

Town of Newbury, Massachusetts Housing Assistance Report

Prepared for
Town of Newbury
Town Hall
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Executive Summary

There are many opportunities to create and preserve affordable housing that are often necessitated by community planning to both gauge community need and bolster community level support. The Town of Newbury has a base to begin implementing specific actions outlined in the recent Community Development Plan. Policy development and zoning updates are the most often used strategies to begin addressing affordable housing. Administration of these policies and zoning actions often leads to the development of programs and projects.

In December of 2004, with funds provided by the Peer-to-Peer Program of the Massachusetts Department of Housing and Community Development, the Town hired Peer Consultant, Jennifer M. Raitt the former Community Development Director for the Town of Amesbury and current member of the Amesbury Master Plan Implementation and Oversight Committee. Work began on this Housing Assistance Report with the objective of providing the Town of Newbury assistance regarding housing policy, programs, strategies and plans. This report expands on many of the strategies outlined in the Community Development Plan and takes into consideration the Town's current capacity to deliver new programs. The report is divided into three sections: a review of existing housing, planning, or community development reports; funding for housing production; and an affordable housing action plan.

Part one determines the scope of Newbury's housing production goals based on past developments, current planning, and any relevant current zoning bylaws, for example the Open Space Residential Design Bylaw. This section outlines the legal requirements that certify affordable housing units for inclusion on the Town's Subsidized Housing Inventory. This section outlines various zoning techniques most often used to accommodate affordable housing development including but not limited to inclusionary zoning, incentive-based zoning, zoning to accommodate multi-family housing units, accessory in-law units, elderly housing or 55 and over housing, and specific overlay districts.

Specific examples are provided to guide the reader through each zoning action. An inclusionary zoning comparison chart provides thorough examples of local bylaws other Massachusetts communities have adopted, what incentives were provided and how much affordable housing must be created through the bylaw. Two inclusionary housing bylaws are also

provided from the City of Peabody and the Town of Dennis. The affordable housing overlay district examples are also provided as exhibits.

The funding section reviews various opportunities for the Town to apply for funds through local, State, quasi-public State agencies, and other mechanisms to develop affordable housing. Fund guidelines vary and are usually contingent upon the following: site control, development capacity, financial capacity, project feasibility and community need and support of a proposed project. Funding agencies are interested in funding a project whose development team has financial, administrative, legal, and construction expertise and is ready to proceed once funds are awarded. Specific funding sources are provided in this section.

The Affordable Housing Action Plan section determines the number of units needed to achieve the State's 10% affordable housing goal. The Plan is based on the following goal: to promote the provision of fair, decent, safe, affordable housing for rental or purchase that meets the needs of present and future Newbury residents. The Town will comply with M.G.L. Chapter 40B by either 2010 or 2015.

The Action Plan explains the current affordable housing status in Newbury and proceeds to outline how many units the Town must create to comply with 40B. The total number of Newbury units considered affordable by the Department of Housing and Community Development is 94, which is 3.6%. The Town must create 167 affordable housing units to achieve the 10% goal. This percentage is based on the total of year round units which according to the 2000 US Census is 2,614.

The number of units needed to meet the 10% goal is a moving target due to the annual increase of year-round units. Approximately 30 Commonwealth communities have filed a Planned Production Plan which enables a community to have a State-certified strategic housing plan. The Planned Production Plan defines the number of housing units which must be built annually to eventually achieve 10% affordable housing. The Plan also defines what mechanisms the Town will use to build those units by pinpointing specific programs and actions that will lead to a net affordable housing gain.

The Housing Assistance Report will not substitute for a Planned Production Plan. Information has been provided in Appendix C to guide the Town in adapting the Community Development Plan Housing Element section to a Planned Production Plan. However, charts provided in this section show many units the Town must produce to achieve the 10% State-mandated goal.

The first chart shows how many units must be added annually per a Planned Production Plan showing 20 units of production annually through 2010 and 22 units produced annually through 2015. If Newbury adds 20 units per year through 2010, the total subsidized housing units will be 194. The total housing units in the Town of Newbury will increase by 2010 by 10.53% (the amount of growth seen from 1990 to 2000). 10% of 2,889 units would raise the annual production goal to 22 units through 2015. Should the Town wish to expedite the production process, the second chart shows how many units would need to be produced based on 1.5% of the total current housing units in Newbury. The 10% goal would be achieved by the last quarter of 2010 in that scenario or in six years.

Annual Subsidized Housing Unit Production to Achieve 10% Goal at 0.75%											
<i>Year</i>	2005	2006	2007	2008	2009	2010*	2011	2012	2013	2014	2015
<i>Total SHI</i>	94	114	134	154	174	194	216	238	260	282	288
<i>Units Added Annually</i>	20	20	20	20	20	22	22	22	22	22	6

*0.75% of Total Housing Units is based on a formula that increases the current existing housing stock by 10.53% through 2010.

Annual Subsidized Housing Unit Production to Achieve 10% Goal at 1.5%						
<i>Year</i>	2005	2006	2007	2008	2009	2010
<i>Total SHI</i>	94	133	172	211	250	261
<i>Units Added Annually</i>	39	39	39	39	39	11

This report also outlines tasks and the timeframe within which they should be accomplished. The following specific tasks should be implemented immediately (first tier): update zoning bylaw to promote, accommodate, and support affordable housing development; form

Newbury Housing Partnership Committee; establish local affordable housing trust fund; begin a town-wide land/ site availability study; and hire a consultant to prepare the Planned Production Plan. The second tier of tasks which should be implemented relate to local funding mechanisms: adopt the Community Preservation Act; join the North Shore HOME Consortium; and become a Soft-Second Loan community. The third tier of tasks related to the creation of affordable housing using the existing housing stock.

It is critical for Town leaders to address Newbury's affordable housing gap for current and future residents and for those residents who have left due to lack of affordable housing options. Affordable housing options can begin with the Town making zoning updates, conducting an audit of available sites to build affordable housing, deploying programs that utilize existing housing stock for affordable options, and adopting funding mechanisms to finance affordable housing. This report provides the necessary steps for the Town to begin addressing the affordable housing shortage.

PART ONE

Existing Housing Report Review

The following reports were reviewed: Town of Newbury 1980 Comprehensive Plan Final Report; Zoning Chapter 97 Town of Newbury; Newbury Commonwealth Capital Application; Newbury Executive Order 418 Certification 2005; Town of Newbury Community Development Plan – Housing Element; and the Priority Development Fund Application Planned Assistance for Housing Production (City of Newburyport and Town of Newbury). Assistance was also provided in reviewing the Town’s E.O. 418 Certification for 2005. The effectiveness of these plans was considered for the purposes of this report.

Over 25 years ago with the creation of the 1980 Comprehensive Plan, Newbury committed to diversifying its housing stock to provide housing for people at all incomes. At that time, the Town was interested in planning housing development for the elderly and for people of moderate incomes. The implementation of these goals was addressed through the creation of three residential densities to accommodate these developments.

While the Long-Range Planning Committee did not see a need for a detailed housing strategy at that time due to Newbury’s small size and rural character and impression, at that time, that public funding would not be aimed at this type of community, the Plan did support initial steps to create and encourage the development of affordable housing. The Plan emphasized creating elderly housing for low- and moderate-income households by a non-profit housing corporation. The Plan also supported the creation of housing for moderate-income families by the Planning Board and Board of Selectmen. This housing was to be created by the broadening of the local non-residential tax base and developing “environmentally suitable community development projects” on Plum Island where the majority of moderate-income households lived at that time.

In the 1980 Comprehensive Plan, the Merrimack Valley Planning Commission suggested that Newbury contribute at least 171 units of housing for low- and moderate-income people as a “fair share” in the region. In 1980, Newbury had approximately 1,400 housing units. Based on this figure, the MVPC estimated greater than 10% of Newbury’s housing stock should be affordable.

According to 2000 U.S. Census figures, of the 2,614 housing units in Newbury, 3.6 percent or 94 units are deemed affordable. Developed in the late 1970s, these units are all elderly rental housing units built in two separately-located housing complexes. Newbury currently has three buildings of affordable rental housing: Newbury Village on Rolfe's Lane, and Oak Ridge and Quaker Lane in Byfield.

The State mandates that communities in the Commonwealth must have at least 10% of their housing stock restricted as affordable. With Newbury far from this target, the Town's current planners are now focused on increasing their supply of affordable housing. Newbury is subject to 40B proposals because the Town has not achieved the 10% goal, does not have a housing productivity plan, and has not demonstrated that they are attaining an incremental percentage goal annually in production and contribution to their Subsidized Housing Inventory.

There are two ways to add affordable housing units to the Subsidized Housing Inventory: by using a Comprehensive Permit process, commonly known as 40B, or through local initiatives. All inventory units must have a deed restriction with an affordability period of at least 15 years, fair and affirmative affordable housing marketing plan or lottery, and be monitored by the Town annually for compliance with these requirements as needed. These legal documents are executed by the Chief Executive Officer, the Board of Selectmen Chair or his or her designee, usually the Planning or Community Development Director. A monitoring agent can be hired by the town should staff lack the capacity to oversee the task of certifying and recertifying income eligibility and unit resale. The Citizens' Housing and Planning Association has provided monitoring services for a fee, for many municipalities and developers throughout the Commonwealth.

Various opportunities are available to create affordable housing that often begins with community planning. The Town Community Development Plan outlines specific strategies to achieve affordable housing production. Plans often point to policy development and zoning changes to promote production and other affordable housing programming. The Community Development Plan suggests a number of new policies and action steps to change zoning.

Zoning techniques most often used to accommodate affordable housing development include but are not limited to inclusionary zoning, incentive-based zoning, and zoning to

accommodate multi-family housing units, accessory in-law units, elderly housing or 55 and over housing developments. Other techniques to promote housing development include providing incentives through the Town to eligible property owners, local nonprofit organizations, renters, or property developers willing to provide low- and moderate-income housing units either in an existing property or proposed development. These strategies will be further discussed in the implementation section of this report.

The Town has made some proactive strides in recent years, including adopting § 97-47.12 of the Newbury Zoning By-Law as part of their Open Space Residential Development (OSRD) By-Law. This section provides a one-for-one density bonus to developers for building affordable housing units. The affordable unit(s) is restricted in perpetuity.

The By-Law should provide more detail to preserve affordability and protect the Town's investment and, ultimately, incentive that was provided the developer. For example, the By-Law does not specify the agency in charge of administering or monitoring applicant eligibility for the affordable units. It also does not specifically state that the units should follow the guidelines of the Local Initiative Program, including incorporating language that mandates a Deed Rider, Affordable Housing Restriction, and other Regulatory Agreement for either rental units or ownership. The By-Law also does not protect those units in the event that the developer is unable to rent or sell a unit to a low- or moderate income family. The Town might also consider a Right-of-First-Refusal for ownership units.

The Town is also in the midst of creating a Master Plan Update. This will be a guiding tool for the Town in many areas, including affordable housing. The Town's Community Development Plan Housing Element provides a very thorough and informative synopsis of community needs and possible strategies to assist the Town in creating affordable housing. Further assistance will be provided in beginning implementation of the Housing Element strategies in the final section of this report.

Another positive Town contribution to planning and affordable housing development is the hiring of a Town Planner. As of this year, she is working as a full-time Town employee, as recommended in the Community Development Plan. Staff capacity is critical to implementing any

program or overseeing development projects; volunteer commitment may also be necessary for community decision-making and other activities related to housing development. Staff capacity is necessary to administer programs, potentially verifying income eligibility, discussing development opportunities, among other activities. Most of the suggested strategies in the Community Development Plan are administrative in nature and relate back to staff or volunteer capacity.

The Community Development Plan also outlines specific strategies that relate to zoning and incentives. While it is critical for the Town to identify parcels for development, establish an Affordable Housing Partnership Committee and Affordable Housing Trust Fund, and work with for- and non-profit developers towards affordable housing goals, these are primarily administrative goals. Newbury is at a critical juncture with rising home and land values town-wide and should immediately consider the CD Plan's and other zoning provisions to gain affordable housing. The following are possible zoning provisions the Town should consider to immediately being gaining affordable housing units:

1. Town-wide Inclusionary Zoning

Inclusionary Zoning is a land use tool that either requires builders of eligible residential projects to set-aside a portion of housing units in a development for low- or moderate-income households or provides incentives for them to do so voluntarily either off-site or through other mechanisms. Inclusionary Zoning requirements primarily trade off developments with higher-density for the development of affordable housing.

While uniformity of structure type permitted within a zoning district must be mandated within the Bylaw, more specific requirements including affordability, term of affordability, monitoring authorities, in-lieu of payments, and threshold requirements for example can be modified based on community needs and goals of the Bylaw. Inclusionary zoning, as seen in various By-Laws throughout the United States, can be broken into four groups: incentive-based, semi-mandatory, compensated mandatory or uncompensated mandatory. Many of the By-Laws found on the accompanying chart from selected communities in

Massachusetts are a combination of mandatory and incentive-based.

Inclusionary Zoning is typically triggered by a set unit threshold in a development, for example when a developer proposes to build 8 or more units in a specific district or town-wide, at least 10% of those units must be reserved as affordable. Affordability can be defined based upon local needs and designed to be flexible to accommodate changes in local needs. For example the City of Boston mandates a set-aside of units for households earning between 80-120% of the median income or middle-income families.

The Massachusetts Zoning Act, General Law Chapter 40A does not specifically state provisions on how communities develop and adopt Inclusionary Zoning provisions. Haverhill, Ipswich, and Peabody are examples of local communities that have adopted Inclusionary Housing bylaws. Belmont, Duxbury, Andover, Newton, Cambridge, Boston, Tewksbury, Dennis, and other communities throughout the Commonwealth have or are considering adopting such provisions. The Peabody Inclusionary Housing By-law can be found in Attachment A. This bylaw is a hybrid of inclusionary zoning with incentives.

2. Incentive Zoning in specified Districts, for example in the Village Center.

More frequently seen in local By-Laws is Incentive Zoning. In these cases, density bonuses or similar incentives are granted for a developer to provide affordable housing as a condition of the special permit being granted. Chapter 40A, Section 9 authorizes Incentive Zoning. Density increases are the most common incentive to developers. Others include financial off-sets, reduced parking requirements, and relaxed height restrictions. Fast-tracking of affordable housing projects is also possible and can be a written incentive. The Town of Amherst as part of their Phased Growth provision allows for fast-tracking of affordable housing projects where at least 25% of the units in a housing development are affordable. The Town of Dennis, a community similar to Newbury, has specific language in their Zoning By-Law to encourage the production of affordable housing. This section of their By-Law is attached in Exhibit B.

3. Affordable Housing District

- a. The Town of Acton created a two-tier affordable housing overlay district.
- b. The Town of Andover has an Elderly Housing section in their Zoning By-Law which addresses affordable housing needs.

4. Smart Growth District

With the recent passage of M.G.L. Chapter 40R, the Smart Growth Zoning and Housing Production Act, municipalities may adopt a “smart growth zoning district,” in accordance with certain provisions, in any eligible location allowing for primary residential use as-of-right and also permitting businesses, commercial and other uses consistent with primary residential use.

The district acts as an overlay providing for a mix of housing with density ranging from eight units per acre for single-family homes, 12 units per acre for two- and three-family buildings, and 20 units per acre for multi-family housing. At least 20% of the housing developed if over 12 units must be affordable to families earning at or below 80% of the area median income. The “smart” element includes allowing infill development, fair housing, and limited to no impact on available municipal infrastructure. The district as a whole may not be restrictive to a particular age group or have other occupancy restrictions. Prospective developers can elect to either develop a project in accordance with the district requirements or develop a project in accordance with requirements of the underlying zoning district.

The Town could also adopt a section of the Zoning By-Law that targets Low and Moderate-Income Housing (Dartmouth and Hollington are examples).

In sum, the Town has made proactive steps to begin considering affordable housing as not only a community need and goal but as Town policy. The available plans and strategies are useful for the Town to begin working on short-term and longer-term goals to begin creating new affordable housing units. Immediate attention must be given through the adoption of zoning provisions to actually produce affordable housing units. OSRD is an excellent starting point; other zoning provisions have been noted above and can be elaborated upon further upon request.

PART TWO: Funds for Housing Production

The Town of Newbury can offer many tools to encourage affordable housing development: zoning, financial, and programming for housing assistance. There are many opportunities and techniques for funding affordable housing projects. Funding is usually given to three different types of entities: for-profits, non-profits, and municipal partners. Fund guidelines vary and are usually contingent upon the following: site control, development capacity, financial capacity, project feasibility and community need and support of a proposed project. Funding agencies are interested in funding a project that has the financial, administrative, legal, and construction expertise and ability or potential and is ready to proceed upon the award of funds.

Municipalities similar to Newbury have primarily utilized either an Affordable Housing Trust Fund or Community Preservation Act funds to provide funds to developers to off-set affordable development project costs, to acquire and develop municipal land for housing, or to further plan for affordable housing. Some towns also actively secure housing funds and provide them to private non-profit or for-profit developers through State resources such as Community Development Block Grant or HOME funds. Newbury could also partner with a private entity to assist with an affordable housing development providing pre-development funding or technical assistance on a project. Feasibility studies, pro-forma development, and site planning are also activities that could assist the Town in developing affordable housing.

The Town may consider program development options to increase affordable housing in the community. These options include: administering a below-market loans or grants to low- and moderate-income owners for housing rehabilitation; a Live near Your Work Program to encourage employers to participate in a homeownership or rental program; offering a mortgage buy-down program to serve moderate-income families; offering housing grants for developers of affordable housing; and developing a supportive housing plan to determine current and future needs of elderly and disabled community.

Funding Sources for the Town:

The Massachusetts Department of Housing and Community Development provides many funding resources for affordable housing development projects for pre-development costs through construction costs. Some of their programs are as follows:

- **Housing Development Support Program (HDSP)**
 - The Program is designed to facilitate small, project-specific affordable housing initiatives with emphasis on creation, preservation or improvement of housing units, which may not be cost-effective with conventional financing or under alternative development assistance programs. Should the Town identify a potential project, HDSP funds could be used for soft and hard costs to manage the development project. They could also be provided as an incentive for a developer to provide affordable housing. Neighboring communities West Newbury and Amesbury have used these funds for the former for Town-owned apartment housing and the latter for mixed-use developments.
- **Community Development Block Grant Program/ Community Development Fund II**
 - The Town is already in the process of securing funds through this program as a partner with the City of Newburyport. The Town could also consider applying independently for up to \$800,000 to further its own housing and community development initiatives. Housing rehabilitation is one of many housing activities that can be funded through CDBG. Other options include supporting nonprofit social service providers to further their development or supportive service goals, barrier removal for accessible housing projects, homeownership programs and education, and planning. Newburyport, Amesbury, Georgetown, Ipswich, Salisbury, Beverly, Peabody, Haverhill, Merrimac, and other communities have used or currently administer these funds for various purposes, including housing.
- **Affordable Housing Trust Fund**
 - The Town can establish a fund that generates funds through CPA, grants, gifts, land acquisition or purchase and by other means to preserve and creation affordable housing for low- and moderate-income households. Activities might include purchasing “at-risk” units to preserve them as affordable housing, purchasing property to then develop for housing, manage or improve properties to

keep as real estate holdings or transfer them to another party. This fund must be adopted and five trustees would be appointed through Town Meeting. The Towns of Boxford and Andover have funds. North Andover voters will review creation of a fund at Spring Town Meeting. The City of Peabody manages a fund.

Detailed information about these and other Massachusetts Department of Housing and Community Development programs can be found by going to their program guide book online at <http://www.mass.gov/dhcd/progbook/default.htm>.

Local organizing efforts can have a significant impact on affordable housing development and advocacy efforts. Knowledge resources from bankers, accountants, construction and design professionals, and organizers can emerge. Funding can also be derived from community-level organizing and advocacy efforts. Many local communities have accomplished the passage of the Community Preservation Act in their communities. The CPA has proved to be a valuable local tool in Rowley, Rockport, Peabody, North Andover, Newburyport, Middleton, Georgetown, and Boxford. The Towns of Hamilton, Wenham, and Topsfield will vote on its adoption in spring 2005 at their respective Town Meetings. CPA is not only an effective organizing tool around issues of affordable housing, but a secondary financing tool to stimulate preservation and creation of affordable housing.

- **Community Preservation Act funds**

- As recommended in the Town's Community Development Plan, CPA funds are a resource to assist with affordable housing. While the total amount available for affordable housing is relatively small for a large-scale development, funds could be used for further planning, production of smaller parcels or small-scale developments, or projects that combine goals of affordable housing and open space preservation or historic preservation or both. These funds must be adopted through Town Meeting. Newburyport, Haverhill, Groveland, Boxford, North Andover, Rowley, Peabody, Nahant, Rockport, Gloucester are all CPA communities. Topsfield voters will review adoption of CPA in their community for Spring Town Meeting.

The North Shore HOME Consortium is another funding resource for affordable housing development.

- **HOME funds**

- The community is not participating in the North Shore HOME Consortium. Once a strategy for spending HOME funds is created, the Board of Selectmen with the Town Planner might petition the Consortium for inclusion. The Consortium maintains strict rules for expenditure of funds and community capacity to manage funds. Low-Income Housing Tax Credit Program. Newbury and Groveland are the only two Essex County communities not participating in this program.
- State HOME funds can be applied for by the community for rental projects or First-Time Homebuyer projects. Private developers would need to apply independently for project assistance. HOME funds were used for a project in Amesbury to create affordable units in a private development.
- The Town could also assist low and moderate-income families seeing to purchase a first home. While this may not be through Town resources, the Town could be a vehicle to link buyers with State programs available to these buyers. MassHousing offers below-market rate mortgages to qualified buyers. The Town could participate in the Soft-Second Loan Program, also recommended in the Community Development Plan. The program subsidizes interest payments on a second mortgage.

Stimulating the private production of affordable housing seems most challenging to communities, including Newbury. There are opportunities to encourage use of public and private funds for affordable housing. These include the Low Income Housing Tax Credit Program, the Local Initiative Program, the Housing Stabilization Fund and programs run by quasi-public agencies such as MassDevelopment. The Federal Home Loan Bank also has two programs that may apply to affordable housing developers in Newbury: the Affordable Housing Program and Community Investment Program.

Other localized funding strategies include but are not limited to gifts of land or buildings, sale of town-owned land, percentage of proceeds of tax title foreclosure sales, and local “friends of affordable housing” groups who may donate funds. It is recommended that an Affordable

Housing Trust Fund be established per M.G.L. Chapter 44 Municipal Affordable Housing Trust Fund Act to oversee the creation and preservation of affordable housing units in Newbury.

PART THREE: Affordable Housing Action Plan

Goal: To promote the provision of fair, decent, safe, affordable housing for rental or purchase that meets the needs of present and future Newbury residents. The Town shall seek to raise its affordable housing stock to achieve compliance with MGL Chapter 40B by either 2010 or 2015. The Town has a stated interest in supporting and expanding opportunities for elderly housing.

Current Status: The total number of Newbury units considered affordable by the Department of Housing and Community Development is 94, which is 3.6%. The Town must create 167 affordable housing units to achieve the 10% goal. This percentage is based on the total of year round units which according to the 2000 US Census is 2,614.

Units Needed: The number of units needed to meet the 10% goal is a moving target since every year the total number of year round units increases. The first chart shows how many units must be added annually per a Planned Production Plan showing 20 units of production annually through 2010 and 22 units produced annually through 2015. If Newbury adds 20 units per year through 2010, the total subsidized housing units will be 194. The total housing units in the Town of Newbury will increase by 2010 by 10.53% (the amount of growth seen from 1990 to 2000). 10% of 2,889 units would raise the annual production goal to 22 units through 2015. Should the Town wish to expedite the production process, the second chart shows how many units would need to be produced based on 1.5% of the total current housing units in Newbury. The 10% goal would be achieved by the last quarter of 2010 in that scenario or in six years.

Year	2005	2006	2007	2008	2009	2010*	2011	2012	2013	2014	2015
Total SHI	94	114	134	154	174	194	216	238	260	282	288
Units Added Annually	20	20	20	20	20	22	22	22	22	22	6

*0.75% of Total Housing Units is based on a formula that increases the current existing housing stock by 10.53% through 2010.

Year	2005	2006	2007	2008	2009	2010
Total SHI	94	133	172	211	250	261

<i>Units Added</i>							
<i>Annually</i>	39	39	39	39	39	39	11

Affordable Housing Action Plan		
Timeframe	Task(s)	Further Information Needed to Accomplish Task
Immediate	Allow by right conversion of single family homes to multi-family units (2-4)	
	Zoning Bylaw updates	
	Allow by-right 2 and multi-family housing unit production	
	Accessory unit bylaw	
	Inclusionary Zoning applies to all subdivisions, mixed-use, or multi-family projects	
Immediate	Form Newbury Affordable Housing Committee/ Housing Partnership Committee	
Immediate	Establish local Affordable Housing Trust Fund	
Immediate	Begin Town-wide Land/ Site Availability Study	
Immediate	Hire Consultant or utilize time of Town Planner to adapt E.O. 418 Housing Element to become Planned Production Plan (PPP). See Exhibit C for further guidance on the Planned Production Plan and Adapting 418 to become a PPP.	
Upon completion of PPP and Transit Village Project	Adopt CPA	
Upon completion of PPP	Petition to join North Shore HOME Consortium	

Timeframe	Task(s)	Further Information Needed to Accomplish Task		
Upon completion of Land/ Site Study	Encourage Town-sponsored friendly-40B projects			
Working with existing housing stock	Encourage developers of condominiums, particularly conversions from rental units to condominiums, to sell to first-time homebuyers. The Town could provide funding either to "buy-down" market rate sales price to affordable sales price of condo units or provide downpayment and soft-second program assistance with a deed restriction	Issue RFP of Municipal Land or Building for Development - property can be leased or sold to a developer for affordable housing purpose with affordability restrictions	Seasonal Housing: Encourage conversion of seasonal housing units to permanent housing units using subsidies Assist in rehabilitation of substandard seasonal rentals to long-term, affordable, year-round rentals	New Development
				Offer incentives to 40B developers to further subsidize units by providing a funding subsidy (if available) to assist lower income individuals

EXHIBIT A:
Inclusionary Zoning Examples and Inclusionary Zoning Bylaw Comparison Chart

City of Peabody
Inclusionary Zoning

4.11 INCLUSIONARY ZONING REQUIREMENTS

4.11.1 Purpose

The City of Peabody declares that the provision of a decent home and a suitable living environment for all is a community priority of the highest order; and that this priority is consistent with state, regional and national policies. The purpose of this Section is to enhance the public welfare through increasing the production of housing affordable to persons of very-low, low and moderate income. In order to encourage utilization of the City's land in a manner consistent with local housing policies and needs, the City requires new, converted or renovated housing developments to include a proportion of housing units that shall be affordable to persons of very-low, low and moderate income. Accordingly, the provisions of this Section are designed to: (1) increase the supply of rental and ownership housing in the City of Peabody that is available to and affordable to low and moderate income households; (2) exceed the 10% affordable housing threshold established by the Commonwealth in M.G.L. Chapter 40B, Section 20; (3) encourage a greater diversity and distribution of housing to meet the needs of families and individuals of all income levels.

4.11.2 Applicability

- (1) *General.* The provisions of this Section shall apply in zoning districts R2, R3, R4, R5 and BC to all residential developments that involve the creation of eight (8) or more housing units, whether rental or ownership. The requirements must be satisfied before a Building Permit may issue.
- (2) *Types of developments.* Residential developments subject to this Section shall include housing created both by new construction, or remodeling and conversion of an obsolete or unused building or other structure from its original or more recent use to an alternate use.
- (3) *Segmentation.* Developments may not be segmented or phased to avoid compliance with these provisions.

4.11.3 Provision of affordable units.

- (1) *Number of units to be provided:* All developments including a residential component which are subject to this Section shall be required to set aside a minimum of fifteen percent (15%) of the total number of dwelling units, and a minimum of fifteen percent (15%) of the total number of bedrooms, provided as affordable housing.
- (2) *Fractions:* If, when applying the percentage to the total number of units to determine the number of affordable units, the resulting number of affordable units includes a fraction of a unit, this fraction, if over one-half (1/2), shall be rounded up to the next whole number. If the resulting number of affordable units includes a fraction of a unit equal to or less than one-half, the fraction shall be rounded down to the next whole number.
- (3) *Sale, lease or rental of units to very-low-, low-, and moderate income households:* Units set aside for sale, lease or rental to very-low-, low-, and moderate-income households shall be restricted for occupancy by qualified households which meet the definition of "very-low," "low" and "moderate" income set forth in this ordinance.
- (4) *Distribution of affordability for rental units.* Affordable rental units shall be set aside as follows:

☐ In developments which are required to include fewer than three (3) affordable units all affordable units shall serve low-income households.

☐ In developments which are required to include exactly three (3) affordable units,

- One (1) affordable unit shall serve a very-low-income household
- One (1) affordable unit shall serve a low-income household
- One (1) affordable unit shall serve a moderate-income household.

☐ In developments which are required to include more than three (3) affordable units, the units shall be distributed as follows:

- 25% shall serve very-low-income households
- 50% shall serve low-income households
- 25% shall serve moderate-income households.

(5) Affordability of ownership units. Affordable ownership units shall serve low-income households.

(6) Relationship to the affordable housing inventory. It is intended that the affordable housing units serving low and very-low income households that result from this ordinance be considered as Local Initiative Units in compliance with the requirements of the Commonwealth of Massachusetts Department of Housing and Community Development.

(7) Relationship to public funding programs. Developers may participate in public subsidy programs and still meet the requirements of this Section. Such participation will be subject to the approval of the subsidizing agency and to the unit price limitations of the funding program as well as those required by this Section. In case of conflicting price limitations, the lower price requirement shall prevail.

(8) Relationships to other organizations. Subject to the approval of the Department of Community Development and the applicable subsidizing agency, developers may elect to work with a local nonprofit housing provider, such as the Peabody Housing Authority, to distribute, maintain or operate the units in accordance with the requirements and intent of this Section 4.11.

4.11.4 Affordability requirements

(1) Duration of affordability: Affordable units shall be subject to restrictions that to the extent legally possible shall preserve the permanent affordability of the units as defined by this ordinance.

(2) Maximum rental price. Rents for the affordable units, including utilities, shall not exceed 30% of the targeted annual gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Department of Community Development.

(3) Maximum sales price. Housing costs, including monthly housing payments, principal and interest payments, and insurance, shall not exceed 30% of the targeted gross household income. Specific prices shall be determined by the state or federal funding source, if applicable, and are subject to approval by the Department of Community Development.

(4) Resale prices. Subsequent resale prices shall be determined based on a percentage of the median income at the time of resale as determined by the federal Department of Housing and Urban Development and adopted by the Commonwealth of Massachusetts Department of Housing and Community Development. The resale price will be established based on a discount rate, which is the percentage of the median income for which the unit was originally sold. The method of resale price calculation shall be included as part of the deed restriction. Through agreement between the Department of Community Development and the developer or owner, this percentage may be increased or decreased by up to five per cent (5%) at the time of resale, in order to assure that the target income groups' ability to purchase will be kept in line with the unit's market appreciation and to provide a proper return on equity to the seller.

(5) Marketing plan: The affordable units must be rented or sold using marketing and selection guidelines approved by the Department of Community Development and Planning.

(6) Preference for City residents and persons employed within the City. Unless otherwise prohibited by a federal or state agency under a financing or other subsidy program, not less than seventy percent (70%) of the affordable units shall be initially offered to current residents of the City of Peabody who have resided in the City for a minimum of five (5) years, to persons employed within the City of Peabody for at least five (5) years, and persons who, although not currently residents of the City, have previously resided in the City of Peabody for a minimum of five (5) years.

4.11.5 Development standards.

- (1) Location of affordable units. Affordable units shall be dispersed throughout the development so as to ensure a true mix of market-rate and affordable housing.
- (2) Comparability. Affordable units shall be to the extent possible externally indistinguishable from market rate units in the same development. Affordable units should be comparable to market rate units in terms of location, quality, character, and room size.
- (3) Unit size. Except as otherwise authorized by the Department of Community Development, affordable units shall contain one or more bedrooms. The mix of unit sizes among the affordable units shall be proportionate to that of the development as a whole.
- (4) Rights and privileges. The owners or renters of affordable units shall have all rights, privileges and responsibilities accorded to market-rate owners or renters, including access to all non-fee amenities within the development.

4.11.6 Incentives

To facilitate the objectives of this Section, modifications to the dimensional or parking requirements in the applicable zoning district shall be permitted for projects subject to the requirements of this Section. The modifications shall be permitted as set forth below. The following incentives are available only for projects in which the affordable units are provided on-site.

- (1) In any R2 district: The minimum area of land required per lot shall be 5,000 square feet per two family dwelling unit.
- (2) In any R3 district: The maximum lot coverage may be increased to 30% from the currently allowed 20%. An area equal to twice the total area of the required affordable units may be exempted from the total square footage in calculations pertaining to the FAR. Twice the number of bedrooms in the affordable units may be exempted from the total number of bedrooms in calculations pertaining to land area required per bedroom.
- (3) In any R5 district: Developments may exempt twice the number of affordable dwelling units required by current zoning in Section 4.4.7 (a) and an equal number of additional market rate units when calculating the maximum number of dwelling units per acre. Concurrently, developments may exempt twice the number of affordable bedrooms required by current zoning in Section 4.4.7 (a) and an equal number of additional bedrooms when calculating the maximum number of bedrooms per acre.
- (4) In any R4 or BC district: The following requirements shall be substituted for the off-street parking space requirements listed in Section 6.1.2 (f).

Multifamily apartment or condominium complexes consisting of fifty (50) units or fewer, regardless of whether said units are contained within one (1) or more buildings or phases, shall provide a minimum of 2.0 spaces per unit inclusive of visitor parking. Multifamily apartment or condominium complexes consisting of greater than fifty (50) units shall provide a minimum of 1.8 spaces per unit inclusive of visitor parking.

4.11.7 Alternative Methods of Affordability

- (1) Section 4.11 mandates that affordable units shall be provided onsite. However, in certain exceptional circumstances the City Council may, at the formal written request of the developer, consider an alternative method of compliance. In granting such authorization, the City Council must find that the developer has

demonstrated that building the required affordable units on-site would create a significant hardship, or that such alternate method of compliance is in the best interests of the City. A significant hardship shall be defined as being of such significance that the property cannot physically accommodate the required affordable units and/or related requirements, such as height, setbacks, or parking. To have such a request considered, the burden of proof shall be on the developers, who must make full disclosure to the City Council of all relevant information. Approval of alternate methods of compliance shall be only for the methods described below in Section 4.11.7 paragraphs (2).

Except as set forth below, affordable units provided through an alternate method shall comply in all other respects with the requirements of this Ordinance. The incentives described in Section 4.11.6 are not available to development proposals in which the requirements of this Section are met using one of the following alternative methods of compliance.

(2) The following alternative methods of compliance, in order of preference by the City, may be considered by the City Council in rare, exceptional circumstances:

☐ **Off-site Location:** With authorization by the City Council as described above, affordable units may be constructed by the developer on an alternate site. The alternate site must be suitable for residential development and must be within the City of Peabody, and must add to the City's stock of affordable housing units. Off-site units shall be comparable in quality, size and type to the market rate units being created, and of a number no fewer than the number of units that would have otherwise been provided on-site. Affordable off-site units allowed by this Ordinance may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structure. Off-site units shall be subject to the same construction schedule as otherwise required if on-site as set forth in Section 4.11.8, Paragraph (3).

☐ **Cash Contribution:** With authorization by the City Council as described above, developers may make a cash payment to the City to be used only for the purposes of providing housing affordable to very-low and low-income households as defined by this Ordinance. Prior to the issuance of a final occupancy permit for any portion of the project the contribution shall be payable in full, or a written agreement approved by a majority of the City Council must be recorded.

For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the average market sales price for the market-rate units in the subject development and the purchase price affordable to a four-person low income household as defined by this Ordinance.

For rental units, the financial contribution for each affordable unit shall be equal to the difference between the average market rental price for the market-rate units in the subject development and the rent affordable to a four-person low-income household as defined by this Ordinance, calculated over a term of 10 years.

(3) Administration of funds. Funds donated to the City in accordance with the provisions outlined in M.G.L., Chapter 44, Section 53A, shall be restricted solely for the creation of affordable housing, located in the City of Peabody, and as defined by this ordinance. The funds shall be kept in a separate account by the City Treasurer. The City Treasurer Shall deposit the funds in a bank or invest the same in securities as are legal under the law of the Commonwealth of Massachusetts. Any interest earned shall be credited to and become part of the fund. Any moneys conveyed to the City in accordance with this Section 4.11.7, Paragraphs 2 and 3, shall be expended only with approval of the majority of the City Council.

4.11.8 Enforcement

(1) Legal restrictions. Affordable units shall be rented or sold subject to deed covenants, contractual agreements, and/or other mechanisms restricting the use and occupancy, rent levels and sales prices of such units to assure their affordability. All restrictive instruments shall be subject to review and approval by the Department of Community Development. All condominium documents and fees shall be subject to review and approval by the Department of Community Development and the City Solicitor.

(2) **Timing of commitments.** All contractual agreements with the City and other documents necessary to ensure compliance with this Section shall be executed prior to and as a condition of the issuance of any approval required to commence construction.

(3) **Timing of construction.** As a condition of the issuance of approval under this Section, the Department of Community Development may set a time schedule for the construction of both affordable and market-rate units. No Certificate of Occupancy shall be issued for any market-rate units in a development subject to the requirements of this Section until 25% of the affordable units required to be constructed have been issued a Certificate of Occupancy. No Certificate of Occupancy shall be issued to more than 50% of the market-rate units until 100% of the affordable units required to be constructed have obtained a Certificate of Occupancy.

4.11.9 Severability

In case any paragraph or part of this Section should be for any reason declared invalid or unconstitutional by any court of last resort, every other paragraph or part shall continue in full force and effect.

4.11.10 Reserved

**Town of Dennis
Incentive Zoning Provisions**

4.9 PROVISIONS TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING IN DENNIS

4.9.1. Purpose And Authority.

The purpose of Section 4.9 is to further the goal of encouraging various lot sizes and housing types for persons of various age and income levels in accordance with Massachusetts General Laws, Chapter 40A,

Section 9 which allows municipalities to adopt "incentive" ordinances for the creation of affordable year round housing, and for the purpose of:

- a.) helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price and,
- b.) maintaining a stable economy by preventing out-migration of residents who provide essential services.

The Planning Board is hereby designated the special permit granting authority for all Affordable Housing Development and Affordable Housing Apartment applications under this by-law, and shall have the power to hear and decide applications for special permits as provided by this section. The Planning Board may adopt regulations for carrying out its duties under this By-law. At least 25% of all housing units created under Section 4.9 shall be restricted as provided for under 4.9.4. At least 25% of the total number of bedrooms within any Affordable Housing Development shall be within said restricted housing units.

4.9.1.1 Project Approval Requirements. The Planning Board shall consider the following factors in determining whether to approve or deny a special permit under this By-law:

- (a) whether the applicant has conformed to the design standards of this By-law and will deliver the needed affordable units;
- (b) whether the proposed development site plan is designed in its site allocation, proportions, orientation, materials, landscaping and other features as to provide a stable and desirable character complementary and integral with the site's natural features; and
- (c) whether the development, density increase or relaxation of zoning standards has a material, detrimental effect on the character of the neighborhood or Town and is consistent with the performance standards of the Dennis Zoning By-law.

4.9.1.2 Definitions

Affordable Housing Development - A tract of land of more than 2 1/2 acres containing units of residential housing, of which at least 25% are encumbered by affordable housing deed restrictions.

Affordable Housing Apartment - A housing unit created under the provisions of Sections 4.9.3, 4.9.4 or 4.9.5, which is subject to an affordable housing restriction pursuant to Section 4.9.4.

Principal Residential Structure - The structure on any given lot in which the primary activity is residential use, which use is the principal use of the lot.

Dwelling Unit - A housing unit that contains kitchen facilities including a stove or oven, refrigerator, and sink, and a bathroom including a bath or shower.

4.9.2 Affordable Housing Developments

4.9.2.1 Density increases shall be allowed for Affordable Housing Developments as governed by Section 4.9.2, and any density increases shall be addressed in compliance with Sections 4.9.2.2.1 -

4.9.2.2.2 of the by-law.

4.9.2.2 Intensity of Use

4.9.2.2.1 The Planning Board shall have discretion to reduce or suspend the minimum area requirements otherwise applicable under Section 2.3.2 for an Affordable Housing Development, provided however that there must be at least 10,000 square feet for each bedroom created in an Affordable Housing Development.

4.9.2.2.2 The Planning Board shall have the discretion to permit a density of less than 10,000 square feet for each bedroom if the applicant can demonstrate to the satisfaction of the Planning Board and the Board of Health that the sewage disposal system servicing the development will result in nitrogen loading of less than five (5) parts per million.

4.9.2.3 Special Permit Requirements:

4.9.2.3.1 A minimum tract of two and one-half (2 1/2) acres shall be required.

4.9.2.3.2 A maximum of sixteen (16) dwelling units shall be allowed in any one building.

4.9.2.3.3 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1.3.2 where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the Affordable Housing Development.

4.9.2.3.4 The tract of land to be developed shall provide for front, rear and side vegetated buffers of 25 feet;

4.9.2.3.5 Where an applicant proposed to divide the tract of land that is the locus of a proposed Affordable Housing Development, the minimum lot size shall be ten-thousand (10,000) square feet. The Planning Board may, in its sole discretion, reduce the internal front and rear yard setback requirements of Section 2.3.2, provided however, that said setbacks shall be no less than ten (10) feet. The Affordable Housing Development must still comply with the setback requirements of Section 4.9.2.3.4 as if the tract of land was not subdivided.

4.9.2.3.6 The Affordable Housing Development must conform to all other requirements of the Zoning By-law. In the event that a provision of Section 4.9.2 conflicts with another provision of the By-law, the provisions of Section 4.9.2 shall control.

4.9.2.3.7 For multi-family buildings a properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers.

Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.

4.9.2.3.8 The second unit created, and every fourth unit created there-after shall be deemed restricted as permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.2.4 MUNICIPALLY SPONSORED HOUSING PROJECTS

4.9.2.4.1 GENERAL OBJECTIVES

This section is intended to allow the Dennis Board of Selectmen to act as a sponsor for public or public/private joint venture affordable housing projects which:

- a. encourages practical residential development in the reuse of existing structures;
- b. promotes in-fill (development of vacant lots in an otherwise built-up area) residential development opportunities;
- c. is compatible with the adjacent neighborhood;
- d. encourages development of economically priced housing and a variety of types of housing; and
- e. fosters flexibility and creativity in the creation of affordable housing.

4.9.2.4.2 MODIFIED PROCEDURES

A municipally sponsored housing project may be allowed upon issuance of a special permit and may be afforded the following exceptions:

- a. the minimum area per unit in Table 2.3.2 Intensity of Use shall not apply;
- b. Minimum Area of the Tract to be Developed under Section 4.9.2.3.1 may be less than 2 ½ acres;
- c. the maximum density of the Tract to be Developed may be greater than one bedroom per 10,000 sf of land area;
- d. the front, rear and side vegetated buffers may be less than 25 feet; and
- e. the minimum parking requirement may be less than 2 parking spaces per residential unit.

4.9.2.4.3 SPGA

The Planning Board shall be the Special Permit Granting Authority.

4.9.2.4.4 All units created shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4 of this by-law. In no case shall less than fifty percent of the units be affordable to households earning between 65% and 80% of the median income and the remainder of the units shall be affordable for people earning no more than 120% of the area's median income. All units created shall be for year-round housing.

4.9.3 Affordable Housing Apartment

4.9.3.1 For the purpose of promoting the development of affordable rental housing in Dennis, the Planning Board may by special permit allow the creation of Affordable Housing Apartments in residential and commercial zoning districts. Affordable Housing Apartments created under this bylaw shall be accessory to either an existing residential use or an existing commercial use. Affordable Housing Apartments shall be considered an "accessory use" to the principal use on the lot and shall be restricted so that Affordable Housing Apartments are never divided from the principal structure. Any lot containing an Affordable Housing Apartment shall be subject to a recorded restriction that shall restrict the lot owner's ability to convey interest in the Affordable Housing Apartment except leasehold estates for the term of the restriction.

4.9.3.2 An Affordable Housing Apartment must have the following minimum areas:

- studio 250 square feet
- one bedroom units 700 square feet
- two bedroom units 900 square feet
- three bedroom units 1,200 square feet
- four bedroom units 1,400 square feet

4.9.3.3 Special Permit Requirements

4.9.3.3.1 The Planning Board shall have the discretion to reduce the off-street parking requirements otherwise applicable under Section 3.1.3.2 where (1) the number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant demonstrates that the proposed parking is sufficient to address the parking needs of the Affordable Housing Development.

4.9.3.3.2 A properly screened area must be provided for storage of trash and recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be large enough to accommodate the storage of all garbage and refuse containers. Garbage and refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth surface of nonabsorbent material such as concrete or asphalt.

4.9.3.3.3 Only those basements with walk-out capabilities may be converted into living space and garage parking stalls may be converted into living space only if the applicant can

demonstrate an efficient and cost effective method for providing heat and other utilities to the unit to be created.

4.9.3.3.4 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.3.3.5 The second unit created, and every fourth unit created there-after shall be deed restricted as permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case shall less than twenty-five percent of the units be affordable. All units created shall be for year-round housing.

4.9.3.4 Affordable Housing Apartment Accessory to Residential Use

4.9.3.4.1 An Affordable Housing Apartment may be created by converting an existing accessory structure, or space within a Principal Residential Structure, to a dwelling unit. The following additional standards and conditions shall govern special permits issued under this subsection:

4.9.3.4.2 An Affordable Housing Apartment accessory to an existing residential use may only be created on lots on which there already exists a Principal Residential Structure, and may only be created within such Principal Residential Structure, or within an existing accessory structure, as that term is defined under Section 5 of the Zoning By-law. The structure in which an Affordable Housing Apartment is proposed must have been in existence, whether by permit or in fact, for at least five years prior to the filing of the special permit application.

4.9.3.4.3 An Affordable Housing Apartment accessory to a residential use shall not be allowed on lots of less than 20,000 sf.

4.9.3.4.4 The footprint of a Principal Residential Structure may not be expanded in order to accommodate an Affordable Housing Apartment.

4.9.3.4.5 For the purposes of 4.9.3.4, one unit shall be owner occupied on a year-round basis, except for bona fide temporary absences during which the unit is not rented.

4.9.3.5 Affordable Housing Apartments Accessory to Commercial Uses

An Affordable Housing Apartment may be created by converting an existing accessory structure, or space within an existing Principal Commercial Structure, to a dwelling unit. The following additional standards and conditions shall govern special permits issued under this sub-section:

4.9.3.5.1 No accessory residential uses shall be allowed within the Industrial District.

4.9.3.6 Conversion of Hotels and Motel to Affordable Housing Apartments

4.9.3.6.1 Affordable Housing Apartments may be created by converting an existing accessory structure, or space within and existing hotel or motel, into dwelling units. The following additional standards and conditions shall govern special permits issued under this section:

4.9.3.6.1.1 Units created through conversions shall not be less than 200 square feet not including areas not intended for human habitation such as areas of the basement, attic or garage. In order to promote the

mixture of housing units, the Planning Board may require up to 10% of the units in a Hotel/Motel conversion be two-bedroom units.

4.9.3.6.1.2 No existing building shall be expanded in order to accommodate Affordable Housing Apartments.

4.9.4 Affordable Housing Restrictions

4.9.4.1 As a condition to any special permit issued under Section 4.9, the applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to the Planning Board. The special permit shall not be exercised until the Planning Board records the Restriction in the Registry of Deeds.

4.9.4.2 At least 25% of the housing units created under Section 4.9.2, Affordable Housing Development, shall be subject to a Restriction and a Regulatory Agreement between the developer and the Town. The Restriction shall provide that units made available for ownership shall be made available at a cost including mortgage interest, principal, taxes, insurance and common charges not exceeding 30% of annual income for a household at or below 80% of Barnstable County median income, and shall be sold to households earning at or below 80% of the Barnstable County median income. The Restriction shall limit the re-sale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with Massachusetts Department of Housing and Community Development’s (“DHCD”) regulations and guidelines under Chapter 40B of the Massachusetts General Laws for qualification of housing units towards a Town’s subsidized housing inventory. The restriction shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.3 An Affordable Housing Apartment created under subsection 4.9.3 shall be subject to a Restriction, which shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.4 Notwithstanding subsection 4.9.4.2 and 4.9.4.3, maximum rents and sale price shall be governed by DHCD’s regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town’s subsidized housing inventory.

4.9.4.5 In addition to requirements of Section 4.9.4, it shall be a condition upon every special permit issued under this By-law that the applicant shall comply with any Massachusetts Department of Housing and Community Development (“DHCD”) regulations and guidelines for qualification of the housing units created under this By-law towards the Town’s subsidized housing inventory, including but not limited to the form of the affordable housing restriction and regulations concerning tenant selection and marketing, unit design standards, and income eligibility standards. The Restriction shall further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted housing unit towards the Town’s subsidized housing inventory.

4.9.4.6 In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the owner shall give written notice to the Dennis Housing Authority.

4.9.4.7 Current employees of the town of Dennis and residents of the town of Dennis shall have preference over non-residents in the selection of tenants and buyers of housing units subject to a restriction to the extent permitted by DHCD regulations and state or federal laws.

4.9.5 "AFFORDABLE" LOTS"

4.9.5.1 Lots of record as of the June 17, 2003 which do not satisfy minimum lot size requirements and which are not protected as nonconforming lots by law because they are in common ownership with adjoining lots may nevertheless be built upon by Special Permit from the Planning Board under the following conditions:

4.9.5.1.1 Each lot contains at least 10,000 square feet of land area and satisfies other applicable Board of Health requirements. Except that no lot located within a Zone II Water Recharge Area shall be built upon.

4.9.5.1.2 Each lot has safe and adequate access to a public or private way.

4.9.5.1.3 Each lot is similar in nature, i.e. size and shape to the lots immediately adjacent to and across the street from the lot to be separated.

4.9.5.1.4 Each lot may not be used for a structure larger than three bedrooms, and there must be a minimum of 5,000 square feet of land area for each bedroom.

4.9.5.1.5 The applicable front, side and rear setbacks shall be determined by establishing an average setback based upon the principal structures on the lots immediately adjacent to and across the street from the lot to be built upon as a separate lot.

4.9.5.1.6 Where two lots are held in common ownership, one of the two lots shall be deed restricted as permanently affordable, per the applicable standards in Section 4.9.4 of the Dennis Zoning Bylaw.

4.9.5.1.7 Where more than two lots are held in common ownership, the second, third and fifty percent of the remaining lots to be built upon under the special permit shall be deed restricted as permanently affordable (i.e. the fourth lot may be market rate, fifth shall be affordable, sixth market rate etc), per the applicable standards in Section 4.9.4 of the Dennis Zoning By-Law.

City	Population/ Total Housing Units	40B %	Date Bylaw Adopted	Threshold to Trigger Bylaw	% Affordable Required	Affordability Term	IZ Unit Design	IZ Target Income Categories	Developer Cost Offsets	In-Lieu of Alternatives*
Belmont	24,720/ 9,936	3	2003	In developments of seven or more units, the 7th housing unit and every 3rd unit thereafter; except that beginning with the 22nd unit, that 22nd unit and every 4th unit thereafter is affordable. Additional accessible units may be requested by ZBA, not to exceed 15% of total units.	15% of total development	Encourages long-term/ By-Law specifically states fair marketing and deed restriction requirements for affordable units	Comparable location, quality and character, room size, bedroom distribution, and external appearance.	Targets households earning at or below 80% of the median area income	None	Off-site development in suitable residential areas. Non- rental housing unit developers can pay cash payment equal to number of affordable units times the difference between market and affordable price for 80% median.

Dennis									
15,973/14,105	4.1	2002	In any development proposed under Special Permit as follows: developments with a tract of land over 2 and one-half acres, affordable housing apartments, conversions of existing accessory units or hotel/ motel units to residential units,	25% of total development	All units are restricted in perpetuity and must be year round housing units	All affordable units must comply with any Massachusetts Department of Housing and Community Development ("DHCD") regulations and guidelines for qualification of the housing units created under this By-law towards the Town's subsidized housing inventory, including unit design standards. Specific square footage requirements for affordable housing apartments.	Targets households at or below 80% of the median income. At least 50% percent of the units must be affordable to households earning between 65% and 80% of the median income and the remainder of the units are affordable for people earning no more than 120% of the area's median income.	Density bonus, off-street parking requirement reductions, minimum setback and lot size requirements, maximum of 16-units per building.	None

Duxbury	Groveland								
13,895/ 5,103	3.4	2003	In new subdivisions of 6 or more units or multiple-unit construction of 6 or more units	10% of total development	Long-term affordability/ Affordable Housing Restriction to meet LIP requirements	Compatible	Targets households earning at or below 80% median income	Mandatory	Developer may pay difference between median Duxbury home sale price and price of affordable home or equal number may be developed off-site
6,038/2,096	2.8	2004	In any residential or other development, including a cluster development, which results in the construction of new dwelling units, including new subdivisions or division of land into 4 or more lots; in new construction or rehab projects with a 4 or more unit net increase; or in any life care facility with 4 or more unit net increase per development****	Variable contingent upon sales price, but not less than 10% of a development	Long-term affordability/ Affordable Housing Restriction to meet LIP requirements	Indistinguishable except for the following provisions: affordable units with up to two bedrooms may have only one bathroom, affordable units with three bedrooms shall have at least 1.5 bathrooms, and affordable units with four bedrooms shall have at least two bathrooms. Specific interior square footage requirements.	Targets households earning at or below 80% median income	For projects resulting in a net increase of four (4) to nine (9) dwelling units, the applicant may choose to make a cash payment to the Local Housing Fund. Developers may petition to change interior finishes for affordable units.	For projects resulting in a net increase of four (4) to nine (9) dwelling units, the applicant may choose to make a cash payment to the Local Housing Fund. A fractional unit of 0.4 or more is considered a whole unit. If an equivalent fee-in-lieu-of payment is to be made the fee is a fractional proportional of the fee for a whole unit.

Ipswich		Peabody							
11,873/ 5,414	7.6	2002	In any Multi-Family Residential Development subject to Special Permit/ 2 or more single family detached or attached units in a RRA, RRB, or RRC	10% in Multi-Family Residential Developments of 10 or more units/ or 1 unit for developments under 10 units/ 10% in Single-Family Developments over 10 units/ or 1 unit for Single-Family Developments under 10 units	Long-term affordability or not less than 30 years / resale restrictions	Indistinguishable from market rate units except in size, interior finish, fixtures, and appliances	Targets household income/ Affordable units may not have less than two bedrooms	Decrease in affordable unit percentage from 10 to 5% if units are rented or sold to households at or below 50% median income/ Increase in affordable unit percentage from 10 to 15% if funding sources are provided to defray cost	For developments under 10 units, developer may pay \$10,000 per unit subject to Inflation adjustment by Planning Board/ or developer equal number may be developed off-site
47,039/ 18,838	9.7	2002	In developments of over 8 units (ownership or rental) in R2, R3, R4, R5, and BC Zoning Districts	15% of total development	In perpetuity/ Resale restrictions/ City Employee preference	Compatible	Targets households earning less than 30% of median, 30-50% of median income, and 50-80% median income	Increased density and reduced parking depending upon zoning district	Mandatory on-site/ Hardship clause granted only by City Council for off-site or cash-out per in difference between sale price and price affordable to low-income buyer.

Rockport	Salisbury								
7,767/ 3,652	4.5	1989	<p>Termed "Housing Balance" this section of the Zoning Bylaw is triggered upon issuance of all housing developments authorized by Special Permits</p>	10% of total development	Affordability of units shall be for at least thirty (30) years	No specific criteria given in Zoning Bylaw	Targets households earning at or below 80% median income	None	None
7,800/3,456	5.06	Proposed Spring 2005	<p>In developments of 3 or more new units in all subdivisions and multi-family housing developments. Redeveloped existing housing units not counted.</p>	10% of mixed-use developments, multi-family developments, and cluster subdivisions. 12 ½% of non-mixed use multi-family developments and conventional subdivisions.	In perpetuity/ Resale restrictions/ Town Employee and resident preference	Bedroom mix comparable; Indistinguishable except for interior finish, fixtures and appliances	Targets households earning at or below 80% median income	None	Off-site permitted. \$10,000 per unit for market rate units with sales price of \$300,000 or less; 3.5% of sales price for units selling for more than \$300,000. Maximum of \$21,000 per unit, subject to annual adjustment for changes in Salisbury median sales price of single-family homes.

Tewksbury									
27,266/ 10,125	4.4	2002	All developments on one or more contiguous parcels in a MFD or MFD/55****/ All Open Space Residential Design developments	15% for MFDs/ 10% for Open Space Residential Design developments	In perpetuity/ Resale restrictions/ Town Right of First Refusal	Compatible	Targets households earning at or below 80% median income	Increase in density from 6 to 7 per acre in MFD and MFD/55	Equivalent fee-in-lieu of payment to Town Trust Fund

*** Multiple-Family District/ Multiple-Family District in 55+ Developments

**** The Town of Groveland has a penalty clause in its Bylaw: "The intentional segmentation of projects designed to avoid the requirements of this bylaw (e.g. subdividing one large tract into two smaller tracts, each of which will contain fewer than 4 units or phasing a development such that each phase will contain fewer than 4 units) is expressly forbidden. Parcels held in common ownership as of the passage of this bylaw cannot later defeat the requirements of this regulation by segmenting the development."

This Comparison Chart was developed by the North Shore Housing Trust, Inc. with the Town of Salisbury Zoning Review Committee

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EXHIBIT B:

The Town of Action Affordable Housing Bylaw is attached separately.

Town of Andover Elderly Housing Bylaw

7.4. ELDERLY HOUSING

7.4.1. Purpose. The objectives of this section are to achieve the following public purposes:

1. To provide for the development and use of alternative housing and nursing care for the elderly in accordance with the Town's Master Plan.

2. To create home health care, housing and other supportive services for the elderly population outside of an institutional setting.

3. To encourage the preservation of open space.

4. To provide alternative housing for the elderly that cause relatively little demand on town services.

5. To preserve the town's residential character.

6. To provide such accommodations in a manner harmonious with the surrounding land uses while protecting natural resources and open space.

7. To provide housing which is affordable to the elderly population who are Andover Residents.

7.4.2. Applicability. The Planning Board may grant a special permit for elderly housing as described in Section 7.4.

1. This section shall not apply to assisted living residences existing on the date of adoption of this section.

7.4.3. Assisted Living Residences - Dimensional Requirements and Design Standards. Dimensional requirements and design standards shall be as follows:

1. *Minimum Lot Size.* An assisted living facility shall be permitted in a SRA and SRB District only within a single lot containing a total area of not less than 5 acres. In the MU District, the minimum lot size shall be 2 acres. There shall be no minimum lot size required for the GB District.

2. *Density.* The maximum allowable density shall be three thousand square feet of lot area per assisted living unit.

3. *Building Height.* Any addition or new construction shall not exceed thirty-five feet in height as measured in accordance with the State Building Code or three stories. This does not preclude the reuse and renovation of existing structures which may exceed this height limit.

4. *Building Coverage.* The maximum building coverage, including accessory buildings, shall not exceed thirty percent (30%) of the lot area for new construction or expansion of existing structures.

5. *Building Setbacks.* In the SRA and SRB Districts, buildings shall be set back a minimum of fifty feet from all property lines. In the MU District, the building setback will be twenty feet. Buildings in the GB District shall be setback as required in Section 4.1.4.2.b of this by-law.

6. *Setback from Residential Dwellings.* In the SRA and SRB Districts, all buildings associated with the assisted living facility shall be no closer than two hundred feet from existing residential dwellings; however, with respect to accessory structures not greater than three hundred square feet in said districts, the SPGA, in its discretion, may reduce said setback by an amount up to but not greater than one hundred feet if it determines that said structure will not adversely impact the use and enjoyment of the existing residential dwelling. In the MU and GB districts, the setback shall be fifty feet.

7. *Minimum Lot Frontage.* The minimum lot frontage shall conform to the requirements of the district where such use is located.

8. *Town Services.* Assisted living residences shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.

9. *Transportation Services.* The operator of the assisted living residence shall be required to provide or arrange for transportation to town services and facilities.

10. *Common Open Space:* In the SRA and SRB Districts, there shall be an area of common open space equal to at least thirty percent (30%) of the lot area. The common open space shall be retained in perpetuity for conservation or passive recreation use. No more than twenty-five percent (25%) of the minimum required open space shall be situated within wetlands. A permanent conservation restriction running to or enforceable by the town shall be recorded for the common open space area and shall include restrictions that the land be retained in perpetuity for conservation and/or passive recreation.

11. *Parking.* The minimum number of parking spaces provided on the lot shall be 0.4 parking space per assisted living unit plus one parking space per three employees during the largest shift. Up to twenty-five percent (25%) of the minimum number of required spaces may be allocated for compact cars in accordance with the design standards of Appendix A, Table 3 this by-law. The Planning Board, in its discretion, may require additional parking spaces to serve the needs of employees, visitors and service vehicles, such spaces to be provided in a "reserve parking area" which would not be built unless determined necessary by the Inspector of Buildings.

12. *Access and On-site Circulation.* Adequate on-site circulation shall be provided to and from the site, taking into consideration the adjacent sidewalks and streets and accessibility of the site and building(s) thereon for emergency vehicles. Adequate provision shall be made for off-street loading and unloading requirements of delivery vehicles and passengers using private transportation.

13. *Public Safety.* The facility shall also have an integrated emergency call, telephone and other communication system to provide monitoring for its residents. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Andover Fire Department for the emergency evacuation of residents with emphasis on ensuring the safety of residents with physical impairments.

14. *Landscaping.* Landscaping and screening is required to obscure visibility from beyond the boundaries of the premises of parking areas, dumpster locations and loading areas. In the SRA and SRB Districts, the minimum setback from all property lines of such parking lots, dumpster locations and loading areas except for their points of ingress and egress, shall be fifteen feet.

7.4.4. Assisted Living Residences - Affordability. Except as provided in Sections 7.4.4.6 and 7.4.4.10, fifteen percent (15%) of the total number of assisted living units shall be set aside as affordable housing units for elderly persons who qualify as low, moderate, or upper-moderate income persons as defined as follows:

Low income - below 60% of the Lawrence Standard Metropolitan Statistical Area (SMSA) median income based on Housing and Urban Development (HUD) figures ("median income").

Moderate income - 60-79% of median income.

Upper-moderate income - 80-100% of median income.

1. In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit. To the extent legally permissible, the affordable units shall be offered to eligible Andover residents before being offered to non-Andover eligible elderly persons.

2. Such affordable units may be rented, sold or otherwise provided to qualified elderly persons in accordance with income and asset limitations established by the authorizing state or federal agency in those instances where the affordable units benefit directly from such assistance, or in the absence thereof pursuant to the definitions of income and assets established for the Low-Income Housing Tax Credit program, or pursuant to the standards promulgated by the SPGA.

3. Affordable units shall be dispersed throughout the building(s) and shall be compatible with and generally comparable to the market-rate units in terms of location, quality and character.

4. Of the affordable units, the applicant shall set aside units representing all three income levels as follows: twenty percent (20%) shall serve low income persons, fifty percent (50%) shall serve moderate income persons and thirty percent (30%) shall serve upper-moderate income persons.

7. Affordability restrictions shall be embodied in applicable deed covenants, contractual agreements and/or other mechanisms to ensure compliance with this section.

8. All affordable units shall be maintained as affordable housing units for the life of the assisted living facility.

9. Prior to the issuance of any building permit for any units, a clearance certificate shall be required to be issued by the Planning Department indicating compliance with this subsection. No clearance certificate shall be issued for any units until (a) all documents necessary to ensure compliance with this subsection including, without limitation, the documents referred to in Section 7.4.4.7 have been executed and, if required, recorded at the Registry of Deeds and (b) any required cash or other contribution has been made to the town or its designee.

10. Nothing in this subsection shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups.

7.4.5. Assisted Living Residences - Accessory Uses. The operator of the assisted living facility may also provide optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the assisted living residence and the accessory uses shall be wholly within a residential structure and shall have no exterior advertising display.

7.4.6. Long-term Care Facilities - Dimensional Requirements and Design Standards.

1. *Building Coverage.* The maximum building coverage, including accessory buildings, shall not exceed thirty percent(30%) of the lot area for new construction or expansion of existing structures.

2. *Building Setbacks.* Buildings shall be set back a minimum of fifty feet from all property lines.

3. *Setback from Residential Dwellings.* All buildings associated with the long-term care facility shall be no closer than two hundred feet from existing residential dwellings.

4. *Minimum Lot Frontage.* The minimum lot frontage shall conform to the requirements of the district where such use is located.

5. *Town Services.* Long-term care facilities shall be serviced by public water and sewer of sufficient capacity to serve the project. Any extension and/or replacement of sewer and/or water lines necessary to provide sufficient capacity shall be the responsibility of the applicant.

7.4.7. Congregate Living Facilities - Dimensional Requirements and Design Standards. The provisions for assisted living residences, Sections 7.4.3 to 7.4.5 inclusive, shall apply.

7.4.8. Independent Living Residence - Dimensional Requirements and Design Standards.

1. The provisions of Section 7.6.2 for conversion of a one- or two- or more family dwelling, shall apply.

2. *Parking Requirements.* The provisions of Appendix A, Table 3, Section A.5.d shall apply.

7.4.9. Special Permit Procedure. The procedure for a special permit under this section shall be governed by Section 9.4.

EXHIBIT C:

The Planned Production Plan requirements and Adapting the Executive Order 418 Plan to a Planned Production Plan are attached under two separate files

EXHIBIT D:

Housing Resource Websites

Design

Affordable Housing Design Advisor www.designadvisor.org

Boston Architectural Center www.bac.org

Boston Society of Architects www.architects.org

Funding

Community Preservation Act www.communitypreservation.org

Federal Home Loan Bank www.fhlbboston.com

Massachusetts Housing Partnership www.mhp.net

Mass Housing www.masshousing.com

Massachusetts Department of Housing and Community Development www.mass.gov/dhcd

Community Teamwork, Inc. www.comteam.org

Education/ Advocacy

American Planning Association www.planning.org

Corporation for Supportive Housing www.csh.org

Knowledge Plex – The Affordable Housing and Community Development Resource for Professionals www.knowledgeplex.org

Local Initiative Support Corporation www.lisc.org/resources

National Housing Institute www.nhi.org

PBS Point of View – Flag Wars (an educational film about gentrification)
<http://www.pbs.org/pov/pov2003/flagwars/index.html>

Place Matters www.placematters.com

Smart Growth America www.smartgrowthamerica.com

U.S. Department of Housing and Urban Development - Policy Development and research Information Service www.huduser.org

Urban Land Institute www.uli.org

Citizens' Housing and Planning Association www.chapa.org

Greater Boston Fair Housing Center www.bostonfairhousing.org

Mass Resources www.massresources.org

Massachusetts Affordable Housing Alliance www.mahahome.org

Northeastern University Center for Urban and Regional Policy www.curp.neu.edu