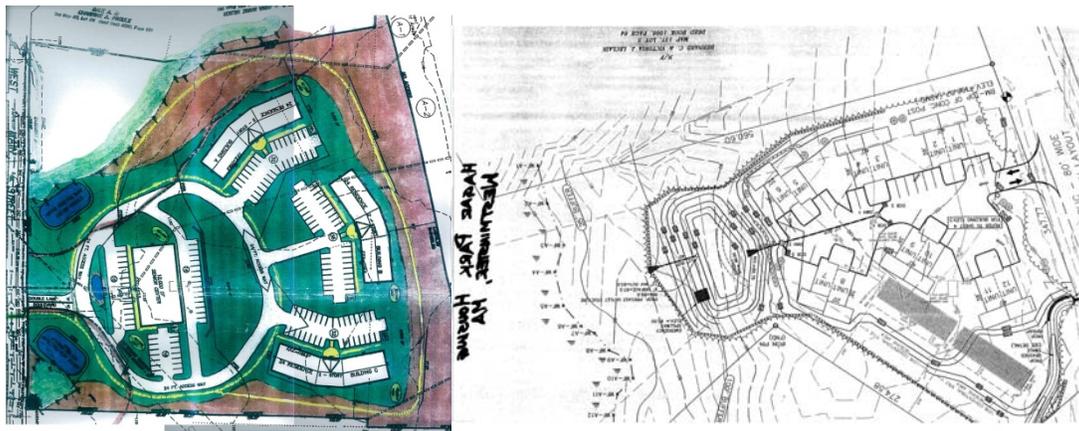


Town of Westminster Housing Production Plan 2011 Update



Submitted to MA Department of Housing and Community Development (DHCD)
in accordance with
DHCD's Housing Production Plan Regulations 760 CMR 56.03(4)



Prepared By:
Montachusett Regional Planning Commission
November 2011

Westminster Housing Production Plan – 2011 Update

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Westminster Housing Production Plan – 2011 Update

Prepared by Montachusett Regional Planning Commission (MRPC)

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Introduction

This Housing Production Plan is intended to serve as an update to the Town of Westminster's 2006 Planned Production Affordable Housing Plan. It is written in compliance with the guidelines and requirements for Housing Production Plans adopted by the Massachusetts Department of Housing and Community Development according to 760 CMR 56.03. Approval of this plan is valid for a period of five years.

The first section of the plan is a **Comprehensive Housing Needs Assessment**, which provides an analysis of current and future projected housing-related statistics. First, local and regional population and income statistics related to housing are presented. Next, growth projections on both a local and regional level are discussed. Then, the housing stock currently available in Westminster is summarized by type, age, size and affordability. Finally, developmental constraints and the capability of the existing infrastructure to support additional growth are analyzed.

The second section presents **Affordable Housing Goals**. It begins with a review of the current Housing Goals and Objectives, the Town's actions since adopting the 2006 Plan and provides the numerical goal for annual housing production.

The third section, **Implementation Strategies** discusses a variety of options available for accomplishing the goals and objectives of the Affordable Housing Goals section. Such strategies include investigating techniques to utilize existing housing units for both affordable homeownership and rental units, partnering with regional non-profit housing organizations, fostering the development of needed senior housing units and exploring various zoning initiatives, including an inclusionary housing zoning bylaw.

The final section, **Description of Use Restrictions**, provides a model deed restriction for affordable housing units that includes the time period covered by the deed restriction and how the future sale price will be calculated, along with a set of requirements that are to be included in the deed restriction in accordance with MGL Chapter 40B.

Section I: Comprehensive Housing Needs Assessment

A. Demographic Profile

Population

The Town of Westminster's population as of the 2010 Census was 7,277. This figure represents an increase of 5.36% (370 persons) over the 2000 population level. Table 1 provides this information for the Town of Westminster along with the population of surrounding communities in 2000 and 2010.

Table 1: Population of Westminster, Surrounding Communities, the Region and Massachusetts

	2000	2010	00-'10% Change
Westminster	6,907	7,277	5.36%
Ashburnham	5,546	6,081	9.65%
Fitchburg	39,102	40,318	3.11%
Gardner	20,770	20,228	-2.61%
Hubbardston	3,909	4,382	12.10%
Leominster	41,303	40,759	-1.32%
Princeton	3,353	3,413	1.79%
Montachusett Region	228,005	236,475	3.58%
Massachusetts	6,349,097	6,547,629	3.03%

Source: U.S. Census 2000 and 2010

As indicated in Table 1, the Town of Westminster grew at a faster rate than both the Montachusett Region and the Commonwealth of Massachusetts, as the latter two geographic areas grew in the 3% range.

Over the course of the past decade the Town of Westminster's senior population has been increasing at a much greater rate than the general population. The Westminster Council of Aging (COA) has provided figures of senior population levels (COA defines a senior resident who is 60 years old or older) within the Town from a period of 2006 to 2011 (see Table 2). Between 2006 and 2011, the growth of senior population was 17.63% over three (3) times the growth rate of the Town's entire population from 2000 to 2010.

Table 2: Town of Westminster Senior Population Trends							'06-'11
	2006	2007	2008	2009	2010	2011	%Change
60+ years	1,293	1,366	1,461	1,523	1,578	1,521	17.63%

Source: Westminster Council of Aging

A more detailed breakdown of the Town of Westminster's 2010 population by age is provided in Table 3. A review of the 2010 Census data of population by age compared to the 2000 Census reveals some findings consistent with the Westminster Council of Aging figures. Population of residents 65 years and over rose 10.89% over the past ten years. But for the population between 60-64 years of age there was an increase of 159.71% (In 2000 this age bracket had only 206 persons which has more than doubled to 535).

The number of children under 18 years of age decreased by 133 between 2000 (1,850) and 2010 (1,717). All age groups under 45 years of age decreased between 2000 and 2010, except between ages 15-19 (increase of 9.58%) and 20-24 (increase of 35.57%), a likely reflection of the baby boom echo. Overall the Town's Median Age increased from 38.6 to 42.8 over the past 10 years. The Town of Westminster's population is a bit older comparing the Town's median age to the State's median age (39.1 years) and Worcester County's median age (40.1 years). These demographic trends play an important role in determining the housing needs for the community.

Table 3: Population Characteristic by Age

Subject	Number	Percent
SEX AND AGE		
Total population	7,277	100.0%
Under 5 years	319	4.4%
5 to 19 years	1,583	21.8%
20 to 34 years	962	13.2%
35 to 44 years	1,036	14.2%
45 to 54 years	1,372	18.9%
55 to 64 years	1,170	16.1%
65 to 79 years	601	8.3%
80 years and over	234	3.2%
Median age (years)	42.8	(X)
16 years and over	5,808	79.8%
18 years and over	5,560	76.4%
21 years and over	5,283	72.6%
62 years and over	1,135	15.6%
65 years and over	835	11.5%

Source: U.S. Census 2010

Table 4 shows the Town of Westminster's 2010 demographic profile by ethnicity, along with the surrounding communities. The population ethnic makeup of Westminster is more similar to the smaller towns of Ashburnham, Hubbardston and Princeton than the three (3) cities of Fitchburg, Gardner and Leominster. A review of Westminster's ethnic make-up from the 2000 Census compared to the 2010 data shows some growth in the Hispanic and Black populations, but no significant differences in the overall make-up of the community.

Table 4: 2010 Population Characteristics by Ethnicity

	2010 Population	White	Black/African American	Asian	Hispanic / Latino	% White	% Black	% Asian	% Hispanic
Westminster	7,277	7,007	65	73	193	96.29%	0.89%	1.00%	2.65%
Ashburnham	6,081	5,809	59	71	155	95.53%	0.97%	1.17%	2.55%
Fitchburg	40,318	31,529	2,049	1,465	8,727	78.20%	5.08%	3.63%	21.65%
Gardner	20,228	18,496	568	293	1,430	91.44%	2.81%	1.45%	7.07%
Hubbardston	4,382	4,270	26	21	63	97.44%	0.59%	0.48%	1.44%
Leominster	40,759	34,175	2,060	1,124	5,900	83.85%	5.05%	2.76%	14.48%
Princeton	3,413	3,318	16	40	49	97.22%	0.47%	1.17%	1.44%

Source: U.S. Census 2010

Income

Income characteristics in the Town of Westminster are presented in Table 5 below, based on 2010 forecasts provided by ESRI (Environmental Systems Research Institute, Inc.). Please note that income data for the U.S. 2010 Census was not yet available as of the publication date of this Plan. The median household income for Westminster was estimated at \$71,712. A large majority of households (66.96%) earned between \$50,000 and \$150,000 annually. 4.82% of households earned under \$15,000 per year and only 2.56% earned over \$200,000 per year.

Table 5: Household Income in 2010		
	2010	
Households	Number	Percent
<\$15,000	132	4.82%
\$15,000 - \$24,999	135	4.93%
\$25,000 - \$34,999	140	5.12%
\$35,000 - \$49,999	309	11.29%
\$50,000 - \$74,999	723	26.43%
\$75,000 - \$99,999	429	15.68%
\$100,000 - \$149,999	680	24.85%
\$150,000 - \$199,999	118	4.31%
\$200,000 +	70	2.56%
Total Households	2736	100%
Median Household Income	\$71,712	

Source: ESRI forecasts for 2010

The Town of Westminster's 2010 Median Household Income is compared with the surrounding communities in Table 6 below.

Table 6: 2010 Median Household Income – Westminster and Surrounding Communities

Community	2010 Median Household Income
Westminster	\$71,712
Ashburnham	\$70,813
Fitchburg	\$50,776
Gardner	\$51,098
Hubbardston	\$83,671
Leominster	\$59,410
Princeton	\$100,499

Source: ESRI forecasts for 2010

B. Growth Projections

Population Growth Projections

Table 7 presents projected population for the Town of Westminster and the Region according to the 2007 Montachusett Regional Transportation Plan (RTP).

Population forecasts begin with the latest estimates and forecasts from the U.S. Census. Census forecasts extend only to 2030 so, in affect, the 2035 forecast is based upon population growth between 2020 and 2030. The long term trend shows that the state has entered a period of slow population growth; the current economic recession is a contributing factor. Westminster's population is projected to increase to

7,570 in 2017, which is the closest projection available during the 5-year period that this Housing Production Plan will cover. The figure of 7,570 represents an increase of 293 persons to the recorded 2010 population (representing a further increase of 4%).

	2017 AQD	2020	2025	2030	2035 AQD
Westminster	7,570	7,630	7,760	7,880	8,000
Montachusett Region	246,000	248,000	252,000	256,000	260,000
AQD - Air Quality Determination (Year)					

Source: 2007 Montachusett Regional Transportation Plan

Household Forecast

Household forecast to 2035 are based on U.S. Census data beginning from 1970 and are based on changes in group quarters¹ population, population in households and average household size. These forecasts also come from the 2007 RTP. The trend of decreasing household size is expected to continue, but not at the dramatic rates experienced between 1970 through 2000. The trend will be tempered by the 2008 Massachusetts average household size of 2.53 (Source: American Community Survey) which is an increase from 2.51 in the 2000 U.S. Census. This has occurred as a result of factors such as instability in the housing market and the current recession. The percentage of group quarters population to total population is forecasted to remain unchanged to 2035 and will be held constant to year 2000 levels. The 2000 Census ratio of each municipality's group quarters population to each municipality's total population is used for the forecast years.

The forecasted slowing growth in the number of households in the MRPC region reflects the forecasted slowing overall population growth. Over the next 25-years the number of households is expected to grow from 92,500 to 102,600 which is a net increase of approximately 10,100 households, an increase of about 11% over the 2010 number of households for an average annual growth rate (AAGR) of about 0.41%.

Westminster's projections show a projected growth in number of households to 2,800 in 2017 (based on projected average household size of 2.70 and the projected population figure of 7,570). As indicated in Table 12 on page 8, there were 2,716 households as of the 2010 census. Thus the projected growth in the number of households by 2017 is projected at 84 new households, representing a 3% increase over the 2010 level.

C. Housing Stock

Housing Units Inventory

Table 8 provides status of housing units within the Town of Westminster as of the 2010 census. In 2010 there were a total of 2,960 housing units within the Town of Westminster. Occupied housing units make up almost 92% (2,716) of the total housing stock. Of the occupied housing units, 86.2% are owner-occupied housing units (2,342) with 13.8% renter-occupied (374). The average household size of

¹ Group Quarters have been defined by the U.S. Census as population including all people not living in households. Two general categories of people in group quarters are recognized: (1) the institutionalized population and (2) the non institutionalized population.

owner-occupied units is larger at 2.75 persons per unit (ppu) than the average household size of renter-occupied units (2.23 ppu).

Table 8: 2010 HOUSING OCCUPANCY		
	Number	Percent
Total housing units	2,960	100.0%
Occupied housing units	2,716	91.8%
Vacant housing units	244	8.2%
For rent	22	0.7%
Rented, not occupied	2	0.1%
For sale only	33	1.1%
Sold, not occupied	19	0.6%
For seasonal, recreational, or occasional use	134	4.5%
All other vacant units	34	1.1%
Homeowner vacancy rate (percent)	1.4%	
Rental vacancy rate (percent)	5.5%	
HOUSING TENURE		
	Number	Percent
Occupied housing units	2,716	100.0%
Owner-occupied housing units	2,342	86.2%
Population in owner-occupied housing units	6,443	
Average household size of owner-occupied units	2.75	
Renter-occupied housing units	374	13.8%
Population in renter-occupied housing units	834	
Average household size of renter-occupied units	2.23	

The growth of housing units in the Town of Westminster and surrounding communities during the decade of the 2000s is reflected in Table 9 below. Westminster’s housing stock grew by almost 10% from 2000-2010. Only Hubbardston (22.21%) and Ashburnham (17.92%) had their total housing unit stock grow faster than Westminster of all the surrounding communities.

Table 9: Westminster and Surrounding Communities 2000 and 2010 Housing Unit Summary

Community	2000 Housing Units				2010 Housing Units				
	Occupied	Vacant	Total	'00 Vacancy %	Occupied	Vacant	Total	'10 Vacancy %	%00-10 change
Westminster	2,529	165	2,694	6.12%	2,716	244	2,960	8.24%	9.87%
Ashburnham	1,929	275	2,204	12.48%	2,148	451	2,599	17.35%	17.92%
Fitchburg	14,943	1,059	16,002	6.62%	15,165	1,952	17,117	11.40%	6.97%
Gardner	8,282	556	8,838	6.29%	8,224	902	9,126	9.88%	3.26%
Leominster	16,491	485	16,976	2.86%	16,767	1,106	17,873	6.19%	5.28%
Hubbardston	1,308	52	1,360	3.82%	1,566	96	1,662	5.78%	22.21%
Princeton	n/a	n/a	n/a	n/a	1,279	60	1,339	4.48%	N/A

Source: U.S. Census 2000 and 2010

A comparison of the 2010 vacancy rate versus the rate in 2000 indicates that the vacancy rate has increased across the Region in recent years a product of the recession and the housing boom turning to bust. The Town of Westminster’s vacancy rate jumped from 6.12% to 8.24% over this ten-year timeframe with about 80 more vacant units.

Types of Housing Units

For details on the types of housing units the most current information available beyond the 2000 Census is the American Community Survey (ACS) 5-year estimates for the period between 2005 and 2009². Note that the ACS estimates had a total of 2,632 housing units for the Town of Westminster which is 328 less than the 2,960 total housing units recorded by the 2010 census, as indicated in Table 10 below. One reason for this lower number may be found in the subsequent table (Table 11 on Page 8), which ACS data indicates only 33 new housing units were constructed from period between 2005 and 2009 whereas building permit data over the period from 2005-2010 indicates 111 new housing units constructed. A vast majority of Westminster's housing units (86.9%) are detached single-family units (2,288). The second highest category of unit types is duplex units of which there are 119 such units, which makes up 4.5% of the Town's housing stock.

Table 10: Types of Housing Units in Westminster, 2005-2009 ACS 5-Year Estimates		
Selected Housing Characteristics	Estimate ³	Percent
UNITS IN STRUCTURE		
Total housing units	2,632	100%
1-unit, detached	2,288	86.90%
1-unit, attached	52	2.00%
2 units	119	4.50%
3 or 4 units	74	2.80%
5 to 9 units	45	1.70%
10 to 19 units	0	0.00%
20 or more units	54	2.10%
Mobile home	0	0.00%
Boat, RV, van, etc.	0	0.00%

The age of Westminster's Housing Stock, based on the ACS 5-year estimates from 2005-2009 is presented in Table 11. The impact of the housing boom of the 2000s is shown in that 7.8% of the Town's housing stock is based on construction from 2000 and later (see above for why this number is actually higher). Although the Town actually had a greater boom in the 1990s. Of the total housing stock, over a quarter of the Town's housing units consists of housing built prior to 1950 (27.4% or 723 units) and note that 42% of the Town's housing stock is 50 years old or older.

The average household size in Westminster is 2.68 persons per unit as of 2010. It is interesting to note, however, that the average household size of owner-occupied units in Westminster is 2.75 compared to

² The American Community Survey (ACS) is a division of the U.S. Census Bureau and is an ongoing survey that provides data every year -- giving communities the current information they need to plan investments and services. Information from the survey generates data that help determine how more than \$400 billion in federal and state funds are distributed each year.

³ Estimates provided by ACS data are based on a 90 percent confidence level. Source:

http://www.factfinder.census.gov/home/saff/main.html?_lang=en

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2.23 for renter-occupied units. Owner-occupied units tend to have larger number of bedrooms and, subsequently, more occupants, than renter-occupied units.

Table 11: Age of Housing Units in Westminster, 2005-2009 ACS 5-Year Estimates

Selected Housing Characteristics	Estimate	Percent
YEAR STRUCTURE BUILT		
Total housing units	2,632	2,632
Built 2005 or later	33	1.30%
Built 2000 to 2004	172	6.50%
Built 1990 to 1999	357	13.60%
Built 1980 to 1989	216	8.20%
Built 1970 to 1979	491	18.70%
Built 1960 to 1969	225	8.50%
Built 1950 to 1959	415	15.80%
Built 1940 to 1949	227	8.60%
Built 1939 or earlier	496	18.80%

Table 12 provides the 2010 Census data for the Town of Westminster with households by type. Westminster's 2,716 households are clearly a majority of households with families (75.4%) with about a quarter of nonfamily households. Of these family households, 1,740 (64.1%) had children under 18, and 1,693 (62.3%) were married couples.

Of the non-family households, 511 (18.8%) were living alone. Of these residents who were living alone 180 were 65 years and over (both male and female) as of the 2010 Census. Overall there were 600 households (22.1%) with households with individuals 65 years of older.

Table: 12 Households By Type	Number	Percent
Total households	2,716	100.0%
Family households (families)	2,047	75.4%
With own children under 18 years	879	32.4%
Husband-wife family	1,693	62.3%
With own children under 18 years	697	25.7%
Male householder, no wife present	123	4.5%
With own children under 18 years	59	2.2%
Female householder, no husband present	231	8.5%
With own children under 18 years	123	4.5%
Nonfamily households	669	24.6%
Householder living alone	511	18.8%
Male	242	8.9%
65 years and over	59	2.2%
Female	269	9.9%
65 years and over	121	4.5%
Households with individuals under 18 years	941	34.6%
Households with individuals 65 years and over	600	22.1%
Average household size	2.68	(X)
Average family size	3.08	(X)

Current Development Trends

The Westminster Building Department has provided figures of building permits issued for new single-family and two-family housing units covered by the period since the preparation of the initial Westminster Housing Production Plan prepared in 2005. As indicated in Table 13, Westminster issued 40 new residential unit building permits in 2005 at the height of the 2000's housing boom. Issuance of new residential unit building permits dropped rapidly over the next several years, to 10 units in 2008 down 75% from the 2005 figure. In both 2009 and 2010 the number of new residential units was 9 in each year. Overall 111 new residential housing units have been built over this six year period. As noted earlier this is a significant difference from the 33 housing units constructed from a five-year period 2005-2009 based on the ACS estimates.

Year	Single-Family	Two-Family	Total
2005	39	1	40
2006	21	2	23
2007	20	0	20
2008	10	0	10
2009	8	1	9
2010	9	0	9

Source: Westminster Building Department

The housing downturn has not only led to decrease of new building activity, but it has led to increased rate of foreclosures across the Country, including the Commonwealth of Massachusetts and the Montachusett Region

MRPC, with assistance from Jim Campen, a Cambridge, MA-based consultant, prepared a report in March 2007 entitled "*Foreclosures, Bankruptcies, Subprime Lending: Montachusett Region*", just as the housing bubble had burst. For the Town of Westminster, this Report indicated that the Town of Westminster had 7 foreclosures in 2005. In this same year there were 397 foreclosures across the Montachusett Region. The report also provided statistics of the number of foreclosure starts⁴ from a 3-year period consisting from 2003-2005. The Town of Westminster had a fairly consistent number of foreclosure starts over this 3-year period: 11 in 2003, 10 in 2004 and 13 in 2005. Meanwhile across the Montachusett Region the number of foreclosure starts jumped 122% between 2003 and 2005 from 264 foreclosure starts up to 585.

MRPC has also obtained Banker and Trademan's foreclosure data which has data available from 2007- to 2010. As indicated in Table 14 below, over this 4-year period, Westminster's annual foreclosures rose from 5 in 2007 to 17 in 2010 (a 240% increase). Meanwhile across the Region, in 2007 annual foreclosures were about 400, but spiked to 907 in 2010.

Table 14: Foreclosure Statistics 2007 – 2010: Westminster and the Region

	2007	2008	2009	2010
Westminster	5	10	14	17
Regional Totals	397	701	532	907

Source: The Warren Group

⁴ A Foreclosure Start signifies that a notice to foreclose upon the property does not necessarily indicate that the foreclosure actually occurred. Foreclosure indicates that the property has actually been foreclosed upon.

This data about Westminster compares to foreclosure figures that were released in a report released in July 2010 by the Mass. Housing Partnership (MHP) entitled “*Foreclosures rippling into new neighborhoods*” which indicated a number of Montachusett Region communities have been especially “hard-hit” by the housing crisis. Their zip code analysis of distressed units indicates that Templeton (01468) is #1 in the State and Fitchburg (01420) is ranked #19. When ranked by municipality, five (5) communities within the Montachusett Region fall within the Top 10 statewide of distressed units, based on number of distressed units per 1,000 housing units. Previous studies had indicated that the more urban communities like Fitchburg/Leominster were being the hardest hit, but the MHP Study shows that more rural communities like Ashburnham, Templeton and Winchendon are being impacted by the economic downturn and housing crisis. Each of these three latter communities falls within the Top 10 communities of distressed units when ranked by municipality. The foreclosure data shows that Town of Westminster has been more fortunate than some of the surrounding and neighboring communities within the Montachusett Region.

Affordable Housing Stock – Affordable Housing and Chapter 40B Subsidized Housing Unit Inventory

What is affordable housing and why should the issue of housing affordability be so important to local officials and residents of a community? The generally accepted definition of affordable housing is that housing is considered affordable when “a household pays no more than 30% of its annual income for rent or mortgage”. Multiple sources and organizations agree upon this definition. Some of these include the American Planning Association, Massachusetts Department of Housing and Community Development (DHCD), The Greater Boston Housing Report Card, 2003 (Bonnie Heudorfer, Housing Specialist, Northeastern University, April 2004), and the Citizens’ Housing and Planning Association (CHAPA).

MGL Chapter 40B Definition of Households Meeting Affordable Housing Requirements

The State statute concerning affordable housing development (MGL Ch. 40B, Sections 20-23) cites that affordably-produced and priced homes must be available to households where the incomes do not exceed 80% of the median household income for the region in which the community is located. In Westminster’s case, the community is located within the Fitchburg-Leominster PMSA (Primary Metropolitan Statistical Area). As of June 2011, median household incomes for family sizes ranging from 1 to 8 persons are as follows in Table 15 below:

Table 15: Moderate-Income Limits by Household Size (June 2011)

HOUSEHOLD SIZE	80% OF MEDIAN INCOME
1	\$44,950
2	\$51,400
3	\$57,800
4	\$64,200
5	\$69,350
6	\$74,500
7	\$79,650
8	\$84,750

Source: U.S. Department of Housing and Urban Development (HUD)

For the purposes of Chapter 40B, affordable housing is generally defined as housing units that are:

1. Subsidized by an eligible state or federal program.
2. Subject to a long-term deed restriction limiting occupancy to income eligible households for a specified period of time (at least 30 years or longer for newly created affordable units, and at least 15 years for rehabilitated units).
3. Subject to an Affirmative Fair Marketing Plan.⁵

The Chapter 40B threshold for affordable housing is that every community must have 10% of their housing to meet the 80% median household income figure discussed above. If a Town or City does not have 10% of their year-round housing units on the State's affordable housing inventory, then a developer can file a plan under the provision of MGL Chapter 40B that can have greater density allowed under the Town's zoning bylaw and if the application is denied by the Zoning Board of Appeals, the developer can appeal to the Massachusetts Housing Appeals Committee.

Thirty-eight (38) communities in Massachusetts have met the 10% threshold, based on the updated Subsidized Housing Inventory (SHI) released by DHCD in June 2011, which has now been updated to include 2010 year-round housing units. This amounts to 10.8% of all municipalities across the Commonwealth having achieved this requirement.

Given that only approximately 11% of all Massachusetts communities have achieved the 10% 40B threshold, in 2003 DHCD developed the Housing Production Plan (HPP) Program, through changes to the Chapter 40B Regulations. According to DHCD, by taking a proactive approach in the adoption of a HPP, cities and towns are much more likely to achieve both their affordable housing and community planning goals. HPPs give communities that are under the 10% threshold of Chapter 40B, but are making steady progress in producing affordable housing on an annual basis, more control over comprehensive permit applications for a specified period of time.

If a community has a DHCD approved HPP and is granted certification of compliance⁶ with the plan by DHCD, a decision by the Zoning Board of Appeals (ZBA) relative to a comprehensive permit application will be deemed "consistent with local needs" under MGL Chapter 40B. "Consistent with local needs" means the ZBA's decision will be upheld by the Housing Appeals Committee.

The Town of Westminster currently has 86 units of affordable housing according to the Massachusetts Department of Housing and Community Development (DHCD) in July 2011. This Subsidized Housing Unit Inventory (SHI) is presented in Table 16 on the following page.

The Chapter 40B inventory maintained by DHCD (which was recently revised to include data based on the 2010 Census) classifies 86 housing units in Westminster as subsidized out of a total of 2,826 year-round housing units. Currently, the Town of Westminster would need a total of 283 subsidized housing units (meaning the construction of an additional 197 units) to reach 10% and this assumes no increase in the number of market rate housing units.

One of the 40B projects on the SHI provided by DHCD is Mountain View Estates, which is listed as having zero units because the project was never constructed. According to the Westminster Planning

⁵ The Commonwealth of Massachusetts' Affirmative Fair Housing Marketing Plan Guidelines have been provided as Appendix A to this Housing Production Plan. The Guidelines also contain the current State requirements for local preference.

⁶ More on the certification process and the housing units required to be produced annually by the Town of Westminster is found in Section II, Affordable Housing Goals under Subsection C, Numerical Goals.

Board, this 40B project off East Road will not be moving forward as originally permitted and the Westminster Open Space Committee is trying to get the back acreage to become under permanent land protection status.

Table 16: Town of Westminster Chapter 40B Subsidized Housing Unit Inventory

Project Name	Address	Type	Total SHI Units	Expire Date	Comp Permit?	Subsidizing Agency
The Meadows at West Hill		Ownership	45	Perp	No	DHCD
Wellington Elderly Housing	South Street	Rental	30	2020	Yes	Rural Housing Service (RHS)
DMR Group Homes	Confidential	Rental	11	N/A	No	DMR
Westminster Totals			86			
Census 2010 Year Round Housing Units			2,826			
Percent Subsidized			3.04%			

Source: MA Department of Housing and Community Development, July 2011

Given that the Town is well below the 10% threshold specified in 40B, the Town has been participating in DHCD's Housing Production Plan (HPP) Program as a proactive attempt to remedy its affordable housing deficiency. This document represents the third iteration of the Town's Housing Production strategy (The initial version 2005, the 2006 updated version approved by DHCD and this 2011 update.).

A review of the Town's SHI indicated that the subsidy for the Wellington Elderly Housing project through the USDA Rural Housing Service (RHS) expires in 2020. An Action Item has been included in the Implementation Strategies Chapter for the Town to annual review the expiration dates of units on the Town's SHI. For the Wellington project, the Town will need to communicate with the property owner what their intension may be in terms of renewing the RHS subsidy near the end of the five-year period covered by this HPP (2012-2016).

Home Values

Table 17 on the next page shows the number of single family homes and condominiums sold from the period between 2000 and 2010 as well as the median sales price of each housing unit type. From 2000 to 2005 the average sales price rose 86.31%, but since that time with the housing market crash the average price has returned down to near 2001 levels. It is an interesting correlation that 2005 was also the high point in recent years of the number of annual new building permits.

Table 17: Single Family and Condominium Units Sold and Median Sales Price

Year	Single Family Homes		Condominiums	
	Number	Price	Number	Price
2010	67	\$210,000	4	\$159,500
2009	61	\$218,000	4	\$154,950
2008	54	\$224,500	6	\$180,000
2007	69	\$285,000	9	\$163,000
2006	73	\$285,000	8	\$170,000
2005	95	\$298,000	11	\$188,000
2004	97	\$280,000	3	\$175,000
2003	96	\$248,500	10	\$165,500
2002	84	\$214,500	6	\$144,000
2001	67	\$208,500	8	\$130,250
2000	92	\$159,950	10	\$117,400

Source: The Warren Group, 2011

Housing Costs and Affordability Information

Detailed housing costs information is not available from the 2010 Census data at this point, but is available from the ACS 2005-2009 5-year estimates. Table 18 shows selected monthly owner costs for those Westminster housing units with a mortgage. Table 20 on the following page shows the range of rent prices paid by Westminster’s resident. The median rent value is \$1,073.

Table 18: Selected Monthly Owner Costs (SMOC): Housing Units with a Mortgage		
	Estimate	Percent
Housing units with a mortgage	1,682	N / A
Less than \$300	14	0.80%
\$300 to \$499	36	2.10%
\$500 to \$699	0	0.00%
\$700 to \$999	82	4.90%
\$1,000 to \$1,499	400	23.80%
\$1,500 to \$1,999	500	29.70%
\$2,000 or more	650	38.60%
Median (dollars)	1,843	(X)

Source: ACS 2005-2009 Five-Year Estimates

Table 19 on the next page indicates that over 1/3 of Westminster’s residents (38.2%) who own a home and have a mortgage are paying more than 30% of their income towards monthly mortgage payments and other selected housing costs. Housing is generally considered affordable when it requires 30% or less of its occupants’ income. Table 21, also on the following page, shows similar information for renters, which indicates that only 13.2% of such residents are paying more than 30%.

Table 19: Selected Monthly Owner Costs As A Percentage Of Household Income (SMOCAPI)	Estimate	Percent
Housing units with a mortgage (excluding units where SMOCAPI cannot be computed)	1,682	N/A
Less than 20.0 percent	452	26.90%
20.0 to 24.9 percent	371	22.10%
25.0 to 29.9 percent	216	12.80%
30.0 to 34.9 percent	178	10.60%
35.0 percent or more	465	27.60%

Source: ACS 2005-2009 Five-Year Estimates

Table 20: Gross Rent	Estimate	Percent
Occupied units paying rent	325	N/A
Less than \$200	0	0.00%
\$200 to \$299	15	4.60%
\$300 to \$499	25	7.70%
\$500 to \$749	24	7.40%
\$750 to \$999	58	17.80%
\$1,000 to \$1,499	188	57.80%
\$1,500 or more	15	4.60%
Median (dollars)	\$1,073	(X)

Source: ACS 2005-2009 Five-Year Estimates

Table 21: Gross Rent As A Percentage Of Household Income (GRAPI)	Estimate	Percent
Occupied units paying rent (excluding units where GRAPI cannot be computed)	325	N/A
Less than 15.0 percent	21	6.50%
15.0 to 19.9 percent	118	36.30%
20.0 to 24.9 percent	107	32.90%
25.0 to 29.9 percent	36	11.10%
30.0 to 34.9 percent	31	9.50%
35.0 percent or more	12	3.70%

Source: ACS 2005-2009 Five-Year Estimates

The Supply-Demand Housing Gap

MRPC Staff obtained MLS (Multiple Listing Service) data for the Town of Westminster in May 2011. For the period of May 7, 2010 to May 6, 2011 a total of 45 single-family homes were sold in the Town of Westminster. A Westminster family with the estimated 2010 median family income provided by ESRI of \$71,712 can afford a single-family home of \$222,389. Assuming 3% down (\$6,672) and a mortgage loan amount of \$220,571 at 6.0% interest over 30 years results in a monthly payment of \$1,735⁷. This equals an annual cost of \$20,820, just within 30% of the median family income

⁷ Mortgage info provided by Ginnie Mae's mortgage calculator, based on a FHA Regular Mortgage, at www.ginniemae.gov.
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(\$21,513.60). As indicated in Table 16, the median monthly housing costs for Westminster residents who own their home and have a mortgage was estimated to be at \$1,843.

However, of the 45 single-family homes sold between May 2010 and May 2011, as indicated above, only 18 such homes were available at an affordability level that a household at the Median Income could afford.

Meanwhile, the income level for any housing unit to qualify for MGL Chapter 40B Subsidized Housing Inventory would be at a minimum of 80% of the Median Income. That value, based on the HUD's 2011 income data for a family of 4, would be \$64,200. Using the same mortgage terms as noted above, a family making 80% median income would be able to qualify for a single-family home that costs no more than \$199,094. Only 14 such single-family homes were sold with a selling price of less than \$199,094. The monthly income payment for the 80% income household would be \$1,553.

For rental units, the Median Monthly Rental Unit price of \$1,073 equals a yearly housing cost of \$12,876. Such housing would be affordable to a household earning \$42,750 which is below the 60% median income value as noted above. A review of the ACS data indicated that only 13.2% of renters are paying more than 30% of their income towards housing.

Fair Market Rents (FMR) are calculated annually for the Town of Westminster (which is part of the Fitchburg-Leominster HMFA). A two-bedroom apartment FMR apartment for FY 2011 is calculated to be at \$1,012 (which is pretty close to the Median Monthly Rental Unit of \$1,073).

As previously indicated in Table 10, 86.9% of Westminster's housing stock consists of single-family housing units. However, with Westminster's rising senior population, more senior housing units will be needed. There currently is a waiting list of the 30-unit Wellington Elderly Housing Development of 3-5 years. Demographic trends coupled with the Wellington waiting list indicate a demand for smaller units available for seniors who would like to remain living within the Town of Westminster, but find it more difficult both to maintain their single-family home and afford such a home on a more limited income than working age persons. The Implementation Strategies section discusses how the Town will move towards making more units available to this segment of the population.

D. Development Constraints and Limitations

MRPC's GIS Department has mapped out partial and absolute development constraints and limitations within the Town of Westminster (see Map 1 on Page 32). The Map also includes DEP Tier Classified Chapter 21E Sites. A summary of each partial and development constraint follows below.

Absolute Development Constraints are such constraints where no building is allowed due to regulatory or ownership (e.g. protected open space land. The data layers that make up the set of absolute development constraints are indicated below. The total land area covered by the Absolute Development Constraints consists of 8,957.4 acres, or 14 square miles. This amounts to 37.5% of the Town's total land area.

Absolute Development Constraints:

- CR/APR (Conservation Restriction)/Agricultural Protection Restriction) and Permanently Protected Open Space areas. Lands held either by ownership or by a conservation restriction are prohibited from future development.

- Wetlands, as mapped by MassGIS for DEP for wetlands under the Wetlands Protection Act. The Rivershed Protection Act of the 1990s added further protection to areas along rivers. Thus a 100-foot buffer around Westminster's rivers and streams has been included as an Absolute Development Constraint along with the mapped wetlands.
- FEMA 100-year Flood Zone: Areas identified by FEMA that are subject to be inundated by 100-year flood levels.
- DEP Zone A and Zone I relate to Drinking Water Protection. Zone A is for the Surface Water Supply, of which located in the Town of Westminster is Meetinghouse Pond, Mare Meadow Pond and Noyes Pond. Zone I is for groundwater drinking water wells.
- The Watershed Protection Act (WsPA) regulates land use and activities within critical areas of the Quabbin Reservoir, Ware River and Wachusett Reservoir watersheds for the purpose of protecting the quality of drinking water. The WsPA extends into southwest Westminster in the Mare Meadow Reservoir & Noyes Pond area for the Ware River watershed. A small portion of Wachusett Reservoir Watershed is located in the southeastern portion of the Town of Westminster. The 200 foot buffer areas of the WsPA are considered absolute development constraints related to drinking water protection.

Partial Development Constraints are such constraints where building would be allowed, but may be subject to additional regulatory review (e.g. Rivers Protection Act buffer), or where such development would be occurring within identified environmental resources (e.g. *BioMap 2* Core Habitat and Supporting Natural Landscapes). The data layers that make up the set of partial development constraints are indicated below. The total land area covered by the Partial Development Constraints consists of 13,554.8 acres, or 21.2 square miles. This amounts to 56.8% of the Town's total land area.

Partial constraints includes lands that have slopes greater than 15%, *BioMap 2* Core Habitat and Supporting Natural Landscapes, FEMA 500-Year Flood Zone Areas, Wetland Protection Act buffer areas (50 feet), Rivers Protection Act buffer (200 feet), WsPA buffer (400 feet), DEP Zone B, DEP Zone C, DEP Zone II and DEP IWPA (Interim Wellhead Protection Area). A summary of each of these partial constraints follows below.

Partial Development Constraints:

- **Steep Slopes:** Given the hilly topography in parts of Westminster, there are locations of land area that have a steep slope (greater than 15%), which can be cost prohibitive for developers. Although the presence of steep slopes alone will not determine the development potential of a site, the combination of steep slopes and shallow soils on top of bedrock could influence the type of development suitable for the site.
- ***BioMap2* Core Habitat** identifies specific areas necessary to promote the long-term persistence of Species of Conservation Concern (those listed under the Massachusetts Endangered Species Act as well as additional species identified in the State Wildlife Action Plan), exemplary natural communities, and intact ecosystems.

- **BioMap2 Critical Natural Landscape** was created to identify and prioritize intact landscapes in Massachusetts that are better able to support ecological processes and disturbance regimes, and a wide array of species and habitats over long time frames.
- **FEMA 500-year Flood Zone:** Areas identified by FEMA that are subject to be inundated by 500-year flood levels.
- **Buffers for wetlands (50 feet), Rivers Protection (200 feet) and the WsPA at a 400-buffer for regulatory areas** noted in the Absolute Development Constraints section, have been mapped as partial development constraints.
- **DEP Zone B, Zone C, Zone II and IWPA** relate to Drinking Water Protection. Zones B and C are for the Surface Water Supply. Zone II and the IWPA are for groundwater drinking water wells.

DEP Tier Classified Chapter 21 E Sites

Not classified under either absolute or partial constraints, but still posing a challenge to development, are DEP’s Tier Classified Chapter 21 E Sites. Chapter 21E sites are contaminated by oil or other hazardous material and are subject to special restrictions for redevelopment. Such sites are classified by tiers based on their level of contamination and their owner’s compliance with regulation. According to a search of Mass DEP’s website (<http://db.state.ma.us/dep/cleanup/sites/search.asp>) Westminster has three active Tier Classified Chapter 21Es sites which are indicated on Map 1 and detailed in Table 22 below.

Table 22: DEP Tier Classified Chapter 21E Sites – Town of Westminster

Site Name	Address	Zoning	Tier
Broome Residence	71 Town Farm Road	Residential-I	Tier 2
Cresticon Sub. NGGEC (former Litton)	180 State Road East (Route 2A)	Industrial-I	Tier 1B
Dugas Residence	9 Bacon Street	Residential-I	Tier 1D

Tier 2 site classification means that permits from Mass DEP are not required and response action may be performed under the supervision of a Licensed Site Professional, without prior DEP approval. Tier 1B sites/releases do require a permit, but response actions may be performed under the supervision of a Licensed Site Professional (LSP) without prior DEP approval. Tier 1D sites are those where the responsible party fails to provide a required submittal to Mass DEP by a specified deadline.

Chapter 21E Sites are also known as “Brownfields” sites. The U.S. EPA Brownfields program has potential funding from the site assessments phase through clean-up.

Besides any mitigation as noted above, and allowed under relevant Massachusetts (and any Federal or Local) laws and regulations, it is the intention to direct new housing production under this updated Housing Production Plan to land areas that do not have absolute development constraints, minimize such housing production in areas with partial development constraints (and mitigate such housing development as economically feasible to do so to allow such construction to remain affordable) and prioritize housing production in areas that have no development constraints.

E. Capacity of Infrastructure

Solid Waste

As indicated in the 2006 Housing Production Plan, landfill capacity of the Fitchburg Municipal Landfill located on Route 31 in Westminster was expanded in 2004 and it expected to meet Town needs until it closes in the year 2024.

Water

For Town Water – at the time of preparing the 2006 Housing Production Plan, Westminster was in the process of hooking up the Fitchburg Water System, which anticipated the ability to meet demand over the next twenty (20) years.

Wastewater

As indicated in the 2006 Housing Production Plan, sewer capacity is constrained by the capacity of the Whitman River Pump Station, located near the intersection of South Ashburnham Road and Route 2A. Westminster's DPW Director has provided an update about the capacity of the sewer system indicating that the upgrade of the Whitman River Pump Station is still in the planning stages and will not be complete for another year or so. Thus, the sewer connection moratorium is still in place. Only 20% of the Town area is sewerred, which is roughly 750 users.

Schools

Although not addressed in the 2006 Housing Production Plan, capacity of the Westminster Schools was addressed in a 2006 Ashburnham-Westminster School Enrollment Demographic Study, prepared by the New England School Demographic Council. Westminster is part of a Regional School System along with the Town of Ashburnham. The focus of this analysis is on Westminster's share of the regional school population.

The Demographic Study analyzed existing population trends and student enrollment projections. Population trends were based on data up through the 2000 Census. The Study showed how student enrollment levels were fairly consistent between the school years of 1995-96 to 2005-06 ranging from 1,232 (1995-1996) to a high of 1,274 (1999-2000), as indicated in Table 23. Student enrollment projections were based on demographic trends as well expected level of increased development.

Table 23: Westminster Student Enrollments, 1995-2006

School Year	Enrollment
1995-96	1232
1996-97	1263
1997-98	1250
1998-99	1254
1999-00	1274
2000-01	1248
2001-02	1246
2002-03	1247
2003-04	1235
2004-05	1254
2005-06	1267

Source: New England School Demographic Council

The Demographic Study provided two sets of enrollment projections up through the 2015-16 school year, based on differing enrollment projections (see Table 24). The first set of assumptions showed Westminster School enrollment levels gradually dropping over the Study's 10-year projection period, down to 1,150 students in 2015-16.

The assumptions for the 1st set of enrollment projections were based on the following:

1. Annual Number of births through 2010 will remain in the range of 64-71
2. Housing growth over next ten years will continue approximately 41-45 units per year.
3. The pattern and numbers in turnover of existing housing stock will continue at approximately 105 units per year.
4. Public Kindergarten will continue at about 119% of births five years previous. A Westminster class will grow by about 4% in grade 1, 6% in grades 2-5 and 6% in grades 6-8.
5. Out-migration at grade 9 will continue at approximately 10%.
6. The percentage of Westminster students in non-public schools and home schooling will remain at present levels.

Table 24: Westminster Student Enrollment Projections, 2006-2015

School Year	Enrollment Projections: Scenario 1	Enrollment Projections: Scenario 2
2006-07	1286	1286
2007-08	1291	1291
2008-09	1266	1279
2009-10	1218	1240
2010-11	1205	1239
2011-12	1201	1250
2012-13	1182	1250
2013-14	1163	1252
2014-15	1157	1269
2015-16	1150	1273

Source: New England School Demographic Council

One assumption within the set of enrollment projection figures that has not even come close is the assumption of new housing units constructed at a rate of 41-45 per year. After the housing market

collapse in 2006, Westminster's housing unit construction levels have been around ten new units annually. With the current state of the economy it is not anticipated that Westminster will be building 41-45 new housing units annually during the five-year period covered by this housing production plan. The only deviant from this likely trend is if the Town is able to construct a significant amount of the senior housing units planned for the 69 West Main Street site (see Implementation Strategies section for more details).

The second set of enrollment projections was based on the impacts of increased development. The five assumptions were as follows:

1. Annual number of birth through 2009 will average 76 per year (higher than the baseline projection).
2. The rate of single-family housing growth over next ten years will continue at 45 units per year – dependent on economy (see discussion on Page 17 related to this matter).
3. Housing turnover will continue at 105 per year (same figure as baseline projection)
4. Chapter 40B units in Westminster Master Plan (Study must have been referring to the Town's Housing Production Plan completed around the same time) will be constructed yielding +/- 83 students. (Note that to date no new 40B units have been constructed since the completion of the 2006 HPP).
5. Public Kindergarten will continue at about 119% of births five years previous. A Westminster class will grow by about 4% in grade 1, 6% in grades 2-5 and 6% in grades 6-8.

The increased development set of enrollment projections was to have led to higher school enrollments over the school years between 2005-06 and 2008-09 (peaking at 1,279 students). Then from 2009-10 to 2013-14 enrollment levels would be no higher than 1,252 students before climbing back to up 1,273 students. Even with this increased development scenario, student enrollments would have only been at and/or exceeding the highest enrollment levels experienced during the 1999-2000 school year on a few occasions. The overall conclusion at the time of this HPP update is that based on current demographic trends and building activity no significant impacts to the Ashburnham/Westminster Regional School Infrastructure, based on Westminster's share of the population, are expected given the state of the housing market, decreased levels of children under 18 from the period of 2000 to 2010 and decrease of population in the prime child bearing years of 25-44.

Transportation

Related to Transportation, in 2010 MRPC prepared a *Transportation/Circulation element update to the Westminster Master Plan*. Three key findings of this Transportation Plan related to infrastructure involve bridges, safety at the Route 2A/140 intersection with Route 2 (Exit #25) and circulation within the Westminster Village Center.

As of the year 2010 (based on the latest MassDOT bridge rating testing) there are no functionally obsolete bridges in Westminster but there are five structurally deficient bridges at the following locations:

- Whitmanville Road over Whitman River (owned by the Town).
- Route 12 Ashburnham Street over Phillips Brook (owned by the State, Bridge #W28017).
- Route 2 West Bound over W. Main Street (owned by the State).
- Route 2 East Bound over W. Main Street (owned by the State).
- Route 12 Ashburnham Street over Phillips Brook (owned by the State, Bridge #W28007, currently under construction as of November 8, 2010).

As of June 2011 the Route 2 bridges over W. Main Street were under construction.

In 2008 the MRPC completed a Phase I Roadway Safety Conditions report which listed the most dangerous intersections and interchanges in the region, based on data from 2002-2005. This data is based off the Equivalent Property Damage Only (EPDO) crash severity rating system. The Town of Westminster had a total of six locations that made this report. However, the #1 location on this list is the intersection with the greatest safety concern from an infrastructure capacity concern: Rte. 2/140 (Exit 25)/State Rd. East (Rte2A)/Hagar Park Rd. The location ranked 9th across the Montachusett Region for safety concerns.

One of the recommendations from the 2010 Transportation/Circulation element is the development of a Comprehensive Circulation Study/Plan. This recommendation states that “the Town may seek to establish a Comprehensive Circulation Study/Plan of non-motorized users that could identify major travel routes, crosswalks, sidewalks, appropriate pavement markings and signage, etc. This plan should include major areas of concern for the town (ie. downtown, town hall, library, post office, schools, etc) In addition, this plan could identify links to the towns overall trail/bike network.” This additional study was recommended partly in due to the number of curb cuts within Westminster Village Center. Safe traffic flow is a concern if more housing units are located within the Village Center, which is one of the recommendations of this updated Housing Production Plan.

One problematic intersection within the Village Center will be addressed in 2011. The South Street intersection with Main Street (Route 2A), is targeted for safety roadway improvements with construction to begin in Autumn 2011. South Street intersection with Main Street is made more difficult given that the intersection is tied in with Academy Hill Road as well. According to the MassDOT website: “the proposed work consists of roadway improvements to the South Street corridor from the Dawley Street and Carter Road intersection to the Main Street (Route 2A) intersection...The proposed work will include roadway resurfacing and widening, drainage system improvements, cement concrete sidewalk construction, granite curb installation, and safety improvements such as signing and pavement markings.”

Section II

Affordable Housing Goals

A. 2011 Affordable Housing Goal and Objectives

At a Public Forum held on May 2, 2011, the existing Housing Production Plan goals and objectives were reviewed. Based on input provided at the meeting, the following set of goals and objectives have been prepared for the updated Housing Production Plan:

Housing Goal: Encourage A Diversity of Housing Options

Housing Objectives:

- Increase Housing Opportunities for a Broad Range of Income Levels
- Preserve Westminster's Rural Character as the Town continues to grow
- Increase the supply of affordable rental units and subsidized units, especially for seniors and disabled/special needs
- Improve the condition of Westminster's Present Housing Stock
- Improve collaboration between Town and Developers to build affordable housing, and use deed restrictions
- Anticipate the future needs for affordable housing

B. Town Actions since the 2006 Housing Production Plan

Below is a list of Actions Items from Westminster's 2006 Housing Production Plan. These are the set of Action Items that the Town has either achieved in undertaking or there has been ongoing activity to achieve the completion of such item.

- 2006 Action Item: Review of Town-owned, including tax possession, properties for their suitability for affordable housing development.
 - Activities/Accomplishment – The Town-owned Davis Road had been deeded over to Habitat for Humanity. However, the Davis Road property did not meet the local Board of Health standards for siting both a well and a septic system, thus Habitat will not pursue use of this property. Habitat is currently working with Town staff to identify other suitable parcels from three lists: properties acquired by the Town through tax title, properties that are delinquent on their taxes, and unused Town-owned properties that have never been assigned a municipal management entity.
- 2006 Action Item: Investigate various techniques to convert existing units into deed restricted affordable housing units that will count towards the Town's Subsidized Housing Inventory.
 - Activities/Accomplishment – The Town of Westminster is continuing their investigation of this technique. On the rental side, a local developer has expressed interest in converting his apartment rental units in the town center area into affordable housing units. During the development of this updated Housing Production Plan, MRPC Staff spoke with DHCD Staff who notes "challenges" to existing rental unit conversion from market rate to affordable units. However, a new action item for the updated housing plan is for the Town to investigate the Local Action Unit program for conversion of apartments into affordable rental

units. On the homeownership side – the LIP Program will be investigated further to take foreclosed homes and make them available to residents as affordable homes.

- 2006 Action Item: Adopt a Low Impact Development (LID) Bylaw that would apply to affordable housing developments.
 - Activities/Accomplishments – The Town of Westminster adopted a LID Bylaw in 2006. The Planning Board is working on incorporating LID standards into its Subdivision Rules and Regulations in order to fully implement the Bylaw. The Bylaw would apply to all housing developments if square footage threshold of development is exceeded.
- 2006 Action Item: Amend Section 205-37 Apartments and Attached Dwellings Bylaw, requiring that applications under this Special Permit include a certain percentage of affordable housing.
 - Activities/Accomplishments – The Town did adopt a revision to this Bylaw in 2006 so that now a minimum of 25% of housing units approved for projects under this Bylaw must be set aside as affordable housing units.
- 2006 Action Item: 40B Training and 40B Rules and Regulations.
 - Activities/Accomplishments – The Westminster ZBA did adopt a set of 40B Rules and Regulations since the adoption of the initial Housing Production Plan. An implementation strategy action item in this Updated Plan has been included to review the existing set of 40B Rules and Regulations and also to provide additional 40B training to ZBA members.
- 2006 Action Item: Amend the Cluster Development Bylaw so that the Planning Board is the Special Permit Granting Authority (SPGA). Revise the criteria for the open space and design of cluster developments.
 - Activities/Accomplishments – The Westminster Planning Board is now the SPGA for Cluster Developments. With the hiring of a new Town Planner in May 2011, the Board is going to investigate revising criteria for such developments and consider changing the permitting of cluster developments to on a by-right basis.
- 2006 Action Item: Assist the Board of Selectmen with drafting the Requesting for Proposals for the development of senior housing on the parcels of land on 69 West Main Street and Meetinghouse Road.
 - Activities/Accomplishments – The Town had a feasibility study for the Town-owned parcel at 69 West Main Street, which is where a new Westminster Senior Center is also proposed to be located. The feasibility study indicated that a total of 72 senior housing units could be potentially developed at this site. The study included a sketch plan that showed the 72 units in a series of 3 buildings with 24 units each. For the Meetinghouse Road parcel, in August of 2005, the Daylor Group consulting firm prepared a conceptual build-out for this property, which indicated the feasibility to build 44 senior housing units on this property, but the interior roadway would exceed the Town's 500-foot limit for dead-end streets and there would be three sizable wetland crossings.
- 2006 Action Item: Propose an Accessory Apartment Zoning Bylaw in the Residential III Zoning District.
 - Activities/Accomplishments – This Bylaw was passed at the Spring 2005 Annual Town Meeting.

- 2006 Action Item: Adopt a Site Plan Review Bylaw to review community and environmental impacts of multi-family residential developments.
 - Activities/Accomplishments – This Bylaw was passed at the Spring 2005 Annual Town Meeting.

C. Numerical Goal for Annual Housing Production

The Town of Westminster's numerical goal for annual housing production is based on the 2008 changes to the Housing Production Plan Regulations (760 CMR 56.03(4)). This updated Housing Production Plan (HPP) is required to show housing production pursuant to which there is an increase in the Town of Westminster's number of Subsidized Housing Inventory (SHI) Eligible Housing units by at least 0.50% of its total units during every calendar year included in the HPP, until the overall percentage exceeds the Statutory Minimum set forth in 760 CMR 56.03(3)(a). The total amount of units required for the Town of Westminster to get to the Statutory minimum is a total of 283 subsidized housing units (meaning the construction of an additional 197 units).

For Westminster, which has 2,826 year round housing units, per the 2010 census, the 0.5% figure for annual housing production is 14 units; for 1.0% (two years) the total housing production required would be 28 units. See Section III, Implementation Strategies, for a chart showing the Town's goals in achieving the required annual housing production.

Upon DHCD approval of this housing plan, once the Town of Westminster has been able to achieve their numerical goal for housing production, for either one year or two years, the Town may request certification for municipal compliance from DHCD, in accordance with the DHCD Chapter 40B Regulations. As previously indicated on page 11, such certification would mean a decision by the Zoning Board of Appeals (ZBA) relative to a comprehensive permit application will be deemed "consistent with local needs" under MGL Chapter 40B.

If the Town of Westminster has achieved certification within 15 days of the opening of the local hearing for the Comprehensive Permit, the ZBA shall provide written notice to the Applicant, with a copy to DHCD, that it considers that a denial of the permit or the imposition of conditions or requirements would be Consistent with Local Needs, the grounds that it believes have been met, and the factual basis for that position, including any necessary supportive documentation.

If the Applicant wishes to challenge the ZBA's assertion, it must do so by providing written notice to DHCD, with a copy to the ZBA, within 15 days of its receipt of the ZBA's notice, including any documentation to support its position. DHCD shall review the materials provided by both parties and issue a decision within 30 days of its receipt of all materials. The ZBA shall have the burden of proving satisfaction of the grounds for asserting that a denial or approval with conditions would be consistent with local needs, provided, however, that any failure of the DHCD to issue a timely decision shall be deemed a determination in favor of the municipality. This procedure shall toll the requirement to terminate the hearing within 180 days.

Section III

Implementation Strategies

This section presents a set of implementation strategies for addressing the housing needs of the Town of Westminster and its residents.

A. Locations

1. Expansion areas for affordable housing

The preferred locations for new housing are generally those with existing infrastructure (including transportation, town water and sewer services) capable of handling new development. Also, such expansion areas should be encouraging compact development rather than sprawl, which suggests new housing should be located near existing centers or villages. Therefore the following locations are identified as the primary locations for increased housing:

- Senior Housing at 69 West Main Street
- 55+ Housing and/or Elder Housing at Adams Street
- Hager Park Condos, Hager Park Road
- Utilize existing housing units, for both affordable rental and homeowners opportunities, within existing neighborhoods
- Infill lots, as available within existing neighborhoods

2. Endorsed sites for 40B projects

The following three (3) sites have been identified as 40B projects that are supportive by the Town: Hager Park Condos, Elderly Rental Housing at Adams Street and the Kingsbury Arms development.

The Town is supportive of the development of the Hager Park Condos project. This project off of Hager Park Road, located about a ½ mile distance from Route 2, would consist of 12 units (6 duplex units). Of the 12 units, 3 would count on the Town's Chapter 40B Subsidized Housing Inventory (SHI). The Town would support this project as a Local Initiative Program (LIP) application. Accordingly this project has been made part of the Housing Production Plan Numerical Target and Schedule included in Section C of this Chapter.

A second project the Town supports is the concept of an either 55+ housing and/or elderly housing development on 2.5 acres of land off of Adams Street, near the vicinity of Main Street and Bacon Street in Westminster Village Center. The property owner, Paul Aldrich, has a conceptual layout of 36 units for this site and he has been exploring funding assistance under various funding programs. Information about potential affordable housing funding programs has been provided as Appendix B. One potential affordable housing program of interest to the community, the USDA Rural Development's Multi-Family 515 Direct Program, unfortunately is not available at this time, as the Town of Westminster is not in a qualified designated area to qualify for the Rural Development programs.

Given the uncertainty to which affordable housing funding program the property owner will be able to qualify for, at this time it is estimated that 8 affordable housing units would be available to count on the Town's Chapter 40B SHI. The Town would support a LIP application for an affordable

housing project on this site and this project has been part of the Town's Housing Production Plan Numerical Target and Schedule.

During the 2000's housing boom, a number of 40B projects were permitted by the Town of Westminster. At this time only one of these projects has its 40B approval active. This project, Kingsbury Arms, has been granted an extension to the approval until February 16, 2013. This project is for 48 housing units (12 units would count on the Town's Chapter 40B SHI) at Livermore Hill and State Road West (Route 2A). Given that this project was already approved by the Westminster Zoning Board of Appeals and is still active, the Town continues to be supportive of this project. Accordingly, this project continues to remain on the Town's Housing Production Plan Numerical Target and Schedule.

3. Municipal land for affordable housing

The following municipal land has been identified for affordable housing:

- 69 West Main Street, Senior Housing (Map 87 Parcel 85; 12.3 acres)
- Meetinghouse Road, Senior Housing, located next to the existing Wellington elderly housing rental complex. (Map 109 Parcel 10; 16 acres)

In addition to these two specific parcels identified above, the Town will be evaluating a list of parcels from two difference sources: a) parcels in tax delinquency and b) other Town-owned parcels that have no current identified management entity. From this list of parcels there is the potential opportunity to identify one or more parcels as land for a Habitat for Humanity project or for a similar non-profit affordable housing developer.

4. Preferred development characteristics

For a discussion on the preferred development characteristics see Section 1 "Expansion Areas for Affordable Housing" above.

B. Strategies

The following set of action items outlines the Town of Westminster's strategies that will be utilized to help achieve the numerical targets required under the Housing Plan Production program and to assist in promote housing opportunities to meet the needs of the Town's citizens, as identified in the Housing Needs Assessment.

ACTION ITEM: The Town will complete review of parcels both in tax delinquency and other Town-owned parcels that have no current identified management entity with the goal of identifying one or more parcels that could be offered to existing affordable housing organizations such as Habitat for Humanity, Greater Gardner Community Development Corporation (GGCDC), Twin Cities CDC, RCAP (Resources for Communities and People) Solutions (Formerly Rural Housing Inc.) and, the Montachusett Enterprise Commission (MEC).

TIMEFRAME: Review sites by December 2011. Dispose of any identified property(ies) via Town Meeting in 2012 and/or 2013.

ACTION ITEM: Continue to investigate various techniques to convert existing units into deed restricted affordable housing units that will count towards the Town's Subsidized Housing Inventory. For rental units, the Town shall investigate the Local Action Unit program for conversion of apartments into affordable rental units. On the homeownership side – the LIP Program will be investigated further to take foreclosed homes and make them available to residents as affordable homes. More information about the LIP Program is provided in Appendix C. The Town will look to partner with a regional non-profit for this initiative.

TIMEFRAME: On-going

ACTION ITEM: Explore participation in a Regional Housing Rehabilitation program under the Community Development Block Grant Program (CDBG), as such units, if deed restricted for at least 15 years, would count towards the Town's Chapter 40B Subsidized Housing Inventory. For example, the Town of Templeton has 23 rehab units on their latest Chapter 40B SHI. The Town could partner with MRPC for a CDBG application and also for management of the housing rehab program.

TIMEFRAME: Begin exploration in 2012 of how to partner with one or more communities on a Regional Housing Rehab program with goal of applying for CDBG application in the December 2012 timeframe.

ACTION ITEM: Senior Housing-Related Zoning Bylaw: Assess the impact on the community of adopting a senior residential community bylaw. Review the existing Use Schedule to determine if different types of senior housing can be built under existing provisions. Amend use schedule or propose new bylaw to allow various forms of senior housing including a senior residential retirement community, assisted living or residential care facility, or some combination of these uses. Also investigate use of existing Apartments and Attached Dwellings Bylaw in development of senior housing. Propose amendment to the zoning bylaws if needed.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: Investigate development of infill development zoning bylaw for the Town of Westminster, as recommended in the 2010 Report prepared by the Montachusett Regional Planning Commission entitled "*Analysis of Table of Use Schedule and Dimensional Regulations in Industrial and Commercial Zones*" with affordable housing provision included in implementation of such a bylaw.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: Investigate development of Mixed-use Zoning in Westminster Village Center.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: For development of Senior Housing at 69 West Main Street and/or Meetinghouse Road – seek funding through HUD 202 or other similar housing programs. DHCD's Priority Development Fund (PDF) should be sought for planning activities. See discussion of PDF program on page 29 below.

TIMEFRAME: Planning activities should begin in late 2011 in order to achieve development of senior housing units within the five-year timeframe of this Housing Production Plan.

ACTION ITEM: Explore the creation of an Affordable Housing Trust and Dedicated Housing Trust Fund by educating Town officials and residents about benefits of having a local Affordable Housing Trust to facilitate implementation of development of local affordable housing units.

TIMEFRAME: Begin education process in 2012 with goal of adopting the MGL provisions of the Affordable Housing Trust in 2013. To assist in this educational effort information about Affordable Housing Trusts has been provided in Appendix D.

ACTION ITEM: Provide education and training to members of the Westminster Zoning Board of Appeals (ZBA) and the Planning Board related to the review and permitting of Comprehensive Permits.

TIMEFRAME: MRPC is planning to host such training during the Fall 2011 training sessions offered by the Citizens Planners Training Collaborative (CPTC). This provides an opportunity locally for Westminster ZBA members for this training.

ACTION ITEM: Review, and update as necessary, the ZBA's Rules and Regulations for the Review of Comprehensive Permits.

TIMEFRAME: 2012

ACTION ITEM: Amend the Cluster Development Bylaw to allow this development technique to be permitted as a by-right use with associated set of development standards.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: The Affordable Housing Committee shall work with the Town Planner to assist in the development of local Affordable Housing Guidelines in order to guide developers of potential Chapter 40B Comprehensive Permit applications. The Affordable Housing guidelines will be created to guide the development of Comprehensive Permit projects and shape them to meet the specific needs of Westminster's residents. Such guidelines can help support Comprehensive Permit plans that are consistent with this Housing Production Plan. A sample set of guidelines have been provided in Appendix E.

TIMEFRAME: Ongoing

ACTION ITEM: Conduct Housing Forums in conjunction with the Montachusett Regional Planning Commission and one or more of the Region's housing non-profit organizations on various housing topics and other homeownership maintenance/financial literacy topics. Provide press releases to local newspapers about affordable housing topics. Include affordable housing on the Town's website.

TIMEFRAME: Annually, with goal of first Housing Forum to be conducted in the Fall of 2012.

ACTION ITEM: Develop and adopt an Inclusionary Zoning Bylaw. Although the Town's Apartment and Attached Dwellings Zoning Bylaw now has this provision, further development of conventional subdivisions still do not have any inclusionary affordable housing provisions. This mechanism has now

been adopted by more than one-third of the communities in the state to insure that any new development project over a certain size includes a set-aside in numbers of affordable units or funding from the developer to support the creation of affordable housing. Most of the bylaws include mandated percentages of units that must be affordable, typically 10% to 15% and density bonuses. Some also allow development of affordable units off-site and/or cash in lieu of actual units.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: Consider more options for Duplexes and Multi-Family Housing in appropriate areas of the Town, such as in and/or around the Village Center. First step is to review the existing table of use provisions for such housing.

TIMEFRAME: Begin work in 2013 with goal of having zoning bylaw warrant language for the May 2014 Annual Town Meeting.

ACTION ITEM: The Town should review units on the Chapter 40B SHI that are scheduled to expire, such as the Wellington Elderly Housing USDA Rural Housing subsidy expiring in 2020.

TIMEFRAME: Annually.

ACTION ITEM: Explore preparation of a Priority Development Fund (PDF) Planning Assistance grant application to Mass. DHCD in order to facilitate implementation of one more strategies identified in this Housing Production Plan, including for planning activities associated with the development of senior housing units at the Town-owned property on 69 West Main Street. In August 2011, DHCD announced availability of \$224,490 in recaptured and unexpended funds available to communities to be used in the implementation of strategies for the production of affordable housing in DHCD-approved Housing Production Plans. The maximum amount any community may apply for is \$15,000. The complete list of eligible activities to assist in the implementation strategies has been provided as Appendix F, which also has a link to the DHCD's PDF website for more information.

TIMEFRAME: Immediately. The Town should prioritize eligible implementation strategies and submit an application to DHCD upon approval of this Housing Production Plan.

C. Numerical Targets and Schedule

As indicated in Section II(C), the Town of Westminster's numerical goal for annual housing production is 14 units per year to meet the 0.5% units per year requirement. For the 1% two-year housing production threshold, the number is 28 units over a one-year period. These housing production requirements are based on the 2008 DHCD HPP Regulations and the new 2010 Census data.

Based on a review of planned 40B Projects and the implementation strategies outlined in this chapter, presented in Table 25 below is the Town of Westminster's housing production numerical targets and schedule for the next five (5) years:

Table 25: Westminster Housing Production Schedule

Year	Number of Units	Comments
2012	14	2 units Hager Park Condos; 6 Kingsbury Arms; 1 new Habitat home; 5 housing units from foreclosed homes or existing rental units
2013	14	1 unit Hager Park Condos; 6 Kingsbury Arms; 1 new Habitat home; 3 housing units from foreclosed homes or existing rental units; 3 rehab housing units
2014	14	8 units Adams Street 55+/Elderly Housing; 1 new Habitat home; 2 housing units from foreclosed homes or existing rental units; 3 rehab housing units
2015	14	2 new Habitat homes; 3 housing units from foreclosed homes or existing rental units; 3 rehab housing units; (6) senior housing units on 69 W. Main Street
2016	14	2 new Habitat homes; 3 housing units from foreclosed homes or existing rental units; 3 rehab housing units; (6) senior housing units on 69 W. Main Street

Development of these additional units totals 70 units. By the end of 2016 when the Town of Westminster will need to begin preparing an update to this Housing Production Plan the Town of Westminster will be at 5.5% in accordance with meeting the numerical targets provided by this schedule by almost doubling the existing number of qualifying affordable housing units (86) on the Town's Chapter 40B SHI to 156 units.

Section IV

Description of Use Restrictions

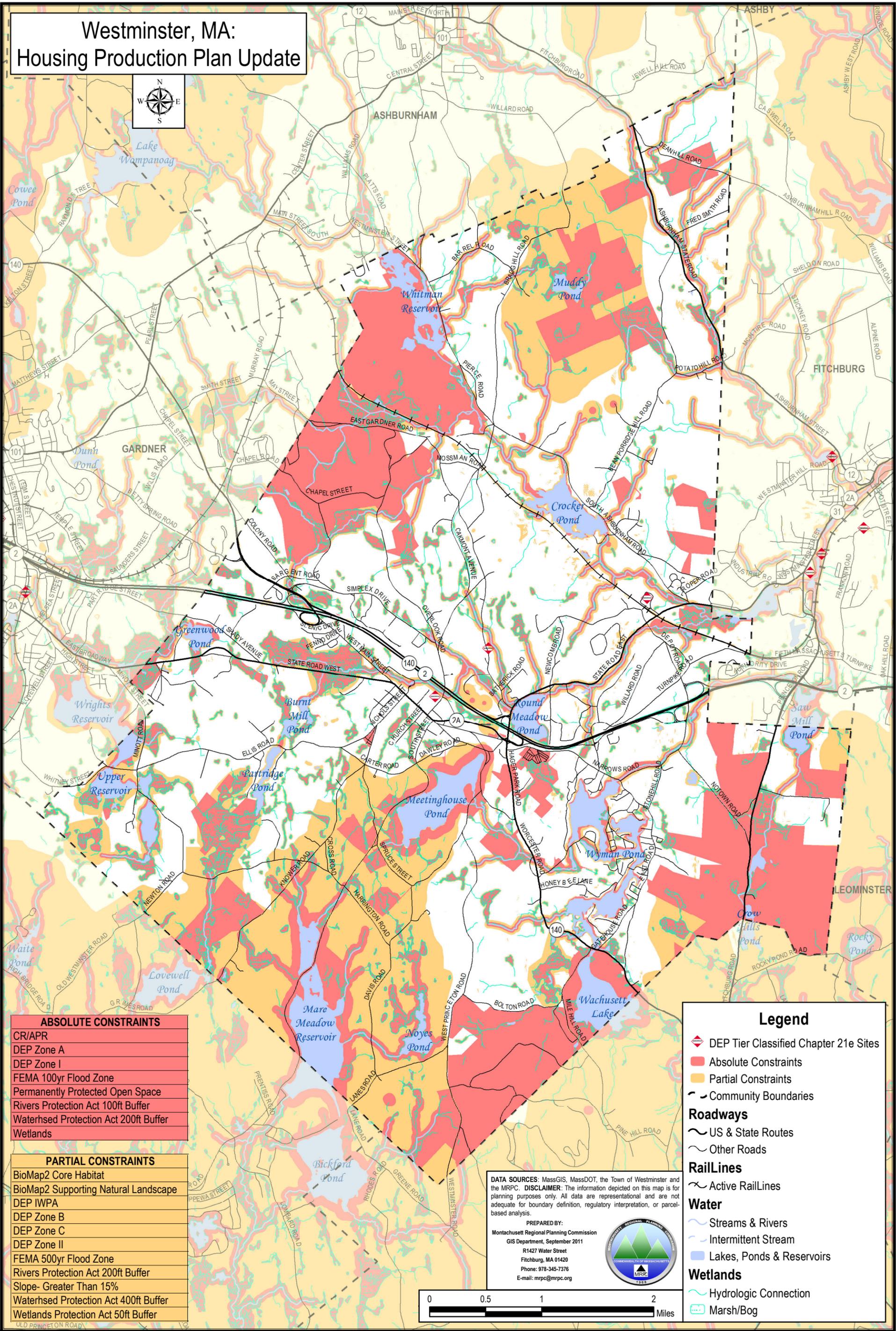
On Town-owned projects, the Town of Westminster will use a model deed restriction that has been developed by Alan Seewald, Town Counsel (This Model Affordable Housing Deed Restriction has been provided in Appendix G). This restriction will include the time period covered by the deed restriction and how the future sale price will be calculated. In addition, the restriction will incorporate the following provisions:

- Affordable units must serve households with incomes no greater than 80% of the area median income for the Leominster/Fitchburg SMSA;
- Units must be subject to use restrictions or re-sale controls to preserve their affordability as follows:
 - a) For new construction, a minimum of thirty (30) years or longer from the date of subsidy approval or commencement of construction.
 - b) For rehabilitation, for a minimum of fifteen (15) years or longer from the date of subsidy approval or completion of the rehabilitation. However, a term of perpetuity is encouraged for both new construction and rehabilitation.
- Units are or will be subject to an executed Regulatory Agreement between the developer and the subsidizing agency unless the subsidy does not require such an agreement.
- The units have been, or will be, marketed in a fair and open process consistent with state and federal fair housing laws.

MAP 1

Town of Westminster Development Constraints

Westminster, MA: Housing Production Plan Update



ABSOLUTE CONSTRAINTS
CR/APR
DEP Zone A
DEP Zone I
FEMA 100yr Flood Zone
Permanently Protected Open Space
Rivers Protection Act 100ft Buffer
Watershed Protection Act 200ft Buffer
Wetlands

PARTIAL CONSTRAINTS
BioMap2 Core Habitat
BioMap2 Supporting Natural Landscape
DEP IWPA
DEP Zone B
DEP Zone C
DEP Zone II
FEMA 500yr Flood Zone
Rivers Protection Act 200ft Buffer
Slope- Greater Than 15%
Watershed Protection Act 400ft Buffer
Wetlands Protection Act 50ft Buffer

Legend
DEP Tier Classified Chapter 21e Sites
Absolute Constraints
Partial Constraints
Community Boundaries
Roadways
US & State Routes
Other Roads
RailLines
Active RailLines
Water
Streams & Rivers
Intermittent Stream
Lakes, Ponds & Reservoirs
Wetlands
Hydrologic Connection
Marsh/Bog

DATA SOURCES: MassGIS, MassDOT, the Town of Westminster and the MRPC. **DISCLAIMER:** The information depicted on this map is for planning purposes only. All data are representational and are not adequate for boundary definition, regulatory interpretation, or parcel-based analysis.

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APPENDIX A

The Commonwealth of Massachusetts' Affirmative Fair Housing Marketing Plan Guidelines

III. Affirmative Fair Housing Marketing Plan (Including Resident Selection)

The Commonwealth of Massachusetts has a compelling interest in creating fair and open access to affordable housing and promoting compliance with state and federal civil rights obligations. Therefore, all housing with state subsidy or housing for inclusion on the Subsidized Housing Inventory (SHI) shall have an Affirmative Fair Housing Marketing Plan (AFHMP). *The affordable Use Restriction documents of said housing must require that the AFHMP, subject to the approval of the subsidizing or funding agency, shall be implemented for the term of the Use Restriction.* Affirmative Fair Housing requirements apply to the full spectrum of activities that culminate with occupancy, including but not limited to means and methods of outreach and marketing through to the qualification and selection of residents. All AFHMP plans must, at a minimum, meet the standards set forth by the Department of Housing and Community Development (DHCD). In the case of M.G.L. c.40B projects, the AFHMP must be approved by the Subsidizing Agency.

The developer (Developer) is responsible for resident selection, including but not limited to drafting the resident selection plan, marketing, administering the initial lottery process, and determining the qualification of potential buyers and/or tenants. The Developer is responsible for paying for all of the costs of affirmative fair marketing and administering the lottery and may use in-house staff, provided that such staff meets the qualifications described below. The Developer may contract for such services provided that any such contractor must be experienced and qualified under the following standards.

Note: As used in these AFHMP Guidelines, "Developer" refers to the Project Developer and/or the entity with which the Developer has contracted to carry out any or all of the tasks associated with an AFHMP.

(April 8, 2008 change: inserted a new third sentence in the first paragraph).

A. Developer Staff and Contractor Qualifications

The entity as well as the individual with primary responsibility for resident selection, whether in-house staff or a third-party contractor, must have substantial, successful prior experience in each component of the AFHMP for which the party will be responsible, e.g. drafting the plan, marketing and outreach activities, administering the lottery process and/or determining eligibility under applicable subsidy programs and/or qualifying buyers with mortgage lenders.

Subsidizing Agencies reserve the right to reject the qualifications of any Developer or contractor. However, generally, Developers or contractors that meet the following criteria *for each component*, as applicable, will be considered to be qualified to carry out the component(s) for which they are responsible:

- The entity has successfully carried out similar AFHMP responsibilities for a minimum of three (3) projects in Massachusetts *or* the individual with primary responsibility for the resident selection process has successfully carried out similar AFHMP responsibilities for a minimum of five (5) projects in Massachusetts.

- The entity has the capacity to address matters relating to English language proficiency.
- “Successfully” for the purposes of these Guidelines means that, with respect to both the entity and the relevant staff, (a) the prior experience has not required intervention by a Subsidizing Agency to address fair housing complaints or concerns; and (b) that within the past five (5) years, there has not been a finding or final determination against the entity or staff for violation of any state or federal fair housing law.

B. Affirmative Fair Housing Marketing Plan

The Developer shall prepare the following materials which shall comprise an AFHMP:

- Informational materials for applicants including a general description of the overall project that provides key information such as the number of market/affordable units, amenities, number of parking/garage spaces per unit, distribution of bedrooms by market and affordable units, accessibility, etc.
- A description of the eligibility requirements.
- Lottery and resident selection procedures.
- A clear description of the preference system being used (if applicable).
- A description of the measures that will be used to ensure affirmative fair marketing will be achieved including a description of the affirmative fair marketing and outreach methods that will be used, sample advertisements to be used, and a list of publications where ads will be placed.
- Application materials including:
 - The application form.
 - A statement regarding the housing provider’s obligation not to discriminate in the selection of applicants, and such a statement must also be included in the application materials.
 - Information indicating that disabled persons are entitled to request a reasonable accommodation of rules, policies, practices, or services, or to request a reasonable modification of the housing, when such accommodations or modifications are necessary to afford the disabled person equal opportunity to use and enjoy the housing.¹
 - An authorization for consent to release information.
- For homeownership transactions, a description of the use restriction and/or deed rider.

¹ It is important to remember that legal obligations with respect to accessibility and modifications in housing extend beyond the Massachusetts Architectural Access Board requirements, including federal requirements imposed by the Fair Housing Act, the Americans with Disabilities Act, and the Rehabilitation Act. Under state law, in the case of publicly assisted housing, multiple dwelling housing consisting of ten or more units, or contiguously located housing consisting of ten or more units (see M.G.L. c. 151B, § 1 for definitions), reasonable modification of existing premises shall *be at the expense of the owner* or other person having the right of ownership if necessary for the disabled person to fully enjoy the premises. M.G.L. c. 151B, § 4(7A). See also 24 C.F.R. part 8 for Rehabilitation Act requirements of housing providers that receive federal financial assistance.

The Subsidizing Agency must approve the AFHMP before the marketing process commences. In the case of a Local Action Unit (LAU), DHCD and the municipality must approve the AFHMP. The AFHMP shall be applied to affordable units² upon availability for the term of affordability and must consist of actions that provide information, maximum opportunity, and otherwise attract eligible persons protected under state and federal civil rights laws that are *less likely to apply*.

Outreach and Marketing

Marketing should attract residents outside the community by extending to the regional statistical area as well as the state.

- Advertisements should be placed in local and regional newspapers, and newspapers that serve minority groups and other groups protected under fair housing laws. Notices should also be sent to local fair housing commissions, area churches, local and regional housing agencies, local housing authorities, civic groups, lending institutions, social service agencies, and other non-profit organizations.
- Affordable units in the Boston Metro Area (Boston-Cambridge-Quincy MSA) must be reported to the Boston Fair Housing Commission's Metrolist (Metropolitan Housing Opportunity Clearing House). Such units shall be reported whenever they become available (including upon turnover).
- Affordable and/or accessible³ rental units must be listed with the Massachusetts Accessible Housing Registry whenever they become available (including upon turnover). See <http://www.chapa.org>.
- Available affordable ownership units must also be listed with CHAPA's lottery website (see <http://www.chapa.org>) and with the Massachusetts Affordable Housing Alliance (MAHA) website (see <http://www.mahahome.org>).
- Marketing should also be included in non-English publications based on the prevalence of particular language groups in the regional area. To determine the prevalence of a particular language by geographical area, see for example http://www.doleta.gov/reports/CensusData/LWIA_by_State.cfm?state=MA.

(April 8, 2008 changes: (1) Inserted new first bullet paragraph; (2) modified fourth paragraph to include listing with MAHA website; and (3) modified fifth bullet paragraph which, previously, stated: "...Marketing should also be targeted towards persons with limited English proficiency (LEP), not limited to solely to Spanish speaking persons.")

² The advertising component of the AFHMP applies to all units.

³ Note: The owner or other person having the right of ownership shall, in accordance with M.G.L. c. 151B, §4(7A), give at least fifteen days notice of the vacancy of a wheelchair accessible unit to the Massachusetts Rehabilitation Commission. Said statute also requires the owner or other person having the right of ownership to give timely notice that a wheelchair accessible unit is vacant or will become vacant to a person who has, within the past 12 months, notified the owner or person or person having the right of ownership that such person is in need of a wheelchair accessible unit.

All marketing should be comparable in terms of the description of the opportunity available, regardless of the marketing type (e.g., local newspaper vs. minority newspaper). The size of the advertisements, including the content of the advertisement, should be comparable across regional, local, and minority newspapers.

Advertisements should run a minimum of two times over a sixty day period and be designed to attract attention. Marketing of ownership units should begin approximately six months before the expected date of project occupancy.

Pursuant to fair housing laws,⁴ advertising must not indicate any preference or limitation, or otherwise discriminate based on race, color, disability, religion, sex, familial status, sexual orientation, national origin, genetic information, ancestry, children, marital status, or public assistance reciprocity. Exceptions may apply if the preference or limitation is pursuant to a lawful eligibility requirement. All advertising depicting persons should depict members of classes of persons protected under fair housing laws, including majority and minority groups.

The Fair Housing logo () and slogan ("Equal Housing Opportunity") should be included in all marketing materials. The logo may be obtained at HUD's website at: <http://www.hud.gov/library/bookshelf11/hudgraphics/fheologo.cfm> .

Availability of Applications

Advertising and outreach efforts shall identify locations where the application can be obtained. **Applications shall be available at public locations including one that has some night hours; usually, a public library will meet this need.** The advertisement shall include a telephone number an applicant can call to request an application via mail.

Informational Meeting

In addition, the lottery administrator must offer one or more informational meetings for potential applicants to educate them about the lottery process and the housing development. These meetings may include local officials, developers, and local bankers. The date, time, and location of these meetings shall be published in ads and flyers that publicize the availability of lottery applications. The workshops shall be held in a municipal building, school, library, public meeting room or other accessible space. Meetings shall be held in the evening or on weekend days in order to reach as many potential applicants as possible. However, attendance at a meeting shall not be mandatory for participation in a lottery.

The purpose of the meeting is to answer questions that are commonly asked by lottery applicants. Usually a municipal official will welcome the participants and describe the municipality's role in the affordable housing development. The lottery administrator will then explain the information requested on the application and answer questions about the lottery drawing process. The Developer should be present to describe the development and to answer specific questions about the affordable units. It is helpful to have representatives of local banks present to answer questions about qualifications for the financing of affordable units. At the meeting, the lottery administrator should provide complete application materials to potential applicants.

⁴ 42 U.S.C. § 3604(c); M.G.L. c. 151B, § 4(7B).

Homeownership – Establishing Sales Prices

Sale prices shall be established at the time of the initial marketing of the affordable units. Thereafter, the prices of homes can not be increased for lottery winners, even if interest rates and HUD income guidelines change.

For large, phased developments maximum sale prices of units sold in subsequent phases will be calculated prior to the start of marketing for each phase, or approximately 6 months prior to expected occupancy of the units. In such cases, each phase will require its own affirmative fair marketing efforts and lottery.

C. Local Preference

If a community wishes to implement a local selection preference, it must:

- Demonstrate in the AFHMP the need for the local preference (e.g., the community may have a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area); and
- Demonstrate that the proposed local preference will not have a disparate impact on protected classes.

In no event may a local preference exceed more than 70% of the (affordable) units in a Project.

The Subsidizing Agency, and in the case of LAUs, DHCD as well as the municipality, must approve a local preference scheme as part of the AFHMP. Therefore, the nature and extent of local preferences should be approved by the Subsidizing Agency (or DHCD in the case of LAUs) prior to including such language in the comprehensive permit or other zoning mechanism.

Allowable Preference Categories

1. Current residents: A household in which one or more members is living in the city or town at the time of application. Documentation of residency should be provided, such as rent receipts, utility bills, street listing or voter registration listing.
2. Municipal Employees: Employees of the municipality, such as teachers, janitors, firefighters, police officers, librarians, or town hall employees.
3. Employees of Local Businesses: Employees of businesses located in the municipality.
4. Households with children attending the locality's schools, such as METCO students.

(June 25, 2008 change: removed formerly listed allowable preference category, "Family of Current Residents.")

When determining the preference categories, the geographic boundaries of the local resident preference area should not be smaller than municipal boundaries.

Durational requirements related to local preferences, that is, how long an applicant has lived in or worked in the residency preference area, are not permitted in any case.

Preferences extended to local residents should also be made available not only to applicants who work in the preference area, but also to applicants who have been hired to work in the preference area, applicants who demonstrate that they expect to live in the preference area because of a bona fide offer of employment, and applicant households with children attending the locality's schools, such as METCO students.

A preference for households that work in the community must not discriminate (including have a disproportionate effect of exclusion) against disabled and elderly households in violation of fair housing laws.

Advertising should not have a discouraging effect on eligible applicants. As such, local residency preferences must not be advertised as they may discourage non-local potential applicants.

(April 9, 2008 changes: (1) Inserted new fifth enumerated paragraph; (2) addition of "and applicant households with children attending the locality's schools in eighth paragraph).

Avoiding Potential Discriminatory Effects

The local selection preferences must not disproportionately delay or otherwise deny admission of non-local residents that are protected under state and federal civil rights laws. The AFHMP should demonstrate what efforts will be taken to prevent a disparate impact or discriminatory effect. For example, the community may move minority applicants into the local selection pool to ensure it reflects the racial/ethnic balance of the HUD defined Metropolitan Statistical Area as described below.⁵ However, such a protective measure may not be sufficient as it is race/ethnicity specific; the AFHMP must address other classes of persons protected under fair housing laws who may be negatively affected by the local preference.

To avoid discriminatory effects in violation of applicable fair housing laws, the following procedure should be followed unless an alternative method for avoiding disparate impact (such as lowering the original percentage for local preference as needed to reflect demographic statistics of the MSA) is approved by the Subsidizing Agency. If the project receives HUD financing, HUD standards must be followed.

A lottery for projects including a local preference should have two applicant pools: a local preference pool and an open pool. After the application deadline has passed, the Developer should determine the number of local resident minority households there are in the municipality and the percentage of minorities in the local preference pool. If the percentage of minority local resident households in the local preference pool is less than the percentage of minorities in the surrounding HUD-defined area, the Developer should make the following adjustments to the local preference pool:

⁵ Note: This protective measure may not be dispositive with respect to discriminatory effects. For example, the non-local applicant pool may contain a disproportionately large percentage of minorities, and therefore adjusting the local preference pool to reflect demographics of the regional area may not sufficiently address the discriminatory effect that the local preference has on minority applicants. Therefore, characteristics of the non-local applicant pool should continually be evaluated.

- The Developer should hold a preliminary lottery comprised of all minority applicants who did not qualify for the local preference pool, and rank the applicants in order of drawing.
- Minority applicants should then be added to the local preference pool in order of their rankings until the percentage of minority applicants in the local preference pool is equal to the percentage of minorities in the surrounding HUD-defined area.
- Applicants should be entered into all pools for which they qualify. For example, a local resident should be included in both pools.
- Minorities should be identified in accordance with the classifications established by HUD and the U.S. Census Bureau, which are the racial classifications: Black or African American; Asian; Native American or Alaska Native; Native Hawaiian or Pacific Islander; or other (not White); and the ethnic classification Hispanic or Latino.

D. Household Size/Larger Households Preference

General

Household size should be appropriate for the number of bedrooms in the home. It is appropriate to set a minimum. A maximum household size for the units may be established provided that:

- Maximum allowable household size may not be more restrictive than the State Sanitary Code or applicable local bylaws, and may not violate state and federal civil rights laws.
- Maximum allowable household size may not be more restrictive than the Large Household Preference established below.

(April 8, 2008 change: deleted first sentence of paragraph which previously stated "...for example, it may be appropriate for two bedroom homes to set a minimum household size of two persons.")

Larger Household Preference

Within an applicant pool first preference shall be given to households requiring the total number of bedrooms in the unit based on the following criteria:

- a. There is at least one occupant per bedroom.⁶
- b. A husband and wife, or those in a similar living arrangement, shall be required to share a bedroom. Other household members may share but shall not be required to share a bedroom.
- c. A person described in the first sentence of (b) shall not be required to share a bedroom if a consequence of sharing would be a severe adverse impact on his or her mental or physical health and the lottery agent receives reliable medical documentation as to such impact of sharing.

⁶ Disabled households must not be excluded from a preference for a larger unit based on household size if such larger unit is needed as a reasonable accommodation.

Within an applicant pool second preference shall be given to households requiring the number of bedrooms in the unit minus one, based on the above criteria. Third preference shall be given to households requiring the number of bedrooms in the unit minus, two, based on the above criteria.

A "household" shall mean two or more persons who will live regularly in the unit as their principal residence and who are related by blood, marriage, law or who have otherwise evidenced a stable inter-dependent relationship, or an individual.

Lottery drawings shall result in each applicant being given a ranking among other applicants with households receiving preference for units based on the above criteria. Household size shall not exceed State Sanitary Code requirements for occupancy of a unit (See 105 CMR 400).⁷

E. Lotteries

The Lottery Application

Resident selection must generally be based on a lottery, although in some cases it may be based on another fair and equitable procedure approved by the Subsidizing Agency.⁸ A lottery procedure is preferred over a "first-come, first-serve procedure," as the latter procedure may disadvantage non-local applicants.

The application period should be at least 60 days. To ensure the fairness of the application process, applicants should not be required to deliver application materials and instead should be permitted to mail them.

The lottery application must address a household's:

- income
- assets
- size and composition
- minority status (optional disclosure by the household)
- eligibility as a first-time buyer (for ownership units)
- eligibility for local preference

The lottery administrator shall request verification (e.g., three prior year tax returns with the W2 form; 5 most recent pay stubs for all members of the household who are working, three most recent bank statements and other materials necessary to verify income or assets).

Applicants cannot be required to use a specific lender for their pre-approval letter or their mortgage.

Only applicants who meet qualification requirements should be included in the lottery.

Lottery Procedure

Once all required information has been received, qualified applicants should be assigned a registration number. **Only applicants who meet the eligibility requirements shall be**

⁷ Note, however, that fair housing exceptions may apply: see HUD Fair Housing Enforcement—Occupancy Standard; Notice of Statement of Policy, Docket No. FR-4405-01 (1998).

⁸ In the case of project based Section 8 properties where resident selection is to be performed by the housing authority pursuant to a Section 8 waiting list, a lottery procedure is not required.

entered into a lottery. The lottery shall be conducted after any appeals related to the project have been completed and all permits or approvals related to the project have received final action.

Ballots with the registration number for applicant households are placed in all lottery pools for which they qualify. The ballots are randomly drawn and listed in the order drawn, by pool. If a project has units with different numbers of bedrooms, units are then awarded (largest units first) by proceeding down the list to the first household on the list that is of appropriate size for the largest unit available according to the appropriate-unit-size criteria established for the lottery. Once all larger units have been assigned to appropriately sized households in this manner, the lottery administrator returns to the top of the list and selects appropriately sized households for smaller units. This process continues until all available units have been assigned to appropriately sized applicant households.

If the project includes units accessible or adaptable for occupancy by disabled persons, first preference (regardless of applicant pool) for those units shall be given to such disabled persons, including single person households, in conformity with state and federal civil rights laws.

The lottery administrator should retain a list of households who are not awarded a unit, in the order that they were drawn. If any of the initial renters/buyers do not rent/purchase a unit, the unit shall be offered to the highest ranked household on that retained list. This list may generally be retained and used to fill units for up to one year. However, other factors such as the number of households remaining on the list, the likelihood of the continuing eligibility of such households, and the demographic diversity of such households may inform the retention time of the list, subject to the approval of the Subsidizing Agency.

After the initial lottery, waiting lists should be analyzed, maintained, and updated (through additional marketing) so that they remain consistent with the objectives of the housing program and are adequately representative of the racial, ethnic, and other characteristics of potential applicants in the housing market region.

(April 8, 2008 change to the third paragraph: addition of "(regardless of applicant pool)").

Lottery Example

This theoretical lottery has an OPEN pool that includes all applicants and a LOCAL PREFERENCE pool with only applicants from the local area.

- Total applicants in lottery: 100
 - Total minority applicants: 20
 - The community in which the lottery takes place falls within the HUD Boston Metropolitan Statistical Area which has a minority population of 20.7%.
1. Determine the number of applicants who claim a LOCAL preference according to approved criteria.
 2. Determine the number of minority applicants in the LOCAL preference pool.
 3. Determine the percentage of minority applicants in the LOCAL preference pool.

Total Applicants in Local Preference Pool	Total Minority Applicants in Local Preference Pool	% Minority Applicants in Local Preference Pool
60	10	16.7%

Since the percentage of minority applicants in the LOCAL preference pool is below the percentage of minority residents in the HUD defined statistical area (16.7% as opposed to 20.7%), a preliminary lottery is required.

4. The 10 minority applicants who do not have LOCAL preference are entered into a preliminary drawing and assigned a rank based on the order of their draw. Minority applicants are added to the LOCAL preference pool in order of their rank until the LOCAL preference pool has at least as great a percentage of minority applicants as the larger statistical area. In this example, 4 applicants will be added to the LOCAL preference pool to bring the percentage of minority applicants up to 21.8%.

Applicants in Supplemented Local Preference Pool	Total Minority Applicants in Supplemented Local Preference Pool	% Minority Applicants in Supplemented Local Preference Pool
64	14	21.8%

5. Draw all ballots from the adjusted LOCAL pool and assign rankings to each household. Preference for appropriately sized households will still apply and all efforts should be made to match the size of the affordable units to the legitimate need for bedrooms of each household.
6. Once all units for LOCAL residents have been allocated, the OPEN pool should proceed in a similar manner. All LOCAL residents should have ballots in both pools, and all minority applicants that were put in the LOCAL pool should remain in the OPEN pool as well.

F. Homeownership

1. Household Eligibility

A Subsidizing Agency housing program may establish eligibility requirements for homebuyers. In the absence of such provisions, the following requirements shall apply.

In addition to meeting the requirements for qualifying a Project or dwelling unit for the SHI (see Section II.A), the household shall not have owned a home within three years preceding the application, with the exception of:

- a. displaced homemakers, where the displaced homemaker (an adult who has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family), while a

homemaker, owned a home with his or her partner or resided in a home owned by the partner;

- b. single parents, where the individual owned a home with his or her partner or resided in a home owned by the partner and is a single parent (is unmarried or legally separated from a spouse and either has 1 or more children of whom the individual has custody or joint custody, or is pregnant);
- c. households where at least one household member is 55 or over;
- d. households that owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; and
- e. households that owned a property that was not in compliance with State, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.

Individuals who have a financial interest in the development and their families shall not be eligible.

2. Final Qualification and Closing

Once the lottery has been completed, applicants selected to purchase units must be given a reasonable pre-specified time period in which they must secure financing. The Developer should invite the lottery winners to a loan application workshop. The Developer should make prior arrangements with local financial institutions with respect to financing qualified purchasers. Often such institutions will give preliminary approvals of loans, which make the remainder of the process more efficient for all parties.

Before a Purchase and Sale Agreement is signed, the lottery agent should submit income and asset documentation of the applicant to the Subsidizing Agency (to DHCD and the municipality in the case of a LAU). Income verification should include tax returns and W-2s from the past three years, five most recent pay stubs, three months recent bank statements and 401 K reports, reliable documentation as to other sources of income and assets. The Subsidizing Agency (to DHCD and the municipality in the case of a LAU) will then verify that the household's annual income does not exceed 80% of the area median income, or such lower income limit as may have been established for the particular project. The Subsidizing Agency (to DHCD and the municipality in the case of a LAU) also will verify that household assets do not exceed the maximum allowed. Closing of the sale will also be contingent on the Subsidizing Agency's (to DHCD and the municipality in the case of a LAU) approval of the buyer's financing.

Non-household members should not be permitted as co-signers of the mortgage.

3. Resales

AFHMP requirements apply to the housing for its duration. The AFHMP must include a plan, satisfactory to the Subsidizing Agency (to DHCD and the municipality in the case of a LAU), to address AFHMP requirements upon resale. The proposal must, at a minimum, require that units for re-sale to eligible purchasers be listed with CHAPA and MAHA's homeownership lottery sites as described above and establish minimum public advertising requirements. The proposal

cannot impose the AFHMP requirements upon a homeowner other than requiring compliance with requirements of a Use Restriction, reasonable public advertising, and listing with CHAPA and MAHA.

(April 8, 2008 changes: modified second and third sentences to include listing with the MAHA website).

A "ready-buyer" list of eligible buyers maintained by the municipality or other local entity is encouraged. This list may be created through local, regional, and statewide lists and resources. As stated above, the list should continually be analyzed, maintained, and updated (through additional marketing) so that it remains consistent with the objectives of the housing program and is adequately representative of the racial, ethnic, and other characteristics of potential applicants in the housing market region.

APPENDIX B

Potential Affordable Housing Funding Sources

Appendix B –

Summary of Affordable Housing Funding Resources

Those programs that may be most appropriate to affordable housing development activity in the Town of Westminster are described below.

Introduction

While comprehensive permits typically do not involve external public subsidies but use internal subsidies by which the market units in fact subsidize the affordable ones, communities are finding that they also require public subsidies to cover the costs of affordable or mixed-income residential development and need to access a range of programs through the state and federal government and other financial institutions to accomplish their objectives and meet affordable housing goals. Because the costs of development are typically significantly higher than the rents or purchase prices that low- and moderate-income tenants can afford, multiple layers of subsidies are often required to fill the gaps. Sometimes even Chapter 40B developments are finding it useful to apply for external subsidies to increase the numbers of affordable units, to target units to lower income or special needs populations, or to fill gaps that market rates cannot fully cover.

It is likely that a number of financial and technical resources will be required to produce affordable units in Westminster. Unlike more than 100 other communities in Massachusetts, Westminster has not approved the Community Preservation Act and does not have this funding available to support affordable housing at this time. If CPA funds do not become available in the future, the Town will have to rely on other existing resources to make affordable housing development feasible. Information to assist the Town of Westminster on how it could utilize CPA funds toward affordable housing has been included within the list of affordable housing funding sources below, with links for additional details and resources.

The state requires applicants to submit a One Stop Application for most of its housing subsidy programs in an effort to standardize the application process across agencies and programs. A Notice of Funding Availability (NOFA) is issued by the state usually twice annually for its rental programs and homeownership initiatives. Using the One Stop Application, applicants can apply to several programs simultaneously to support the funding needs of a particular project.

1. HOME Program

HUD created the HOME Program in 1990 to provide grants to states, larger cities and consortia of smaller cities and towns to do the following:

- Produce rental housing;
- Provide rehabilitation loans and grants, including lead paint removal and accessibility modifications, for rental and owner-occupied properties;
- Offer tenant-based rental assistance (two-year subsidies); and/or
- Assist first-time homebuyers.

The HOME Program funding is targeted to homebuyers or homeowners earning no more than 80% of median income, and to rental units where at least 90% of the units must be affordable

and occupied by households earning no more than 60% of median income, the balance to those earning within 80% of median. Moreover, for those rental projects with five or more units, at least 20% of the units must be reserved for households earning less than 50% of median income.

In addition to income guidelines, the HOME Program specifies the need for deed restrictions, resale requirements, and maximum sales prices or rentals.

Because Westminister is not an entitlement community, meaning that it is not automatically entitled to receive HOME funding based on HUD's funding formula, the Town would need to join a consortium of other smaller towns and cities to receive funding or submit funding applications to DHCD on a project by project basis through its One Stop Application. The benefit of joining a consortium is that funding is provided by formula on an annual basis, assuring Westminister of a steady flow of this flexible funding source, however, at this time there are no consortiums operating in North Central Massachusetts and needs to apply directly to DHCD for this funding.

The HOME Rental Program is targeted to the acquisition and rehabilitation of multifamily distressed properties or new construction of multi-family rental housing from five to fifty units. Once again, the maximum subsidy per project is \$750,000 and the maximum subsidy per unit in localities that receive HOME or CDBG funds directly from HUD is \$50,000 (these communities should also include a commitment of local funds in the project). Those communities that do not receive HOME or CDBG funds directly from HUD, like Westminister, can apply for up to \$65,000 per unit. Subsidies are in the form of deferred loans at 0% interest for 30 years. State HOME funding cannot be combined with another state subsidy program with several exceptions including the Low Income Housing Tax Credits, HIF and the Soft Second Program.

2. Community Development Block Grant Program (CDBG)

In addition to potential CDBG funding for housing rehab units mentioned in the Implementation Strategies section, there are other housing resources supported by federal CDBG funds that are distributed by formula to Massachusetts.

The **Massachusetts Small Cities Program** that has a set-aside of Community Development Block Grant (CDBG) funds to support a range of eligible activities including housing development. However, at least 70% of the money must provide benefits to households earning within 80% of median income. This money is for those non-entitlement localities that do not receive CDBG funds directly from HUD. Funds are awarded on a competitive basis through Notices of Funding Availability with specific due dates or through applications reviewed on a rolling basis throughout the year, depending on the specific program. This funding supports a variety of specific programs.

A program to explore for the Town of Westminister is the **Housing Development Support Program (HDSP)** that provides gap financing for small affordable housing projects with fewer than eight units, including both new construction and rehabilitation. Eligible activities include development, rehabilitation, homeownership, acquisition, site preparation and infrastructure work. There are no per unit maximums or recommended maximum total development costs.

Funding is distributed through Notices of Funding Availability that occur once or twice a year. HDSP Program funding is extremely competitive, and projects that receive funding through the state HOME or Housing Stabilization Fund Programs are excluded from applying to HDSP.

There are other programs funded through the Community Development Block Grant Small Cities Program for both homeownership and rental projects. A number of the special initiatives are directed to communities with high-statistical community-wide needs, however, the **Community Development Fund II** is targeted to communities with lower needs scores that have not received CDBG funds in recent years. This may be the source of CDBG funding for Westminster to explore besides HDSP described above. Funding is also awarded competitively through an annual Notice of Funding Availability. DHCD also has a **Reserve Fund** for CDBG-eligible projects that did not receive funding from other CDBG funded programs or for innovative projects.

3. Housing Stabilization Fund (HSF)

The State's Housing Stabilization Fund (HSF) was established in 1993 through a Housing Bond bill to support housing rehabilitation through a variety of housing activities including homeownership (most of this funding has been allocated for the MHP Soft Second Program) and rental project development. The state subsequently issued additional bond bills to provide more funding. The HSF Rehabilitation Initiative is targeted to households with incomes within 80% of median income, with resale or subsequent tenancy for households within 100% of median income. The funds can be used for grants or loans through state and local agencies, housing authorities and community development corporations with the ability to subcontract to other entities.

The funds have been used to match local HOME program funding, to fund demolition, and to support the acquisition and rehabilitation of affordable housing. In addition to a program directed to the rehabilitation of abandoned, distressed or foreclosed properties, the HSF provides funds to municipalities for local revitalization programs directed to the creation or preservation of rental projects. As with HOME, the maximum amount available per project is \$750,000 and the maximum per unit is \$65,000 for communities that do not receive HOME or CDBG funds directly from HUD, and \$50,000 for those that do. Communities can apply for HSF funding biannually through the One Stop Application.

4. Low Income Housing Tax Credit Program

The Low Income Housing Tax Credit Program was created in 1986 by the Federal Government to offer tax credits to investors in housing development projects that include some low-income units. The tax credit program is often the centerpiece program in any affordable rental project because it brings in valuable equity funds. Tax credits are either for 4% or 9% of the development or rehab costs for each affordable unit for a ten-year period. The 4% credits have a present value of 30% of the development costs, except for the costs of land, and the 9% credit have a present value equal to 70% of the costs of developing the affordable units, with the exception of land. Both the 4% and 9% credits can be sold to investors for close to their present values.

The Federal Government limits the 9% credits and consequently there is some competition for them, nevertheless, most tax credit projects in Massachusetts are financed through the 9% credit. Private investors, such as banks or corporations, purchase the tax credits for about 80 cents on the dollar, and their money serves as equity in a project, reducing the amount of the debt service and consequently the rents. The program mandates that at least 20% of the units must be made affordable to households earning within 50% of median income or 40% of the units must be affordable to households earning up to 60% of median income. Those projects that receive the 9% tax credits must produce much higher percentages of affordable units.

The Massachusetts Legislature has enacted a comparable state tax credit program, modeled after the federal tax credit program. The One Stop Application is also used to apply for this source of funding.

5. Affordable Housing Trust Fund

The Affordable Housing Trust Fund (AHTF) was established by an act of the State Legislature and is codified under Chapter 121-D of the Massachusetts General Laws. The AHTF operates out of DHCD and is administered by MassHousing with guidance provided by an Advisory Committee of housing advocates. The purpose of the fund is to support the creation/preservation of housing that is affordable to people with incomes that do not exceed 110% of the area median income. The AHTF can be used to support the acquisition, development and/or preservation of affordable housing units.

AHTF assistance can include:

- Deferred payment loans, low/no-interest amortizing loans.
- Down payment and closing cost assistance for first-time homebuyers.
- Credit enhancements and mortgage insurance guarantees.
- Matching funds for municipalities that sponsor affordable housing projects.
- Matching funds for employer-based housing and capital grants for public housing.

Funds can be used to build or renovate new affordable housing, preserve the affordability of subsidized expiring use housing, and renovate public housing. While the fund has the flexibility of serving households with incomes up to 110%, preferences for funding will be directed to projects involving the production of new affordable units for families earning below 80% of median income. The program also includes a set-aside for projects that serve homeless households or those earning below 30% of median income. Once again, the One Stop Application is used to apply for funding, typically through the availability of two funding rounds per year.

6. Housing Innovations Fund (HIF)

The State also administers the Housing Innovations Fund (HIF) that was created by a 1987 bond bill and expanded under two subsequent bond bills to provide a 5% deferred loan to non-profit organizations for no more than \$500,000 per project or up to 30% of the costs associated with developing alternative forms of housing including limited equity coops, mutual housing, single-

room occupancy housing, special needs housing, transitional housing, domestic violence shelters and congregate housing. At least 25% of the units must be reserved for households earning less than 80% of median income and another 25% for those earning within 50% of area median income. HIF can also be used with other state subsidy programs including HOME, HSF and Low Income Housing Tax Credits. The Community Economic Development Assistance Corporation (CEDAC) administers this program. Applicants are required to complete the One-Stop Application.

7. Federal Home Loan Bank Board's Affordable Housing Program (AHP)

Another potential source of funding for both homeownership and rental projects is the Federal Home Loan Bank Board's Affordable Housing Program (AHP) that provides subsidies to projects targeted to households earning between 50% and 80% of median income, with up to \$300,000 available per project. This funding is directed to filling existing financial gaps in low- and moderate-income affordable housing projects. There are typically two competitive funding rounds per year for this program.

8. MHP Permanent Rental Financing Program

The State also provides several financing programs for rental projects through the Massachusetts Housing Partnership Fund. The Permanent Rental Financing Program provides long-term, fixed-rate permanent financing for rental projects of five or more units from \$100,000 loans to amounts of \$2 million. At least 20% of the units must be affordable to households earning less than 50% of median income or at least 40% of the units must be affordable to households earning less than 60% of median income or at least 50% of the units must be affordable to households earning less than 80% of median income. MHP also administers the Permanent Plus Program targeted to multi-family housing or SRO properties with five or more units where at least 20% of the units are affordable to households earning less than 50% of median income. The program combines MHP's permanent financing with a 0% deferred loan of up to \$40,000 per affordable unit up to a maximum of \$500,000 per project. No other subsidy funds are allowed in this program. The Bridge Financing Program offers bridge loans of up to eight years ranging from \$250,000 to \$5 million to projects involving Low Income Housing Tax Credits. Applicants should contact MHP directly to obtain additional information on the program and how to apply.

9. OneSource Program

The Massachusetts Housing Investment Corporation (MHIC) is a private, non-profit corporation that since 1991 has provided financing for affordable housing developments and equity for projects that involve the federal Low Income Housing Tax Credit Program. MHIC raises money from area banks to fund its loan pool and invest in the tax credits. In order to qualify for MHIC's OneSource financing, the project must include a significant number of affordable units, such that 20% to 25% of the units are affordable to households earning within 80% of median income. Interest rates are typically one point over prime and there is a 1% commitment fee. MHIC loans range from \$250,000 to several million, with a minimum project size of six units. Financing can be used for both rental and homeownership projects, for rehab and new construction, also

covering acquisition costs with quick turn-around times for applications of less than a month (an appraisal is required). The MHIC and MHP work closely together to coordinate MHIC's construction financing with MHP's permanent take-out through the OneSource Program, making their forms compatible and utilizing the same attorneys to expedite and reduce costs associated with obtaining financing.

10. Section 8 Rental Assistance

An important low-income housing resource is the Section 8 Program that provides rental assistance to help low- and moderate-income households pay their rent. In addition to the federal Section 8 Program, the state also provides rental subsidies through the Massachusetts Rental Voucher Program as well as three smaller programs directed to those with special needs. These rental subsidy programs are administered by the state or through local housing authorities and regional non-profit housing organizations. Rent subsidies take two basic forms: either granted directly to tenants or committed to specific projects through special Project-based rental assistance. Most programs require households to pay a minimum percentage of their adjusted income (typically 30%) for housing (rent and utilities) with the government paying the difference between the household's contribution and the actual rent.

11. District Improvement Financing Program (DIF)

The District Improvement Financing Program (DIF) is administered by the state's Office of Business Development to enable municipalities to finance public works and infrastructure by pledging future incremental taxes resulting from growth within a designated area to service financing obligations. This Program, in combination with others, can be helpful in developing or redeveloping target areas of a community, including the promotion of mixed-uses and smart growth. Municipalities submit a standard application and follow a prescribed application process directed by the Office of Business Development in coordination with the Economic Assistance Coordinating Council.

12. Urban Center Housing Tax Increment Financing Zone (UCH-TIF)

The Urban Center Housing Tax Increment Financing Zone Program (UCH-TIF) is a relatively new state initiative designed to give cities and towns the ability to promote residential and commercial development in commercial centers through tax increment financing that provides a real estate tax exemption on all or part of the increased value (the "increment") of the improved real estate. The development must be primarily residential and this program can be combined with grants and loans from other local, state and federal development programs. An important purpose of the program is to increase the amount of affordable housing for households earning at or below 80% of area median income and requires that 25% of new housing to be built in the zone be affordable, although the Department of Housing and Community Development may approve a lesser percentage where necessary to insure financial feasibility. In order to take advantage of the program, a municipality needs to adopt a detailed UCH-TIF Plan and submit it to DHCD for approval.

13. Elder Mixed-Income

Managed through MassHousing, Developments financed through the Elder Mixed-Income program serve elders who wish to live in independent rental apartments with on-site access to supportive services.

Who it's for: Developers of rental housing that fills a niche between conventional elderly housing without services and full-service personal care programs.

At least 20% of the units must be reserved for households earning less than 50% of the area median income. The remaining units may be rented at market rates.

For more information on the Elder Mixed-Income program, visit MassHousing's Elder Mixed-Income program website at

https://www.masshousing.com/portal/server.pt?open=514&objID=232&qid=13344326&rank=2&parentname=SearchResult&parentid=2&mode=2&in_hi_userid=2&cached=true or contact Charles Gladstone in MassHousing's Rental Lending Division at 617.854.1362.

14. Community Preservation Act (CPA)

A minimum of 10% of funds collected by communities that adopt the Community Preservation Act (CPA) must be expended for affordable housing purposes. The housing is to be for low and moderate income individuals and families, including low and moderate income seniors. Under CPA's definition of affordable housing moderate income is less than 100%, and low income is less than 80% of U.S. HUD Area Wide Median Income. Under the 2011 CPA Affordable Housing Low Income Limits a family of four in Westminister the low-income limit is \$57,600.

The CPA law allows for funds to be used for the "*acquisition, creation, preservation and support of community housing; and for the rehabilitation and restoration of...community housing that is acquired or created*" under CPA funding. It is important to highlight that CPA funds can be used for housing rehabilitation and restoration, but **only if the housing unit(s) were acquired or created with CPA funds** (emphasis added).

The Massachusetts Housing Partnership (MHP) and the Citizens' Housing and Planning Association (CHAPA) have prepared "A Guidebook for CPA and Affordable Housing" that has detailed information on how the Town of Westminister could use CPA funds to support local housing efforts. The Guidebook can be downloaded from MHP's website for CPA resources at: http://www.mhp.net/community_initiatives/resources.php?page_function=list&resource_category_id=51. The Guidebook is the last document posted on this webpage. Other CPA housing-related resources are also available from MHP under the resources webpage.

The Community Preservation Coalition (CPC) is another excellent resource for the Town of Westminister. CPC's website provides general information about the CPA at <http://www.communitypreservation.org/>. In addition, CPC has provided examples of how other communities have utilized CPA towards the development of affordable housing at their "Community Housing Success Stories" website at: <http://www.communitypreservation.org/success-stories-type/7/Community%20Housing>.

15. U.S. HUD Section 202 Supportive Housing for the Elderly Program

Summary: HUD provides capital advances to finance the construction, rehabilitation or acquisition with or without rehabilitation of structures that will serve as supportive housing for very low-income elderly persons, including the frail elderly, and provides rent subsidies for the projects to help make them affordable.

Purpose: The Section 202 program helps expand the supply of affordable housing with supportive services for the elderly. It provides very low-income elderly with options that allow them to live independently but in an environment that provides support activities such as cleaning, cooking, transportation, etc. The program is similar to Supportive Housing for Persons with Disabilities (Section 811).

Eligible Grantees: Private nonprofit organizations can apply to develop a Section 202 project if they can, among other requirements, submit a resolution that they will provide a minimum capital investment equal to 0.5 percent of the HUD-approved capital advance, up to a maximum of \$25,000 for national sponsors or \$10,000 for other sponsors. Public entities are not eligible for funding under this program. As the Town would not be eligible it can partner with a private nonprofit organization. One example is the Gardner-based RCAP Solutions. RCAP Solutions has developed elderly housing under the HUD 202 Program for the towns of Bolton and Townsend. For Townsend, RCAP Solutions recently completed a 36-unit HUD 202 Affordable Elderly Housing Development called “Townsend Woods”.

Eligible Customers: Occupancy in Section 202 housing is open to any very low-income household comprised of at least one person who is at least 62 years old at the time of initial occupancy.

Additional Information: Development of elderly housing under the Section 202 program can take multiple years from project conception to construction to occupancy. In addition to the program being very competitive, recent Federal budget cuts have led to a decrease in available funding.

For more information on the Section 202 Supportive Housing for the Elderly Program, visit HUD’s Section 202 Program website at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/progdesc/eld202.

APPENDIX C

Local Initiative Program (LIP) Information



Home > Economic Analysis > Executive Office of Housing and Economic Development > Department of Housing and Community Development > DHCD Program Facts and FAQ's >

Local Initiative Program

Program Description

The Local Initiative Program (LIP) seeks to stimulate the production of affordable housing opportunities by fostering cooperation between municipalities and housing developers. The program provides technical assistance to developers and municipalities seeking to develop housing that serves households at or below 80% of the area median income within mixed-income (market and affordable) housing developments.

LIP supports two approaches of providing affordable housing: Local Initiative Units, which are developed through a municipality's conventional zoning, and unit developments through a Comprehensive Permit as authorized by M.G.L., c. 40B. All low and moderate income units developed through LIP are included in a community's subsidized housing stock (the state Subsidized Housing Inventory) for purposes of Chapter 40B.

About the program:

LIP was established by the Legislature in 1990 in response to a report by a special legislative commission which found that state law defined low and moderate-income housing as "any housing subsidized by the federal or state government under any program to assist the construction of low or moderate-income housing."

This definition had previously been interpreted to mean financial subsidies only. As a result, cities and towns had little incentive to undertake housing initiatives which did not require direct state or federal assistance but which are otherwise within the intent of M.G.L. Ch. 40B. LIP allows the Department of Housing and Community Development to provide technical assistance that qualifies as a "subsidy." The LIP may also issue a site eligibility letter for a project, a prerequisite for a developer to apply for a Comprehensive Permit.

Unlike conventional housing subsidy programs, in which a state or federal agency must approve every aspect of financing, design and construction, LIP allows most of these decisions to be made by the municipality. LIP regulations and guidelines address those program components that must be reviewed and approved by DHCD-- e.g., incomes of households served, fair marketing, profit limitation and establishing long-term affordability for the units which are built.

How it works:

Developers seeking to build single or multi-family homes, condominiums or apartments where a certain percentage of the units are proposed to be affordable work with town officials to obtain approval. Such units must serve households below 80% of the area median income; the units must be subject to use restrictions to ensure that they remain in a community's affordable housing stock, and must be sold or rented on a fair and open basis.

DHCD provides technical support to both the town and the developer. If a development cannot be built under existing zoning, the developer may seek a comprehensive permit allowing the development to be built at a higher density than allowed under existing zoning.

LIP projects are subject to profit limitations. For homeownership projects, profit and developer fees to all partners and owners are limited to no more than 20 percent (20%) of the total development costs. For rental and cooperative housing projects, the LIP regulatory agreement, signed by the community, developer, and DHCD, limits distribution of return to all partners and legal or beneficial owners to a maximum of 10 percent (10%) equity per year during the time when the affordability restrictions are in place.

Who is eligible:

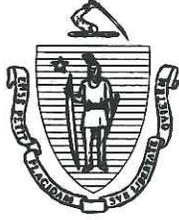
Both for-profit and non-profit developers may use the LIP program in concert with a city or town, as the municipality and developer jointly submit the application.

Application process:

LIP applications are available on the DHCD website, or by calling the LIP staff at 617-573-1351. Information to be provided in the application includes the following: (1) documentation of developer's interest in the site (ownership, option purchase, etc.); (2) description of current site conditions; (3) site plan; (4) sample floor plans of the proposed units, units identified by size, type and proposed cost; (5) a financial pro forma of the project, and (6) appraisal of the site. LIP staff review the application, conduct a site visit and evaluate the application. If the project as proposed is approved, DHCD will issue a site eligibility letter so that the developer may apply to the local Zoning Board of Appeals for a Comprehensive Permit.

For more information:

Please click [here](#) or call the Division of Housing Development at (617) 573-1300.



Commonwealth of Massachusetts DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

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

Affordable Housing Units Local Action Units (LAUs) and the Subsidized Housing Inventory

An increasing number of cities and towns across the Commonwealth are pursuing innovative ways to create affordable housing through the use of special permits, the development of town-owned land, or the use of Community Preservation Act funds to write down the cost of housing units. The Department of Housing and Community Development (DHCD) encourages these locally-driven efforts to create more affordable housing and wants to ensure that all municipalities understand the process for securing their approval and inclusion on the Subsidized Housing Inventory (SHI).

The Local Initiative Program (LIP) supports two approaches for providing affordable housing: Local Action Units (LAU), which are developed through a municipality's local zoning, and units developed through a Comprehensive Permit as authorized by M.G.L., c. 40B. All low and moderate income units developed through LIP are included in a community's subsidized housing stock that will be counted on the state Subsidized Housing Inventory.

A community should submit a LOCAL ACTION UNIT application to DHCD if the housing units are *not* part of a comprehensive permit and are *not* eligible for SHI inclusion through other funding programs.

The DHCD staff will review four key aspects of the application to ensure consistency with LAU requirements:

- 1. Are the affordable units the result of a local action?** Local action is demonstrated when a community uses a zoning by-law or ordinance, or local funds, or donates or sells municipal land to develop the affordable housing units.
- 2. Does the initial sale price or rent meet DHCD's calculation of what is affordable?** Sale prices are set to 70% of HUD's Area Median Income (AMI) based on number of bedrooms and household size, condo fees, insurance, and taxes, assuming a 5% down payment. Monthly rents are calculated at 30% of 80% AMI and incorporate area utility allowances.

3. **Will the units be sold or rented in accordance with an approved affirmative fair marketing and lottery plan?** DHCD reviews the information packet for prospective buyers; sample application forms; and the ad/flyer and outreach venues to ensure that marketing is appropriate, broad, and diverse and that applicants are fully aware of the eligibility requirements and the lottery process.
4. **How will units remain affordable in the future?** All ownership units are secured by a DHCD-approved universal deed restriction. Rental units are subject to annual monitoring and reporting of tenant income and continued eligibility.

Applications should be submitted to DHCD after local permitting is finalized and the units are six months from availability or construction is imminent. If you are new to the LAU process or have questions or concerns, please contact DHCD staff before submitting your application. DHCD aims to process *routine and complete* applications within 60 days of receipt.

The LAU application can be found on the DHCD website at:
<http://www.mass.gov/Ehed/docs/dhcd/hd/lip/localactionunitapp.doc>

Further information about the Subsidized Housing Inventory and information about M.G.L., c. 40B, including the Guidelines that cover both Comprehensive Permits and Local Action Units, are located at DHCD's website at www.mass.gov/dhcd by entering "Chapter 40B Planning" in the search box.

DHCD staff is available to consult with local officials. Please contact LAU Program Coordinator Janice Lesniak at 617-573-1327 or janice.lesniak@state.ma.us to discuss any aspect of a proposed LAU.

LOCAL INITIATIVE PROGRAM APPLICATION FOR LOCAL ACTION UNITS

Introduction

The Local Initiative Program (LIP) is a state housing initiative administered by the Department of Housing and Community Development (DHCD) to encourage communities to produce affordable housing for low- and moderate-income households.

The program provides technical and other non-financial assistance to cities or towns seeking to increase the supply of housing for households at or below 80% of the area median income. LIP-approved units are entered into the subsidized housing inventory (SHI) pursuant to Chapter 40B.

Local Action Units (LAUs) are created through local municipal action *other than* comprehensive permits; for example, through special permits, inclusionary zoning, conveyance of public land, utilization of Community Preservation Act (CPA) funds, etc.

The Department shall certify units submitted as Local Action Units if they meet the requirements of 760 CMR 56.00 and the Local Initiative Program Guidelines, which are part of the Comprehensive Permit Guidelines and can be found on the **DHCD website at www.mass.gov/dhcd**

To apply, a community must submit a complete, signed copy of this application to:

**Department of Housing and Community Development
100 Cambridge Street, Suite 300
Boston, MA 02114**

Attention: Janice Lesniak, LIP Program Coordinator

Telephone: (617) 573-1327

Email: Janice.Lesniak@state.ma.us

Community Support Narrative, Project Description, and Documentation

Please provide a description of the project, including a summary of the project's history and the ways in which the community fulfilled the local action requirement.

Signatures of Support for the Local Action Units Application

Chief Executive Officer:

defined as the mayor in a city and the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer under the provisions of a local charter

Signature: _____

Print Name: _____

Date: _____

Chair, Local Housing Partnership:
(as applicable)

Signature _____

Print Name: _____

Date: _____

Municipal Contact Information

Chief Executive Officer:

Name _____

Address _____

Phone _____

Email _____

Town Administrator/Manager:

Name _____

Address _____

Phone _____

Email _____

City/Town Planner:

Address _____

Phone _____

Email _____

Town Counsel:

Name _____

Address _____

Phone _____

Email _____

**Chair, Local Housing Partnership
(if any):**

Name _____

Address _____

Phone _____

Email _____

Community Contact Person:

Name _____

Address _____

Phone _____

Email _____

The Project

Developer: _____

Telephone and Email: _____

Project Site: _____

Address: _____

Is your municipality utilizing any HOME or CDBG funding for this project? Yes _____ No _____

Local tax rate per thousand \$ _____ For Fiscal Year _____

Site Characteristics: proposed or existing buildings by design, ownership type, and size.

<u>Project Style</u>	<u>Total Number of Units</u>	<u>Number of Units Proposed for Local Action Units Certification</u>
Detached Single-family house	_____	_____
Rowhouse/townhouse	_____	_____
Duplex	_____	_____
Multifamily house (3+ family)	_____	_____
Multifamily rental building	_____	_____
Other (specify)	_____	_____

Unit Composition

Type of Unit:	# of Units	# of BRs	# of Baths	Gross Square Feet	Livable Square Feet	Proposed Sale Prices/ Rent	Proposed Condo Fee
Condo Ownership							
Fee Simple Ownership							
Rental							
Affordable:							
Market:							

Please attach the following documents to your application:

1. Documentation of municipal action (e.g., copy of special permit, CPA funds, land donation, etc.)
2. Long-Term Use Restrictions (request documents before submission):

For ownership projects, this is the Regulatory Agreement for Ownership Developments, redlined to reflect any proposed changes, and/or the model deed rider.

For rental projects, this is the Regulatory Agreement for Rental Developments, redlined to reflect any proposed changes.

For HOME-funded projects, this is the HOME covenant/deed restriction. When attaching a HOME deed restriction to a unit, the universal deed rider cannot be used.

3. Documents of Project Sponsor's (developer's) legal existence and authority to sign the Regulatory Agreement:
 - appropriate certificates of Organization/Registration and Good Standing from the Secretary of State's Office
 - mortgagee consents to the Regulatory Agreement
 - Trustee certificates or authorization for signer/s to execute all documents
4. For Condominium Projects Only: The schedule of undivided interest in the common areas in percentages set forth in the condominium master deed
5. MEPA (Massachusetts Environmental Policy Act) environmental notification form (ENF)--for new construction only (request form before submission)
6. Affirmative Fair Marketing and Lottery Plan, including:
 - ads and flyers with HUD logo
 - informational materials for lottery applicants
 - eligibility requirements
 - lottery application and financial forms
 - lottery and resident selection procedures
 - request for local preference and demonstration of need for the preference
 - measures to ensure affirmative fair marketing, including outreach methods and venue list
 - name of Lottery Agent with contact information

See Section III of the Comprehensive Permit Guidelines at www.mass.gov/dhcd for more information.

PLEASE contact our office if you have any questions: 617-573-1327.

APPENDIX D

Municipal Affordable Housing Trust Information

Appendix D -

Municipal Affordable Housing Trusts

Current Status: Discussion with other communities regarding the success of their affordable housing initiatives indicate that it is often critical to have accessible funds to respond immediately and effectively to housing opportunities as they arise. Also, many of the state subsidy sources require local contributions either through local funds, donation of Town-owned property, or private donations. In order to receive donations and avoid paying taxes, it is useful for each locality to have a dedicated housing fund that offers communities greater ability to support the development of affordable housing.

On June 7, 2005, then Governor Mitt Romney signed new legislation called the Municipal Affordable Housing Trust Fund Act (codified as MGL Chapter 44, Section 55C – A copy of the Municipal Affordable Housing Trust Statute has been included within this Appendix), which simplifies the process of establishing such Affordable Housing Trust funds. Previously, cities could create trusts through their own resolution, but Towns had to get approval from the State Legislature through a home rule petition. The law provides guidelines on what trusts can do and allows communities to collect funds for housing, segregate them out of the general budget into an affordable housing trust fund, and use these funds without going back to Town Meeting for approval. It also enables trusts to own and manage real estate, not just receive and disburse funds. The law further requires that local housing trusts be governed by a five-member board of trustees, most typically appointed and confirmed by the Board of Selectmen, in the case of towns. While the new trusts must be in compliance with Chapter 30B, the law which governs public procurement as well as public bidding and construction laws, it is likely that most trust will opt to dispose of property through a sale or long-term lease to a developer so as to clearly differentiate any affordable housing development project from a public construction project.

Next Steps: An Action Plan item has been included within this 2011 Town of Westminster Housing Production Plan Update for the Town to explore the creation of an Affordable Housing Trust Fund by educating Town officials and residents about benefits of having a local Affordable Housing Trust to facilitate implementation of development of local affordable housing units. An information session about Municipal Affordable Housing Trusts should be made part of the planned Housing Forum during the Fall of 2012. DHCD Staff have indicated that Priority Development Fund (PDF) funding could be sought for communities who are interested in adopting the provisions of MGL Ch. 44 §55C. The funding could be utilized for educational and outreach activities.

It will also be important to explore a wide range of possible fundraising options to capitalize the Trust Fund. This task could be a challenge for the Town of Westminster, as it is not a community that has adopted the Community Preservation Act (CPA). To date 148

Massachusetts communities have adopted the CPA, which requires that a minimum of 10% of the funds allocated for the community must be utilized for affordable housing purposes. Given the lack of CPA funding available for the Town of Westminister, which provides a dedicated funding source for affordable housing, other public sector resources would need to be explored and also the Town could also consider private sector donations. This process of securing private support not only provides financial benefits to support local housing efforts, but it is also a vehicle for raising awareness of the affordable housing issue and generating interest and political support for affordable housing initiatives.

Many communities are reaching out to residents for private donations of land or funds to promote housing affordability. Such contributions and the “bargain sale” of real estate could become a part of the Westminister land ethic, but donations need to be promoted, nurtured, and facilitated. Inclusionary zoning, if adopted by the Town of Westminister, may be crafted such to provide cash resources for a wider range of possible developments that can help capitalize the Affordable Housing Trust Fund if the developer decides to pay cash in lieu of constructing actual affordable units. Developers may also contribute to the Housing Fund through negotiations on comprehensive permit projects or other local developments. Developers make additional contributions to these funds if the purchase prices for the market units are higher than the prices were projected in their comprehensive permit applications and if profits are more than the 20% allowed under Chapter 40B.

Faith-based affordable housing initiatives are also widely viewed as effective, as reported by the organization World Vision.¹ The Westminister Affordable Housing Committee can work with local churches on some additional activities that focus on affordable housing, including, for example, donations to the Housing Fund, perhaps during Fair Housing Month.

More information about Municipal Affordable Housing Trusts are available through the Massachusetts Housing Partnership, which has produced a *Municipal Affordable Housing Trust Guidebook* in November 2009.

¹ Shabecoff, Alice. Rebuilding Our Communities: How Churches Can Provide, Support and Finance Quality Housing for Low-Income Families, World Vision: Monrovia, California.

Appendix

Municipal Affordable Housing Trust Statute

PART I. ADMINISTRATION OF THE GOVERNMENT
TITLE VII. CITIES, TOWNS AND DISTRICTS
CHAPTER 44. MUNICIPAL FINANCE
MISCELLANEOUS PROVISIONS

Chapter 44: Section 55C. Municipal Affordable Housing Trust Fund

Section 55C. (a) Notwithstanding section 53 or any other general or special law to the contrary, a city or town that accepts this section may establish a trust to be known as the Municipal Affordable Housing Trust Fund, in this section called the trust. The purpose of the trust is to provide for the creation and preservation of affordable housing in municipalities for the benefit of low and moderate income households. Acceptance shall be by majority vote of the municipal legislative body under section 4 of chapter 4.

(b) There shall be a board of trustees, in this section called the board, which shall include no less than 5 trustees, including the chief executive officer, as defined by section 7 of chapter 4, of the city or town, but where the chief executive officer is a multi-member body, that body shall designate a minimum of 1 of its members to serve on the board. Trustees shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the board of selectmen, shall serve for a term not to exceed 2 years, and are designated as public agents for purposes of the constitution of the commonwealth. Nothing in this subsection shall prevent a board of selectmen from appointing the town manager or town administrator as a member or chair of the board, with or without the power to vote.

(c) The powers of the board, all of which shall be carried on in furtherance of the purposes set forth in this act, shall include the following powers, but a city or town may, by ordinance or by-law, omit or modify any of these powers and may grant to the board additional powers consistent with this section:

- (1) to accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B;
- (2) to purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- (3) to sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise; and to make such contracts and enter into such undertaking relative to trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (4) to execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the board engages for the accomplishment of the purposes of the trust;
- (5) to employ advisors and agents, such as accountants, appraisers and lawyers as the board deems necessary;
- (6) to pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the board deems advisable;

(7) to apportion receipts and charges between incomes and principal as the board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

(8) to participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

(9) to deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the board may deem proper and to pay, out of trust property, such portion of expenses and compensation of such committee as the board may deem necessary and appropriate;

(10) to carry property for accounting purposes other than acquisition date values;

(11) to borrow money on such terms and conditions and from such sources as the board deems advisable, to mortgage and pledge trust assets as collateral;

(12) to make distributions or divisions of principal in kind;

(13) to comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the board may deem appropriate;

(14) to manage or improve real property; and to abandon any property which the board determined not to be worth retaining;

(15) to hold all or part of the trust property uninvested for such purposes and for such time as the board may deem appropriate; and

(16) to extend the time for payment of any obligation to the trust.

(d) Notwithstanding any general or special law to the contrary, all moneys paid to the trust in accordance with any zoning ordinance or by-law, exaction fee, or private contributions shall be paid directly into the trust and need not be appropriated or accepted and approved into the trust. General revenues appropriated into the trust become trust property and to be expended these funds need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the board within 1 year of the date they were appropriated into the trust, remain trust property.

(e) The trust is a public employer and the members of the board are public employees for purposes of chapter 258.

(f) The trust shall be deemed a municipal agency and the trustees special municipal employees, for purposes of chapter 268A.

(g) The trust is exempt from chapters 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the commonwealth or any political subdivision thereof.

(h) The books and records of the trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.

(i) The trust is a governmental body for purposes of sections 23A, 23B and 23C of chapter 39.

(j) The trust is a board of the city or town for purposes of chapter 30B and section 15A of chapter 40; but agreements and conveyances between the trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the city or town shall be exempt from said chapter 30B.

APPENDIX E

Sample Local Chapter 40B Affordable Housing Guidelines

APPENDIX E

SAMPLE AFFORDABLE HOUSING DEVELOPMENT GUIDELINES

For Consideration and Possible Adaptation to the Town of Westminster

These Affordable Housing Guidelines include a number of factors that might be considered and possibly adapted to Westminster in an effort to articulate project characteristics that are likely to be welcomed by the Town for further discussion and negotiation on affordable housing developments.

Affordability

The Housing Needs Assessment that is part of this Affordable Housing Plan indicates the Community's housing needs especially for seniors. Even households earning at the median income level are increasingly finding it difficult to purchase a house in Westminster. While the actions in the Housing Plan focus housing production on households with incomes at or below 80% of area median income, the Plan also takes into consideration mixed-income developments for a number of reasons. First they minimize the stigma that can be identified with a housing development that is exclusively limited to low- and moderate-income units. Second, they allow for the creation of internal subsidies¹ that cover at least some of the costs associated with producing the affordable units such that the market units cross subsidize the affordable ones. Third, they promote the creation of units that are targeted to those households earning above 80% of area median income but within the state's definition of middle-income, up to 150% of area median income. Consequently, Housing Guidelines incorporate different income tiers to better serve the diverse needs of the community.

Town-Owned Property

Homeownership Developments

At least 50% of the units should be affordable to those earning at or below 80% of area median income with sales prices calculated for those earning no more than 70% of median to offer a sufficient "marketing window" for first-time homebuyers. At least 10% of the units should be directed towards households earning between 80% and 150% of median income to cover the needs of moderate- and middle-income households who are priced out of the current housing market.

Rental Developments

At least 50% of the units should be affordable to those earning at or below 80% of area median income with many of these units targeted to those earning less than 60% of median incomes, with even affordability reaching down to those with incomes of 50% or 30% of the area median income to reach very low-income households when feasible. Another 10% of the units should be directed to those earning 80% and 150% of the area median income to address housing needs of those moderate- and middle-income households who are priced out of the current housing market.

¹ Internal subsidies are possible when the prices of the market units are sufficient to cover the costs associated with constructing the affordable units where purchase prices are lower than unit costs.

Privately Owned Property

Homeownership Developments

Promote the inclusion of at least 30% of the units reserved for those earning at or below 80% of area median income and at least another 10% to those earning above 80% of median income but at or below 150% of area median income to address a range of housing needs.

Rental Developments

Promote mixed-income communities for rental projects and whenever feasible, with the inclusion of subsidy funds, increase the level of affordable rental units to at least 30% of total housing units targeted to those earning at or below 80% of area median income. Projects that set-aside units for low-income households earning less than 60% of area median income or more moderate- and middle-income households earning up to 150% of area median income will receive priority consideration.

Unit Mix

Based on a distribution of needs by seniors, starter households, families, and special needs populations, developments shall strive for an overall equal distribution of one, two and three bedroom units with the inclusion of some four-bedroom units in family developments. Westminster needs both new affordable homeownership and rental opportunities for its seniors and families.

Elderly Housing: Mix of one and two-bedroom units, of which 10% shall be barrier free and accessible for the wheelchair bound.

Family Housing: Mix of two and three-bedroom units with at least 5% of units including 4-bedroom apartments.

Special Needs Housing: Mix of efficiencies and one-bedroom units with allowance of shared living facilities such as congregate units and group homes.

Design Criteria

Affordable units should be designed to be harmonious in appearance, construction, and quality of materials with the other units in the development and with the surrounding neighborhood. It is important that new development contribute to the historic, small-town character of Westminster. Affordable units should be integrated and dispersed throughout any development and subsidized and market rate units should not be distinguishable from the exterior. Appropriate recreational facilities should be provided, pedestrian access and bike paths required, and vegetation buffers required for projects of more than 30 units.

Location

Location of affordable housing shall be designed in accordance with the Section III(A) of the Town's 2011 Housing Production Plan.

Size and Density

The density of a particular development should relate to its location in the community whether it is in a residential zoning district, a business district or in an area that is relatively removed from an existing neighborhood. In all residential districts the total number of proposed dwelling units within the development should not exceed four units per acre to comply with these guidelines and in all other districts the number of proposed dwelling units within the development should not exceed eight units per acre unless there are compelling reasons to increase densities for project feasibility. Additionally, structures may be built up to three stories in all zoning districts. These guidelines encourage the use of triplexes and quadruplexes and discourage structures with more than six units per building.

Open Space and Landscaping

The project should incorporate open space of at least 15% of the parcel, and to the greatest extent possible based on the size of the parcel, this open space should be set aside as common land and maintained by a homeowners association or the owner of the property. All projects must also include proper landscaping such as grass, trees and shrubs, insuring the same number and quality of items for all units in the development, including the affordable units. Cluster development is encouraged for larger projects of more than five units.

Parking

Each dwelling unit in a development targeted to seniors must include one parking space and in developments targeted to families, two parking spaces must be provided.

Environmental Concerns

Avoid targeting development projects to areas that are ecologically sensitive and will degrade nearby conservation land. Developers should also be prepared to support plans for addressing water and septic services and address the impact of the traffic created by the development.

Marketing

A nearby community development corporation might assume the responsibility of marketing affordable units in any proposed development including managing the lotteries.

Affordability Restrictions

Deed riders or affordable rental restrictions should assure continued affordability in perpetuity to the greatest extent possible. The resale prices included in homeownership projects should be indexed to HUD's area median income or other reasonable index as opposed to market value to better assure this affordability over the long-term. In regard to monitoring and enforcing the affordability restrictions on homeownership projects, DHCD is now serving as monitoring agent on all Local Initiative Program project and Citizens Housing and Planning Association (CHAPA) could assume responsibility for all other. Potentially a nearby non-profit organization could serve as monitoring agent for rental developments.

Management

The professional management of new rental housing is critical to the future viability of the development, and the management entity must have a proven track record and be approved by the Town of Westminster through its Affordable Housing Committee or proposed Housing Trust.

APPENDIX F

Priority Development Fund (PDF) Program and Application Information

The Official Website of the Executive Office of Housing and Economic Development (EOHED)

Mass.Gov

Housing and Economic Development



Home > Community Development > Community Planning >

Priority Development Fund (PDF)

Current News

Priority Development Fund Planning Assistance for Affordable Housing Production has a total of \$224,490 in recaptured and unexpended funds available to communities exclusively for:

- The implementation of strategies for the production of affordable housing identified in DHCD-approved Housing Production Plans and
- On a very limited basis, the preparation, update and renewal of Housing production Plans

Program Description

Availability and affordability of housing are key factors in the decision of businesses to locate or expand in Massachusetts. To increase the availability of housing – a link to community prosperity – municipalities require resources to engage in proactive planning that will enable them to meet their housing needs. The Priority Development Fund (PDF) was created in 2004 by MassHousing to provide funding to assist communities identify and implement strategies to increase the production of affordable housing, both rental and homeownership.

The goal of PDF Planning Assistance is to increase the supply of affordable housing in the Commonwealth by encouraging community-based planning that will lead directly to affordable housing production. The PDF is administered by the Department of Housing and Community Development (DHCD) on behalf of MassHousing pursuant to a Memorandum of Agreement between the agencies. To date, DHCD has awarded 89 PDF Planning Assistance grants totaling \$3 million.

PDF Planning Assistance currently has a total of \$224,490 in recaptured and unexpended funds available to assist communities achieve their affordable housing production goals. Communities may apply for assistance of up to \$15,000. DHCD anticipates awarding approximately 15 grants.

PDF Planning Assistance supports housing proximate to existing infrastructure, community services and public transportation, as well as projects containing ancillary commercial facilities that are secondary to the residential use of property. Priority for funding will be given to applications that address or encourage new affordable housing production within city or town centers, on brownfields or underutilized commercial or institutional land, as part of a transit-oriented development opportunity and/or the adaptive re-use of existing structures not currently used for housing purposes. Applications must be consistent with the Commonwealth's Sustainable Development Principles.

- [PDF Planning Assistance Guidelines](#) Word
- [PDF Planning Assistance Application](#) Word
- [PDF Planning Assistance Application Matrix](#) Word
- [Sustainable Development Principles](#)
- [Housing Production Plan](#)

Eligible Activities

PDF Planning Assistance funding is available exclusively for (1) the implementation of strategies for the development of affordable housing identified in DHCD-approved Housing Production Plan (HPPs) (hyperlink), and (2) on a very limited basis, the preparation, update or renewal of HPPs. Eligible activities include:

1. Community initiated activities such as education and outreach efforts that support the production of affordable housing, including:
 - Efforts to build local support to achieve consensus on or approval of housing-related issues
 - Efforts to create local housing trusts or local housing partnerships
2. Activities associated with the production of affordable housing on municipally owned/controlled sites, including:
 - Gaining site control, site analysis, financial feasibility analysis, preliminary architectural and engineering studies, and legal review
 - Development of a Request for Proposal (RFP) for land disposition
3. Zoning activities, including:
 - Planning, outreach and adoption of smart growth zoning overlay districts under M.G.L. Chapter 40R

- Bold, high impact up-zoning incentives that encourage communities to increase unit-per-acre zoning regulations within city/town centers and/or near transit, employment, retail and services, and other appropriate areas to facilitate more compact, vital development areas

PDF Planning Assistance will not fund re-codification of zoning bylaws or ordinances, development of accessory apartments bylaws, or open space residential development bylaws. PDF has provided assistance to a number of communities to develop inclusionary and incentive zoning bylaws, transfer of development rights bylaws and mixed use bylaws. Communities interested in undertaking these zoning activities, or interested in adopting these strategies, are encouraged to contact DHCD to access these final products and sample bylaws.

4. Preparation, update or renewal of a HPP under M.G.L. Chapter 40B and 760 CMR 56.03(4), including a comprehensive housing needs assessment, affordable housing goals, the strategies the community will use to make progress in facilitating the development of affordable housing, and a schedule for implementation.

PDF Planning Assistance will not fund the preparation, update or renewal of HPPs in communities that have CPA, housing trusts, or other sources of funding available for affordable housing plans.

Funding is not available to serve as a substitute for pre-development assessment of alternative development scenarios for parcels already controlled by an identified private developer, or to supplant municipal funds to pay staff salaries.

Application Process

1. Communities are encouraged to meet with DHCD staff to discuss their proposed funding requests/activity prior to application submission.
2. To schedule a meeting or to seek assistance, please contact Miryam Bobadilla, Sr. Technical Assistance Coordinator, at (617) 573-1356 or Miryam.Bobadilla@state.ma.us.
3. Applications will be accepted on a rolling basis.
4. Submit an electronic copy of the application to MaryJane.Gandolfo@state.ma.us. The electronic application is available at www.mass.gov/dhcd; search: Priority Development Fund.
5. Submit one hard copy of the application with the CEO's original signature by mail to:
Mary Jane Gandolfo, DHCD
Office of Sustainable Communities - PDF
100 Cambridge Street, Suite 300
Boston, MA 02114
6. Fax copies of the application will not be accepted.
7. It is the responsibility of the applicant to ensure that its application is received by DHCD.
8. All applications will be logged as to date and time received and kept on file as public record.
9. DHCD reserves the right to request additional information as may be necessary in order to complete the application review.

APPLICATION EVALUATION CRITERIA

The agencies will evaluate applications to determine overall consistency with program goals and the Commonwealth's Sustainable Development Principles. Application evaluation criteria include:

- Identification of proposed activity or activities in DHCD-approved HPP
- Need for PDF Planning Assistance funding to undertake proposed activity
- Likelihood that activities will lead directly to the production of affordable housing
- Likelihood that housing production will start within a 2-3 year timeframe
- Compliance with Sustainable Development Principles
- Incorporation of green building techniques
- Demonstration of community involvement and commitment to proposed activities
- Reasonableness of and justification for costs of proposed activity
- Reasonableness of proposed timeline
- Inclusion of proposed scope of services and consultant selection process
- Identification of staff responsible for each task
- Distribution of grantees geographically

Contact

Miryam.Bobadilla@state.ma.us. Applicants are encouraged to meet with DHCD staff to discuss their projects prior to submission of application.

APPENDIX G

Model Deed Restriction

AFFORDABLE HOUSING RESTRICTION

_____, Massachusetts ("Owner") hereby grants, with quitclaim covenants, to the Town of Westminster ("the Town"), of 3 Bacon Street, Westminster, Massachusetts, its successors and assigns, exclusively for the purpose of ensuring retention of housing for occupancy by low income persons and families, the following Affordable Housing Restriction. The terms of this Affordable Housing Restriction, authorized by G.L. c. 184, §§31-33 and otherwise by law, are as follows:

1. This Restriction shall be binding upon and restrict Lot(s) _____ as shown on a plan of land entitled _____ To the extent that the boundaries of Lot(s) _____ as approved on a definitive subdivision plan differ from such lots as shown on the above-referenced preliminary plan, the Owner shall, forthwith upon request of the Town and in a form acceptable to the Town in its sole discretion, execute an amendment to this Restriction so as to cause the description of such lots to conform to the definitive plan so approved.
2. The Owner intends, declares and covenants, on his own behalf and on behalf of his successors and assigns, that the covenants and restrictions set forth in this Affordable Housing Restriction regulating and restricting the use, occupancy and transfer of the Premises (i) shall be and are covenants running with the Premises, encumbering the Premises in perpetuity unless such perpetual encumbrance shall be inconsistent with the requirement of any funding or other regulatory authority, in which case the covenants and restrictions contained herein shall be deemed to run for the longest period of time permitted by such authority, (ii) are not merely personal covenants of the Owner, and (iii) shall bind the Owner and his successors and assigns.
3. This Affordable Housing Restriction is intended to be construed as an affordable housing restriction as defined in Section 31 of Chapter 184 of the Massachusetts General Laws which has the benefit of Section 32 of said Chapter 184, such that the restrictions contained herein shall not be limited in duration by any rule or operation of law. The Owner hereby agrees that any and all requirements of the laws of The Commonwealth of Massachusetts to be satisfied in order for this Affordable Housing Restriction to constitute deed restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are intended to be satisfied, or in the alternative, that an equitable servitude has been created to insure that this Affordable Housing Restriction runs with the land.
4. The Premises shall be used for the construction of _____ units of affordable housing, each unit to be sold to an eligible buyer in accordance with this agreement. Each unit shall include at least ___ bedrooms. Each unit in the Project shall contain complete facilities for living, sleeping, cooking, eating and sanitation which are to be used on other than a transient basis. The affordable housing units to be constructed under this Restriction shall comply with any and all regulations or requirements of the Commonwealth of Massachusetts for inclusion in the inventory of affordable housing units for purposes of M.G.L. c. 40B.
5. Notwithstanding any provision of this Restriction to the contrary, under no circumstances shall an occupancy permit be issued for any lot in the subdivision other than the two lots constituting the Premises subject to this Restriction, until 1) the units required by this Restriction, as set forth in the preceding paragraph, have been constructed and a certificate of occupancy have been issued as to each unit, and 2) the town has received certification that such units qualify for inclusion in the inventory of affordable housing units for purposes of M.G.L. c. 40B . The execution of this Restriction by the partners of _____ shall be construed as their acceptance of and acquiescence to the requirements of this paragraph.
6. Unless inconsistent with the requirements of law and/or the requirements of any funding or other regulatory authority for inclusion in the inventory of affordable housing for purposes of M.G.L. c. 40B, in which case those requirements shall control, the sale or lease of the units shall be restricted as follows:
 - a. Owner Occupancy. All Affordable Units in the project acquired from the Owner or from subsequent purchasers must continue to be occupied only by the owner(s) as his/her/their principal place of residence during the term of the ownership.
 - b. Deed Rider. At the time of sale of each Affordable Unit by the Owner, the Owner shall execute and shall as a condition of sale cause the purchaser of the Affordable Unit to execute a Deed Rider in the form of Exhibit C attached hereto and made part hereof (the "Deed Rider"). Such Deed

Rider shall be attached to and made part of the deed from the Owner to the initial buyer. Each such Deed Rider shall require the initial buyer at the time he/she desires to sell the Affordable Unit to offer it for sale at a discounted price established in accordance with the methodology described in this Restriction, and under terms and conditions more particularly described in the Deed Rider. The Deed Rider shall require that each subsequent buyer and seller execute at the time of sale a similar Deed Rider which will be attached and made a part of the deed, so that the affordability will be preserved each time that subsequent resales of the Affordable Unit to an Eligible Buyer occur.

c. Sale of Units. Owner and Developer hereby agree to offer units for sale to households qualified by the Town or its assignee for a period of forty years. The Planning Board shall review and approve an Affirmative Marketing Plan for the project prior to the sale of affordable units regulated by this Agreement. If, having made a good faith effort, Developer has not succeeded in locating an income-eligible buyer qualified to purchase an affordable unit after 180 days, the unit may be sold to any buyer at no less than 15% below the unit's appraised value, and the difference between the affordable sales price will be paid to an account designated by the Westminster Planning Board for affordable housing funds resulting from this Restriction. Prior to any such sale, the Planning Board shall review the execution of the Affirmative Marketing Plan for the project. If the Planning Board determines that a good faith effort has been made, it shall authorize such a sale. Upon request of the Owner and certification by the Westminster Town Treasurer that the aforementioned amount has been received by the Town, the Planning Board shall certify that the Restriction has been satisfied in terms of the unit and shall not apply thereafter, and the Town shall endorse said approval upon the deed.

d. Resale Restriction. Resale by the initial purchaser or any subsequent owner of any Affordable Unit subject to this Agreement must be to an Eligible Buyer as designated or approved in writing by the Town, at a price not to exceed the Maximum Resale Price established in accordance with the methodology described below; unless otherwise permitted by this Restriction. Prior to conveyance of any Affordable Unit, the current owner shall give notice to the Town of his/her intention to sell the Affordable Unit. For a period of one hundred twenty (120) days from the date of such notice, the current owner may sell the affordable unit only to an Eligible Buyer.

If within thirty (30) days of receiving notice from the current owner of the affordable Unit the Town notifies the current owner of its intention to refer Eligible Buyers to the current owner, then the Town shall be given a ninety (90) day Buyer Selection Period, dating from the date of the notice from the current owner to the Town of intention to sell, to identify and refer to the current owner an Eligible Buyer. During the Buyer Selection Period the current owner may refer potential buyers to the Town, which shall determine whether such potential buyers qualify as Eligible Buyers and if so shall add such Eligible Buyers to its list for referral for purchase of an Affordable Unit. Eligible Buyers qualified by the Town and referred to the current owner during the Buyer Selection Period shall have the exclusive right to contract for the purchase of the Affordable Unit for a period of sixty (60) days from the end of the Buyer Selection Period.

e. Maximum Resale Price. After initial sale by the Owner, the Affordable Unit shall not be sold, conveyed assigned or otherwise disposed of for consideration in excess of the Maximum Resale Price as defined below, except as provided in paragraph 12, below. The Maximum Resale Price shall be established as follows:

1. Discount Rate. A discount rate shall be established for the Affordable Unit at the time of initial sale by the Owner. The discount rate shall be established by calculating the actual sale price of the Affordable Unit upon initial sale as a percentage of the unrestricted fair market value of the Affordable Unit according to the appraisal conducted under paragraph 3 above. EXAMPLE: The initial buyer purchases the Affordable Unit for \$75,000.00. The appraisal determines that the fair market value of the Affordable Unit is \$100,000.00. The discount rate for the Affordable Unit is seventy-five (75%) percent.
2. Capital Improvements Allowance. The Capital Improvements Allowance shall be the actual cost of capital improvements made to the Affordable Unit by the Seller, provided that such amount shall not exceed one (1%) percent of the appraised value multiplied by

the number of years the Seller has owned the Affordable Unit. An improvement shall only be considered a capital improvement under this paragraph if, (1) the improvement meets the definition of "capital improvement" under the Internal Revenue Code, and (2) the improvement was carried out in compliance with all pertinent statutes, ordinances and regulations at the time it was made, and with any building permit, certificate of occupancy or other similar document of approval issued in connection with the improvement, and (3) the cost of the improvement is documented at the time of sale.

3. Calculation of Maximum Resale Price. Prior to any resale of an Affordable Unit, the current owner shall arrange for an appraisal report by an appraiser whose credentials are satisfactory to the Town, prepared in accordance with industry standards for market appraisals of residential properties, which shall establish the market value of the unit. The costs of the appraisal shall be borne by the seller. The Maximum Resale Price shall then be calculated, and shall be the sum of:
 - (i) The fair market value of the Affordable Unit at the time of resale multiplied by the discount rate, plus
 - (ii) The Capital Improvements Allowance.
- f. Unrestricted Sale, when Allowable Upon Resale. If upon resale of an Affordable Unit the Town is unable to find an eligible buyer, or if for any other reason not attributable to the fault of the current owner no contract for sale of the Affordable Unit has been entered into at the end of sixty (60) days following the end of the Buyer Selection Period, the current owner shall have the right to sell the Affordable Unit to any person, regardless of his/her income and at any price, free of any future restrictions on resale, provided that twenty-five percent (25%) of the difference between the actual resale price and the discounted price for which an eligible buyer could have purchased the Affordable Unit shall be paid by the current owner to an account designated by the Town for affordable housing funds resulting from this Agreement. In the event of such unrestricted sale and after certification by the Town Treasurer that such payment has been received, the Town shall certify in recordable form that no further resale restrictions apply to the unit in question, and that such unit shall no longer be designated an Affordable Unit as defined in this Agreement.
- g. Option. The initial buyer and any subsequent buyer of an Affordable Unit shall enter into an Option Agreement with the Town in the form set forth in Exhibit B attached hereto and made part hereof. In the event that the provisions of this Agreement, as made binding on subsequent purchasers of Affordable Units by Deed Rider, are violated, including but not limited to contracting for sale of an Affordable Unit for a price in excess of the Maximum Resale Price or if the unit ceases to be the principle residence of the owner, the Town shall have a right to exercise its Option in the manner provided therein.
7. Each and every contract, deed, plan or other instrument hereafter executed conveying the Premises or portion thereof or interest therein shall expressly provide that such conveyance is subject to this Affordable Housing Restriction, provided, however, that the covenants contained herein shall survive and be effective regardless of whether such contract, deed or other instrument hereafter executed conveying the Premises or portion thereof provides that such conveyance is subject to this Affordable Housing Restriction.
8. The Owner shall not discriminate on the basis of race, creed, color, sex, age, handicap, marital status, sexual preference, national origin or any other basis prohibited by law in the lease, sale, use and occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.
9. The Owner shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project except in conjunction with renovation or rehabilitation of the Project or construction of a new project on the Premises, in either case subject to the prior written consent of the Town, which consent may be granted or withheld in the Town's sole judgment.
10. The Owner represents, warrants and agrees that if the Project, or any part thereof, shall be damaged or destroyed, the Owner (subject to the approval of the Town) will use its best efforts to repair and restore the

Project to substantially the same condition as existed prior to the event causing such damage or destruction, and the Owner represents, warrants and agrees that the Project shall thereafter continue to operate in accordance with the terms of this Affordable Housing Restriction.

11. Any use of the Premises or activity thereon which is inconsistent with the purpose of this Affordable Housing Restriction is expressly prohibited.
12. The rights hereby granted shall include the right of Town to enforce this Affordable Housing Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition prior to any such violation (it being agreed that the Town will have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Town. Owner covenants and agrees to reimburse Town all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Affordable Housing Restriction or in taking reasonable measures to cure any violation hereof. By its acceptance of this Affordable Housing Restriction, Town does not undertake any liability or obligation relating to the condition of the Premises. If any provision of this Affordable Housing Restriction shall to any extent be held invalid, the remainder shall not be affected.
13. The Town is authorized to record or file any notices or instruments appropriate to assuring the enforceability of this Affordable Housing Restriction; and the Owner on behalf of itself and its successors and assigns appoints the Town its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Owner and its successors and assigns agrees to execute any such instruments upon request. The benefits of this Affordable Housing Restriction shall be in gross and shall be assignable by the Town. The Owner and the Town intend that the restrictions arising hereunder take effect upon the date hereof, and to the extent enforceability by any person ever depends upon the approval of governmental officials, such approval when given shall relate back to the date hereof regardless of the date of actual approval or the date of filing or recording of any instrument evidencing such approval.
14. Notwithstanding anything herein to the contrary, but subject to the next succeeding paragraph hereof, if the holder of record of a first mortgage granted to a public or quasi-public agency, state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender shall acquire the Property by reason of foreclosure or similar remedial action under the provisions of such mortgage or upon conveyance of the Property in lieu of foreclosure, and provided that the holder of such mortgage has given Town not less than sixty (60) days' prior written notice of its intention to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure, then the rights and restrictions herein contained shall not apply to such holder upon such acquisition of the Property or to any purchaser of the Property from such holder, and such Property shall, subject to the next two succeeding sentences, thereafter be free from all such rights and restrictions. The rights and restrictions contained herein shall not lapse if the Property is acquired through foreclosure or deed in lieu of foreclosure by (i) Owner, (ii) any person with a direct or indirect financial interest in Owner, (iii) any person related to a person described in clause (ii) by blood, adoption or marriage, (iv) any person who is or at any time was a business associate of a person described in clause (ii), and (v) any entity in which any of the foregoing have a direct or indirect financial interest (each a "Related Party"). Furthermore, if the Premises are subsequently acquired by a Related Party during the period in which this Affordable Housing Restriction would have remained in effect but for the provisions of this Section, this Affordable Housing Restriction shall be revived and shall apply to the Property as though it had never lapsed.
15. Any notice, request or other communication which either party hereto may be required or may desire to give hereunder shall be made in writing, and shall be deemed to have been properly given if hand delivered, if sent by recognized overnight courier, receipt confirmed, or if mailed by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Owner:

If to Town:

Town Coordinator
Town of Westminster
3 Bacon Street
Westminster, MA 01473

or such other address as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice. A notice sent by certified or registered mail shall be deemed given three days after mailing; a notice sent by overnight courier shall be deemed given one day after deposit with such courier; and a notice delivered by hand shall be deemed given upon receipt.

- 16. This Affordable Housing Restriction may not be amended, nor may any obligation hereunder be waived or released, without first obtaining the written consent of the Town, which consent shall not be unreasonably withheld or delayed.

No documentary stamps are required as this Affordable Housing Restriction is not being purchased by the Town.

Executed under seal this ___ day of ___, 200_.

THE TOWN OF WESTMINSTER
BY ITS BOARD OF SELECTMEN

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 200_

Then personally appeared the above-named _____ and acknowledged the foregoing instrument to be his free act and deed, before me.

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 200_

Then personally appeared the above-named _____, being all the partners of _____, and acknowledged the foregoing instrument to be their free act and deed, before me.

Notary Public

My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

_____. 200_

Then personally appeared the above-named _____, being all a majority of the members of the Westminster Select Board, and acknowledged the foregoing instrument to be their free act and deed and the free act and deed of the Town of Westminster, before me.

My Commission Expires: