately 23 affordable homes were built, but the long-term management of these units were lacking and have turned over to market rate units. The zoning that facilitated the construction of the few affordable homes sunsetted, and none of the other action items identified in the 1993 plan were acted upon.

The 2010 Comprehensive Plan again identified “diversity of population” as a major theme of the plan and stated this vision:

Yarmouth will continue to be a community with a diverse population: young families with children, middle-aged couples, elderly residents, younger renters ranging from those with modest incomes to affluent households. To accommodate this population diversity, a wide range of housing choices will continue to be available in our community including housing that is affordable to households with modest income and a variety of rental housing. To help maintain an economically diverse population, at least 20% of newly created housing units will be units that are in housing other than single-family homes or that are affordable to households with modest incomes. (Page 26)

Actions were included again that focus on addressing zoning and land use policies, but when bold action was taken to reduce the minimum lot size around the Village as directed by the 2010 Plan, the proposal was shelved amid limited support from the Council and community. No other action identified in the 2010 Plan has been taken other than improving the social services provided by the Town and community organizations.

The past two comprehensive plans have put a strong emphasis on being a community where many types of households can afford to live. However, over time the range of housing options have become more limited, in part because of the Zoning Ordinance. Limited to no action has been made on the goals identified over nearly thirty years. Again, as the Town embarks on the development of the next Comprehensive Plan, Town staff have heard again the call for more affordable housing based on the feedback received on the Town’s visioning initiative, Imagine Yarmouth. These comments are documented in the Imagine Yarmouth Community Engagement Summary and Draft Vision Statement.³

Housing Need Assessment

Prior to her joining the Department of Planning and Development as Assistant Planner, Julie Dubovsky was engaged with YAHC to develop a housing needs assessment, which is attached here. Summarized below are some of the important data points from the housing needs assessment:

Less economic diversity

Yarmouth has become less economically diverse. In 1999, the median income in Yarmouth was \$58,030. Although this is about the same in inflation-adjusted terms as the current median income around \$90,000, the number of households which may be considered “moderate” has dropped 22.2% over the same period.⁴

2021 Yarmouth price increases were both a historical and national outlier

Between 2018 and 2020, the average growth of home prices was about 4 percent, once controlling for housing characteristics, although each year fluctuated. However, the rate increased sharply to 29 percent in 2021. While national prices also increased relatively quickly in 2021, they did so less sharply than in Yarmouth, on average. Moreover, while wages increased more sharply than previous in 2021 due to inflationary pressures, they did so at a far lesser rate than home values.

³ https://yarmouth.me.us/vertical/sites/%7B27541806-6670-456D-9204-5443DC558F94%7D/uploads/Imagine_Yarmouth_Draft_10.28.22_REDUCED.pdf

⁴ 2019 American Community Survey as cited in the Housing Needs Assessment, prepared by Juliana Dubovsky, June 2021

Yarmouth Single Family Home Price Appreciation Over 2018-2021⁵

Year	Yarmouth % Change	National % Change	Wage % Chg.
2018	3	6	5
2019	6	4	5
2020	2	6	2
2021	29	20	8

Implications for down payment

The average single-family house sold in Yarmouth between 2016 and 2021 was a 2,500 square foot, 3 bedroom, 2 bath house on a lot of 175,000 square feet, built in 1966.⁶ Further, the price of such a home, and implied down payments, are as follows:⁷

Yarmouth Price and Down payment for Average Yarmouth Single Family Home

Year	Price	10% Down	20% Down
2018	\$493,730	\$49,373	\$98,746
2019	\$521,973	\$52,197	\$104,395
2020	\$534,062	\$53,406	\$106,812
2021	\$691,204	\$69,120	\$138,241

Effectively, the increasing down payment amounts to a wealth requirement which is becoming increasingly difficult to pass.

Who can afford to live in Yarmouth?

At 63% of median income (\$57,000), a teacher in Yarmouth could spend no more than \$1,425 monthly on housing to avoid being considered housing cost-burdened or spending more than 30% of their gross household income on housing costs. Down payments also seem out of reach for many, particularly younger families, and even for higher-paying professions like engineers.

In fact, while up to 57% of home sales were affordable in 2020 for purchase by households making 80% of the median income, the percentage of home sales in 2021 fell to just 37% for the same households in 2021.

Percent Yarmouth Single Family Home Sales Affordable: By Income⁸

Income as % AMI	2020	2021
30%	1%	0%
40%	7%	7%
50%	10%	13%
60%	22%	21%
70%	44%	26%
80%	57%	37%
90%	61%	37%
100%	64%	48%

⁵ Yarmouth home % change was computed using all publicly available data on 300 Yarmouth single family sales over the period with full data on housing characteristics from Redfin. Controls for home square footage, lot size, year built, beds, and baths included. National % change is S&P/Case-Shiller U.S. National Home Price Index. Wage % Change is Gross domestic income: Compensation of employees, paid wages and salaries from Bureau of Economic Analysis. All 2021 figures are as of October 2021.

⁶ Ibid.

⁷ Ibid.

⁸ Uses 2021 100% Average Median Income (AMI)=\$93,300 and 6% inflation; Affordability calculated using smartasset.com with 1x income as down; payment, 30-year fixed rate mortgage, excellent credit, no debts. Actual home sale prices from Yarmouth collected from Redfin. Percentages shown in the aggregate over income bands.

Fair Market Rents do not keep pace with actual market rents

Based on the information available on websites such as Zillow and Apartments.com, two-bedroom apartments in Yarmouth are being offered for around for \$2,000 by Taymil, but it varies widely based on the property and the actual unit being offered. Postings on Facebook pages regarding renting and selling in Yarmouth also provide some information about individual rentals, but there is no dataset that provides detailed and accurate information regarding rents charged across Yarmouth rental units.

We can look to the US Department of Housing and Urban Development's Fair Market Rents to understand the standards used by this agency in a variety of federally subsidized programs that support affordability.⁹ When comparing the anecdotal information gleaned from public websites with the standards used by the federal government, the Fair Market Rents are much lower than the market rents indicating that there is a gap between what is considered affordable and what rental units cost in Yarmouth.

Comparison of Fair Market Rent with Anecdotal Rental Information

Size of Unit	2021 Fair Market Rent	Apartments.com Reported Rent ¹⁰
Studio	\$1,088	\$1,290 – \$2,650 (Studio, 1 Bath, 602 square feet)
1 Bedroom	\$1,229	\$1,400 – \$2,710 (1 Bed, 1 Bath, 626 square feet) \$1,485 – \$2,595 (1 Bed, 1 Bath, 830 square feet) \$1,675 – \$2,625 (1 Bed, 1 Bath, 800 square feet) \$1,675 – \$2,955 (1 Bed, 1 Bath, 972 square feet)
2 Bedroom	\$1,592	\$1,645 – \$2,930 (2 Bed, 1 Bath, 735 square feet) \$2,085 – \$3,275 (2 Bed, 1.5 Bath, 1,200 square feet) \$2,135 – \$3,455 (2 Bed, 1.5 Bath, 1,377 square feet)
3 Bedroom	\$2,061	\$2,255 – \$3,575 (3 Bed, 1.5 Bath, 1,423 square feet)
4 Bedroom	\$2,518	None Reported

In order to afford a two-bedroom rental at the Fair Market Rate of \$1,592 per month, a Yarmouth household needs to make at least \$30.62 per hour or \$63,680 annually when spending no more than 30% of their gross household income on housing costs. Regardless of whether the household is a single person or a family of four, that annual household income requires two and half minimum wage jobs.¹¹ As seen in the table above, the ranges for a two-bedroom vary substantially, but in order to afford the lowest reported monthly rate, the annual household income increases to \$65,800 or a dollar more per hour. When the other reported two-bedroom rental rates are hundreds of dollars more than the Fair Market Rate, that household income increases dramatically and does not keep pace with the Fair Market Rent.

Remarkably low vacancy rates

There was a 0.9 percent vacancy rate in rentals in Yarmouth in 2021.¹² In a tight apartment market, the demand for apartments exceeds the supply of available units, which lowers vacancy rates and is seen by the exceptionally low vacancy rate in Yarmouth. When prospective renters compete for the limited supply of available apartments, rents increase.¹³ Additionally, this means that renters are unable to also change inadequate living situations and remain in Yarmouth due to the limited supply.

⁹ <https://www.huduser.gov/portal/datasets/fmr.html#2022>

¹⁰ As accessed on January 10, 2022, from Apartments.com.

¹¹ National Low Income Housing Coalition. *Out of Reach: The High Cost of Housing*. 2021.

¹² 2019 American Community Survey as cited in the Housing Needs Assessment, prepared by Juliana Dubovsky, June 2021

¹³ https://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_Americas_Rental_Housing_2020.pdf

YAHC Recommendations to Town Council

On January 14, 2022, YAHC issued their recommendations to the Town Council.¹⁴ The recommendations include the following to address zoning, management, and financial elements of creating and preserving affordable housing:

Zoning Recommendations:

- Adopt an inclusionary zoning ordinance: Local inclusionary housing policies tie the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing or commercial development. This is typically mandated.
- Adopt an affordable housing overlay district: An overlay district could include all of the same provisions of inclusionary zoning, but the key difference is that it is optional, so the incentive needs to be attractive enough for the overlay district to be utilized.
- Amend the ADU Ordinance: There are a series of recommendations that would liberalize the ADU regulations to support this low-impact housing option.
- Adjust existing zoning in order to increase overall housing production: YAHC's charge is to create affordable housing, but the Committee also recognizes that increased housing production can lead to increased supply and a reduction in housing costs and has forwarded a number of high impact recommendations.

Management Recommendations:

- YAHC strongly recommends that the Town consider the long-term oversight and management of affordable units so that no units are lost over time. This recommendation also requires further consideration by the Town in regard to bringing together the efforts of many town departments and organizations to increase housing stability when discussing management of affordable housing.

Financial Recommendations:

- YAHC strongly recommends that the Town consider financial options to support the creation and preservation of affordable housing, whether through a cash or land subsidy, tax mechanisms, leveraging existing funding, or through incentives.

YAHC recognizes that there is not one policy recommendation that would solve the housing crisis, and the IZ proposal is the first step in addressing the creation of deed restricted homes consistent with their charter mandate. YAHC is a partner in developing other amendments to address LD 2003 covering the overlay and ADU recommendations, and members have been working on management recommendations.

Development of YAHC Inclusionary Zoning Proposal

While some jurisdictions choose to have a consultant prepare what is known as a nexus study to inform the development of the ordinance, YAHC and Department of Planning and Development staff felt that it could be undertaken inhouse. While there is one example IZ ordinance in Maine, inclusionary zoning is a common approach taken where state laws incentivize or require jurisdictions to create a definable share of affordable housing. Approaching the development of an ordinance inhouse was bolstered by interviews completed in May and June with planners and real estate developers. My memo on my interview findings is attached to this staff report.

To develop the IZ proposal, YAHC identified a series of questions that needed to be answered:

1. Is the program mandatory or voluntary?
2. What are the requirements including the set aside percentage, the income thresholds, design standards, etc?
3. What is the applicability?

¹⁴ https://yarmouth.me.us/vertical/Sites/%7B27541806-6670-456D-9204-5443DC558F94%7D/uploads/Yarmouth_Affordable_Housing_Committee_Report_to_Town_Council_January_14_2022.pdf

4. Are there are any alternatives?
5. What are the incentives?

Program Structure

The ordinance is developed as a mandatory requirement. YAHC felt strongly that it should be a mandatory ordinance as there have been missed opportunities over the past several years to creating deed restricted affordable units. YAHC notes that LD 2003 provides a voluntary framework, and the mandatory program is proposed as a counterpoint. YAHC was also clear that while the program is mandatory, it is not intended to be punitive, and built-in incentives are described in detail later.

Program Requirements

YAHC determined that the IZ program should apply to the income limits that are identified in LD 2003 (80% Area Median Income (AMI) for renter households and 120% AMI for ownership households) so that there is consistency with those statewide definitions, although Planning Board members may note that the interviews completed this spring recommended a higher income limit for rental projects than what is proposed. The current area median income is \$112,700 as determined by the U.S. Department of Housing and Urban Development.

YAHC noted that the set aside percentage in Portland at 25% was higher than what they felt comfortable requiring, and thus set the set aside percentage at 10%.

Program Applicability

YAHC felt that the ordinance should apply to the entire jurisdiction and apply to rental and homeownership projects, although different project thresholds were developed for the two tenure types. There are some exemptions included in the proposed ordinance as well.

Program Alternatives

YAHC determined that allowing a payment in lieu of the housing units was important. YAHC felt that any payments received could be set aside and used to support other affordable housing efforts, such as down payment assistance or as leverage for other grant program.

Incentives

As noted above, incentives are proposed, including density bonuses, parking reductions, and height bonuses. It was clear based on the interviews that incentives need to be provided.

Outline of Proposed Inclusionary Zoning Ordinance

The sections of the proposed IZ ordinance are briefly described as follows:

1. Purpose: This section lays out why developing affordable housing is in the public interest.
2. Applicability: This section identifies the types of development projects subject to the ordinance. Rental projects of 10 or more units and ownership projects of 5 or more units must comply with this ordinance. There are some exceptions as well.
3. Standards: This section has several purposes. First, it establishes that a development project is required to designate 10 percent of the total number of units in a development project as affordable to eligible households as defined in the ordinance. Second, it requires that projects may not be segmented to avoid compliance with the ordinance. It also ensures that affordable units are integrated in the project seamlessly, are dispersed throughout the development project, and may not be used as short-term rentals. It establishes that offsite units would not fulfill the purposes of the ordinance but allows a payment in lieu of providing the required units. Finally, it requires that development projects comply with the CBDC Architectural Standards and Landscape Standards.

"Our Latchstring Always Out"

4. Development Incentives: Density and dimensional incentives for projects where a minimum lot area and/or a minimum lot area per unit are provided, as well as where these requirements are not applicable to a zoning or character district. Parking incentives are also provided.
5. Administration and Enforcement: This section requires that affordable units be subject to a deed restriction and must be affordable for 99 years.
6. Definitions: The ordinance establishes that affordable is an eligible household spending no more than 30 percent of the household's gross income on housing costs. It also establishes that an eligible ownership household is one earning no more than 120% of the area median income and an eligible renter household is one earning no more than 80% of the area median income.

In addition, attached to this staff report are two draft guideline documents that outline the process of determining eligibility of a given household, how rent or sale price is calculated, the deed restriction, tenant or purchaser marketing and selection, as well as other process guidelines for administration and enforcement.

Discussion

The proposed ordinance is presented to the Planning Board for a workshop discussion. Although the Town Council has requested the review to be completed with a recommendation forwarded by the end of February, the Planning Board may find that they need additional time to adequately review the proposal and formulate a recommendation for the Town Council.

The Planning Board will note that there has been considerable comment received on this proposal. Indeed, YAHC has had a number of engaged individuals following the development of the IZ proposal. Attached is written comments that were provided to me since early November when the proposed ordinance was announced on the Town Council's agenda.¹⁵ The following summarizes the major comments on the content of the proposal and offers discussion for the Planning Board to consider. YAHC will benefit from direct feedback from the Planning Board on moving forward.

Relationship with LD 2003/Amending Zoning Ordinance to Increase Housing Production

It appears that adoption of an IZ ordinance could work in concert with the provisions of LD 2003. It offers a counterpoint to the voluntary affordable housing provisions allowed in LD 2003. Commenters have indicated that until the Zoning Ordinance is amended to allow an increased housing production, as is the goal of LD 2003, the IZ proposal will have limited effect in the community. The Town is mandated to adopt provisions to implement LD 2003 by July 1, 2023, and strategic amendments are planned to be compliant. The existing requirements of the Zoning Ordinance that are exclusionary in practice and hinder housing production, such as the very large minimum lot sizes, are likely more appropriate to discuss through the comprehensive plan update and associated engagement.

However, this should not be a roadblock to adopting an IZ proposal. YAHC's charter focuses on housing that is affordable for households within a certain income band where rent or sale price are pinned to that income, much like deed restricted Affordable Housing, which is the goal of IZ. While YAHC recognizes that increased housing production can lead to increased supply and a reduction in housing costs over time, general housing production is not specifically the Committee's charter, and thus YAHC chose to focus on creating deed restricted affordable housing as a starting point.

Relying on Market Rate Development to Create Affordable Housing/Other Tools to Create Affordable Housing

Many comments questioned whether IZ is the most appropriate tool to advance. There are many different tools that can be advanced to encourage the creation of affordable housing as identified in YAHC's January report, and YAHC is supporting many avenues. YAHC identified the creation of a housing trust or community land trust as management options outside of local government, and in fact, members are working to advance the housing trust model. The Town also created a Local Development Corporation, which can contribute to housing development, but has yet to appoint members to the board. Further, the Town is investigating affordable housing TIF districts, shared equity programs, and

¹⁵ There may be other written comment that was sent directly to the Town Council that was not provided to me for the Affordable Housing Committee and/or the Planning Board.

public/private partnerships to develop municipal land. These efforts will take time to advance but are advancing concurrently.

It should be noted that the public sector no longer plays an active role in the development of affordable housing, federal and state funding opportunities have decreased significantly over time, and Yarmouth does not score well in competitive funding due to population, lack of public transportation, and lack of services, among other items. Yarmouth will need to work with market rate and mission driven developers to achieve affordable housing goals. YAHC acknowledges that the recent changes in the market may impact the effectiveness of the IZ proposal, but also acknowledge that this proposal will take time to be effective if adopted.

Listening Sessions/Public Engagement

In their January 2022 report, YAHC indicated that a series of listening sessions would be held. YAHC held an informational session on September 13th and is planning a second listening session in January 2023. Pending the discussion at the Planning Board meeting, the goal for the January session is to present the proposal and receive feedback in a less formal setting than at the Town Council or at the Planning Board.

The Planning Board may want to direct YAHC to gather more specific feedback or engagement on various elements on the proposed ordinance. In particular, the Planning Board may want more feedback on incentives. See the discussion below.

Metrics of the Proposed Ordinance

Comments have questioned why certain metrics, applicability, and thresholds were selected. While YAHC members and I can expand on some of the choices in the workshop, the feedback that was received earlier this year was to keep the ordinance simple. YAHC also heard clearly that the Portland IZ ordinance requiring a 25% set aside (up from the initial 10% set aside) does not work for Portland anymore, which also placed a strong focus on simplicity. As a result, YAHC and staff decided to move ahead without completing a nexus or feasibility study.¹⁶

When considering the wealth of case studies from across the country, an applicability threshold of 10 net new units and a 10 percent set aside is extremely common as a place to start. It should be acknowledged that wherever a threshold is set, the jurisdiction will experience a “cliff” where projects are proposed just under the threshold (i.e., many 9-unit projects if the applicability starts at 10 units).

Based on feedback during the workshop, the Planning Board may want to direct the Committee to consider aspects of the ordinance. One item might be the different thresholds for ownership and rental projects. As proposed, the threshold for ownership projects begins at 5 net new units or lots. This threshold was selected based on the availability of large tracks of land that could be subdivided. For rental projects, the ordinance applies to 10 or more net new units. Other aspects of the ordinance that the Planning Board may desire additional information about might include the applicability of the ordinance to land development where lots are sold to third parties and/or the selection of the payment in lieu amount. This is not an inclusive list and Planning Board members may identify additional items.

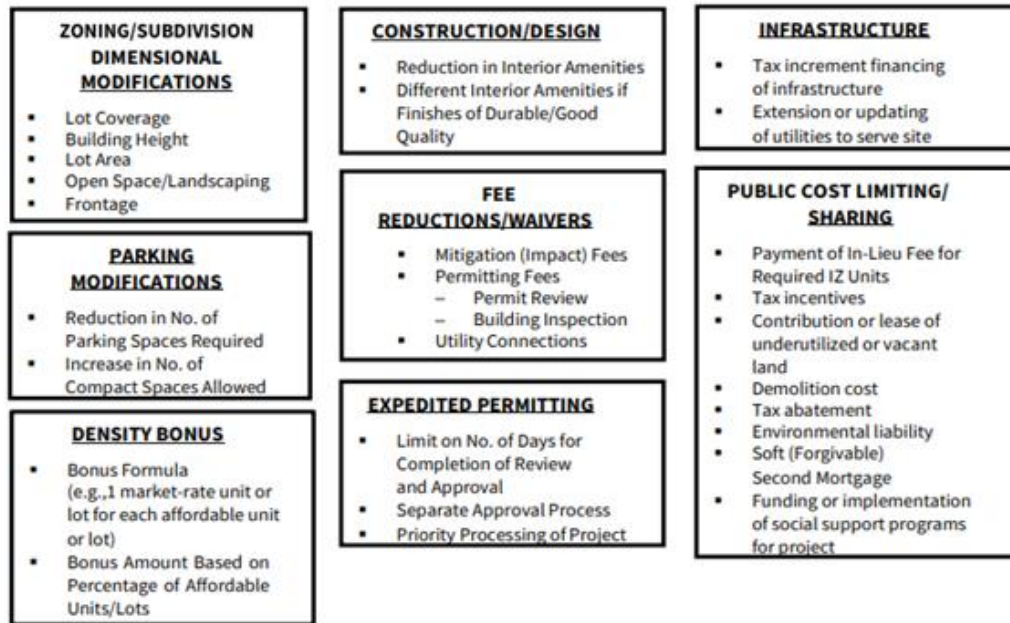
Incentives

The comments on the proposed ordinance have indicated that there is not enough incentive in the proposal. As drafted, the proposal provides a density bonus in most cases as well as parking reductions. The parking reductions are consistent with incentives mandated in LD 2003. Density bonuses at a 1 for 1 ratio (i.e., one additional unit for each required affordable unit) is very common; however, Yarmouth’s Character Based Development Code (CBDC) does not require a minimum lot size or a minimum lot area per unit, so YAHC considered other ways to incentivize developments within the character districts. The proposal suggests that a fourth story might be incentive with additional requirements; however,

¹⁶ Jeff Levine, Levine Planning Strategies, was interviewed in May, and recommended reviewing the study he prepared for the City of Malden (MA): <https://www.cityofmalden.org/DocumentCenter/View/3864/2021-Malden-IZ-Feasibility-Study>. This study was presented to YAHC for reference in the late spring/early summer.

YAHC understands that a fourth story may not receive overwhelming support. It was also noted in the comments that adding on the additional affordable unit requirement and commercial floor space requirement, developed with the understanding that allowing a fourth story is a big ask, may be a disincentive.

Assistant Planner Julie Dubovsky prepared a memo attached to this staff report where she reviewed case studies of similar communities to Yarmouth where there is a strong preference for historic preservation as well as the adoption of a form-based code or strict design requirements. The case studies offered show how additional height could be regulated, but also point out that there may be simpler options such as expedited review, reduced or no cost permits, and financial incentives as shown in this graphic from Julie's memo:



Source: Inclusionary Zoning Primer. (2019). National Association of Home Builders. Retrieved from: [Common State and Local Issues - NAHB](#)

Based on the feedback at the workshop, the Planning Board may direct YAHC to consider additional or different incentives.

Recommendations

The proposed IZ ordinance is proposed for a workshop discussion. YAHC and Town staff will be ready to present the background, development, and the ordinance, as well as answer any questions from the Planning Board.

The Planning Board should review the general categories (which are not inclusive of all the comments received, but probably generalize the major themes commented on) and consider the feedback received to date and the feedback received at the meeting. Direct feedback is welcomed as YAHC and staff continue the development of the this proposal.

Attachments:

1. Housing Needs Analysis, Prepared by Juliana Dubovsky, June 10, 2021
2. Memo from Erin Zwirko to Affordable Housing Committee, Provided in June 6, 2022 YAHC Meeting Materials
3. Inclusionary Zoning Implementation Guidelines for Developers of Ownership Housing
4. Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing
5. Inclusionary Housing: zoning incentives beyond density bonus, Memo Prepared by Juliana Dubovsky, December 5, 2022
6. Public comments
 - a. Carrie Martin Comments 11/1, 11/17, and 11/29/22
 - b. Ed Ashley Comments 12/4/22
 - c. Ed Libby Comments 11/17, 11/18, and 11/28/22

- d. Paul Peck Comments 11/6/22
- e. Pat Powers Comments 12/7/22
- f. Raylene Estabrook Comments 12/7/22

Yarmouth Affordable Housing Committee

June 10, 2021

Housing Needs Assessment

Juliana Dubovsky

Executive Summary

A Housing Needs Assessment was prepared on the Town of Yarmouth to provide a local demographic profile, an inventory of the rental and privately owned housing stock, and a housing gap analysis. Supplemental information was provided prior to the meeting to illustrate the connection between Yarmouth's changing conditions and the housing trends occurring in the greater Portland region. Many of these materials were created for the Metro Regional Coalition (MRC) and were prepared by the Greater Portland Council of Governments (GPCOG) on the challenge of diminishing housing choices in the area. The materials provided to the committee can be found on the Town website:

Key Findings

Demographics

An analysis of US Census data shows that the Town of Yarmouth's population continues to grow older and more affluent than the rest of the greater Portland region. As compared to a median age of 42 years in Cumberland County, the median age in Yarmouth has increased to 48.3 and the median income was \$89,984 in 2019. Households considered to be in the "middle-income" for the region, those

earning below \$75,000 annually, have also largely decreased in numbers in the town. Housing expenditures in the Town are also above the national average by 13%-15%, particularly for housing and transportation costs, which combined are considered an indicator of “affordability.”

Other indicators pointing to challenges in housing affordability is the monthly cost burden of housing, which includes gross rent (plus utilities) and ownership costs like mortgage payments, condominium fees, real estate taxes, insurance, etc. Paying greater than 30% of their income towards housing continues to be a national standard for “housing burdened” households. Even as Yarmouth lost population in the lower-income brackets between 2010 and 2019, those remaining, particularly renters, are increasingly paying more than 30% of their monthly household income towards housing. More affluent renters and homeowners may choose to spend more than 30% of their income on housing, due to the preferred amenities and services in the community, but even those “cost-burdened” upper-income owner cohorts in Yarmouth have decreased.

Housing Inventory

This is particularly challenging with an already tight and limited rental housing stock in the town. While the estimates for the number of renter occupied units have increased slightly since 2010, the homeowner and rental vacancy rates are low, at 1.3 and 0.9 respectively, suggesting a very tight sales and rental market. Yarmouth’s home-sales trends mirror the region, with demand outpacing supply and median sale prices increasing greater than 75% in Yarmouth, according to Redfin.

Other than single-family detached dwellings and 1-unit attached structures, other housing structure types have not drastically increased since 2010. The majority of new construction continues to be of units for larger household sizes, with very few studios and smaller than two-bedroom units. Overall, the number of multi-family units have not increased drastically since 2010. Exceptions can be found in the multi-family senior family developments in the town.

Housing Gap Analysis

Typically a housing gap analysis also includes an assessment of housing supply and population growth, and typically focuses on the supply of those affordable to low- to moderate-income renters and homeowners (those earning up to 100% of the area median income). This may also include an analysis of the groups and households that are not being served by the market, such as

Figure 1. Area Median Income (2019)

% of Area Median Income (AMI)	2019 \$	Monthly Housing Costs Less Than 30% of Income (not including taxes or utilities)
30% AMI	\$26,995	Costs < \$675
50% AMI	\$44,992	Costs < \$1,125
80% AMI	\$71,987	Costs < \$1,800
100% AMI	\$89,984	Costs < \$2,250
120% AMI	\$107,980	Costs < \$2,700

various income levels, Older Adults, housing by ethnicity or race. Considering that the Census Data suggests decreasing demographic diversity overall, it did not seem pertinent to break down the housing gap beyond income and housing supply.

In 2019, there were an estimated 268 units in Yarmouth with gross rents between \$500 and \$999 dollars, and zero for less than \$500. Based on local earnings, this shortage would mean that for households earning less than 30% AMI (severely low-income) and 50% AMI (low-income), such as person working in the food services or healthcare industries (Figure 2), it would be very difficult to find affordable rental housing in Yarmouth. In addition to a dearth of options for households of varying financial characteristics, there is a shortage of housing supply to meet a range of household types.

Figure 2. Local Occupations and Housing Affordability

Job Type	Food Services	Health Care Support	Teacher	Engineer	Finance
Estimated Household Income	\$15,000	\$36,000	\$57,000	\$71,000	\$107,000
% of Area Median Income	17%	40%	63%	80%	120%
Max Monthly Housing Costs	\$375	\$900	\$1,425	\$1,800	\$2,700

A further analysis of the housing gap in Yarmouth could include existing and projected demographics, development trends, emerging household preferences post the COVID-19 pandemic, and regional economic indicators to understand unmet housing needs.

TOWN OF YARMOUTH HOUSING NEEDS ASSESSMENT

YARMOUTH
AFFORDABLE
HOUSING
COMMITTEE
JUNE 7, 2021

CONTENTS

- Community Demographics
- Housing Expenditures
- Housing Stock Inventory
- Housing Gap Analysis
- Regional Housing Assessment



TOWN OF YARMOUTH DEMOGRAPHICS



COMMUNITY CHARACTERISTICS

Age & Race

- 8,529 Total Population.
- 48.3 Median Age (39.2 in 2010)
- 77.7% are 18 years and older
- 22.1% are 65 years and older
- 94% White Alone

Household Types

- 67.3% are Family Households (majority 2-person household)
- 32.7% are Non-Family Households (majority 65+ living alone)
- 69.% have no related children under 18 years
- 55.2% of Non-Family Households are Renters

Wealth and Income

- Median Household Income in 1999 was \$58,030 (**\$94,322 inflation adjusted**)
- Median Household Income in 2019 was \$89,984 (**\$146,260 inflation adjusted**)
- Most households have 2 vehicles available
- 38.4% Bachelors Degree
- 29% Graduate or Professional Degree

Poverty Status

- 3.5% Poverty Rate in 2019
- 94.6% of the population are at or above 150% of the poverty level
- Roughly 10 families had income below the poverty level in 2019
- Households with income at or below poverty rate

Town of Yarmouth Population Change

1990	8,103 (Approx.)
2000	8,360
2010	8,390
2019	8,529 (Approx.)

Household Income	2000	2010	2019	Percent Change (2000-2019)
Less than \$9,999	5.4%	1.3%	3.9%	-1.5%
\$10,000 to \$14,999	4.7%	2.4%	0.4%	-4.3%
\$15,000 to \$24,999	9.6%	8.8%	4.1%	-5.5%
\$25,000 to \$34,999	7.2%	5.6%	8.2%	1.0%
\$35,000 to \$49,999	14.9%	13.8%	10.7%	-4.2%
\$50,000 to \$74,999	21.7%	19.0%	13.8%	-7.9%
\$75,000 to \$99,999	13.6%	11.3%	15.7%	2.1%
\$100,000 to \$149,999	13.1%	15.7%	17.5%	4.4%
\$150,000 or more	9.9%	22.2%	25.6%	15.7%

CHANGE IN HOUSEHOLD INCOME AS A PERCENTAGE OF OCCUPIED HOUSING UNITS IN YARMOUTH

*Only the 2000 Decennial Census had “\$150K-\$199,999” and “\$200,000 or More” as an income bracket. Approx. 259 households (7.5%) had annual of \$200K or more.

WORKERS LIVING IN YARMOUTH

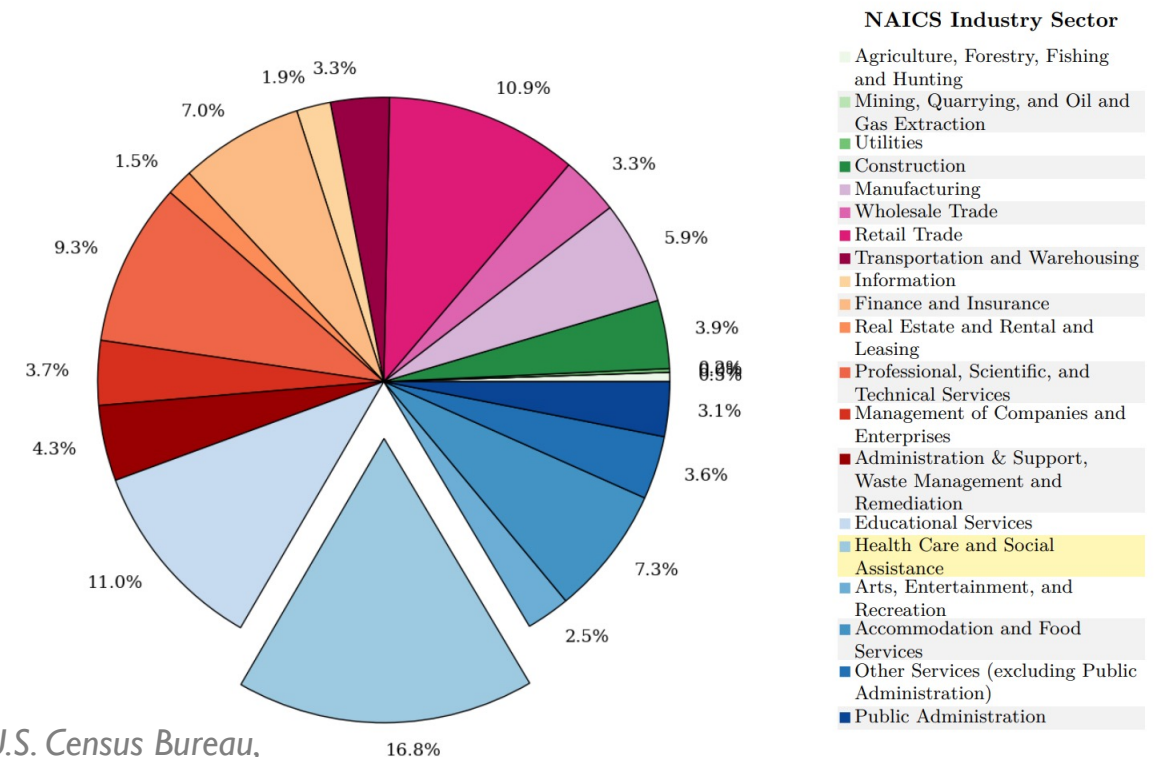
Earnings in 2018:

20% earned less than \$1,250 a month
 26% earned \$1,251- \$3,333 a month
 54% earned more than \$3,333 a month

- 25% of Yarmouth's population work from home (2019)
- Those that work outside of the home, 90% worked in Cumberland County and the mean travel time to work was only 22 minutes (2019)
- 24% percent of workers living in Yarmouth earned more than \$75,000 in the past 12 months (2019)
- Median Household Income in Yarmouth was \$89,984 (2019)

All Jobs for All Workers by NAICS Industry Sector in 2018

Living in Selection Area



Sources: U.S. Census Bureau American Community Survey, 2019 Five Year Estimates; U.S. Census Bureau, Center for Economic Studies, LEHD, 2018

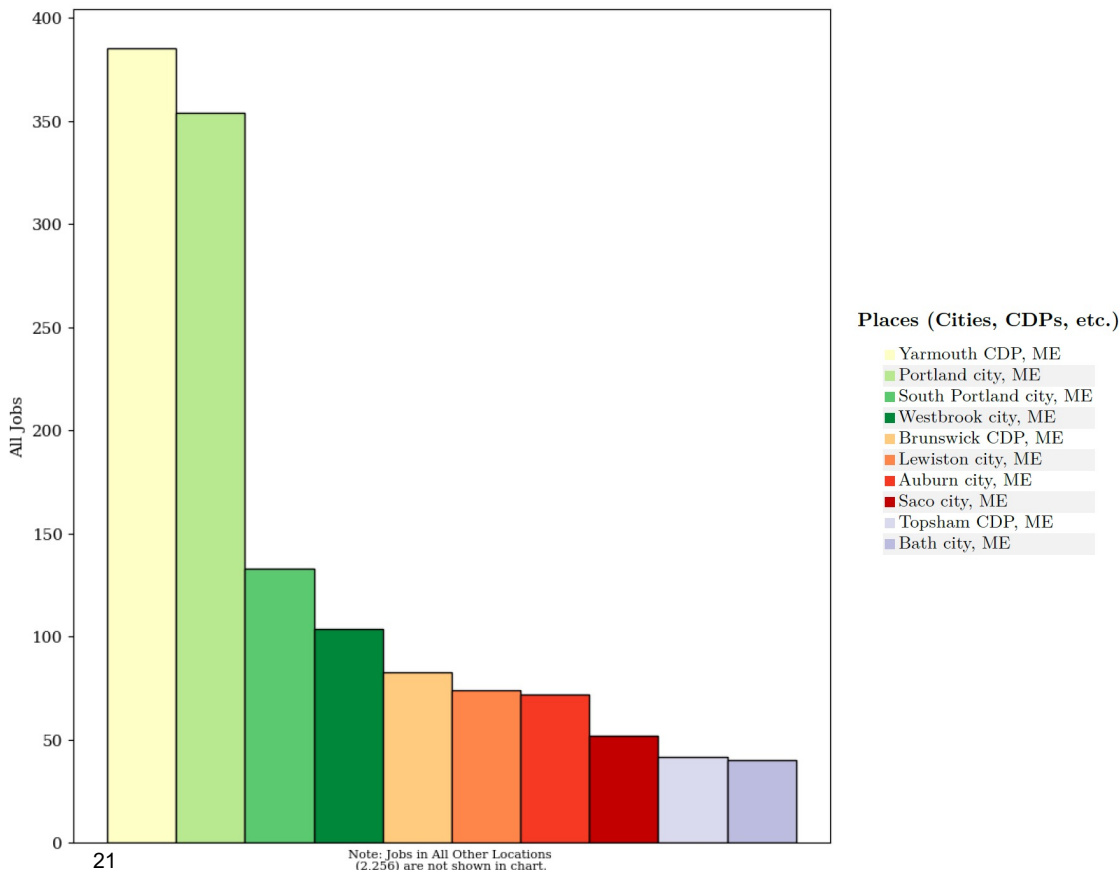
WORKERS IN YARMOUTH

Earnings in 2018:

23% earned less than \$1,250 a month
29% earned \$1,251- \$3,333 a month
47.5% earned more than \$3,333 a month

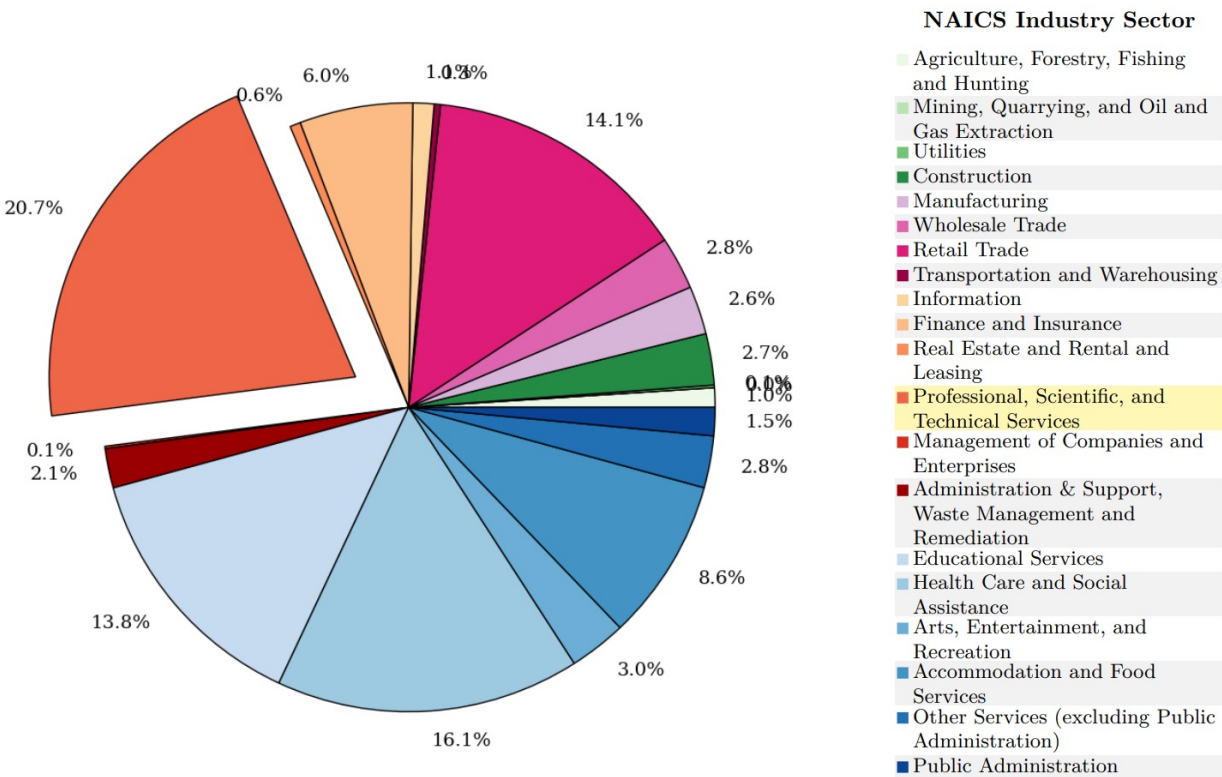
All Jobs from Work Selection Area to Home Places (Cities, CDPs, etc.) in 2018

All Workers



All Jobs for All Workers by NAICS Industry Sector in 2018

Employed in Selection Area



Sources: U.S. Census Bureau American Community Survey, 2019 Five Year Estimates; U.S. Census Bureau, Center for Economic Studies, LEHD, 2018



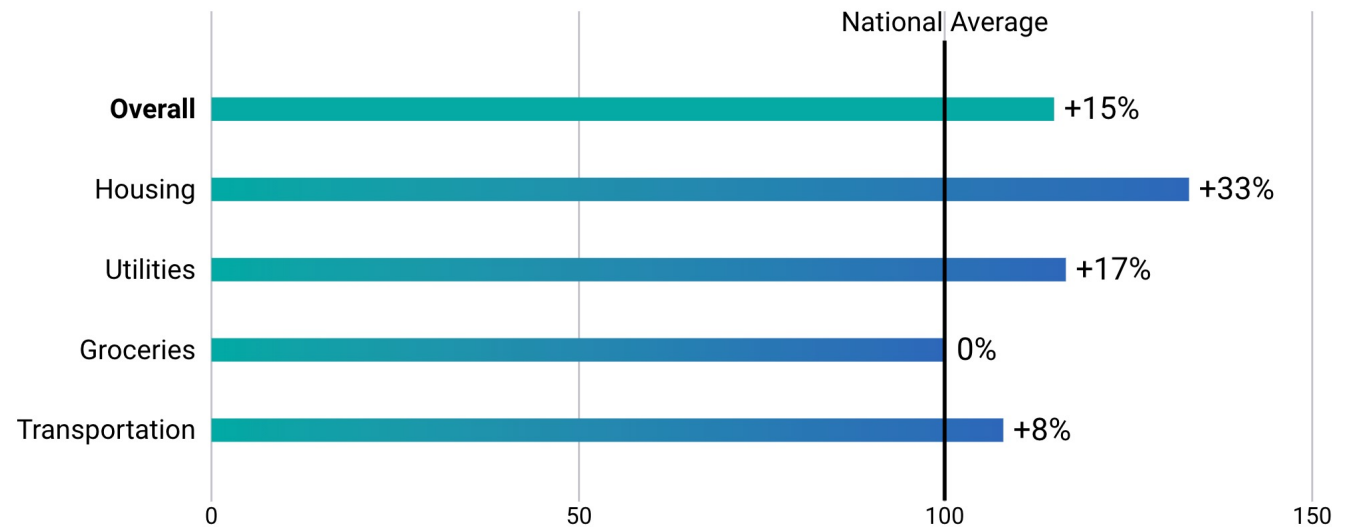
HOUSING EXPENDITURES



OVERALL COSTS OF LIVING

13%-15% ABOVE
NATIONAL AVG

Cost of Living in Yarmouth, Maine by Expense Category



Cost of living increases in 2020

- **Average ME Utility Bill**
\$87.21/month
(2019)

HOUSING COST BURDEN

Selected Monthly Owner Costs as a Percentage of Household Income		2010	2019
With a Mortgage			
	30% - 34.9%	7.7%	6.6%
	35% or More	26.4%	20.2%
Without a Mortgage			
	30% - 34.9%	4%	4%
	35% or More	17.2%	13.7%

Gross Rent as a Percentage of Household Income	2010	2019
30% - 34.9%	10.1%	16.5%
35% or More	37.4%	40.5%

(Household expenditures exceeding 30% of monthly income are considered "burdened")

■ The housing cost burden increased for renters but eased up on owners as they grew increasingly affluent over the decade

Percentage of Housing Cost Burdened Households (+30% Month)						
Income Bracket	2010		2019		Change	
	Owner	Renter	Owner	Renter	Owners	Renters
Less Than \$20K	3.4%	13.4%	2.3%	11.3%	-1.1%	-2.1%
\$20K to \$34.9K	5.0%	25.2%	5.6%	15.5%	0.6%	-9.7%
\$35,000 to \$49,999	5.4%	5.9%	2.7%	9.7%	-2.7%	3.8%
\$50,000 to \$74,999	5.7%	2.7%	5.8%	10.2%	0.1%	7.5%
\$75,000 or more	10.7%	0.0%	7.1%	3.2%	-3.6%	3.2%

HOUSING COSTS (2019\$)

VS.

% OF AREA
MEDIAN
INCOME

- Median Value of Owner-Occupied Housing = \$374,600 ▲
- Median Monthly Owner Costs (SMOC) = \$2,281 ▲
- Median Gross Rent = \$1,227 ▲
- Median Household Income for Town = \$89,984 ▲

% of Area Median Income (AMI)	2019 \$	Monthly Housing Costs Less Than 30% of Income (not including taxes or utilities)
30% AMI	\$26,995	Costs < \$675
50% AMI	\$44,992	Costs < \$1,125
80% AMI	\$71,987	Costs < \$1,800
100% AMI	\$89,984	Costs < \$2,250
120% AMI	\$107,980	Costs < \$2,700

LOCAL HOUSING STOCK INVENTORY

HOUSING TENURE

■ *Note that American Community Surveys are estimates with Margins of Error.*

	2010 ACS Estimates	2019 ACS Estimates
Total Housing Units	3,656	3,632
Occupied Housing Units	3,471	3,409
Vacant Housing Units	185	223
Homeowner Vacancy Rate	1.3	1.3
Rental Vacancy Rate	0.0	0.9
Owner Occupied Units	2,483	2,480
Renter Occupied Units	988	929

HOUSING TYPES

Unit Variations (2019 ACS)

- More than 20% of units have 6 or more rooms
- Fewer than 3% of units are studios
- More than 30% have 3 bedrooms

Note: American Community Surveys are estimates with Margins of Error.

Units in Housing Structures	2010 Estimates	2010 Percentage Estimates	2019 Estimates	2019 Percentage Estimates
1 Unit, Detached	2,577	70.5%	2,455	67.6%
1 Unit, Attached	232	6.3%	385	10.6%
2 Units	161	4.4%	141	3.9%
3 or 4 Units	143	3.9%	138	3.8%
5 to 9 Units	371	10.1%	280	7.7%
10 to 19 Units	92	2.5%	17	0.5%
20 or More	80	2.2%	131	3.6%
Mobile Home	0	0.0%	85	2.3%

Sources: U.S. Census Bureau American Community Survey, 2010 and 2019 Five Year Estimates

YEAR STRUCTURE BUILT

Year Built	2010 Housing Unit Estimate	2010 Percentage Estimates	2019 Housing Unit Estimate	2019 Percentage Estimates
Built 2014 or later	—	—	69	1.9%
Built 2010 to 2013	—	—	81	2.2%
Built 2000 to 2009	149	4.1%	264	7.3%
Built 1990 to 1999	326	8.9%	414	11.4%
Built 1980 to 1989	780	21.3%	740	20.4%
Built 1970 to 1979	790	21.6%	743	20.5%
Built 1960 to 1969	348	9.5%	297	8.2%
Built 1950 to 1959	342	9.4%	322	8.9%
Built 1940 to 1949	62	1.7%	126	3.5%
Built 1939 or earlier	859	23.5%	576	15.9%
TOTALS	3,656 (MOE +/- 211)		3,362 (MOE +/- 194)	

SENIOR HOUSING

■ Assisted Living

- Bay Square at Yarmouth
 - 2 Bedroom Apartments
 - The Harbor Program for Alzheimer's Care

■ Nursing Care

- Brentwood Center for Health & Rehabilitation
- Coastal Manor Nursing Home



■ Income Limited

- Bartlett Woods (Avesta & Yarmouth Senior Housing Inc.)
 - Units for households earning at or below 50-60% AMI
- Bartlett Circle (Yarmouth Senior Housing Inc.)
 - 1-2 bedroom single floor apartments
 - Rent based on 30% of Income
 - **Single:** At least \$15,400/yr (\$1,284/mo) and less than \$28,750/yr (\$2,396/mo)
 - **Two-person:** At least \$17,360/yr (\$1,447/ mo) and less than \$32,850/yr (\$2,728/mo)

■ Low Income-Affordable

- Yarmouth Falls Apartments (HUD)

HOUSING GAP ANALYSIS

A LOOK AT WHO
IS AND WHO IS
NOT BEING
SERVED BY THE
HOUSING
MARKET

FOR SALE MARKET

Redfin's Housing Market Trends for Yarmouth:

- A Median Sale Price \$925K (+78% since last year)
- Going 10% over listing price, multiple offers and pending sales in 7 days
- Considered “very competitive” in the local region

Zillow's record of sales for the past 12 months:

- Majority 3+ bedrooms
- Median sale price \$500K
- Only 8 attached homes (townhouses/condos/co-ops) sold, all over \$300K

RENTAL MARKET



- 1 Available on Zillow as of 6/4/21
- \$1,595 for a Studio

MISSING

Unit Type	Housing Type	Income
<ul style="list-style-type: none">• Studios• >2 Bedrooms	<ul style="list-style-type: none">• Attached• Multi-Family	<ul style="list-style-type: none">• Incomes >\$75K• Below 50%AMI

OCCUPATIONS IN YARMOUTH & HOUSING AFFORDABILITY

Job Type	Food Services	Health Care Support	Teacher	Engineer	Finance
Estimated Household Income	\$15,000	\$36,000	\$57,000	\$71,000	\$107,000
% of Area Median Income	17%	40%	63%	80%	120%
Max Monthly Housing Costs	\$375	\$900	\$1,425	\$1,800	\$2,700

Sources: U.S. Census Bureau American Community Survey, 2019 Five Year Estimates;
U.S. Bureau of Labor Statistics; and the
U.S. Census Bureau, Center for Economic Studies, LEHD, 2018

FY 2021 INCOME LIMITS FOR THE PORTLAND, ME HUD METRO FMR AREA

Median Family Income	FY 21 Income Limit Category	Persons in Family							
		1	2	3	4	5	6	7	8
\$99,900									
	Low Income (80%) Limits	55,950	63,950	71,950	79,900	86,300	92,700	99,100	105,500
	Very Low (50%) Income Limits	35,000	40,000	45,000	49,950	53,950	57,950	61,950	65,950
	Extremely Low (>30%) Income Limits	21,000	24,000	27,000	29,950	32,350	35,805	40,120	44,660

Geography includes the areas of **CUMBERLAND COUNTY, ME** TOWNS OF Cape Elizabeth town, ME; Casco town, ME; Chebeague Island town, ME; Cumberland town, ME; Falmouth town, ME; Freeport town, ME; Frye Island town, ME; Gorham town, ME; Gray town, ME; Long Island town, ME; North Yarmouth town, ME; Portland city, ME; Raymond town, ME; Scarborough town, ME; South Portland city, ME; Standish town, ME; Westbrook city, ME; Windham town, ME; Yarmouth town, ME;

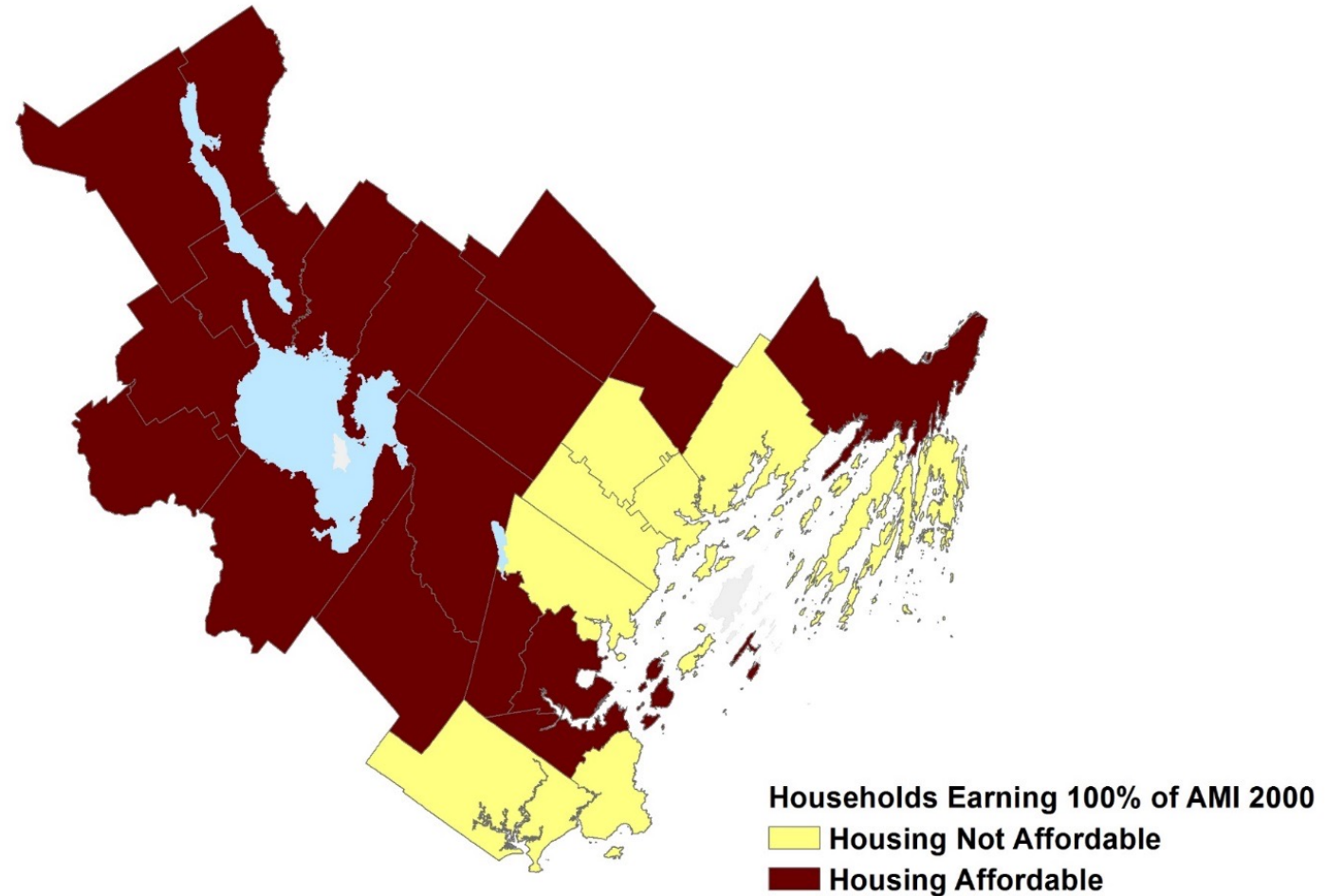
YORK COUNTY, ME TOWNS OF Buxton town, ME; Hollis town, ME; Limington town, ME; Old Orchard Beach town, ME; and Old Orchard Beach town, ME.



REGIONAL CONTEXT



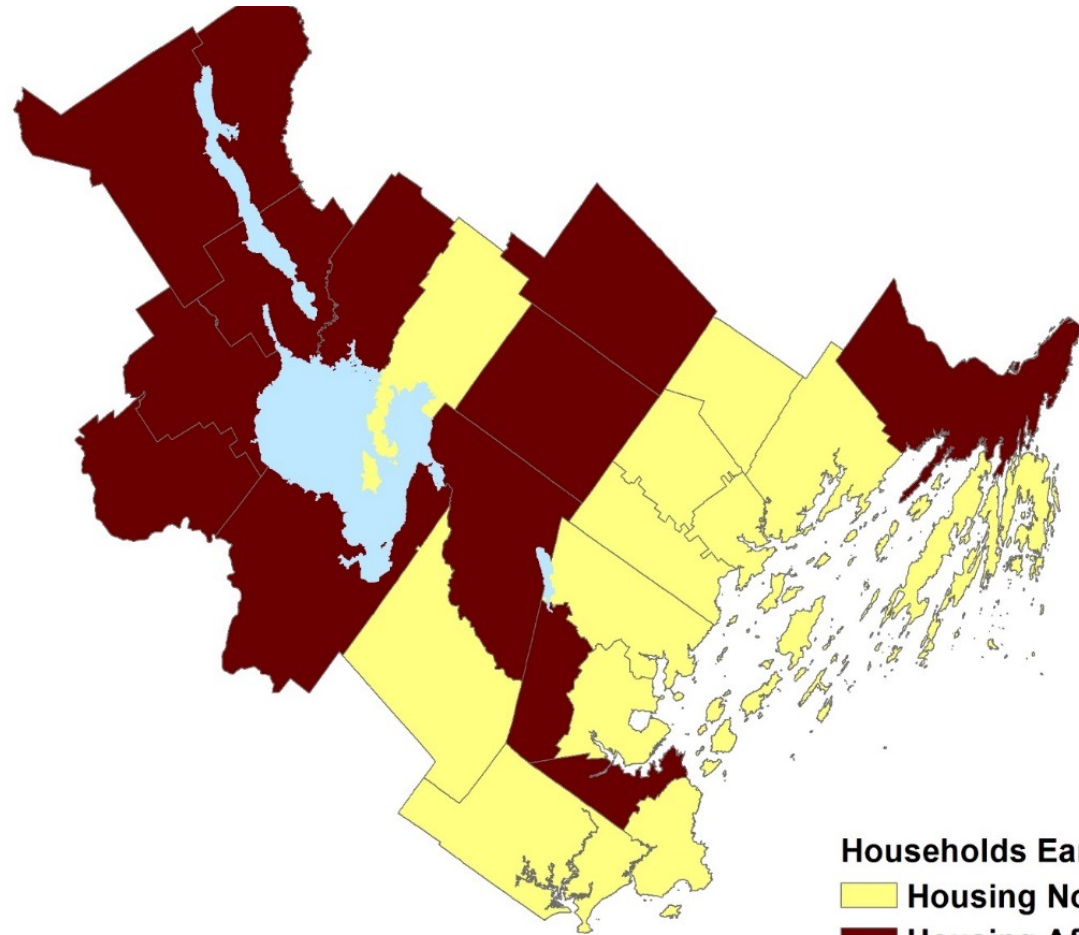
REGIONAL HOUSING AFFORDABILITY IN 2000



Source: US Census 2000, 2010, and ACS 2017 5-yr sample

*Cumberland County 2000
Median Household
Income \$71,595
(unadjusted \$44,048)*

REGIONAL HOUSING AFFORDABILITY IN 2017



Households Earning 100% of AMI 2017
Yellow Housing Not Affordable
Dark Red Housing Affordable

Source: US Census 2000, 2010, and ACS 2017 5-yr sample

*Cumberland County 2017
Median Household
Income \$79,152
(unadjusted \$71,975)*

REFERENCES

- U.S. Census Bureau (n.d.). Yarmouth Town Profile.
<https://data.census.gov/cedsci/profile?g=06000000US2300587845>
- U.S. Census Bureau (n.d.). 2019 American Community Survey, 5-Year Estimates
- U.S. Census Bureau (n.d.), Center for Economic Studies, LEHD, OnTheMap. <https://onthemap.ces.census.gov/>
- U.S. Bureau of Labor Statistics, CPI Inflation Calculator. https://www.bls.gov/data/inflation_calculator.htm
- U.S. Census Bureau, Housing Topic Overview <https://www.census.gov/topics/housing.html>
- U.S. Office of Housing and Urban Development (HUD), FY 2021 Income Limits Documentation System
<https://www.huduser.gov/portal/datasets/il/il2021/2021Calc.odn>

GLOSSARY OF TERMS

- **Selected Monthly Owner Costs (SMOC):** Selected monthly owner costs are the sum of payments for mortgages, deeds of trust, contracts to purchase, or similar debts on the property (including payments for the first mortgage, second mortgages, home equity loans, and other junior mortgages); real estate taxes; fire, hazard, and flood insurance on the property; utilities (electricity, gas, and water and sewer); and fuels (oil, coal, kerosene, wood, etc.). It also includes, where appropriate, the monthly condominium fee for condominiums and mobile home costs (installment loan payments, personal property taxes, site rent, registration fees, and license fees).
- **HUD Median Family Income (MFI):** Once the appropriate 2018 ACS 1-Year data has been selected, an inflation factor based on the Congressional Budget Office projection of the national Consumer Price Index for FY2021 is calculated to inflate the estimate from 2018 to April, 2021 (or mid FY2021). Housing costs adjustments are also made for areas where rental housing costs are unusually high in relation to median income.



Erin Zwirko, AICP, LEED AP
E-mail: ezwirko@yarmouth.me.us

Tel: 207-846-2401
Fax: 207-846-2438

TOWN OF YARMOUTH
200 Main Street, Yarmouth, Maine 04096
www.yarmouth.me.us

At the last YAHC meeting, the Committee requested that I obtain some feedback from developers and planners that might want to provide input regarding the effectiveness and/or tolerances to inclusionary zoning. I spoke with the following individuals:

- Paul Peck, LWS Development, developer of 216 East Main Street in Yarmouth
- Dana Totman, Avesta Housing
- Jeff Levine, Levine Planning Strategies, former Portland Director of Planning
- Jonathan and Catherine Culley, Redfern Properties

The following common points were made:

- General Feedback on the relationship between the market and inclusionary zoning
 - With increasing construction costs and higher interest rates, the market for rental housing has changed; municipalities are not nimble enough to alter ordinances to account for shifts in the market so ordinances are often not balanced with the particular market at any point in time
 - Anything more than 10% affordable units may dampen development in this market
 - Use other tools such as affordable housing TIFs to create housing opportunities
 - LD 2003 may create housing choice through increased production
 - If the Committee does not want to develop a nexus or feasibility study, keep the ordinance simple and straight forward
 - Example feasibility study from Jeff (note this is a MA example, the first chapter is generally informative): <https://www.cityofmalden.org/DocumentCenter/View/3864/2021-Malden-IZ-Feasibility-Study>
- Income Limits
 - Have to treat homeownership and rental differently in terms of income limits
 - Need to consider going up to 100%/120% for income limits for both tenure types
 - It is often extremely difficult to find eligible households for homeownership opportunities – need to find a household that has the enough income and has a down payment
- Thresholds
 - Threshold of 10 units and 10% affordable doesn't create many units, but would be a start
 - 57 units of housing approved last year = 5.7 units of affordable housing
 - Consensus that the Portland change to 25% results in developers going to other communities, like Westbrook or Scarborough
 - Wherever the threshold is, may see many projects with just one less unit

"Our Latchstring Always Out"

2.1

- Payment in Lieu
 - Strongly recommend it as an option
 - Homeownership developments will likely take the in-lieu option
 - Town can use funds as seed money for an organization, to leverage grant opportunities, or provide a grant to close a funding gap for a developer
 - \$150,000 to \$200,000 is less than the cost to construct the housing unit, but starts to develop a pot of money
- Incentives
 - Density bonuses – 25% was recommended
 - 10-unit project; 1 unit affordable; 2 bonus units = 12-unit project
 - Parking allowances; 1 space per affordable unit; market rate units remain as required
- Startup considerations
 - Need solid legal documents
 - Who manages? Staff or outsource? Partner organizations like a LDC, Land Bank, or Trust?
 - Term of affordability – why create affordable housing if the term expires?

Inclusionary Zoning Implementation Guidelines for Developers of Ownership Housing

Applicability

The Town of Yarmouth Zoning Ordinance requires that development projects creating five (5) or more net new dwelling units for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements set aside a portion of the project as Affordable Housing. This provision does not apply to projects that have received Final Subdivision Approval and Final Development Plan Approval prior to October 1, 2022.

Affordable Housing Minimum

At least ten percent (10%) of the units in the development shall meet the definition of Affordable Ownership Unit. When the required number of units results in a fraction, the development project has the option of paying a partial fee-in-lieu for any fractional value or rounding the number of onsite units up to the nearest whole number.

The fractional unit obligation would be provided in the form of a proportional fee-in-lieu. For example, a 19-unit project that provides one Affordable Unit would also pay 90% of the fee-in-lieu. If a Developer prefers to pay a fee-in lieu of each Affordable Unit, then the obligation will be calculated on a fractional value to one tenth. For example, a project creating 26 units of housing would be required to provide two (2) Affordable Units and a fractional obligation of 60% as a fee-in-lieu. If the Developer instead prefers to pay the fee-in lieu of providing Affordable Units, the Developer would be required to pay 2.6 times the current rate as established by the Town.

Offsite units to do fulfill the obligations under this ordinance.

Household Income Limits

Affordable Rental Units will be restricted to households at or below 120% of the area median income (AMI). In order to most effectively target this income level, and based on national best practices, these calculations allow for an “affordability window” of between 110% and 120% AMI. The Town will reference Area Median Income figures published annually by HUD for the Greater Portland Metropolitan FMR Area, adjusted for household size or other income limits as deemed reasonable by the Town. If at a time in the future HUD no longer provides these annual figures, the Town will identify another similar method of determining income guidelines for affordability.

Eligible Households for Affordable Homeownership Units

At the time of sale, a buyer must be a member(s) of an Eligible Household as defined within the Town of Yarmouth Zoning Ordinance. The Household must occupy the Affordable Homeownership Unit (Affordable Unit) as its principal residence. To purchase an Affordable Unit an Eligible Household must be permanent residents of the United States. The Intent is to limit the risk of a loss of the Unit’s affordability restrictions due to foreclosure of a household no longer able to reside in the United States.

Household size/composition upon the unit’s sale should be appropriate to the size of the unit as outlined in the chart below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children whose ages are not excessively

disparate, may share a bedroom. Legal custody is required for households including one or more minor children. There will be no fewer than one, nor more than two persons per bedroom.

The Town will consider households eligible based on their gross income. The Town will use a process similar to what HUD recommends for the HOME program to determine gross income or another method as deemed reasonable by the Town. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household's eligibility.

Verification will require sufficient proof of household size and income in the form of mortgage pre-approval letters, official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the Town to aid in their efforts to verify whether or not a household is eligible. The Town shall have the final approval of whether or not a household meets the income or size requirements of each Affordable Unit prior to closing. The Town reserves the right to request proof of income for the last three years from an applicant. The Town may request additional information if needed.

The chart below indicates the minimum household size for each unit type based on bedroom count.

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
Minimum Household Size By Bedroom	1	2	3	4

Affordable Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
Maximum Household Size By Bedroom	2	4	6	8

Eligible Households may not qualify if any member of the household owns other residential real estate at the time of application or sale.

The Town reserves the right to perform an asset test to help determine a household's income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts, money market accounts, certificates of deposit (CD's) or other financial instruments. The Town may request documentation for the three most recent years to help determine a household's income.

The Town reserves the right to perform an asset limitation test for eligibility.

Closing costs and a down payment of up to 20% of the sale price may be gifted to an Eligible Household.

Maximum Allowable Sale Price

The calculation of the maximum allowable sales price will be determined by the Town. The price will in part be based on the minimum number of bedrooms in each Affordable Unit for sale as outlined in the chart below:

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
Max Sale Price Basis -Household Size	1	2	3	4

For example, the maximum allowable sale price of a two bedroom Affordable Unit will be based on what is affordable to a two (2) person household. A larger household of four (4) persons meeting the income qualifications for their household size would still be able to purchase this unit but the maximum allowable sale price will be calculated based on a two (2) person household. It is important to be clear that this is to calculate the maximum allowable sale price of a Affordable Unit and that units may be sold at lower prices depending on the market, location, and condition of a unit.

The maximum allowable sale price at the initial sale of an Affordable Unit and for any subsequent sales will be based on the following calculation:

- 1) Begin by calculating 30% of the gross monthly income for a household earning 110% AMI as appropriate for the minimum household size for each Affordable Unit by bedroom type.
 - $(\text{Household's } 110\% \text{ AMI} \times 0.30) / 12 = \text{monthly income available for housing expenses.}$
 - That portion of monthly income may be attributed to mortgage payments less other housing related expenses such as real estate taxes, mortgage insurance, condominium/HOA fees, insurance, and utilities. Utilities that effect maximum sale price include electricity, heat, hot water, cooking energy, sewer, water, and trash collection. The Town shall make reasonable assumptions based on a unit's bedroom count as to the monthly cost of each utility. To determine what is reasonable, the Town may utilize the figures estimated by HUD and distributed through the Maine State Housing Authority annually for similar utility allowances based on a unit's bedroom count. The Town shall reserve the right to determine a different metric should the HUD figures be unavailable.
 - Mortgage insurance will be estimated similar to current rates utilized by the Federal Housing Administration (FHA) or another reasonable method as determined by the Town. Currently, for 30 year mortgages of less than \$625,000 with Loan to Value (LTV) ratios equal or less than 95%, the FHA utilizes a rate of 80 basis points on the mortgaged amount. The actual rate used in the calculation will be determined at the time the unit is marketed.
- 2) The sale price will then be based off a 30 year fixed rate mortgage with a 5% down payment.
 - It will be allowable for qualified buyers to offer a larger down payment but a down payment larger than 5% will not increase the maximum allowable sale price of an Affordable Unit.

- 3) Interest rates for the calculation will be the average national mortgage rate over the past thirteen years as determined by the Freddie Mac Primary Mortgage Market Survey or another source as determined reasonable by the Town. The interest rate for the calculation will be determined at the time the unit is marketed

Purchase price limits establish maximum allowable sale prices. An Eligible Household's financial situation will determine the mortgage amount that can be borrowed. This amount may be more or less than the maximum allowable sales price of a particular Affordable Unit. However, at no time shall an Affordable Unit be sold for greater than the maximum allowable sale price as determined by the Town.

Condominium/HOA Fees

If the Developer is setting up a new condominium trust or homeownership association (HOA), then the Developer shall present to the Town a draft condominium/HOA budget and related governing documents. The Town may request quotes and/or justification for costs, including replacement reserves, insurance, water and sewer, utilities, management fees, and other services. The Town will have final approval of the initial condominium/HOA fee to ensure that a reasonable front-end calculation of cost in setting initial fees for a Project.

The condominium/HOA fee will be shared proportionately between units based on the Town's tax assessment for the value of the units. If assessed values are not available at the time of initial sale of the units than initial sale prices will be used to determine the appropriate share of costs. Affordable Units' tax assessments by the Town will take into consideration the Unit's restrictions and assess the Unit's value accordingly. Voting rights within the association will be no more or less than one vote per unit and will not be based on the value of paid fees or other metric as allowable by state law.

Condominium/HOA fees for Affordable Units may not increase more than 10% in a single year or 25% in any three year period without a supermajority vote gaining 100% support of the association.

The Town shall have a right of first refusal if a Affordable Unit is forced to sell due to increased fees or has become delinquent in its payments and is in risk of foreclosure or any other legal threats to the Unit's affordability restrictions. The Town shall also have the option of using Town funds to support Affordable Units facing large special assessments that may pose a risk to the Affordable Household's ability to maintain their unit's affordability.

Right of First Refusal

The Town of Yarmouth shall have the right of first refusal to purchase any Affordable Unit that is in jeopardy of losing its affordability restrictions due to foreclosure, delinquency of condominium fee payments, or any other cause outside of the agreed upon term of restriction. The Town's Right of First Refusal is not intended to infringe upon the ability of a mortgage lender to recapture any money owed by the Affordable Unit's Owner. The intent is to ensure affordability of the unit for Eligible Households.

Phasing

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 by the Planning Authority.

Integration of Units

Affordable Units are encouraged to be integrated with the rest of the development, should use a common entrance if applicable, and should provide no indications from common areas that these units are Affordable Housing Units.

Interior Standards

The design, quality, and materials of Affordable Units interiors need not be the same as market rate units. However, the Affordable Units may not be strategically designed to avoid offering basic amenities similar to what are included in the market rate units such as the following:

Kitchen

Refrigerator
Stove or separate cook top and oven
Sink Disposal
Cabinets
Range Hood
Microwave (if provided in market rate units)
Washer Dryer (if provided in market rate units)
Countertop: Minimum Counter Space not including sink and stove
Studio – 4 linear feet 1BR – 6 linear feet 2BR – 8 linear feet 3BR – 10 linear feet

Bathroom

Sink
Shower
Toilet
Shower Curtain Rod or Shower Door
Medicine Cabinet with Mirror or other storage space with a separate mirror

Flooring

All living space and storage areas shall have a finished floor. The Affordable Units should have the same or comparable floor finishes to the market rate units. However, in order to promote respiratory health, living and dining areas and at least one bedroom should have a surface other than carpet.

Closets

All units shall have adequate storage (including common space storage if provided to the market rate units)
All bedrooms shall have at least one closet including at least one closet for a studio
All closets shall have a shelf and pole

Affordable Housing Agreement

The buyer of each Affordable Unit will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the Town and to include the affordability restrictions as a covenant to the project's deed. The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability, this recorded covenant will limit increases in sales price according to the calculation defined by the Town and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent buyers to the same income limits initially applied. It will also provide a right of first refusal and other purchase rights to the Town or its designee (e.g. another Eligible

Household, or a nonprofit corporation).

At the time of sale, the Affordable Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short or long term periods to other households.

Minimum Term of Affordability

The term of affordability for the required Affordable Units shall be 99 years.

Household Preference

Household preference for Affordable Units shall be given, to the extent permitted under law to Eligible Households, in the following order:

- 1) First Time Homebuyer
- 2) Current residents of the Town
- 3) Previous residents of the Town who were displaced within the last 12 months prior to the Affordable Unit becoming available
- 4) Persons employed full time by the Town
- 5) All others

The applicant for housing will be responsible for documenting their preferred status under any of the above noted categories. Documentation may include confirmed leases, bank statements, utility bills, voter registration, tax returns, insurance statements, and other reasonable documents as requested by the Town or Owner to demonstrate preferred status. The Town or Owner may request more than one form of documentation.

Household preference does not preclude Owners from selling to non-preferred applicants assuming applicants meet the necessary eligibility requirements and there are more Affordable Units available than eligible preferred applicants. Other preference categories may be added to specific projects or to the Town's standards at a later date as appropriate.

If the development is only required to have one Affordable Unit, there shall be no preference.

Marketing / Selection Process

Unless otherwise agreed to with the Town, the following system will be followed. At least 30 days prior to initial marketing, the Owner shall provide written notice to the Town of the expected start of marketing process and occupancy dates of the designated Affordable Units. The Owner will place an advertisement, approved by the Town, in one or more newspapers designated by the Town. Interested parties will be given sufficient time to request and return a preliminary application. The Owner will inform the Town of any interest from Eligible Households that it receives. From the beginning of the marketing process the Town will have the opportunity to list the property on its website for a minimum of 30 days to solicit interest from potential Eligible Households. The Town will forward any inquiries to the Owner or their designated representative. The Owner should also reach out to local groups and non-profits who may have connections to interested Eligible Households.

The Owner shall acknowledge in writing the household income limits and max sale price restrictions on the unit to any potential buyers interested in the property prior to finalizing a Purchase and Sale Agreement. At a minimum, this shall include providing prospective buyers with the associated

household income limits of 120% AMI in any listing and providing written documentation at any open house or showing stating that this unit carries with it income, maximum sale price and other restrictions.

In each instance that an Owner intends to effect a sale, transfer or disposition of the Property to a third party, prior to listing the property for sale or entering into a purchase and sale agreement, or otherwise taking any steps to consummate the sale of the property, an owner shall first give the Town written notice of such intent (the "Notice of Intent") addressed to the Town's Director of Planning & Development. The Town shall make the final determination whether or not a potential buyer is qualified, selection preference guidelines have been followed, and the maximum allowable sales price as determined in accordance with the calculation parameters determined by the Town.

The Owner shall collect all necessary supporting documents for the Town's final approval. The Town will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Developers and Owners on marketing, selection, qualification, and orientation. All determinations regarding eligibility and sale price are subject to review and final approval by the Town.

First Time Homebuyers

Eligible Households will be considered first time homebuyers if the following criteria are met:

1. None of the parties within the household have had an ownership interest in their home within the last three years;
2. A single parent who has owned a residence while married but no longer holds a financial interest in the home; or

Eligibility for First Time Homebuyer status will be limited to a one time only occurrence per household.

First time homebuyer must provide documentation showing that all relevant applicants within a household have completed a homebuyer education course prior to a Purchase and Sale agreement being signed and before the Town may approve the household as being eligible to purchase the Affordable Unit.

Sale of Lots to a Third Party

In the case of a subdivision where the subdivider plans to sell the lots to a third-party, the applicant should identify the designated affordable housing unit on the plan. The applicant and the Town will enter into an agreed upon Affordable Housing Agreement (AHA) before the lot is conveyed. The agreement will outline the details of the affordability restrictions placed on the Affordable unit and will be filed as covenant to the property's deed with the Cumberland County Registry of Deeds. When the new owner applies for the building permit, the lot will already contain the deed restriction. The building permit should not be issued without evidence the restriction/agreement is in place.

To ensure the affordable unit is not completed last, or not at all, the Planning Board shall require the affordable unit to be built as part of the first 50% of the development. Once 50% of the building permits for the project have been issued, no further permits are issued for any market rate homes until the permit for the affordable unit is applied for and issued. If the affordable building permit expires, no further permits for the market rate units should be issued.

Enforcement

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of

the recorded Agreement which copy shows the usual recording date, with the Cumberland County Registry of Deeds. In the case of off-site Affordable Units, the Owner shall record the AHA in the chain of title for both properties. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the Town.

Without limitation on any other rights of the Town, in the event there is a violation of any conditions contained within the AHA, the Town may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:

- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;
- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Any and all legal expenses incurred by the Town or aggrieved tenant(s); and
- A cash payment, as provided for in the Zoning Ordinance related to fee-in lieu payments, prorated to the number of required affordable units, made to the Town if the Owner is unable to provide Affordable Units for occupancy as described in the AHA.
- Payment of money damages to the Town in an amount at least equal to and as much as double the difference in value of the maximum allowable sale price and the actual sale price.

The Owner may request a certificate from the Town stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The Town will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate.

Developers of such units are encouraged to provide Affordable Units on-site. However, in accordance with Chapter 701 Article II.DD, developers may choose to make a cash contribution to Yarmouth's Housing Trust Fund.

The payment is the same for rental and homeownership projects. 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. For projects that are building more than one building in phases, the fee-in lieu payment shall be paid proportionally to the project's phasing. The fee is calculated up to one-tenth of a fractional unit. For example, if a project is proposing 25 units and prefers to pay the fee for all units the Developer would be required to pay 2.5 times the current rate as established by the Town.

All money shall be due prior to the issuance of a Certificate of Occupancy or another payment method approved by the Town.

Financing

Affordable Units shall not have a mortgage on a unit that contains the following:

1. A pre-pay penalty or a balloon payment
2. A reverse mortgage

3. An adjustable rate mortgage (ARM)
4. A co-signer
5. An interest only loan
6. The loan to value ratio exceeds 95% of the maximum allowable purchase price

Appeals

A Developer or Owner or Tenant may appeal to the General Board of Appeals if they believe that Town misinterpreted the Zoning Ordinance or any subsequent agreements restricting the Affordable Units. All such appeals shall be made in writing and include a description of the Town action which is being appealed and the grounds for the appeal per Town of Yarmouth Ordinance Chapter 203.

Non-Eligibility/Disqualification

No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for an Affordable Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Waiver

The Town reserves the right to waive or amend portions of these guidelines on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Affordable Units similar in design or size to market rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these guidelines.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Affordable Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above guidelines.

Waivers shall be determined by the Town's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the General Board of Appeals. All such appeals shall be made in writing and include a description of the Town action which is being appealed and the grounds for the appeal per Town of Yarmouth Ordinance Chapter 203.

Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing

Applicability

The Town of Yarmouth Zoning Ordinance requires that development projects creating ten (10) or more net new dwelling units for rent through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements set aside a portion of the project as Affordable Housing. This provision does not apply to projects that have received Final Subdivision Approval and Final Development Plan Approval prior to October 1, 2022.

Affordable Housing Minimum

At least ten percent (10%) of the units in the development shall meet the definition of Affordable Rental Unit. When the required number of units results in a fraction, the development project has the option of paying a partial fee-in-lieu for any fractional value or rounding the number of onsite units up to the nearest whole number.

The fractional unit obligation would be provided in the form of a proportional fee-in-lieu. For example, a 19-unit project that provides one Affordable Unit would also pay 90% of the fee-in-lieu. If a Developer prefers to pay a fee-in lieu of each Affordable Unit, then the obligation will be calculated on a fractional value to one tenth. For example, a project creating 26 units of housing would be required to provide two (2) Affordable Units and a fractional obligation of 60% as a fee-in-lieu. If the Developer instead prefers to pay the fee-in lieu of providing Affordable Units, the Developer would be required to pay 2.6 times the current rate as established by the Town.

Offsite units to do fulfill the obligations under this ordinance.

Household Income Limits

Affordable Rental Units will be restricted to households at or below 80% of the area median income (AMI). The Town will reference Area Median Income figures published annually by HUD for the Greater Portland Metropolitan FMR Area, adjusted for household size or other income limits as deemed reasonable by the Town. If at a time in the future HUD no longer provides these annual figures, the Town will identify another similar method of determining income guidelines for affordability.

Eligibility of Households for Affordable Rental Units

At the time the lease is finalized, a tenant must be a member(s) of an Eligible Household as defined in the Town's Zoning Ordinance. The Household must occupy the Affordable Rental Unit (Affordable Unit) as its primary residence.

Household size/composition upon the unit's rental should be appropriate to the size of the unit as outlined in the charts below. For the qualification of households by unit size, the head of the household and spouse/partner are assumed to share a bedroom. Two children, whose ages are not excessively disparate, may share a bedroom. Legal custody is required for households including one or more minor children. A household that consists of a pregnant woman will be treated as a two people for income and household size determinations. On average, there will be no fewer than one, nor more than two persons

per bedroom.

The Town will consider households eligible based on their gross income. The Town will use a process similar to what HUD recommends for the HOME program to determine gross income or another method as deemed reasonable by the Town. The Owner or their representative will collect and compile all of the relevant paperwork needed to assess a household's eligibility.

Verification will require sufficient proof of household size and income in the form of official tax statements, W-2 forms, pay stubs, credit reports, bank statements, birth certificates, and any other reasonable documents requested by the Town or Owner to aid in their efforts to verify whether or not a household is eligible. The Town may request additional information as needed. The Town shall have the final approval of whether or not a household meets the income or size requirements of each Affordable Unit prior to the signing of the lease.

The chart below indicates the minimum household size for each unit type based on bedroom count.

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
Minimum Household Size By Bedroom	1	2	3	4

Affordable Units will also be subject to maximum household sizes based on bedroom counts. The following chart outlines the maximum persons allowable per bedroom assuming the occupants meet all other requirements related to qualifications for determining a household such as age of children sharing bedrooms.

	Studio/One-Bed	Two-Bed	Three-Bed	Four-Bed
Maximum Household Size By Bedroom	2	4	6	8

Eligible Households may not qualify if at the time of application any member of the household owns residential real estate.

The Town reserves the right to perform an asset test to help determine a household's income. This may include making certain assumptions about the average returns that would be reasonable to expect from certain investments including stocks, bonds, annuities, mutual funds, dividends, trusts, money market accounts, certificates of deposit (CD's) or other financial instruments. The Town may request documentation for the three most recent years to help determine a household's income.

The Town reserves the right to place an asset limitation test for eligibility.

If owners find it difficult to rent an Affordable Unit to an Eligible Household who meets the established minimum size requirements, they may ask for approval in writing from the Town to rent the unit in this singular instance to an Eligible Household smaller than the minimum household size described herein.

Reasonable marketing efforts to find Eligible Households of a qualified size should be taken for at least 30 days prior to the Town granting a household minimum size waiver. The waiver is only for a single applicant and that household's recertification. Rent shall be calculated based on this smaller household size. Once the Affordable Unit is vacant, minimum household sizes shall apply to future tenants. The Town shall determine if the efforts of the owner to rent the unit to an appropriately sized household have been reasonable. Under no circumstances will households be allowed to exceed the maximum household size.

Primary Residence

At the time of occupancy, the Affordable Unit must be the Eligible Household's primary residence. The Unit may not be rented out for short- or long-term periods to other households.

A household must notify the Town if it is absent from the Affordable Unit for 30 days in any 45-day period. If the Household is absent from the Unit for a period exceeding 60 days in one consecutive 365 day period for reasons other than work obligations, health, or emergency reasons than the Household's eligibility will be terminated and their lease shall not be renewed.

Where absences in excess of the above limitation are caused by work obligations, or health reasons or other emergency, the Town may require verification of the reasons for the tenants' absence.

Households must comply with such requests for verification work, health, or emergency reasons or their lease will not be renewed. For the purposes of this section, incarceration does not constitute a health or other emergency justifying prolonged absence from the home.

Determination of Affordable Monthly Rent

Affordable Rental Units will be restricted to households with income at or below 80% of the Area Median Income (AMI). When determining income eligibility, the Town will reference income limits and/or in the AMI figures published annually by HUD for the Greater Portland Metropolitan FMR Area. If at a time in the future HUD no longer provides these annual figures, the Town will identify another similar method of determining income guidelines for affordability.

To maintain consistency of Affordable Units within the Town, rents will be based on the minimum household size per bedroom rather than the income level of a particular applicant. For example, the minimum household size for a two-bedroom Affordable Unit is two (2) persons. The income of a two (2) person household will be used to calculate the maximum allowable monthly rent but a family of four (4) would still be eligible to live in the unit assuming they meet the income restrictions for a four (4) person household. To calculate the maximum allowable rent of an Affordable Unit, the Town will take 30% gross income per month of the minimum household size allowed per bedroom less utilities. By factoring utilities, the formula accounts the maximum amount an Eligible Household could afford to devote to housing related expenses. The formula to calculate maximum allowable Affordable Rents is as follows:

$$0.30 \times (\text{annual income based on minimum household size} / 12) \text{ less utilities} = \text{Affordable Rent}$$

Owners may choose to include some or all utilities within the total rent. Utilities that effect rent calculations include electricity, heat, hot water, cooking energy, sewer, water, and trash collection. For all utilities listed that are not included by the Owner in the rent, the Town shall make reasonable assumptions based on a Unit's bedroom count as to the monthly cost of each utility. To determine what

is reasonable the Town may utilize the figures estimated by HUD and distributed through the Maine State Housing Authority annually for similar utility allowances based on a unit's bedroom count. The Town shall reserve the right to determine a different metric should these figures from HUD at any point be unavailable or a better metric be determined.

The Owner may request first, last, and security deposit from applicants. These three expenses shall not exceed the value of one month of rent and together shall not exceed three months of rent.

Households may choose to pay for on-site parking but shall not be required to pay separately for this amenity. If the Owner requires a parking spot(s) be leased with the Affordable Unit and charges a separate fee than parking may be counted similarly to the utilities above and shall be subtracted from housing related expenses for calculating the maximum allowable rent.

Owners may rent to household's utilizing other rental subsidies such as vouchers, but never shall the total rent paid be in excess of the allowable Affordable Unit rent for a determined bedroom size.

Phasing

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 by the Planning Authority.

Integration of Units

Affordable Units must be integrated with the rest of the development, should use a common entrance if applicable, and should provide no indications from common areas that these units are Affordable Housing Units.

Interior Standards

The design, quality, and materials of Affordable Units interiors need not be the same as market rate units. However, the Affordable Units may not be strategically designed to avoid offering basic amenities similar to what are included in the market rate units such as the following:

Kitchen

Refrigerator
 Stove or separate cook top and oven
 Sink Disposal
 Cabinets
 Range Hood
 Microwave (if provided in market rate units)
 Washer Dryer (if provided in market rate units)
 Countertop: Minimum Counter Space not including sink and stove Studio – 4 linear feet
 1BR – 6 linear feet 2BR – 8 linear feet 3BR – 10 linear feet

Bathroom

Sink
 Shower
 Toilet
 Shower Curtain Rod or Shower Door

Medicine Cabinet with Mirror or other storage space with a separate mirror

Flooring

All living space and storage areas shall have a finished floor. The Affordable Units should have the same or comparable floor finishes to the market rate units. However, in order to promote respiratory health, living and dining areas and at least one bedroom should have a surface other than carpet.

Closets

All units shall have adequate storage (including common space storage if provided to the market rate units)

All bedrooms shall have at least one closet including at least one closet for a studio

All closets shall have a shelf and pole

Affordable Housing Agreement

The Owner will be required to sign and record in the Cumberland County Registry of Deeds an Affordable Housing Agreement (AHA) with the Town and to include the affordability restrictions as a covenant in the project's deed(s). The Affordable Housing Agreement shall be referenced directly in the property's deed unless prohibited by federal, state, or local law. In order to guarantee affordability, this recorded covenant will limit increases in rent according to the calculation defined by the Town and the Eligible Household requirements as they relate to increases in median income. It will limit the incomes of subsequent tenants to the same income limits initially applied.

Minimum Term of Affordability

The term of affordability for the required Affordable Units shall be 99 years.

Dwelling units created or redeveloped by non-profit educational institutions for use as housing exclusively for enrolled students of educational institutions shall not be subject to the set aside requirements. If the units are no longer used exclusively by enrolled students, the building will be required to meet the affordable housing standards set forth in the Zoning Ordinance.

Household Preference

Household preference for Affordable Units shall be given, to the extent permitted under law to Eligible Households, in the following order:

- 1) Current residents of the Town
- 2) Previous residents of the Town who were displaced within the last 12 months prior to the Affordable Unit becoming available
- 3) Persons employed full time by the Town
- 4) All others

The applicant for housing will be responsible for documenting their preferred status under any of the above noted categories. Documentation may include confirmed leases, bank statements, utility bills, voter registration, tax returns, insurance statements, and other reasonable documents as requested by the Town or Owner to demonstrate preferred status. The Town or Owner may request more than one form of documentation.

Household preference does not preclude Owners from renting to non-preferred applicants assuming

applicants meet the necessary eligibility requirements and there are more Affordable Units available than eligible preferred applicants. Other preference categories may be added to specific projects or to the Town's standards at a later date as appropriate.

If the development is only required to have one Affordable Unit, there shall be no preference.

Marketing / Selection Process

In each instance that an Owner intends to rent an Affordable Unit, prior to listing the property for rent or renewing a lease, an owner shall first give the Town written notice of such intent (the "Notice of Intent") addressed to the Town's Director of Planning & Development. The Town shall make the final determination whether or not a potential household is qualified as well as the maximum allowable rental price as determined in accordance with the calculation parameters determined by the Town.

Unless otherwise agreed to with the Town, the following system will be followed. The Owner will place an advertisement, approved by the Town, in one or more newspapers designated by the Town.

Interested parties will be given sufficient time to request and return a preliminary application. The Town shall have the opportunity to list the property on its website for a minimum of 60 days for initial occupancy and 30 days for subsequent rentals during the marketing process to solicit interest from potential Eligible Households. The Town will forward any inquiries to the Owner or their designated representative.

The Owner shall collect all necessary supporting documents for the Town's final approval. The Town will, at a minimum, monitor the process and review buyer qualifications, but may work collaboratively with Owners on marketing, selection, qualification, and orientation. All determinations regarding eligibility and rental amount are subject to review and final approval by the Town.

Maintenance of a Waiting List

The Owner is encouraged to maintain a waiting list of Eligible Households by preferred status who have filed an application or a letter and who meet the qualifications defined herein. Such applications should include the following in order to classify the applicant: the ages, genders, and relationships of household members, gross household income, and information related to preferred status and household eligibility. It is understood that it is the responsibility of the applicant to update information, which will affect their income, household eligibility, or preferred status, and that it is not the responsibility of the Owner to verify actual status until a unit becomes available. Final approval of Eligible Households, Affordable Units, and maximum allowable rent will be decided by the Town.

Leases

All leases will be a year in length with the rent consistent throughout the term of the lease. The maximum rent allowable will be determined at initial application and during any recertification process prior to the renewal of a lease. Tenant leases for Affordable Units shall include the method for updating rents set forth in these guidelines and as a condition of continued eligibility, obligate the household to report all information required by these guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies and the Town. The lease shall also include the method and implications of the recertification process for Affordable Units as outlined in these guidelines. Eligible Households renting affordable units will be recertified annually with final approval from the Town before renewing a lease.

Tenant leases shall include the method for updating of rents set forth in these guidelines and, as a condition to continued eligibility, obligate the household to report all information required by the guidelines, including providing copies of applications, recertifications, and supporting documentation used by administrators of rental subsidies. The Owner shall enforce the lease, if necessary to the point of terminating Eligible Household status, requiring market rents, and initiating and prosecuting eviction proceedings against renters of affordable units who do not report as required or whose eligibility lapses.

“Floating” Affordable Units

Prior to the Project’s approval, the Owner and Town shall agree to the distribution, size, and bedroom type of the Affordable Units in order to include these details in the Affordable Housing Agreement (AHA). Owners are encouraged to distribute Affordable Units equally throughout the project.

Designated Affordable Units within any development may be “floating” i.e. changed by substitution, that is, the designation of a unit as affordable does not necessarily stay with the same unit over the life of the development. The Project shall maintain the required number of bedrooms and Affordable Units as outlined in the AHA and may only switch which unit is reserved as a Affordable Unit with Town approval following certain recertification situations as described in greater detail below.

Recertification of Affordable Units

Prior to the renewal of an Affordable Unit’s lease, the tenant shall recertify that their household meets the eligibility and household size requirements for the unit. The same process and documentation will occur as with the initial lease up of the Unit. Unless the Owner can substantiate claims that the tenant has violated terms of the lease or is refusing to adequately comply with the recertification process, no other households may be considered to lease the Affordable Unit unless the current tenant chooses not to renew their lease. The Owner or their representative shall collect and compile the necessary recertification documentation. The Town shall have the right of final approval. The Owner or their representative shall maintain records of the recertification process as described in greater detail in the Administration & Record Keeping section below.

Loss of Household Eligibility

A unit shall lose its designation as an Affordable Unit when it no longer houses an Eligible Household. This will occur upon two consecutive recertifications wherein a once Eligible Household’s income is greater than the allowed AMI and is no longer considered eligible. The recertification of all applicants may be subject to final approval from the Town. In this scenario, an Owner may, with 90 days’ notice, charge Market Rent. The tenant is then eligible for continued occupancy in the particular unit for one additional year following the date of the most recent recertification. After any adjustment in accordance with the above, the next available appropriate unit should be rented to an Eligible Household, so as to restore and maintain the unit size, type, and mix originally intended. The Town shall have final approval that any substitute unit is appropriate for satisfying the requirements intended for Affordable Units within the Project as defined within the AHA.

If no suitable alternative unit becomes available to rent as an Affordable Unit within a year of the former Eligible Household now paying Market Rent than the Owner shall not renew the former Eligible Household’s lease and shall return the unit to its use as an Affordable Unit for Eligible Households. The Owner shall cooperate with the Town and with any documentation that it deems necessary to approve the substitute Affordable Unit or Eligible Household.

In the case where the tenant has been accepted as a market rate tenant, the Owner shall pay to the Town's Housing Trust the cash value of the difference between the maximum allowable Affordable rent and the market rent until such time as another unit has been approved by the Town as an acceptable substitute Affordable Unit and occupied by an Eligible Household. Occupancy during this transition period by an over-income household will not constitute default under the conditions set forth in the AHA.

Household Failure to Participate in Recertification

A household is considered to have failed to participate in the recertification process after not sufficiently responding to three written requests by the Owner or Town within a 60-day period. Tenants may not be asked to participate in a recertification process more than one time per 365 day period. The Town shall have final approval in regards to whether sufficient evidence has been provided to substantiate a household's failure to participate in the recertification process.

Eviction

Assuming the lease meets all federal, state, and local requirements, nothing in these guidelines are meant to restrict the right of the Owner to evict any tenant who fails to participate in the recertification process or breaches the lease with the Owner in any way. In no case shall the Owner be required to support an overall higher level of subsidy than intended by the initial distribution as outlined in the AHA. Any and all costs associated with said enforcement or eviction shall be borne by the Owner.

Enforcement

The Owner will be required to record the AHA and conditions contained therein and shall file a copy of the recorded Agreement which copy shows the usual recording date, with the Cumberland County Registry of Deeds. No occupancy permit shall be issued until complete certified copies of the AHA with any attachment thereto and with the recording date(s) noted thereon, are filed with the County and suitable evidence provided to the Town.

Without limitation on any other rights of the Town, in the event there is a violation of any conditions contained within the AHA, the Town may take any one or combination of the following steps to ensure compliance and these enforcement provisions shall be expressly authorized by and contained within the AHA:

- Revocation or the Project's approval, Building Permit, or Certificate of Occupancy;
- Modification of the AHA;
- Injunctive relief to enforce the terms of the AHA;
- Payment of money damages to the Town in an amount at least equal to and as much as double the required rent and the rent being charged for the period of non-compliance;
- Any and all legal expenses incurred by the Town or aggrieved tenant(s); and
- A cash payment, as provided for in the Zoning Ordinance related to payment-in-lieu payments, pro-rated to the number of required affordable units, made to the Town if the Owner is unable to provide Affordable Units for occupancy as described in the AHA.

The Owner may request a certificate from the Town stating that the Owner is in compliance with the terms and conditions of the AHA, or stating non-compliance and the actions necessary to come into compliance. The Town will execute and deliver such certificate within thirty (30) business days or receipt of a written request for such a certificate. Certificates of compliance shall not be required for the leasing

of any Affordable Units.

Administration & Record Keeping

The Eligible Household's application, recertification forms and documentation, and any third party verifications must be maintained by the Owner throughout the Eligible Household's occupancy and for a period of at least seven (7) years thereafter. These records must be available to the Town within ten (10) business days if requested. Applications and waiting lists shall also be kept on file for a period of at least seven (7) years or some other period of time if deemed reasonable by the Town.

The Owner will file an annual report to the Town within 60 days of the end of each calendar year providing information related to Affordable Unit vacancies, waitlists, household turnover, household size, household income, market rate rents, recertifications, and any other relevant information.

Cash Payment In Lieu of Affordable Units

Developers of such units are encouraged to provide Affordable Units on-site. However, in accordance with Chapter 701 Article II.DD, developers may choose to make a cash contribution to Yarmouth's Housing Trust Fund.

The payment is the same for rental and homeownership projects. 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. For projects that are building more than one building in phases, the fee- in lieu payment shall be paid proportionally to the project's phasing. The fee is calculated up to one-tenth of a fractional unit. For example, if a project is proposing 25 units and prefers to pay the fee for all units the Developer would be required to pay 2.5 times the current rate as established by the Town.

All money shall be due prior to the issuance of a Certificate of Occupancy or another payment method approved by the Town.

Appeals

A Developer or Owner or Tenant may appeal to the General Board of Appeals if they believe that Town misinterpreted the Zoning Ordinance or any subsequent agreements restricting the Affordable Units. All such appeals shall be made in writing and include a description of the Town action which is being appealed and the grounds for the appeal per Town of Yarmouth Ordinance Chapter 203.

Non-Eligibility/Disqualification

No employee, agent, stockholder, officer, director, servant, or family member of the Owner or its Management Company, or its employees, agents, or servants thereof, related either by blood, marriage, or operation of law may qualify for an Affordable Unit or receive any benefit related in any way to the administration or compliance with the AHA conditions contained therein.

Waiver

The Town reserves the right to waive or amend portions of these guidelines on a case by case basis where an Owner is able to sufficiently demonstrate that the need for a waiver is due to the unique circumstances of the property (e.g. in order to make Affordable Units similar in design or size to market

rate units) or due to unique physical constraints of the property. The applicant shall bear the burden of presenting substantial evidence to support the grant of a waiver from any portion of these guidelines.

Waivers shall not be granted that will have the effect of removing or reducing the minimum of 10% of the total units proposed as Affordable Units available, altering the income limits on eligible households, increasing the maximum allowable sale price or rental rate, or decreasing any fee owed outside of what is stipulated in the above guidelines.

Waivers shall be determined by the Town's Planning Authority. Owners may appeal the Planning Authority's decision regarding waivers to the General Board of Appeals. All such appeals shall be made in writing and include a description of the Town action which is being appealed and the grounds for the appeal per Town of Yarmouth Ordinance Chapter 203.

MEMO

Town of Yarmouth

To:	Planning Board
From:	Juliana Dubovsky
CC:	Erin Zwirko
Date:	December 5, 2022
Re:	Inclusionary Housing: zoning incentives beyond density bonus

The draft Inclusionary Zoning (IZ) ordinance from the YAHC currently offers development incentives that allow for a density bonus and modification to dimensional and parking requirements:

- 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.
- In the CD-4 and CD4-C Character Districts, for any mixed-use development project, the Planning Board may approve a structure height of 4 stories and 45 feet only if 50% of the ground floor area is commercial and 20% of the total residential units are affordable units.
- In the Commercial Zoning District, for any mixed-use development project, the Planning Board may allow an increase in the residential floor area to 50% and a structure height of four stories and 45 feet if 20% of the total residential units are affordable units.
- In any district, off-street parking may be reduced to 2 off-street parking spaces for every 3 units for the entire development project.

As part of the concept review process with the Town Council, attention was given to the draft ordinance's incentives, particularly that there isn't enough "carrot" for a mandatory IZ program and that the increased height threshold to a fourth story is aesthetically out of context for the Town. Three questions for the Planning Board to consider in response to those concerns are:

- Are there existing buildings of 4-stories that don't seem unsuitable and if so, why?
- What other incentives can be used in zoning districts that do not have minimum lot area requirements, like the General Development district, and already allow new buildings up to 42 feet?
- What incentives work well with form-based codes?

Identifying the appropriate set of incentives (also known as 'cost offsets' or 'development benefits') is important for attracting development and adapting to changing market and economic trends, such as the current high construction costs and rising interest rates. For example, incentives such as tax abatements for new construction or substantial rehabilitation, and streamlined permitting processes, can be used for encouraging converting existing structures in a softening market and when new

construction costs are high.¹ Using a range of multiple income targeting requirements or allowing acceptance of housing vouchers gives developers more flexibility.

Recent national research from Grounded Solutions Network has found that IZ programs produce the most units where there is mid-high level development activity and relatively high costs. Even for small or softening markets, if there is anticipation of significant development in the coming years, such as the result of the LD2003, it is a strategy to ensure future development is “inclusive.” Their national survey of IZ data showed that *“the most productive programs share certain features: they are mandatory, offer incentives, allow developers flexibility with multiple options for compliance, and require long-term affordability.”*²

Part I. Inclusionary Zoning Incentives Case Studies

Selection Method

The pool of IZ programs was identified through the [Grounded Solutions Network’s](#) Inclusionary Housing Map³, and using three filters:

- Program type was mandatory;
- For traditional IZ, the development type was both ownership and rental; and,
- The set-aside requirements were not 20% or more.

The map and accompanying report, “Inclusionary Housing in the United States: Prevalance, Practieces, and Production in Local Jurisdictions as of 2019,” identified a total of 1,019 inclusionary housing programs in 734 jurisdictions at the end of 2019. These programs are in 31 states and the District of Columbia. Nearly three-quarters of programs are in New Jersey (28%), Massachusetts (23%), and California (22%), all of which have statewide mandates. From this large pool of localities, the final selections in New England were based on a community’s:

- Use of form-based codes
- Historic preservation district ordinance or commission
- Restrictive height regulations and creative incentives for IZ other than height bonus
- An adopted affordable housing plan or commission

Massachusetts had over 230 cases⁴, while Connecticut, Rhode Island, Vermont, and New Hampshire had fewer than 40 cases combined that met these criteria, as shown in Figure 1 below. Other similarities

¹ “Tax Incentives for New Construction and Substantial Rehabilitation.” n.d. Local Housing Solutions (website). Retrieved from: <https://localhousingsolutions.org/housing-policy-library/tax-incentives-for-new-construction-and-substantial-rehabilitation/>

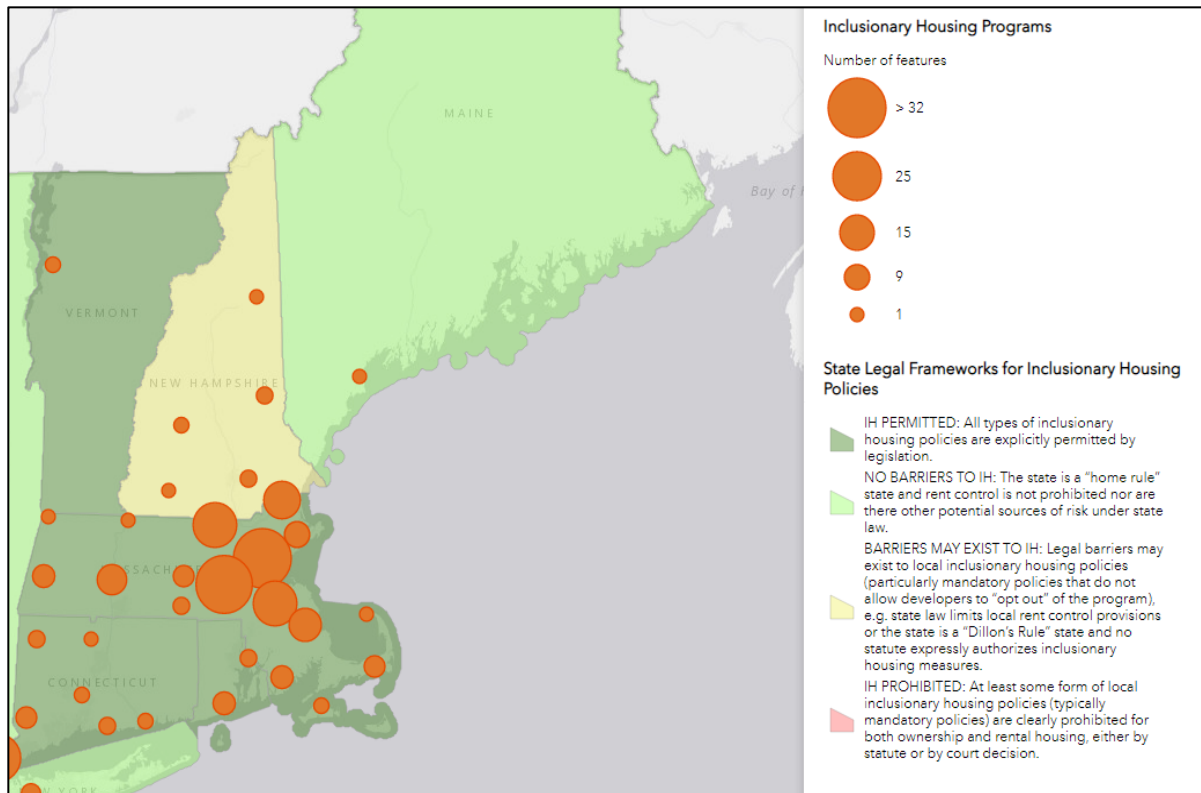
² Reyes, Stephanie and Wang, Ruoniu. “Inclusionary Housing: Secrets to Success.” Shelterforce: The Original Voice of Community Development. March 10, 2021. Retrieved from: <https://shelterforce.org/2021/03/10/inclusionary-housing-secrets-to-success/>

³ To learn more about the Inclusionary Housing map and their extensive research, visit: <https://inclusionaryhousing.org/about/>

⁴ Massachusetts has a large volume of cases as many municipalities have adopted inclusionary zoning to produce deed-restricted affordable housing in compliance with the state statute known as Chapter 40B. Chapter 40B requires municipalities to produce at least 10 percent of their year-round housing stock as affordable housing.

with Yarmouth, such as socioeconomic or land use patterns, are also noted in the Case Studies section. The eight selected communities have adopted an IZ program and adapted it to incentivize diverse housing development, while preserving elements of community character like historic, architectural, or rural character.

Figure 1. New England Inclusionary Housing Programs by Selected Criteria



Source: Grounded Solutions Network. (2020). Inclusionary Housing Database. Retrieved from <http://inclusionaryhousing.org/map>

Case Studies

Hinesburg, Vermont

- *Similar land use pattern:* 80% rural town with village design standards in zoning code and historic preservation regulations
- *Similar socioeconomic:* Greater than \$90K median household income, 76% homeownership

Hinesburg Inclusionary Zoning Program

- Program Structure: mandatory IZ for 10 or more new dwelling units and voluntary IZ for projects with less than 10 new dwelling units

- Requirements: 10% set aside + 80-100% AMI + design standards + preserve affordability in perpetuity
- Applicability: project size threshold of 10 or more + both tenure types + geographic targeting to the Village Growth Area
- Alternatives: off-site units allowed (with conditions and Village Growth Area preference), rehab and preservation of existing units as perpetually affordable, working with Champlain Housing Trust
- Incentives: density bonus, expedited review, 100% reduction in building permit fee for required affordable units, waiver of Development Review Board (DRB) application per unit fee for required affordable units, and unit size concessions.

The Takeaways:

1. **Form-Based Code Contextual Density:** The 2021 Hinesburg Comprehensive Plan uses “*form-based code inspired standards*” to create specific design standards and support higher density projects in the Village Growth Area zoning districts (Article 2, Section 2.9). Projects in the Village Growth Area are encouraged to build to a base density, which is already higher in that area, Residential density bonuses also vary by district within the Village Growth Area, with greater bonuses for the central Village District and fewer for rural areas.⁵ This strategy could be used in Yarmouth by allowing different density bonuses in the growth areas like the CD4 and CD4-C to create a spectrum of density bonuses that aligns with the CBDC (Character Based Development Code).
2. **Bundling of Development Benefits:** In addition to density bonuses, the incentives go further by bundling other incentive/bonus provisions (e.g., small dwelling size, green certification, renewable energy, infrastructure, and public spaces) and affordable housing through the IZ program (Article 2, Section 5.21). Using a sliding scale incentive formula for residential and non-residential buildings, a project can accrue many costs offsets, which facilitates experimenting with various development scenarios.
3. **Height in Character:** A goal in the Town Plan is to “*Guide the design of new development to respect Hinesburg’s rural village character and unique sense of place while allowing for up-to-date architectural, engineering, and landscape design.*” Hinesburg’s zoning ordinance limits the height of any structure, other than farm accessory structures, to 35 feet. Like Yarmouth, among the exceptions allowed by the DRB are architectural elements of residential structures or church spires, belfries, monuments, or other similar institutional structures.

⁵ The intention of their Village Growth Area is to guide development away from agricultural and open space areas and minimize impacts to natural systems. This priority was expressed in Yarmouth’s Vision Statement as well. For more information, please see Hinesburg’s 2021 comprehensive plan:

https://www.hinesburg.org/sites/g/files/vyhlf6691/f/pages/townplan_070721_redux.pdf

Similar features of Yarmouth's streetscape are also likely greater than 35 feet and add to the architectural character of the Town. For example, Russell Hall, the 3-story, North Yarmouth Academy building at 141 Main St (built in 1841) has architectural elements exceeding 35 feet. The unfinished basement in today's world could be an inhabited ground floor story and the current elevator has four stops. The front setback from the property line is approximately 78 feet.

Image 1. 129 Main Street, North Yarmouth Academy



Source: [North Yarmouth Academy](http://NorthYarmouthAcademy.org) | [The Cultural Landscape Foundation \(tclf.org\)](http://TheCulturalLandscapeFoundation.org)

Section 5.22.1 of Hinesburg's ordinance allows for waivers of specific design review provisions where it determines there is compelling cause, and only if the waivers do not nullify the overall purpose and intent of these standards. Similarly, if conditions meet other aspects of Yarmouth's CBDC, appropriately designed 4 stories could be eligible for an IZ waiver without compromising character.

Burlington, Vermont

- *Form-based code adopted*
- *Historic district and preservation commitment*
- *Housing Trust Fund established by Burlington City Council*

Burlington Inclusionary and Replacement Zoning Program

- Program Structure: mandatory and voluntary
- Requirements: 15% set aside for rentals or sale (minimum) but varies based on sale price of market-rate homes and zoning district + 99 years or perpetuity
- Applicability: for projects with 5 or more units in one structure or 10 or more if conversion of an existing structure + student housing + mixed-use buildings + both tenure types
- Alternatives: on-site, fee in lieu of to a Housing Trust Fund, or provide the affordable housing off-site at 125% of the on-site obligation and only in certain geographic areas
- Incentives: density bonus, fee reduction and waiver, other zoning variances including height allowances.

The Takeaways:

1. Contextual Density and Height

Bonuses: The city's IZ ordinance allows for increases in maximum lot coverage density/intensity, and, where applicable, height allowed for the lot(s) on which the project is located, as shown in Figure 2. In the RH (a High-Density Residential District) and RM-W (Medium Density Residential)

residential zones an additional 12 feet of building height is allowed by right if an additional 5% of inclusionary housing units are provided. In other zoning districts where IZ is applied, no allowances, either individually or in combination, enable a building to exceed the maximum FAR and maximum building height permitted in any district.

2. **District Specific Incentives:** The city also established a Density Bonus Overlay District (RHDB) that aims to convert non-residential buildings to residential uses and increase housing supply in proximity to the downtown (Article 4, Section. 4.5.3 RHDB). This district has height maximums for two specific geographies in the historic "Design Review District" and specific standards relating to height bonuses:

Subject to such maximum building heights, the following shall also apply:

C. The height of any proposed building or addition shall not be more than fifteen (15) feet greater than the average height of existing buildings within the same block having frontage on the same street as the proposed;

D. A height greater than that allowed in C. above may be permitted if such additional height is set back from the front property line a minimum of twenty five percent (25%) of the width of the street right-of-way, and in no event less than fifteen (15) feet from the front property line.

E. The height allowance for frontage on one street shall not adversely impact the streetscape of an adjacent street, in the judgment of the development review board

F. That portion of any building which is constructed to a height in excess of the height allowed per the underlying zoning district as provided above, must maintain a setback equal to fifty percent (50%) of that portion's height from the property line shared with

Figure 2. Density and Dimensional Allowances for Inclusionary Zoning in

Zoning District	Maximum Units/Acre	FAR/Height	Maximum Lot Coverage
RH	46	12' height set back 10' along street facade ¹	92%
RM	25	n/a	48%
RM-W	25	12' height set back 10' along street facade ¹	72%
RL, RL-W	8.75	n/a	44%
FD6, FD5	n/a	0.5 FAR	100%
NMU, NAC, NAC-R	n/a	0.5 FAR+12' height set back 10' along street facade	92%
NAC-CR	n/a	0.5 FAR+12' height set back 10' along street facade	72%

Source: Burlington Inclusionary Zoning Ordinance, Article 9, Sec.9.1.12, p.9-7.
Retrieved from [Zoning Ordinance | City of Burlington, Vermont](#)

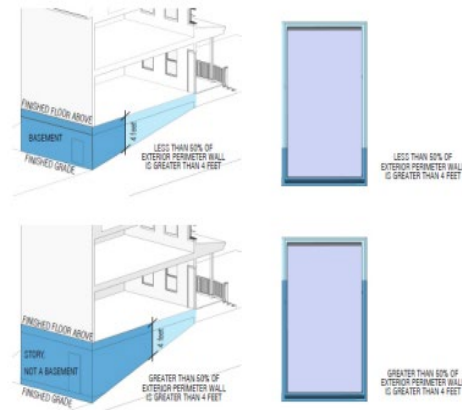
any adjacent residential structure. The distance of such a setback will be maintained only for that portion of the building immediately adjacent to an existing residential property.

3. **planBTV Special Review for Height Bonus:** Burlington

also has a form-based code, planBTV, for two districts: the downtown and waterfront. planBTV defines (Sec.14.6.4) building in feet and story, similarly to Yarmouth, but it allows for a upper floors, mezzanines, lofts and even basement floors to count towards stories if certain criteria are met. As shown in Figure 3., these subtle spaces could be used for dwelling units while being consistent with architectural character and scale.

Figure 3. Building Height by Story in Form Districts

iii. Where a Lot slopes downward from the Frontage line, one story that is additional to the specified maximum number of stories may be built on the lower, rear portion of the lot.



Source: planBTV. Retrieved from [Art14planBTVDowntownCode_20221003.pdf \(burlingtonvt.gov\)](https://www.burlingtonvt.gov/Art14planBTVDowntownCode_20221003.pdf)

Projects that conform to all standards of the “planBTV Downtown code” are administratively reviewed by the Planning Department and approved by right, but for projects with IZ, the Development Review Board must review for applicable provisions. planBTV also includes specific requirements in “Design and Public Space Standards Required for Additional Building Height,” (Sec. 14.6.4 f) as shown in Figure 4. Some of these strategies could be incorporated into the CBDC and the IZ provisions in the CBDC.

The Design Review Overlay District, which provides detailed individual review of certain uses and structures in parts of Burlington with structures of “*historical, architectural, or cultural merit*,” requires an additional level of scrutiny where it overlaps with the IZ program, unless it is subject to planBTV.

Figure 4. planBTV Article 14. Section 6. Applicable in All Form Districts. Subsection 4. Building Height

f) **Design and Public Space Standards Required for Additional Building Height:** Applications seeking approval from the Development Review Board for Building Height above that which may be permitted administratively in a Form District shall comply with the following:

i. Design Standards: The maximum Building height and mass is permitted By-Right by the underlying Form District, as may be modified by the chosen Building Type and Frontage Type. However, there are a number of ways that Building shape, articulations, and choice of materials can be used to reduce the perceived height and mass of taller Buildings, and ensure a high quality of design that complements the character of the Downtown and Waterfront area.

After consultation with the Design Advisory Board and a Public Hearing, the Development Review Board shall evaluate any proposal seeking additional Building height under each of the following additional design standards, and affirmatively find that:

- a. The proposed Building presents a design that emphasizes slender, vertically-oriented proportions to assure a rich visually interesting experience as viewed within the context of the downtown skyline; reinforces opportunities for establishing points of reference for visual orientation; and, provides visual interest and human scale at the pedestrian level through the use of a variety of scales, materials, fenestration, massing, or other architectural design techniques;
- b. Step backs, horizontal and vertical variation, selection of materials, and/or other architectural design technics are used to reinforce the street wall, create transitions from Buildings of a smaller mass and height, and reduce the perceived height and mass of upper stories from the street level; and,
- c. Upper story proportions of the Building are oriented and tapered and/or separated into separate masses in order to retain sky view between individual Building elements from the public Thoroughfare.

The DRB may condition approval of additional Building height by reducing the By-Right Building mass by no more than 10% of the total floor area of the new floors enabled by granting the additional Building height. In no case shall the maximum By-Right Building height be reduced.

Source: planBTV. Retrieved from [Art14planBTVDowntownCode_20221003.pdf](#)

Darien, Connecticut

- *Similar socioeconomics: Greater than \$243K Median Household Income + 85.7% Homeownership Rate*
- *Similar efforts to preserve character and land use patterns*

Darien Inclusionary Zoning

- Program Structure: mandatory for projects of four (4) or more multi-family dwelling units or single-family subdivision or re-subdivision resulting in 4 or more building lots
- Requirements: minimum of 14% set aside for + less than or equal to 80% AMI + 40 years or life of the unit
- Applicability: both tenure types + all zones allowing dwelling units as principal or Special Permit use
- Alternatives: on-site and off-site allowed, payment-in-lieu, or a combo
- Incentives: density bonus + other zoning and dimensional variances
 - Recreational or open space requirements may be reduced.
 - Minimum yard requirements may be reduced.

- Maximum building coverage requirements may be increased.
- Parking requirements may be reduced.
- Height may be increased to allow three stories.
- Height may be increased to allow up a maximum building height of 32.5 feet by Special Permit (Section 1000).

The Takeaways:

1. **Waiver Threshold for IZ:** Darien's IZ ordinance also states that the Planning Commission cannot approve a waiver for incentives that results in a requirement that deviates by more than 25% from the originating regulation, much like Yarmouth's CBDC waiver limitation of 35%. Darien has strict height restrictions, allowing only 2.5 stories for residential districts and 3 stories/45 feet for their business district; a special permit is required for a 3-story or 35 feet height allowance. Section 1000 outlines the Special Permit requirements that the Zoning Enforcement Officer, Planning and Zoning Director, and Planning Commission must consider, in addition to Site Plan Review. The Darien Housing Authority and the Town have their own Special Permit Regulations (Subsections 513 and 514) that allow modifications to height restrictions to existing structures that are rehabilitated for senior citizen or moderate-income housing. In addition to the requirements of Section 1000, their Special Permit dictates that:
 - a. The average floor area of residential units not exceeding 1000 square feet and at least 30 percent of all units being one-bedroom units.
 - b. The housing permitted is limited to moderate- or limited-income housing and is provided by the Darien Housing Authority exclusively.
2. **District Specific Height Allowance:** On lots less than 0.6 acres in area in the Designed Business Zone (DB), the Commission may increase building coverage by up to 50% from the originating regulation, provided that the Commission finds that the height and bulk of the proposed buildings do not adversely impact abutting residential properties. While "adverse impacts" arguments can often be arbitrary and capricious, and historically have been grounds for exclusionary rulings, a basis in Site Plan Review could mitigate that.

The Designed Business Zone has a special overlay zone, the "Designed Office Multi-Family Residential Zone," that aims to convert or redevelop old suburban office buildings into multi-family residential buildings. This overlay zone is eligible for Special Permits and the development benefits from IZ. This example might be useful for Yarmouth's General Development District to encourage creative approaches to retrofitting existing taller buildings or designing new buildings that meet design standards.

3. **Parcel Specific Height Allowances:** Darien also has a specific Affordable Housing Overlay Zone with larger area and bulk requirements for affordable, multi-family housing, including a maximum of 3 stories and a height of 40 feet. The overlay zone is limited to two parcels on a specific street. While this Darien's attempt to meet Section 8-30g of the Connecticut General

Statutes, the Leroy-West Affordable Housing Overlay Zone is also a strategy to restrict height allowances to a particular location targeted only for affordable housing.⁶

Connecticut has one of the highest residential (and racial) segregation patterns in the country, so this parcel specific, approach is not surprising.⁷ Restrictive height, area and bulk requirements are found throughout these overlay zones that “permit increased density” while “preserving single-family residential character.” Darien’s zoning still functions in many ways as exclusionary zoning. While this is not an equitable approach to creating affordable housing, if paired with a location-based strategy, such as transit oriented development, parcel specific incentives could facilitate a more diversified housing stock in an incremental and site-specific manner.

Canton, Connecticut

- *Form-based code adopted for a historic river town*
- *Similar socioeconomics: 10,124 total pop, \$89,863 Median Household Income, 79.4% Homeownership Rate, and 35% 4 or more bedrooms.*

Canton’s New Housing Development (Inclusionary) Program

- Program Structure: voluntary IZ
- Requirements: minimum of 20% set-aside + incomes equal or less than 80% AMI + 30 years deed restricted + design standards
- Applicability: overlay on lots where the form-based code allows dwelling units as a principal use + renovations creating additional multi-family units designate a minimum of 20% + single-family subdivisions of 5 or more lots set aside 20% + sale or rentals apply
- Alternatives: on-site and off-site, fee in lieu, or a combination
- Incentives: mixed-uses allowed + base density varies with housing unit type + density bonus (max 25%) and other waivers:
 - Recreational or open space requirements may be reduced
 - Maximum yard requirements may be reduced
 - Maximum building coverage requirements may be increased
 - Parking requirements may be reduced
 - Height may be increased to allow an additional story.

⁶ Section 8-30g of the Connecticut General Statutes, the “**Connecticut Affordable Housing Land Use Appeals Procedure**,” has promoted the development of low-cost housing with long-term affordability protections. It sets a goal of 10% of each municipality’s housing stock qualify as “affordable” housing.

⁷ For more on racial equity and land use patterns, and efforts to make places more inclusive by design, check out: <https://www.desegregatect.org/>.

The Takeaways:

1. **Form-Based Code Design Flexibility:** Canton's Affordable Housing Plan incorporated inclusionary zoning into their form-based code, the Canton Design Village Districts (DVD) Form-Based Code, which is for a suburban corridor linking established historic village centers, much like Route One. The IZ program applies in the Harts Corner DVD and the Canton Village DVD, or where residential is a principal use. Notably, the Building Form Standards has façade height maximums of 4 stories for Main Street frontages and 3 stories in the town frontages. In the Collinsville, Canton and East Gateway Design Village Standards, the code allows for façade maximums of 4 stories and an optional attic height of 8 feet with a sloped roof as shown in Image 2.

Image 2. Main Frontage Character for Collinsville and Canton Village Design Districts



Three stories of flexible uses and optional attic story.

Source: Canton Village Districts Form-Based Design Code. (2018). Retrieved from: [Town of Canton, CT \(townofcantonct.org\)](https://www.townofcantonct.org)

The code also allows for the attic story to be habitable space within the roofline. Their Building Form Standards state, *"Dormers are permitted and do not constitute a story (for height measurement purposes) so long as: they do not break the primary eave line, are individually less than 15 feet wide, and are collectively not more than 60% of their BTL façade length."*

Yarmouth's form-based code defines a story as "Story: a habitable level within a Building, excluding an Attic or raised (daylight) basement. See Tables 5.F.2A-5. F.2E (Character District Standards)." If Yarmouth's form-based code incorporated this definition of dormers and amended the definition of a story, then building forms could potentially add more units without adding an obvious fourth story.

2. **Waiver Threshold for IZ:** Like Yarmouth's CBDC, waivers for incentives cannot deviate by more than 25% from the Building Form Standards. For IZ, the dimensional and zoning incentives are viewed as waivers and the Planning and Zoning Commission may allow any or all the following waivers, *"provided the Commission finds that such waiver encourages the development of below market rate housing and is consistent with the surrounding neighborhood."*

3. Exceptions to Maximums

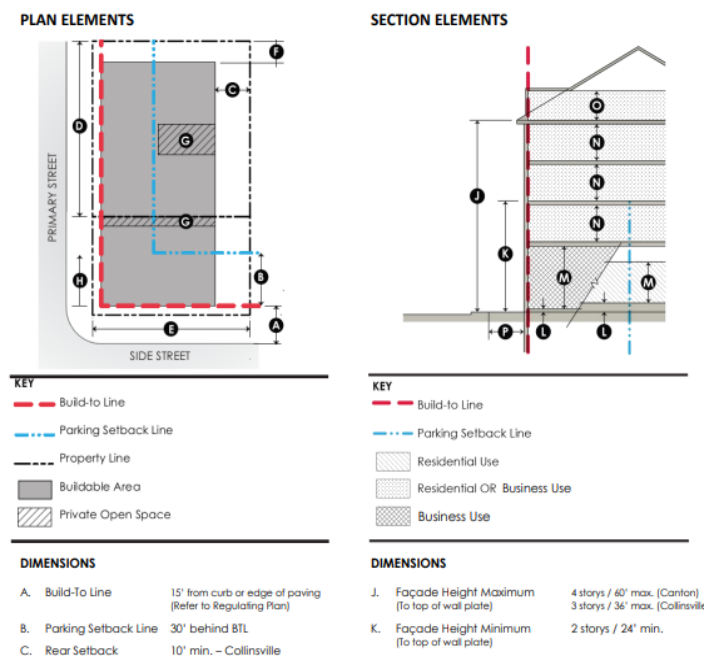
Allowed: The Commission may make some allowances for height increases. It is also notable that Canton's code measures façade height to the highest point of the roof for flat and mansard roofs, and to the average height between eaves and ridge for other types of roofs (see Figure 5). Within the R-3 (residential) District, the maximum height of a primary dwelling may be increased to 45 feet provided the structure is set back from the street and any property line a minimum distance equal to three times its height.

They also allow a "Height Exception for Architectural Building Elements" by Special Permit:

- i. *Up to 50 feet for peaked roof forms; parapets over entrances; and mechanical equipment (including but not limited to water tanks; elevators and elevator mechanicals; and/or heating, ventilating, air conditioning or similar equipment) on a roof provided that such equipment:*
 1. *does not occupy more than 25% of the area of the roof; and*
 2. *is screened from the view of adjacent residential properties and the street.*
 3. *In excess of 50 feet for ornamental cupolas, belfries, chimneys, steeples, flag poles, towers and antennas (as regulated under Section 8.4), silos and water tanks.*

These approaches to height could be incorporated into Yarmouth's CBDC to allow for height bonuses for IZ if the building has sufficient front setback for the principal frontage or the proposed building is an Outbuilding located in the second or third lot layer. This use of the form-based code could also help to encourage infill development where existing public infrastructure is located and be a deterrent to consuming undeveloped open space. An example of this massing of a taller Outbuilding can be found on 64 East Main St (Image 3).

Figure 5. Building Form Standards for Collinsville and Canton Village (No Storefront Required) Design Village Districts



Source: Canton Village Districts Form-Based Design Code. (2018). Retrieved from: [Town of Canton, CT \(townofcantonct.org\)](http://townofcantonct.org)

Image 3. 64 East Main St, Yarmouth



Source: Yarmouth Historic Structures Public Map View. Retrieved from [Town of Yarmouth GIS \(arcgis.com\)](http://Town of Yarmouth GIS (arcgis.com))

The Principal Building (from 1865) is 1.75-stories and the Outbuilding (resembling a barn) at the rear of the lot is 2.5-stories.

Stratham, New Hampshire

- *Similar socioeconomics: \$129,609 Median Household Income, 7,669 total pop., 91.8% Homeownership Rate, 35% Housing Units with 4 or More Bedrooms*
- *Adopted performance-based zoning for business district and historic, New England town center*

Stratham Inclusionary (Workforce) Zoning

- Program Structure: voluntary (statewide)⁸
- Requirements: in a mixed income development market-rate and workforce/and or elderly affordable) a minimum of 25% must be set aside + 30 years and renewable upon sale or transfer
- Applicability: both tenure types + sale 100% AMI & rental 60% AMI + geographically targeted to districts by Conditional Use Permit issued by the Planning Board
- Alternatives: on-site only
- Incentives: density bonus for 30% affordable, minimum lot size reduction, additional density bonus (20% max) if area served by sewer and water
 - Workforce housing in the Gateway Commercial Business District (GCBD), a form-based code zone, is allowed by Conditional Use Permit with an 8,000 square foot building footprint max.
 - GCBD has 3 stories or 40 ft max height allowed for principal structure
 - Workforce housing permitted in Town Center district as single or multi-family; 35 feet max.

The Takeaways:

1. **Exceptions for Infrastructure:** Outside of the GCBD or the Town Center Zoning, the dimensional requirements limit maximum height to 35 ft; exceptions are in the Special Commercial District (if an area is served by water and sewer) and the Planned Retirement District.
2. **Other Incentives:** To incentivize development, performance-based zoning was adopted in the Central Business District to provide flexible development requirements by “*specifying the characteristics of the end product*” and “*incentives-based set of ordinances to encourage developers.*” (It is like a form-based code.) Stratham recently adopted a TIF district for the

⁸ In 2010, the New Hampshire Workforce Housing Law (RSA 674:58-61; Chapter 299, Laws of 2008 (SB342)) went into effect. It required all municipalities to provide “reasonable and realistic opportunities” for the development of homes affordable to low-and moderate-income households. Although communities are required to develop strategies based on local conditions, the regulatory authority of New Hampshire localities is limited to what is provided by the legislature, but it has encouraged the use of voluntary inclusionary housing policies in statute and required zoning to allow for workforce housing. For more information, see this report on New England policies: [Inclusionary and Incentive Zoning in the Six New England States | Joint Center for Housing Studies \(harvard.edu\)](#)

Gateway Central Business District.⁹ Other incentives (for the former General Business District) include expediting review process, eliminating site plan requirements for projects that are dependent on water and sewer service, and adopted NH RSA 79-E, known as the Community Revitalization Tax Relief Incentive Program, to spur rehabilitation of underutilized properties in the Town Center and Professional/Residential District. Increasing residential housing is one of the required public benefits of this tax relief program.

3. **Concurrent Implementation with IZ:** As part of the 2019 Town Plan, Stratham incorporated inclusionary zoning (Section 5.7) along with additional changes to the zoning ordinance and design guidelines. The plan commits to:
 - a. *Develop updated educational materials for local boards and residents about the different tools and housing types discussed in the Master Plan.*
 - b. *Identify areas in the community where expanding the types of housing potentially allowed is appropriate.*
 - c. *Revise zoning language as appropriate to promote new housing types and tools. Revisions to consider will include:*
 - i. *More flexible standards for Accessory Dwelling Units (ADUs) on actively farmed property.*
 - ii. *Adding incentives for single family-subdivisions to include deed-restricted affordable/workforce housing (i.e., inclusionary zoning).*
 - iii. *Adding a new section for cottage community zoning.*
 - iv. *Expanding the list of potential housing types allowed in residential districts to include more “missing middle” housing options.*
 - v. *More flexible and innovative site design techniques for Residential Open Space Cluster Development.*
 - vi. *Broader by-right housing allowances for the Flexible/Mixed Use Development District (Vo-Tech site).*
 - vii. *Clarifying the distinction between how market rate multi-family and deed restricted affordable multi-family are developed.*

Barrington, Rhode Island

- *Similar socioeconomics: \$125,317 Median Household Income, %88.7 Homeownership Rate, 38.2% Housing Units with 4 or more bedrooms*
- *Town Affordable Housing Plan and Housing Trust Fund*
- *Civic Center Historic District and Advisory Council on Historic Preservation*

⁹ To capture the increasing property and land values in Yarmouth, an Affordable Housing Tax Increment Financing district, enabled through MaineHousing’s program, can be created around a transit stop or at commercial centers for assist in funding projects with IZ. Under Maine’s law, municipalities can designate up to two percent of their land in an AHTIF district. Through AHTIF, rental units must be maintained affordable for 30 years and homeownership units for 10 years, and at least 33% of the housing units in the AHTIF district must be for households earning no more than 120% of area median income. For more info:

<https://www.mainehousing.org/programs-services/housing-development/developmentdetails/affordable-housing-tax-increment-financing-program>

Barrington Inclusionary Zoning Program

- Program Structure: mandatory IZ
- Requirements: 20% set aside + 80% AMI + + 30 years preservation + design standards
- Applicability: for projects of 3 or more additional units or lots + both tenure types + geographic targeting
- Alternatives: payment-in-lieu to Affordable Housing Trust Fund, off-site allowed with conditions, renovated off-site units allowed
- Incentives: expedited permitting + density bonuses (20% max) + unit concessions+ other zoning variances (lot dims)
 - Density bonus allows for a 20% reduction in the minimum lot area for each house lot in the development based on the underlying zoning
 - The density bonus corresponds with a 20% reduction in the minimum front, rear and side yard setback requirements, and a 20% reduction in the minimum frontage and lot width requirements based on the underlying zoning
 - Where new house lots abut lots with existing houses, the front setback is based on the predominant front setbacks of existing houses on the street within 300 feet of the new lots).
 - Mixed-use commercial projects can reduce residential unit size by 20%

The Takeaways:

1. **District Specific Height Allowance:** A picturesque, affluent, seashore community of Rhode Island, their 2015 comprehensive plan also sought to promote their Village Center and preserve community character and agricultural lands. The height allowance is tied to two areas designated for growth and mixed-uses: the Neighborhood Business District and the Residence-Business Flex District (RBF). In the Business and Neighborhood Business Zones, proposed mix-use builds may exceed height limit by 10 feet, provided the roof slope is a minimum of 8:12, for a maximum height of 45 feet. The maximum number of dwelling units on a site is 10 units per acre. The Neighborhood Business District (NB) allows for *“business uses permitted which are in character and scale with, and appropriate to, proximate residential uses. It is intended to provide areas for commercial and retail activities which do not generate the traffic, glare, noise or larger parking areas associated with more intensive business uses allowed in the Business District.”* Unlike the NB, the RBF allows first floor residential in mixed-use buildings so long as the first-floors of buildings are designed to readily convert to business uses or live-work spaces in the future.
2. **Concurrent Implementation with IZ:** Unlike New Hampshire, Rhode Island’s state law enables inclusionary zoning through the Comprehensive Housing Production and Rehabilitation Act of 2004 (R.I.G.L. § 42-128-8.1) and the state’s Strategic Plan for Housing includes a minimum set-aside of 10% units and 30 years affordability.¹⁰ As a result, their 2015 comprehensive plan

¹⁰ States with strongly supportive legislation for inclusionary zoning see greater production of affordable units. More on this research can be found here: <https://www.jchs.harvard.edu/blog/inclusionary-and-incentive-zoning-six-new-england-states>

To help municipalities comply with the new law, the Rhode Island Statewide Planning Program released guides, such as the Handbook on Developing Inclusionary Zoning:

included an Affordable Housing Appendices that describes the strategies the town implemented and how many units of low-moderate income (LMI) would be created through each strategy. This included:

- a. *inclusionary zoning,*
- b. *establishing zoning for senior residential communities,*
- c. *identifying areas that could support a mix of housing types,*
- d. *allowing affordable housing development on new substandard lots,*
 - i. *Ordinance facilitating the “micro” subdivision of a single-family residence or existing residential lot in specific residential zones (R-10, R-25, R-40) into two-new lots with 30 years (renewable) restriction (Section 185-28.1) through a special permitting process.*
- e. *promoting development of LMI units above commercial uses,*
- f. *An Affordable Housing Trust Fund, administered through the Town’s Finance Department, through the Town Manager, and funded by capital funds, and dedicated public and private sources, including inclusionary zoning collections (Zoning Ordinance, Chapter 39),*
- g. *Allowing accessory apartments,*
- h. *Capturing existing “affordable homes” utilizing incentives or acquisition through the Housing Trust,*
- i. *Strongly negotiating new comprehensive permits (for development under the Low- and Moderate-Income Housing Act),*
- j. *Establishing “village” zoning permitting higher densities on sites, based on the Town’s evaluation of remaining developable parcels.*
 - i. *An appendix was created to provide guidance for potential developers on sites that could be new LMI projects, such as a “senior residential village” zone and other overlays.*

SOMERVILLE, MASSACHUSETTES

- *City Affordable Housing Trust Fund (established 1989)*
- *Housing Needs Assessment conducted regularly*

Somerville Inclusionary Zoning Program

- Program Structure: mandatory IZ (established 1990, one of oldest in Boston Metro Area)
- Requirements: development/design standards + price tier and household size tied + affordability “as long as building exists” + at or below 120% AMI
- Applicability: applies to all development required to provide one or more Affordable Dwelling Units (ADUs) and to any subdivision or lot split that result in two or more lots for residential use+ both tenure types + geographic targeting

<https://planning.ri.gov/sites/g/files/xkgbur826/files/documents/comp/Handbook-on-Developing-Inclusionary-Zoning.pdf>

- Alternatives: ADU fractional buyouts or ADU fee in-lieu to the Somerville Affordable Housing Trust Fund, off-site ADUs allowed,
- Incentives: density bonus, expedited permitting, other zoning variances
 - Gross floor area per dwelling unit modifications

The Takeaways:

1. **Form-Based Code Design Flexibility:** Somerville’s policy specifies that Affordable Dwelling Units (ADUs) must be provided in the Article 3: Residential Districts, Article 4: Mid-Rise Districts, Article 5: High-Rise Districts, Article 7: Special Districts, and Article 8: Overlay Districts. Some residential building types allow for *“increased residential density for buildings that meet the definition of a Net Zero Ready Building or 100% Affordable Housing.”* 100% Affordable Housing is any building that is deed restricted so that all dwelling units are rented or sold to households with incomes at or below 120% AMI.

The required number of ADUs varies based on building type, the total number of units in the project, and the ADU price tiers (Article 12). The form-based code allows for greater flexibility with ranges of heights and setbacks relative to other contextual elements like landmarks, frontages, etc. In Mid-Rise Districts and High-Rise Districts, building typologies’ “main massing” include a range of stories and building height to accommodate a wide variety of development scenarios, including some types of 4-story buildings with a 52-foot maximum height. The ordinance also encourages unit layouts to accommodate families by requiring developments with 30 or more dwelling units that at least 20% of the ADUs must have three or more bedrooms.

2. **Other Incentives:** To recapture the increased value of land in Somerville, an Affordable Housing Linkage Fee of \$10 per gross square foot (with some exceptions) was adopted as well. Applicable to all non-residential development (with some exceptions), linkage fees must be paid to the Somerville Affordable Housing Trust Fund. Unique amongst all these ordinances is the inclusion of a performance review and a formula recalculation through a Nexus Study that must be prepared every 5 years to assess the suitability and performance of the provisions. The city also utilizes Community Benefits agreements to negotiate between a neighborhood council and a developer to mitigate development impacts on a specific neighborhood arising from the developer’s project.
3. **Affordable Housing Overlay:** Adopted in 2020, the overlay district intent is to *“permit additional residential use intensity, additional building height, and additional tolerance for dimensional standards to incentivize the development of Affordable Dwelling Units.”* The provisions of the overlay district can be used in any Residential (Neighborhood or Urban) or Mid-Rise zoning district, but it functions differently in each district. This allows for even more building type and form flexibility and there is an allowable percentage of deviation from dimensional standards so previously infeasible projects can “pencil out.” For example, in the Neighborhood District, additional residential building types are permitted by right within the ½ Mile Transit Area, including semi-detached trip deckers, multi-plexes, apartment houses and row houses, and at a maximum of 4-stories.

Provincetown, Massachusetts

- *Affordable and Community Housing Action Plan adopted and form-based code in progress*
- *Provincetown Affordable Housing Trust and Local Housing Partnership*
- *Similar seasonal population change and missing middle workforce living in town*

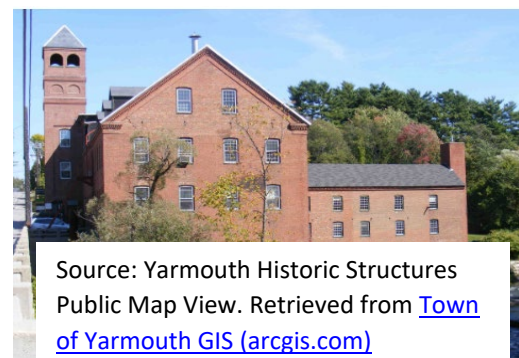
Provincetown Inclusionary and Incentive Zoning Bylaw

- Program Structure: mandatory IZ
- Requirements: 1/6th (16.67%) set aside of total project units + up to 80% AMI + in perpetuity affordability + design standards
- Applicability: minimum trigger of net increase of 2 units + applies to all zoning districts
 - New construction, alteration/rehabilitation, expansion, reconstruction, change of existing residential or non-residential space or use
 - For health care-related developments, trigger is a net increase of six or more independent living units
 - Affordable or Community Housing units
- Alternatives: on-site and off-site units, renovate unregulated units, in-lieu fee, donate land
- Incentives: density bonus, expedited permitting, other zoning variances, Building Permit fee reduction/waiver
 - To facilitate a density bonus, the Planning Board can modify minimum lot area, minimum lot frontage, setback, lot coverage, green area, multiple buildings per lot regulation, and parking regulations. No lot shall have less than 25% of the minimum lot area required for its zoning district and no less than 12 feet of frontage.

The Takeaways:

1. **Casting a Wider Net:** The town developed a Housing Playbook to gather all the tools and strategies to address affordable housing, including missing middle and seasonal workforce housing shortages. With the technical assistance of the Urban Land Institute, they developed a rigorous housing program, which included the recommendation to tweak their inclusionary zoning to include up to 180% AMI and regularly assess the implementation and data. In November 2022 the Planning Board discussed allowing projects that give 20 percent of their floor space to seasonal worker housing to request those same IZ waivers from the planning board.
2. **Height Allowances:** In April of 2022, a building height bonus for IZ was approved. As a Planning Board Special Permit, there can be a building height bonus in any district except the High Elevation Protection Overlay District, and if a full additional story is allowed, like a fourth story in the General Commercial Zoning District, it must

Image 4. Sparhawk Mill, Yarmouth



maintain the character of a 3.5 story structure. The Planning Board may require that the third or fourth story be “stepped back” to minimize the appearance of mass from the street and abutting properties.

An example in Yarmouth of a building that has the character of a 3.5-story structure is the Sparhawk Mill building at 81 Bridge Street. According to the Historic Preservation Committee’s Historic Context Statement: *“Viewed from Bridge Street, the complex has three principal components: a tall, square five-story tower at the corner, with an arched open belvedere at the top; to the left, an attached three-story rectangular building with a low-pitched gabled roof; and to the right, a large, steeply gabled building with three dormers. A low ell lies perpendicular to the main complex, projecting toward the water. Viewed from the Royal River, the large scale of the complex is most evident. The tower, enlarged in 1885, has Italianate details.”*¹¹

Listed as a 3-story structure but with a visible half story in the roofline, there is a ground floor at the river level; one could easily imagine a marketing of 4-stories of dwelling units. Although most of the early manufacturing facilities in Yarmouth are gone, the scale of the Sparhawk Mill complex gives a sense of the historical scale of these buildings.

Park II. Findings

Many of the best practices from these case studies align with the zoning recommendations from the Yarmouth Affordable Housing Committee’s report from January 2022. Their recommendations are listed below along with best practices (in italics) gleaned from these case studies:

Zoning Recommendations

1. Adopt an inclusionary zoning ordinance: Local inclusionary housing policies tie the creation of affordable homes for low- and moderate-income households to the construction of market-rate housing or commercial development. This is typically mandated.
 - *Incentives/Development Benefits/Cost offsets could be designed so that they do not compromise design or performance standards and work with Yarmouth’s Character Based Design Code. Character can be preserved through thoughtful architecture, amendments to the zoning code and CBDC for more choice of residential building forms.*
 - *Maximize flexibility and options, such as using a range of incomes served, building forms allowed or bundling of incentives, so developers can get the right financial mix for a viable project.*¹²

¹¹ For more details on the historic mill buildings and other historic properties, visit the Yarmouth History Center [Yarmouth History \(yarmouthmehistory.org\)](http://YarmouthHistory.org) and the Historic Preservation Committee and Historic Preservation Ordinance webpage: [Historic Preservation Committee - Official Website of the Town of Yarmouth, Maine](http://HistoricPreservationCommittee.org)

¹² The Grounded Solutions Network has a “Inclusionary Housing Calculator” to experiment with development scenarios and better understand the financial impact of inclusionary affordable units on a project. It calculates the overall percent feasibility of a project with a breakdown of cost, profit and project value, and considers set aside percentages, fees in lieu of, AMI, incentives, local property taxes and other site-specific conditions to help advocates, planners and developers calculate projects and design impactful IZ programs: <https://calc.inclusionaryhousing.org/ihc/>

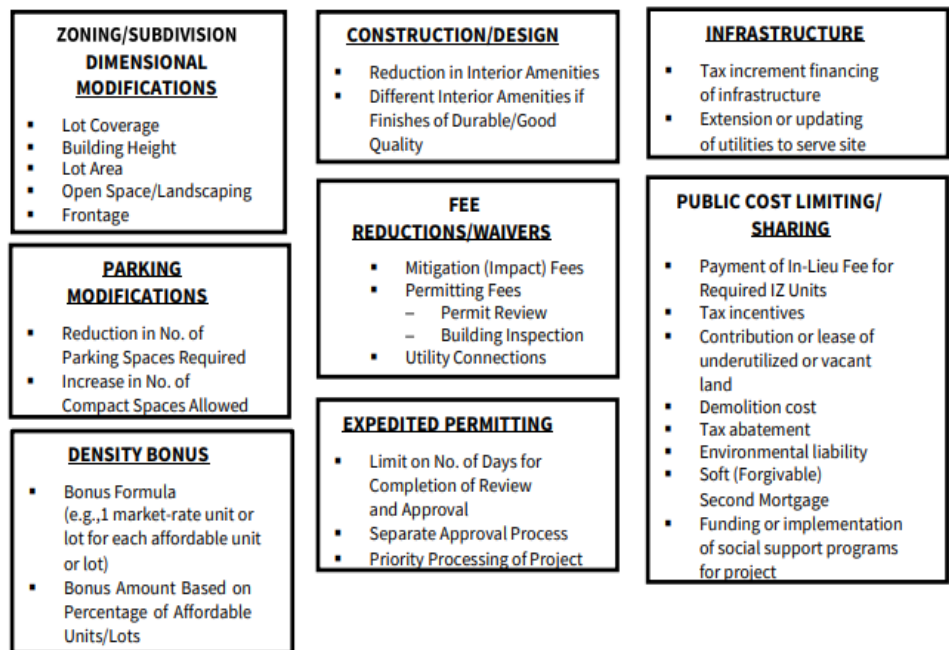
- *Consider local economics and the supply of developable land to create development benefits that are functional. Provincetown's partnership with the Urban Land Institute on their 2016 Provincetown Housing Playbook is one model. Feasibility or nexus studies are others.*¹³
- 2. Adopt an affordable housing overlay district: An overlay district could include all of the same provisions of inclusionary zoning, but the key difference is that it is optional, so the incentive needs to be attractive enough for the overlay district to be utilized.
 - *Tie to specific dimensional or zoning variances, such as a fourth story allowance, or pair with a special program like transit-oriented development or building rehabilitation/conversions, to target the type of development desired. Somerville's Affordable Housing Overlay is one model.*
 - *Use other land-value capture tools, like TIFs, to capture the increasing property and land values in Yarmouth.*¹⁴ *Stratham's TIF in the Gateway Commercial Business District (GCBD) is one model.*
- 3. Amend the ADU Ordinance: There are a series of recommendations that would liberalize the ADU regulations to support this low impact housing option, including the removal of Minor Site Plan Approval and increasing the existing square footage maximum of 900 feet.
 - *Allowing for a greater range of housing choices (missing middle housing types, ADUs, and even ADUs with 3-bedrooms) accommodates households and families of all types, the spectrum of housing needs, and facilitates aging-in-place.*
- 4. Adjust existing zoning to increase overall housing production: The Committee's charge is to create affordable housing, but the Committee also recognizes that increased housing production can lead to increased supply and a reduction in housing costs, and has forwarded a number of high impact recommendations.
 - *When land supply is limited, offer options to preserve or increase the affordability of existing housing stock, by converting marking rate units to deed restricted or allowing conversion of single-family dwellings to multi-family dwellings.*

¹³ Due to legal challenges to inclusionary zoning in some localities, due to "failure to demonstrate a "rational nexus" between the local need for affordable homes and the role of an inclusionary set-aside and/or fees in-lieu in meeting that need," some communities have undertaken a nexus study. Similar to the studies required before adopting impact fees, the goal is to establish the relationship between affordable homes and inclusionary zoning. Feasibility studies can help communities to identify the impacts of different IZ program design with available land. Source: [When is a Nexus study necessary? - Inclusionary Housing](#) and [Challenges to Enacting an Inclusionary Housing Policy | National Housing Conference \(nhc.org\)](#)

¹⁴ This recent report from the Lincoln Institute of Land Policy specifically looks at land value capture strategies to fund infrastructure, like inclusionary zoning, and local government services in the face of economic disruptions. <https://www.lincolninst.edu/publications/policy-focus-reports/land-value-capture-in-united-states>

The YAHC report also recommended that the Town consider financial options to support the creation and preservation of affordable housing, whether through a cash or land subsidy, tax mechanisms, leveraging existing funding, or through incentives. This practice was found throughout many of the case studies too, through partnership with a local housing authority or land/housing trust, and even the private sector. Below is an expanded list of incentives from the 2019 National Association of Home Builders' "Inclusionary Zoning Primer." An overall best practice is to use an array of land use, financial, management, and other strategies – including community engagement – to address housing affordability.

Figure 3. Expanded List of Incentives



Source: Inclusionary Zoning Primer. (2019). National Association of Home Builders. Retrieved from: [Common State and Local Issues - NAHB](#)

With all the cases studies, the dominant theme is that a genuine effort towards equitable and affordable housing is a multi-pronged approach of mandatory and voluntary options, with regular intervals of assessment and revisions in consideration of market conditions and policy changes. The effects of the passage, and subsequent rulemaking, of LD 2003 have yet to be seen locally or statewide. The concurrent strategies suggested by the Affordable Housing Committee, including inclusionary zoning, would enable Yarmouth to comply with LD 2003 while preserving local ability to fulfill the intent of the Character-Based Development Code and current Growth Management Plan from the 2010 Comprehensive Plan.

Erin Zwirko

From: Carrie Martin <cmartin@legacysir.com>
Sent: Tuesday, November 1, 2022 3:34 PM
To: Michelle Cromarty; Randall Bates; Timothy Shannon; April Humphrey; Heather Abbott; David Craig; Zoe Wolf; Nat Tupper
Cc: Erin Zwirko
Subject: Public Comment: draft Inclusionary Zoning/Workshop Agenda Item

Dear Town Council,

I am writing to provide public comment on an upcoming Workshop agenda item "*To consider the recommendations of the Affordable Housing Committee on an Inclusionary Zoning standard and actions thereon*". I was notified on Friday that this item was added to your agenda and unfortunately I cannot attend the meeting on Thursday due to a prior commitment.

I appreciate the Affordable Housing Committee's commitment to working to find solutions to affordable housing opportunities in Yarmouth. Our Town certainly needs more affordable housing and I hope to see a concrete plan evolve for a larger number of units similar to what is happening in other Towns (i.e. Bangor, Hallowell, etc.). The new state law LD 2003 offers affordable housing aspects which hopefully the Affordable Housing Committee can help the Town to understand more fully.

Inclusionary Zoning on its face sounds like a good idea, but it is highly complex to manage and it can become controversial and ineffective. We should not rely on market rate developers to provide affordable housing in our Town. Inclusionary Zoning sends a message that Yarmouth does not want to add new housing units in Town. Many developers may simply choose to build in Towns without Inclusionary Zoning which will result in fewer housing units in Yarmouth over time. The Inclusionary Zoning formula also increases the cost of market rate units which in essence drives up overall market rate prices in Town.

Current housing discussions at the State and National level related to increasing affordable housing and housing opportunities are focussed on **reducing** land use and zoning restrictions. This is reflected in LD 2003. Inclusionary zoning is another more restrictive zoning option. There is a lot more to discuss and process as we look at the big picture of how Yarmouth will manage growth and whether we will amend our current zoning to allow for the implementation of LD 2003 if, in fact, the Town wants more housing including affordable housing units. If the Town does not want to amend current zoning per LD 2003 to increase housing opportunities, Yarmouth will ultimately become a more expensive and exclusive community. Given the complexity of housing issues and the need for further discussions especially around LD 2003, Yarmouth should not be adding any new restrictive zoning including Inclusionary Zoning at this time.

Thank you for your consideration.

Carrie Martin

Carrie Martin, 316 East Main Street, Yarmouth

207-415-2504

Erin Zwirko

From: Carrie Martin <cmartin@legacysir.com>
Sent: Thursday, November 17, 2022 1:16 PM
To: Michelle Cromarty; Randall Bates; Timothy Shannon; April Humphrey; Heather Abbott; David Craig; Zoe Wolf; Nat Tupper
Cc: Erin Zwirko
Subject: Public Comment: draft Inclusionary Zoning

Dear Town Council,

I am writing to provide public comment on tonight's Voting Meeting agenda item: *To vote to endorse the conceptual recommendations of the Affordable Housing Advisory Committee on Inclusionary Zoning, and to refer the draft to the Planning Board for a review and recommendation on the draft, with or without edits and revisions as the Planning Board may determine.* These are some of my same comments submitted on November 1st prior to your Workshop Meeting with a few additional comments.

I very much appreciate the Affordable Housing Committee's commitment to working to find solutions to affordable housing opportunities in Yarmouth. Our Town certainly needs more affordable housing and I hope to see a concrete plan evolve for a larger number of units similar to what is happening in other Towns (i.e. Bangor, Hallowell, etc.). The new state law LD 2003 offers affordable housing aspects which hopefully the Affordable Housing Committee can help the Town to understand more fully.

Inclusionary Zoning on its face sounds like a good idea, but it is highly complex to manage and it can become controversial and ineffective. We should not rely on market rate developers to provide affordable housing in our Town. Inclusionary Zoning sends a message that Yarmouth does not want to add new housing units in Town. Many developers may simply choose to build in Towns without Inclusionary Zoning which will result in fewer housing units in Yarmouth over time. The Inclusionary Zoning formula also increases the cost of market rate units which in essence drives up overall market rate prices in Town.

Current housing discussions at the State and National level related to increasing affordable housing and housing opportunities are focused on **reducing** land use and zoning restrictions. This is reflected in LD 2003. Inclusionary zoning is another more restrictive zoning option. There is a lot more to discuss and process as we look at the big picture of how Yarmouth will manage growth and whether we will amend our current zoning to allow for the implementation of LD 2003 if, in fact, the Town wants more housing including affordable housing units. If the Town does not want to amend current zoning per LD 2003 to increase housing opportunities, Yarmouth will ultimately become a more expensive and exclusive community. Given the complexity of housing issues and the need for further discussions especially around LD 2003, Yarmouth should not be adding any new restrictive zoning including Inclusionary Zoning at this time.

I wonder if it would be more beneficial for the Affordable Housing Committee to suggest ways in which the Town could work in cooperation with affordable housing developers through incentives and other positive means rather than restrictive and oppositional zoning. I am concerned that simply establishing Inclusionary Zoning may open up the Town to lawsuits filed by market rate developers, especially any that may be in the middle of planning or permitting.

I would encourage the Town Council not to refer the draft Inclusionary Zoning Ordinance to the Planning Board.

Thank you for your consideration.

Carrie Martin

6.2

Carrie Martin, 316 East Main Street, Yarmouth

207-415-2504

Public Comment draft Inclusionary Zoning Ordinance
To Affordable Housing Committee (AHC) & Yarmouth Planning Board (PB)

I am following up on the draft Inclusionary Zoning (IZ) Ordinance after the Town Council (TC) Meeting on November 17th and some of the public comments which I hope you have all seen.

Please understand that I am fully in support of affordable housing opportunities in our Town. I have attended some of the AHC's meetings and reviewed their meeting agenda and minutes. I do not mean to be offensive to the AHC by objecting to the draft IZ Ordinance. I very much appreciate the AHC's commitment to trying to find solutions to affordable housing opportunities in Yarmouth. I was hoping that the AHC and the TC would have reviewed public comments and engaged in more community discussions. I have not seen the TC recommendation to the Planning Board pertaining to IZ after their meeting, but it's worth noting that the TC removed any endorsement of IZ at this time.

IZ is a controversial and complex proposal that requires a lot of due diligence and analysis to craft. Simply establishing it has resulted in many lawsuits in communities throughout the country. I am concerned that we may be opening up the Town to lawsuits filed by market rate developers, especially any that may be in the middle of planning or permitting. IZ on its face sounds like a good idea with the use of the word "Inclusionary", but it can become ineffective and result in a more exclusive and expensive community as the % formulas increase the cost of market rate units.

We should not rely on market rate developers to provide affordable housing. Inclusionary Zoning sends a message that Yarmouth does not want to add new housing units in Town. Many developers will simply choose to build in Towns without Inclusionary Zoning and ultimately Yarmouth will end up with fewer housing units over time. As many of you know, Yarmouth has only increased the number of housing units by 40 between 2010 - 2020.

Many current housing discussions at the State and National level related to solving affordable housing and supply/demand concerns focus on **reducing** land use and zoning restrictions in order to increase housing opportunities. Our current zoning is quite restrictive. Inclusionary zoning is another more restrictive zoning option. The new state law LD 2003 offers affordable housing aspects which hopefully the Affordable Housing Committee can help the Town to understand more fully.

I understand the AHC is concerned about "missed opportunities" with recent developments which I assume is the Sweetser Village Apartments. That developer, Paul Peck, actually spoke at the TC meeting on November 17th stating that he would not have gone forward with his project if Yarmouth had IZ as his numbers would not have "penciled out". This seems pretty telling of a market rate developer's reaction to IZ and indicates that we could ultimately end up with fewer housing units in Yarmouth.

I feel strongly that we should not be modelling our zoning after the City of Portland. We are a different Town with different needs and not a large City. As many of you know, a variety of Ordinances and Referenda have become a major concern in Portland and the City is changing immensely.

I am a Yarmouth resident since 2000, local realtor, small landlord and bookkeeper for my husband's contracting business. I am not a developer, but someone who is interested in housing, zoning and planning matters and the big picture of where we are going as a Town. As our 2010 Comprehensive Plan states, it seems we all want to balance new development with the traditional character and quality of life of our community.

I would encourage all members of our community to do their own research on IZ to formulate an opinion. I have spent many hours attending housing meetings at the State and National level to learn more about how we should deal with the current housing crisis and lack of affordable housing. I have been researching more about IZ since the AHC first started discussing the idea last year and then began drafting the IZ Ordinance this summer.

There are many reports and impressive meetings happening in the State surrounding the statewide lack of housing opportunities and affordable housing. The Commission to Increase Housing Opportunities for Studying Land Use Regulations and Short-term Rentals recently issued this report:

<https://legislature.maine.gov/doc/9239>. Freeport had an impressively collaborative meeting with the Greater Portland Council of Governments (GPCOG) entitled *Re-imagining our commercial centers: how adding housing boosts business*.

I understand that IZ is one tool in the AHC's tool box. My hope is the AHC will consider more cooperation with affordable housing developers and positive incentives (TIFs, Bonds, etc.) for affordable housing, many of which were discussed at the Maine Affordable Housing Coalition's (MAHC) Housing Policy Conference on November 17th. Approximately 300 leaders in the housing, development, engineering, construction, finance, advocacy, and legislative fields gathered to discuss the housing crisis in Maine and policy solutions. (Media coverage [here](#). [News Center Maine Channel 6, November 17, 2022](#)) ***It is extremely noteworthy that the attorney who provided public comment opposing the draft IZ Ordinance at our TC meeting on November 17th representing Maine Real Estate Development Association (MEREDA) and Greater Portland Board of Realtors (GPBR) had attended that Conference and she said Inclusionary Zoning was never mentioned that entire day as a tool for creating affordable housing.***

I also understand that the AHC wants Yarmouth to make a statement that we want affordable housing, but IZ actually does the opposite. If we want affordable housing, then we will need to focus on increasing housing opportunities and concrete affordable housing plans with incentives. It might be helpful for Yarmouth to establish production goals or possible locations for affordable housing projects like other Towns and work directly with affordable housing developers. The Maine Department of Economic & Community Development is supposed to release statewide housing production goals sometime soon which may help with any planning.

Our Town is presently in the middle of visioning and updating our Comprehensive Plan. There are professional consultants being hired to help with that process. I understand one of the consultants is an expert on IZ. I am not sure why we are rushing through the draft IZ Ordinance without more professional consultation and analysis. There is a lot more to discuss and process as we look at the big picture of how Yarmouth will manage growth and how we will update our Comprehensive Plan and whether we will amend our current zoning to allow for the implementation of LD 2003 if, in fact, the Town wants more housing including affordable housing units. If the Town does not want to amend current zoning per LD 2003 to increase housing opportunities, Yarmouth will ultimately become a more expensive community. I am concerned about nimbyism in our town. Given the complexity of housing issues and the need for further discussions, Yarmouth should not be adding any new restrictive zoning including Inclusionary Zoning at this time. Let's work together collaboratively and collectively with the help of the consultant experts and our TC, Planning Board, AHC, EDAB, GPCOG and interested Citizens.

Thank you for your consideration.

Carrie

Carrie Martin, 316 East Main Street, Yarmouth, Maine, 207-415-2504

Erin Zwirko

From: Edward Ashley <edwardashley02@gmail.com>
Sent: Sunday, December 4, 2022 4:19 PM
To: Erin Zwirko
Subject: Proposed Inclusionary Zoning Amendment

Hi Erin- Please forward this to the Planning Board for their Dec. 14, 2022 meeting. Thank you, Ed

Dear Madam Chair and Members of the Planning Board:

I am writing with some comments and suggestions on the text of the 10-31-22 draft of the Proposed Inclusionary Zoning Amendment prepared by Erin Zwirko.

Section 1.d. Development Standards for Eligible Projects:

- Section 1.d.ii. provides for a possible structure height of 4 stories and 45 feet in a mixed use project in the CD4 (Village Center) and CD4-C (Route One Corridor) Character Districts if certain mixed-use metrics are met, and with a higher percentage (20%) of residential units being affordable.
- Our zoning ordinances provide for three story and 35 feet. maximum height.
- Almost all of the Village Center District is included within the boundaries of our Historic Preservation Districts, where there is a great concern with assuring the compatibility of any new construction with the scale and mass, and architecture, of the neighborhood and surrounding streetscape. Four stories and 45 feet is not generally compatible with the Village Center; e.g., a waiver request for 298 Main to go to four stories was rejected by this Board on the grounds of incompatibility and lack of basis in the ordinance.
- However, this could be viewed as a matter of visual perspective. Whereas 298 Main is right on Main Street, with no setback, and four stories would have loomed over the neighboring structures, we also have Railroad Square in process, with a proposed three story building situated over 1,000 feet back from Main Street. I could envision a four story building at that rear location which would not be visually incompatible with its surroundings as viewed from Main Street, in fact it could be closer than 1,000 feet and still satisfy this compatibility requirement. Mathematically, there has to be some point at which a 45 foot high building set back a distance "X" from the street does not appear to be higher or loom larger than a 35 foot high building situated right on Main Street, as viewed from the street by a person of average height. (I am not an adequate mathematician to tackle this.)
- This could apply not only to Railroad Square, but also any redevelopment of Yarmouth Crossing, on the other side of Main Street, or at the former Howard Chandler property on Route One, any property with adequate depth.
- As an aside, the former Howard Small, now deLorme property would not be included under this provision since it is not part of the CD4-C Route One Corridor District. Should that be addressed as part of this conversation? And what about other areas in Town, why only CD4 and CD4-C, what is the thinking on this.
- I suggest that this provision be amended to provide for a designated minimum adequate setback from the streetfront, plus requiring assessment by the Board of the impact of the proposed building on, and its' compatibility with, the neighborhood and streetscape, before the 4 story/45 foot height provision would be available, if the project or any part thereof is in or within 500 feet of an Historic District.

Section 1.e. Administration and Enforcement: i. addresses "...effective deed restrictions and covenants such as those used by MaineHousing...". It would seem advisable to have a more specific reference, perhaps a copy of those covenants and restrictions in use by MaineHousing attached as an exhibit, or a complete detailed draft based upon those other base reference documents.

- Later on this section refers to these provisions applying "to the extent legally possible." This almost seems to invite contest, it might be better to say nothing. My first reaction was that this was intended to apply only to the proposed term of these restrictive provisions, in which case I would advise inserting a comma after the phrase "affordable units" in the fifth line, in an effort to limit the "legally possible" clause to term only. But perhaps a total deletion would be better.
- The last sentence of 1.e.i. calls for designating a monitoring agent for the affordable units. I can agree with the need for such, but who/what would that be? Would it not cost money? Who would pay for that?

My final comment deals with definitions. "Affordable" will be a defined term, and the definition speaks of the percentage of income charged for rent "and other housing expenses", with some examples given. What is covered under 'other housing expenses', e.g., would renter's insurance be covered? Would homeowners insurance for an owner be covered? Including contents? How is 'gross income' to be defined? Use the IRS definition, or the Maine Bureau of Taxation definition (I believe they can be different), or ...?? In other words, some of the details need to be pinned down if this proposal advances.

Thank you for your attention,
Edward Ashley
20 Spartina Point
Yarmouth, ME 04096

Erin Zwirko

From: Edward F. Libby <Ed_Libby@msn.com>
Sent: Thursday, November 17, 2022 10:36 AM
To: Erin Zwirko
Subject: FW: Inclusionary Zoning Proposal
Attachments: Jeff Levine FHLBank Boston Presentation Outline.pdf

Erin,

Thanks for taking the time this morning to discuss some of the details of the proposed IZ ordinance. As promised, I am forwarding an email that I sent to the Town Council opposing the current iteration of the IZ.

Could you please share my email with the Planning Board as well as the Affordable Committee.

I look forward to the continued work from the Committee in hopes that additional strategies may come forth, including the formation of a local entity to manage any programs that may be implemented.

Best regards,

Ed.

From: Edward F. Libby
Sent: Thursday, November 17, 2022 10:27 AM
To: habbott@yarmouth.me.us; rbates@yarmouth.me.us; zwolf@yarmouth.me.us; dcraig@yarmouth.me.us; tshannon@yarmouth.me.us; ahumphrey@yarmouth.me.us; mcromarty@yarmouth.me.us; ntupper@yarmouth.me.us
Subject: Inclusionary Zoning Proposal

To the Yarmouth Town Council:

I am a staunch supporter of creating more diverse housing options in Yarmouth, so it is with considerable thought that I write to you today asking you to not support the current iteration of the proposed Inclusionary Zoning Ordinance.

I am forwarding below an excerpt from a recent email alert issued by the Maine Real Estate Development Association for your review and record as it relates to your consideration of an IZ proposal currently being drafted by Yarmouth's Affordable Housing Committee. See below.

In addition to the concerns raised by MEREDA, there are other aspects of this proposal that warrant your attention.

First and foremost, the current proposal does not appear to be based on the requisite research or data gathering with regard to Yarmouth's housing market to determine IF an IZ ordinance is an appropriate solution to our affordability crisis, and IF it is, what are the specific metrics to achieve the desired results (which results/goals are also not stated). One should ask, why 10% of the project instead of 5% or 20% as the appropriate amount of affordable. Or, why use 5 units in a land subdivision but 10 units in a condominium project as the threshold size to trigger IZ? How did the

committee come up with \$150,000 as a fee in lieu? There seems to be no research and no data to support these metrics.

Jeff Levine, an MIT professor of urban planning, principal at Levine Planning Strategies, former City Planner for Portland and architect of their successful IZ ordinance, gave a presentation about Inclusionary Zoning on September 21, 2022 sponsored by the Federal Home Loan Bank of Boston (outline attached above). He asked a provocative question: Does IZ help produce affordable housing? The answer was- “only if done right”. He went on to suggest how to get it right. The #1 most important piece was to get the data correct for your community. He cited a Malden Massachusetts study he consulted on, as well as his work in Portland. The next step is to develop a base pro forma and start plugging in variables to figure out the appropriate IZ standards. I am not aware that Yarmouth has undertaken these critical steps in coming up with the IZ proposal you are being asked to consider. Jeff concluded his presentation with a reference to a Nexus study that asks another critical question: Why are you asking developers to subsidize housing? MEREDA concurs.

One only has to look to Portland to see how the wrong metrics can result in the OPPOSITE effect of creating more affordable housing, and more housing generally. Portland had a data driven IZ ordinance for years that was very successful. It did not deter market rate development, it created affordable units, and contributed millions of dollars into a fund to develop more affordable housing. Portland’s New Green Deal citizen referendum of 2021 imposed a higher fee in lieu, higher % of project to affordable and included green building standards as well, all with no basis for how it may actually contribute to affordable housing production. The results are clear. Development in Portland, one of the hottest markets in the country, has come to a screeching halt. New development, which IZ depends on, has all but ceased, with developers leaving the city and the state for more favorable conditions. One of the area’s largest developers and a huge proponent of affordable housing, Port Properties, has since initiated multiple projects in North Carolina as a result. By design, without robust market rate development, an IZ does not produce affordable housing.

Yarmouth has had a dearth of development over the past few years when compared to all of our neighbors. Relying on IZ, which needs robust development to create the affordable units, is probably not the best tool in the affordable tool box for us, much less trying it without doing the necessary research to get it right. IZ relies on housing production, but our current zoning is designed to limit housing production.

One might wonder, where and when are all these large new development projects going to happen in Yarmouth? At their *Listening Session*, I asked the affordable committee to demonstrate what lots might be available for the volume of development needed to have an impactful IZ ordinance. I have yet to hear back from them. You should do the same.

Yarmouth’s current zoning is some of the most exclusionary zoning in the state, requiring 1 acre of land to build a single family home adjacent to our downtown village and not allowing 3 and 4 unit apartments (multifamily dwellings) in areas they were traditionally built (MDR/LDR/RR), and requiring up to 3 acres per single family home in areas where water and sewer services are available. We truly need to address our outdated, large lot zoning in order for any affordable housing strategy to work. Density is the key to affordability. Yarmouth mires in antiquated zoning from 1985 that was designed to STOP housing development at a time when we were building 100’s of houses per year. Now, 37 years later, we are living in the opposite crisis but governed by the anti-housing zoning. Yarmouth has issued only 7 single family home permits in 2022. At that rate, no affordable unit would ever be produced under the current IZ proposal, and perhaps even fewer new lots would be developed for market rate.

I would strongly encourage the TC to focus on reforming our current zoning to one that reflects better use of our land by protecting our rural landscapes rather than chewing them up with sprawling large lot subdivisions. To zoning that utilizes existing infrastructure rather than building new, which would be fiscally better for the Town budget. To zoning that recognizes the climate impacts of forcing more car and bus trips from rural subdivisions-the #1 source of climate impact in our State is auto emissions. In fact, Yarmouth’s current zoning is in direct conflict with our stated “Climate Action Emergency Declaration” as well as the work of our Bike/Ped, CEES, Parks and Lands, and Climate Action Task Force. There is no rational basis for our large lot sprawling zoning and there is clear demand from the market for smaller houses on smaller lots close to Town that provide a walkable lifestyle. Why does Yarmouth continue to make people buy more land than they want or need, ignoring the call in our last two Comprehensive Plans to revert to historic lot

sizes and development patterns that would provide more housing around the village core and protect our green spaces on the outskirts of town? Our outdated zoning artificially drives up the cost of housing, uses up natural resources unnecessarily, contributes to climate change, and adds expense to the Town budget for additional infrastructure, plowing, bussing, and maintenance on everything.

The Affordable Housing Committee had several other ideas including the use of Town owned land, an affordable housing overlay, and others. To successfully accomplish these, or an IZ ordinance, what should come first is an entity that can oversee/steward the affordability covenants that are utilized, as well as establish a fund in which money can be accumulated. Once those foundational pieces are in place, we can take a multi-pronged approach to providing more diverse housing options that would serve a more diverse population. I am afraid that adopting an IZ ordinance, without the requisite data driving the metrics, and without the appropriate entity in place to oversee it, is a classic case of putting the cart before the horse, and may exacerbate an already difficult housing production problem.

Thank you for your consideration.

Sincerely,

Ed Libby

PS. As some of most of you are aware, last year I proposed a 2 lot/single family home work force housing project that was unanimously recommended for approval by the Planning Board, but subsequently rejected by this Council.

Here is the excerpt from the MEREDA alert about Yarmouth's IZ proposal:

Despite density bonuses in proposal, the policy is **still the wrong approach to solving our housing crisis**. Based on experience in Maine, we believe the policy will:

- * Discourage housing creation by **driving up costs**;

- * **Exacerbate the missing middle** by burdening housing creators with subsidy for certain community members at the expense of others; and

- * **Discourage small and local entrepreneurs** by creating financial challenges, thereby shifting opportunities for housing creation to out-of-state developers who are willing to take a high financial risk – this **discourages community housing creation**.

Better policy alternatives:

- * Expedite and expand implementation of the statewide housing law (**LD 2003**, enacted 2022) which includes density bonuses for low-income and workforce affordable housing.

6.10

* Create an **Affordable Housing Tax Increment Financing (ATIF)** District.

* Issue **Municipal Bonds to** Subsidize Workforce Affordable Units

* Establish a **Local Land Bank** with support from a newly enacted law (LD 1694, enacted 2022).

* Reduce Permitting, In-Lieu, Impact, and other fees. **Cut soft costs** and overall project expenses to keep overall rental and sale prices more affordable generally.

Jeff Levine, Levine Planning Strategies

1. Why Housing is Economic Development
2. Developing a comprehensive municipal housing program
3. Inclusionary zoning - does it help?
4. How to do Inclusionary Zoning right
5. Starting a new Inclusionary Zoning program - the Portland (ME) case study
6. Lessons learned

Erin Zwirko

From: Edward F. Libby <Ed_Libby@msn.com>
Sent: Friday, November 18, 2022 10:56 AM
To: Erin Zwirko
Subject: FW: IZ proposal
Attachments: IZ-feasibility-studies-convening-summary.pdf; Malden IZ Final April 2021 reduced_202211080839151925.pdf

Note from Erin: click the titles of the
 attachments to access web links of the docs
 Mr. Libby sent.

Erin,

Please share this email with the Planning Board and Affordable Housing Committee. I don't think it is a good use of anyone's time to continue discussion on the merits of this proposed ordinance when nobody, including me, has the foundational data from which to base the proper metrics. As you know, I want to do anything I can to support all efforts to create more diverse housing opportunities in Yarmouth, but I am very concerned about the current proposal.

I was happy to hear that the AHC is working concurrently on other ideas. I believe there are many that would be much quicker and simpler to implement, such as an affordable TIF, and certainly much less controversial and complex as an IZ.

I was also glad to hear that there is someone dedicated to constituting an entity to oversee affordable housing on a more permanent basis. In my mind, that should be where the most energy should be devoted since once established, it could support all other ideas/programs, such as IZ, an affordable fund, and an overlay district.

I hope you and the AHC don't take my concern regarding the current IZ proposal the wrong way. I am not against IZ in general, the way some of some of the other speakers were last night. I am very concerned that it be done properly, lest it have the opposite effect than intended.

Sincerely,

Ed.

From: Edward F. Libby
Sent: Friday, November 18, 2022 10:43 AM
To: habbott@yarmouth.me.us; rbates@yarmouth.me.us; zwolf@yarmouth.me.us; dcraig@yarmouth.me.us; tshannon@yarmouth.me.us; ahumphrey@yarmouth.me.us; mcromarty@yarmouth.me.us; ntupper@yarmouth.me.us
Subject: IZ proposal

To the Town Council:

Thank you for giving the time to receive public comment at your meeting last night when considering the Affordable Housing Committee's request to endorse their Inclusionary Zoning proposal to be forwarded to the Planning Board for "editing/revisions/fine tuning".

As you are aware, I am a strong advocate for affordable housing and have spent considerable time learning about it over the past few years, including bringing forward a small work force housing project last year. That said, I remain steadfast

in my comments regarding the lack of analytical rigor associated with the AHC's proposed ordinance, despite Meghan Casey's testimony to the contrary.

It is important to distinguish between the type of "research" the AHC did, primarily looking into what other communities IZ ordinances looked like and guessing at what might be best applied to Yarmouth, and the necessary research and analysis required to develop an IZ ordinance that has the desired effect, rather than the opposite. That is, an actual feasibility study that includes data on the local housing market, expected market rate unit production expectations, building costs, interest rates, ROI's for developers, project pro-forma trials, etc. Without this front-end analysis, Yarmouth runs the risk of limiting overall housing production rather than producing any affordable units.

My prior email referenced a feasibility study conducted by Levine Planning Strategies for the City of Malden Massachusetts. I have attached that study above for your review. This is the type of analysis Yarmouth must undertake. In fact, in a recent conversation with Yarmouth's Town Planner, Erin Zwirko, she indicated that she had suggested just such a study, but the AHC decided to push ahead without it.

As you heard last night, IZ is a controversial, complex, and very nuanced tool. It can work, BUT only when supported by rigorous understanding and analysis of the local community, the current development scenario, and the incentives included to ensure developers decide to build, rather than not.

I have included additional resources on this subject above, as well as very informative links below. I hope you will take the time to read these, as I am confident you will realize that Yarmouth must "get it right", or we may end up exacerbating the affordability crisis at hand.

Any push to adopt an IZ policy as a badge to show others that we care about affordable housing, as was suggested last night, without properly designing such a policy, runs a high risk of unintended consequences.

Once again, thank you for your time to deeply consider this very important topic.

Sincerely,

Ed Libby

<https://inclusionaryhousing.org/designing-a-policy/>

<https://inclusionaryhousing.org/calculator/>

Erin Zwirko

From: Edward F. Libby <Ed_Libby@msn.com>
Sent: Monday, November 28, 2022 4:29 PM
To: Erin Zwirko
Subject: IZ and PB meeting

To: Erin Zwirko, Director of Planning; The Yarmouth Planning Board; and the Yarmouth Affordable Housing Committee.

Dear Erin,

I have a conflict in my schedule so will not be able to comment at the upcoming Planning Board meeting where the IZ draft will be discussed. Therefore, I wanted to share a few thoughts ahead of time regarding the IZ ordinance and process. Please share this with the PB and AHC, along with my prior two emails to the TC that I forwarded to you on this matter. I have not seen them yet online under PB materials for this agenda item.

I find myself in an awkward situation whereby I feel like I am a champion of affordable housing efforts in Yarmouth, yet have serious concerns with the IZ as proposed. The AHC has put forth a monumental policy with huge potential consequences without any data to support the specific metrics within the policy. Until they do, the Yarmouth Planning Board should hold off from recommending an IZ policy.

1. The AHC did not undertake the due diligence most people familiar with drafting an IZ ordinance would consider mandatory. I provided you an example of such a feasibility study conducted by Jeff Levine in a prior email. You mentioned to me that you had recommended that the AHC do this, but they deferred undertaking such a study, instead opting to forge ahead without one. I find that to be a very dangerous proposition as it may, and likely will, have the opposite effect: rather than produce affordable housing, it will inhibit all housing production. One only has to look to Portland to see how veering from data driven metrics can have disastrous results. The Town has hired Jeff Levine to consult on our upcoming Comp Plan update. Is there any chance that some of the \$180,000 earmarked for that can be utilized to properly examine an IZ ordinance here?
2. Fundamentally, IZ relies on housing production and most of Yarmouth's underlying zoning (RR/LDR/MDR) is purposefully designed to stifle housing production. This goes back to its implementation in 1985 where it was the tool used to stop the 100's of housing units per year being built. The AHC, in its report to the TC this past January, acknowledges this conundrum in its Zoning Recommendations, citing, "Creating more permissive zoning could create conditions for more affordable housing through inclusionary zoning." So, by the AHC's own report, the underlying zoning needs to be changed in order for IZ to produce affordable homes. Instead of tackling the underlying issue, the AHC plowed ahead with an IZ ordinance which, according to their own report, cannot work without creating the more permissive zoning conditions first.
3. IZ one of the most complex tools to address affordable housing. It was telling that at the annual conference of the Maine Affordable Housing Coalition, held just last week, that IZ was not included as a recommended solution to Maine's affordable housing crisis. So why is that the tool the AHC has prioritized? There are some more direct, less complex, less controversial tools that could be put into place immediately and have immediate impact without the risk of unintended consequences. While I understand the AHC says they are working concurrently on other tools, why is the most challenging one put forth first? Why not get an Affordable TIF in place, for instance. Nothing to object to, no unintended consequences, just money beginning to flow into an account to be used toward affordable housing. An affordable overlay district also comes to mind as an easy policy that could have immediate impact and not rely on large projects for the creation of affordable housing.
4. The IZ draft, as written, does not deliver on the underlying strategy (D.4.3) laid out in the 2010 Comp Plan, which directs us to provide incentives and allow off site creation of affordable units. At the TC meeting, Paul Peck pointed to the lack of incentives in the current draft. I concur. In my meeting with you on 11/17, you indicated that a project of 5 lots, which chose to pay a fee in lieu, did not benefit from the density bonus. So, there is no

incentive there, simply a \$75,000 penalty/fee for a person trying to create 5 housing units. Likewise, giving a 4th floor bonus in other zones, BUT then doubling the amount of affordable units required to 20%, is not an incentive. Perhaps a feasibility study would have better informed the AHC on what metrics would work and what incentives would be needed to encourage the housing production needed for the IZ to work as desired. Why did the AHC not include off site production as an option? Fulfilling the requirements currently in the draft, for project where lots are sold to individual buyers, is rife with challenges that perhaps allowing off site production would alleviate. Again, I don't think the AHC has thought through the real-world application of their proposed ordinance. They have offered no data to support any of the metrics in the ordinance.

5. In the recent cover letter to the PB for its consideration of the IZ draft, there appears to be an omission in the first sentence of the first paragraph on the second page under the numbered paragraphs. See here: *The Town Council has directed the Committee * this concept to the Planning Board for review and a recommendation to the Town Council on adoption.* Additionally, this sentence should be written to reflect what the TC motion actually said, which was specifically amended to NOT endorse the current draft. Instead, the TC only moved the second paragraph of the original motion which simply asked the PB to review and consider, hold a public hearing on the draft, with or without revisions, and to submit a report and recommendations to the TC by February 23.
6. Finally, it feels to me that the AHC has not engaged in enough public input on this topic. The first real public comment was at the TC meeting, and all of those expressed real concern for the ordinance as well as the process by which it was drafted. The AHC provided one "listening session", which I attended, but there was little opportunity to discuss specific policy that the AHC was pursuing. The AHC's "Next Steps" as presented to the TC in January indicated a "series of listening sessions" and drafting ordinances "for further consideration *by the community*". I think the AHC should pause at this juncture based on the feedback they got at the TC meeting on this draft and the lack of empirical data to support the current metrics. I suggest that they seek more feedback from the community, as they said they had planned to do, before pushing the current draft any further. There should be no rush, rather, let's get it right.

Again, I can't emphasize enough how supportive I am of creating better policies to help Yarmouth achieve the affordable housing goals set out in our past 2 Comprehensive Plans. To date, we have done embarrassingly little. However, pushing an IZ ordinance to the forefront to "show our neighbors" that we have "courage", when that policy has not been properly vetted, could have the exact opposite effect.

Most sincerely,

Ed.

Erin Zwirko

From: Paul Peck <paul@lwsdevelopment.com>
Sent: Sunday, November 6, 2022 2:25 PM
To: Erin Zwirko
Subject: Re: IZ

Thank you Erin for sending over the draft.

Looks like the ordinance now is more draconian then the last version. Almost mimics Portland's, with the exception for the 10% v 20%. As you know Portland's feel good Green New Deal IZ mandate has stopped all new multifamily developments other then super expensive condo projects that can afford a buy out.

The 10% at 100% in Portland before the GND produced some units in a super charged economic cycle. Developed has already stopped due to interest rates more then doubling in less then a year. If Yarmouth enacts this restrictive IZ together with high interest rates new multifamily development will halt for a very long time. No new units will overtime drive up prices.

These types of ordinances result in less supply and higher prices to the many. Really very Nimby

Surprised a carrot based market solution was not proposed. The carrots are few and come with further mandates. The problem though with real carrots, like less parking, higher blds and generally higher density is just that density which the NIMBYs don't like.

Forcing developments in permitting to comply is very unfair.

I appreciate you keeping me up to date.

Paul E. Peck
LWS Development, LLC
PO Box 7589
Portland, ME 04112
(207) 712-5891
<http://www.lwsdevelopment.com>

On Nov 1, 2022, at 4:32 PM, Erin Zwirko <EZwirko@yarmouth.me.us> wrote:

Hi Paul,

As promised, the current draft of the IZ ordinance is posted with the [Council's materials for their November meetings.](#)

As I noted below, the Council is not looking to enact the ordinance; rather the Council looks to officially receive the recommendation and direct the Committee to begin the official review process. Should the Council in November, it will be to direct the Committee to submit the proposal to the Planning Board for a recommendation. Once the Planning Board receives the proposed amendment, it would consider making a recommendation to the Town Council. With that recommendation, the Council could then consider adoption. All of these future meetings will be public hearings.

Thanks,
Erin

Erin Zwirko, AICP, LEED AP
Director of Planning & Development
Town of Yarmouth
Office: 207-846-2401
ezwirko@yarmouth.me.us

-----Original Message-----

From: Erin Zwirko
Sent: Friday, October 28, 2022 1:58 PM
To: 'Paul Peck' <paul@lwsdevelopment.com>
Subject: RE: IZ

Hi Paul,

Thanks for the note, and it's a great, valid point! I'll share it with the Committee and Council.

Some movement on the ordinance draft. I will be circulating an updated draft to the Committee early next week (Monday/Tuesday), and just learned that the Council will be adding an item to their agenda on Thursday, 11/3, to recommend that the Committee submit the ordinance draft to the Planning Board to get the formal ordinance review process started. There will be public comment at the Council meeting. I'll share that updated draft, and the Council meeting details with you if you are inclined to comment at the meeting or by sending comments to the Council.

Have a nice weekend!
Erin

Erin Zwirko, AICP, LEED AP
Director of Planning & Development
Town of Yarmouth
Office: 207-846-2401
ezwirko@yarmouth.me.us

-----Original Message-----

From: Paul Peck <paul@lwsdevelopment.com>
Sent: Friday, October 28, 2022 11:41 AM
To: Erin Zwirko <EZwirko@yarmouth.me.us>
Subject: IZ

Hi Erin,

How is your IZ drafting going?

As the economy ebbs and flows IZ's impact changes. Much easier to create housing with a small IZ requirement when rates are low and demand is high like the last 8 years much harder when rates are high and demand falls off like it is now.

People tend to forget that in our region almost no market rate multifamily apt construction happened from the early 80s to 2015. When I built Westend Place in Portland in 2015 it was the first large (38units) market rate apt bld built in Portlands in over 30 years. Layering on mandates like IZ will make it harder to create housing during those long stretches when the economy is not right for marker rate housing.

Just something to think about. I hope you share these thoughts with the committee and council.

Thank you

Paul E. Peck
LWS Development, LLC
PO Box 7589
Portland, ME 04112
(207) 712-5891
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Erin Zwirko

From: Patrick Powers <patrick@powersmaine.com>
Sent: Wednesday, December 7, 2022 1:07 PM
To: Erin Zwirko
Subject: Yarmouth housing

Good afternoon Erin

I am Patrick Powers, I have enjoyed being a resident of Yarmouth since 1985. We folks of Yarmouth have lived through many tumultuous challenges through out that time. I have been a real estate agent for the past 28 years. I don't believe our "work force" housing shortage need be mandated to be the responsibility of the folks who want to invest in our highly sought after community. Various town councils and planning boards over the past 40 years have made decisions that have been proven not to be necessarily in the best interest of our residents. We have given "work force affordable housing" tremendous lip service but have not been successful in having programs and legislation that truly benefit our rank and file. Zoning ordinances that were adopted in the 80's automatically created a situation that brought the existing properties in Yarmouth to be greater than 50% nonconforming to the new ordinances. Character based zoning is one of the few that I believe addressed the root problems. Projects proposed continue to fight with "not in my backyard". To really be serious to make productive change, addressing zoning ordinances to allow for greater density in properties that are serviced by public utilities, not penalizing a developer by burdening the all ready extremely high costs of construction.

Please keep Yarmouth a wonderful place to live by allowing greater density in the community where there are public services.

Thank you
Pat
Patrick Powers
Powers Real Estate
In partnership with the Bean Group
207-650-1167

Erin Zwirko

From: Estabrook <makingmainehome@gmail.com>
Sent: Wednesday, December 7, 2022 2:04 PM
To: Erin Zwirko
Subject: Inclusion Zoning Mandate

Good afternoon Erin. I had sent this email to the Town Council along with the Town Manager and feel it important to send it to you as well. I respectfully request you please forward to the Planning Board Members along with the Affordable Housing Committee. As a Yarmouth Resident, a REALTOR, wife of a Lawenforcement Officer and daughter of a retired Firefighter I fully understand the challenges many face in finding affordable housing however this is not the answer.

Housing advocates do not support this policy, and there are far better approaches to solving the workforce affordable housing crisis in Yarmouth. Based on the Greater Portland Board of REALTOR experience with Inclusionary Zoning in other Maine communities, it will:

- Discourage housing creation by **driving up costs**;
- **Exacerbate the missing middle** by burdening housing creators with subsidy for certain community members at the expense of others; and
- **Discourage small and local entrepreneurs** by creating financial challenges, thereby shifting opportunities for housing creation to out-of-state developers who are willing to take a high financial risk – this **discourages community housing creation**.
-

Yarmouth should Pursue Effective Housing Policies:

Rather than a mandate that will harm housing creation, you might consider **policies supported by housing advocates** to effectively solve the housing crisis, including the following:

- Expedite and expand implementation of the statewide housing law (**LD 2003**, enacted 2022) which includes density bonuses for low-income and workforce affordable housing.
- Create an **Affordable Housing Tax Increment Financing (ATIF)** District.
- Issue **Municipal Bonds** to Subsidize Workforce Affordable Units
- Establish a **Local Land Bank** with support from a newly enacted law (LD 1694, enacted 2022).
- Reduce Permitting, In-Lieu, Impact, and other fees. **Cut soft costs** and overall project expenses to keep overall rental and sale prices more affordable generally.

Thank you for your time and consideration, Raylene

Raylene Estabrook, Broker
 2022 Director-Past President Greater Portland Board of REALTORS
 2015-2022 Director Maine Association of REALTORS
 2018 REALTOR of the Year Greater Portland Board of REALTORS
 2017 President Greater Portland Board of REALTORS

Signature Homes Real Estate Group

Located at 383 US Route 1 Scarborough ME 04074
 Mailing Address: PO Box 1210 Scarborough, ME 04070
 Cell 207-749-1587
 E-Mail: MakingMaineHome@gmail.com

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