



HATFIELD 2017 DLTA REPORT

ASSESSMENT OF AFFORDABLE HOUSING DENSITY BONUS AND INCLUSIONARY ZONING
BYLAW

This work was undertaken by the Pioneer Valley Planning Commission in partnership with the Town of Hatfield's Planning Board with funding provided by Massachusetts Department of Housing and Community Development via the Massachusetts District Local Technical Assistance (DLTA) program.

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INTRODUCTION

PROBLEM IDENTIFICATION

The Town of Hatfield adopted its Housing Production Plan in December of 2015. Key findings of this report suggested that almost 28% of homeowners and 45% of renters in Hatfield are “cost burdened,” which means that they spend more than 30% of their income on housing. It also found that based on recent home sale prices and market rates rents that there are not enough homes in Hatfield to meet the demand that exists among individuals and households that meet the income thresholds established to qualify for affordable housing. In addition, only 47(3%) of the homes in Hatfield were qualified as affordable to those earning up to 80% of the area median income for the region. In order to reach the 10% affordable housing goal established by the Massachusetts Comprehensive Permit Law of 1969-Chapter 40B, Hatfield needs to add an additional 123 affordable units to its housing stock. Lastly, while the demographics of Hatfield—and the region as a whole—continue to shift towards the desire and/or need for units in multifamily developments, single family home construction in Hatfield continues to outpace multifamily production by approximately a 2 to 1 margin.

Hatfield’s Housing Production Plan proposed a total of 48 strategies to help address their identified needs and challenges. A number of strategies that would likely create more housing choices through regulatory action were considered. They included:

- Studying Hatfield’s existing optional density bonus for affordable housing (Section 6.67 of Zoning Bylaw) to understand why it has not been used to date.
- Studying the adoption of an inclusionary zoning bylaw

The objective of this work, funded by the District Local Technical Assistance Program, is to advance these two particular strategies and in turn implement key components of the Town’s Housing Production Plan.

KEY FINDINGS

1. **Residential development in Hatfield is happening at a very slow pace.** Since 2000, Hatfield has seen an average of six residential structures built a year. Of these residential structures, the majority (65%) have been single family homes. While communities like Northampton and Hadley- both which border Hatfield- continue to experience significant growth pressure, Hatfield has not experienced this same growth. Hatfield’s topography and current land use patterns play a role in this phenomenon. A significant portion of the land in the eastern part of Hatfield is currently active farmland, is in the flood plain and/or has the presence of wetlands. Land west of the Route 5 is more rugged with areas of steep slopes and rocky soil. This part of town also lacks access to public water and sewer stymieing development. All of these factors are likely contributing to a limited supply of buildable land in Hatfield, which is driving up the costs of land.
2. **This absence of development pressure is likely limited.** In Hatfield, because of their historic and current agricultural practices, large swaths of land are owned by individuals. Many of the current farmers are nearing retirement age and there is speculation that, in many cases, the younger generation won’t take over the family business. This could lead to the large swaths of land being sold and developed. It is likely then, that the Hatfield will begin to experience the growth pressures that its surrounding communities are feeling. Ensuring that affordable housing is being built alongside these new potential units will be integral to ensuring that Hatfield meets the goals outlined in its Housing Production Plan.

3. **Areas currently zoned for the affordable housing density bonus are not advantageous.** Hatfield’s affordable housing density bonus is currently only available in developments in the mixed-use overlay districts in town. These overlay districts are located along the Route 5 and 10 corridor and in the town center. The overlay districts along the Route 5 and 10 corridor are predominantly industrial and commercial land uses and most of the land in the overlay districts in the town center currently have limited redevelopment potential due to government ownership.

RECOMMENDATIONS

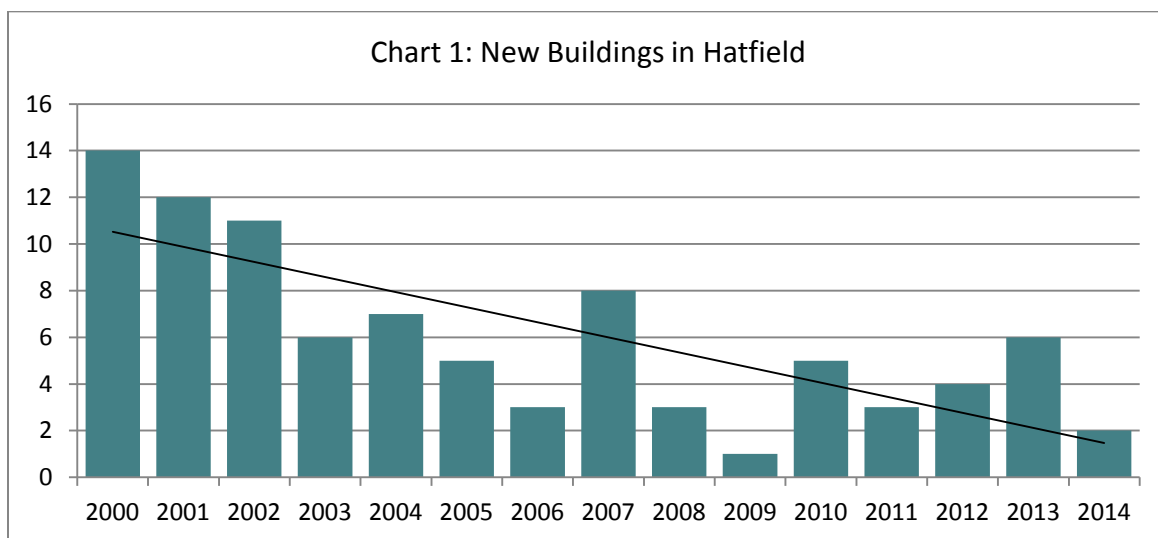
It is recommended that the following be done:

1. **Adopt an Inclusionary Zoning Bylaw.** As outlined in its Housing Production Plan, the need for affordable housing in Hatfield exists and this need is bigger than the existing stock of affordable units. The adoption of an inclusionary zoning bylaw will help Hatfield work towards meeting the existing need in the community and will help to ensure that affordable housing is integrated into developments across the community, rather than concentrated in a few distinct districts.
2. **Remove the Optional Affordable Housing Density Bonus in the Mixed-Use Overlay District.** If an Inclusionary zoning bylaw is adopted by the Town of Hatfield, most developments (those with five or more units) will be mandated to provide affordable units. Those that won’t be subject to the bylaw could voluntarily provide affordable units and in return take advantage of the cost offsets outlined in the bylaw—one of which is a density bonus. Thus, this density bonus provision will be redundant and unnecessary.

DEVELOPMENT TRENDS

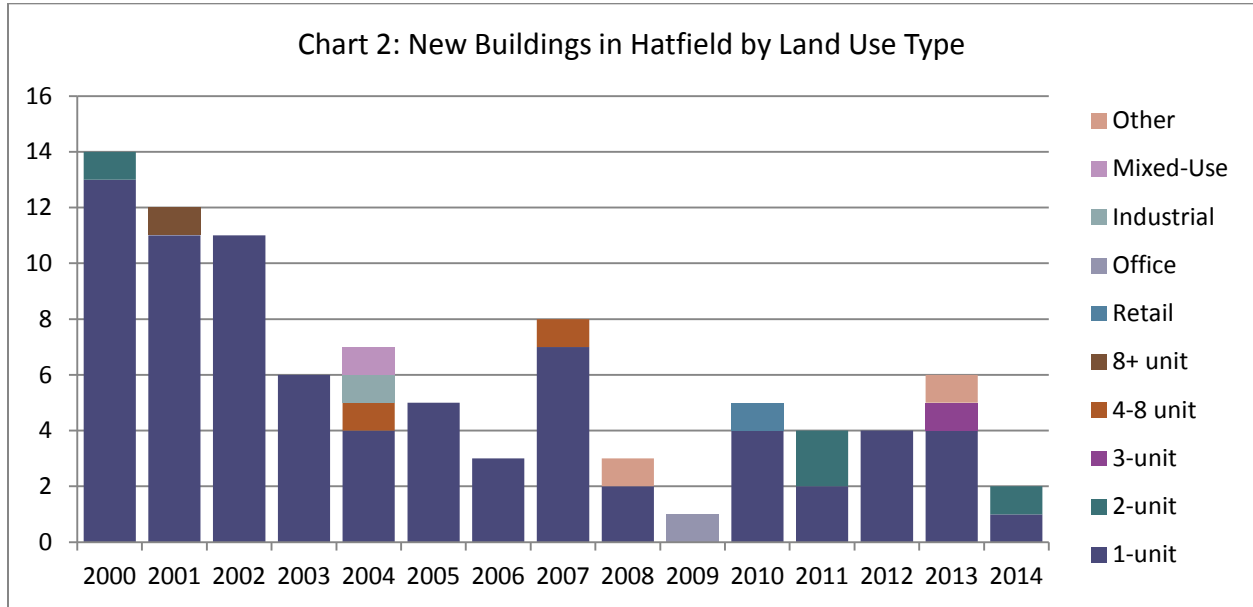
IN HATFIELD

Development in Hatfield has been on a downward trend since the early 2000s. Data suggests that there was some increased activity prior to the economic downturn of 2008. In the years since the economic downturn, development has increased slightly, but has not returned to the levels seen in the early 2000s. (Chart 1)



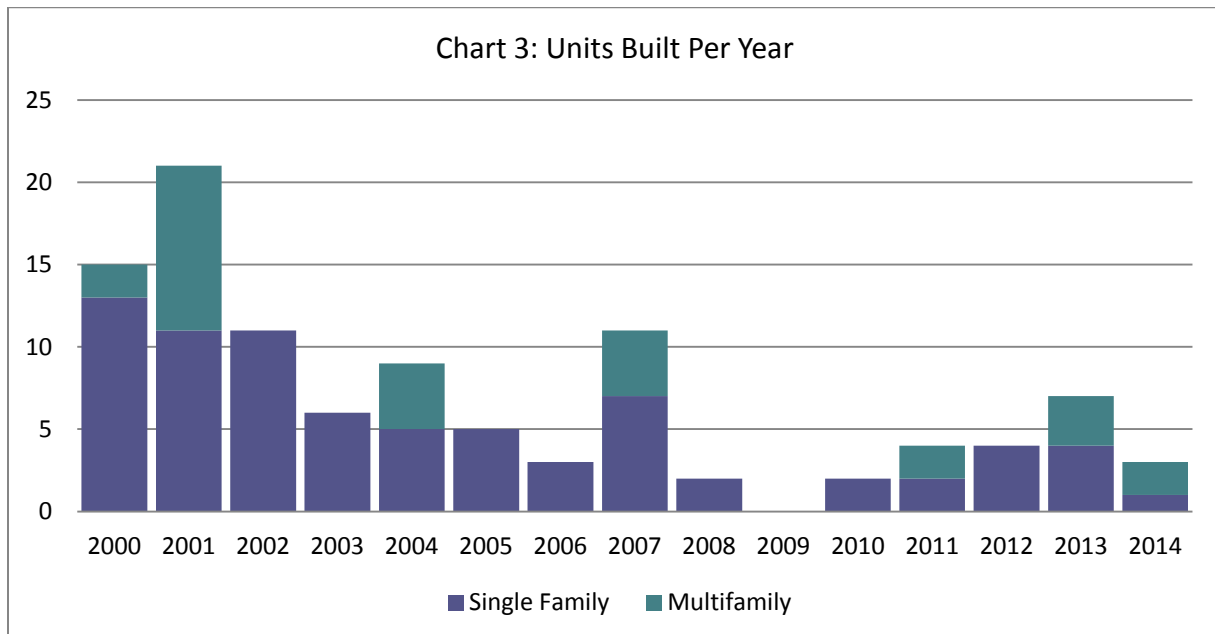
Source: MassGIS- Hatfield Assessor's Data

Ninety structures have come online in Hatfield in the last 14 years. Eighty-five of those structures (94%) were for either single family or multifamily. (Chart 2) The other structure built included a retail center, medical office, industrial building and a farm building.



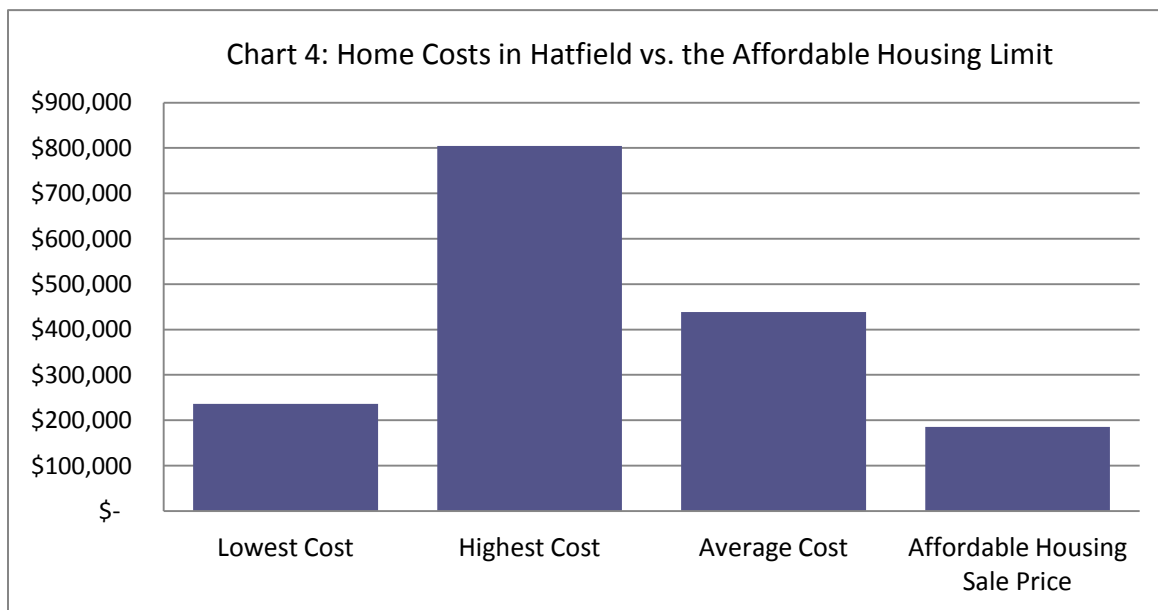
Source: MassGIS- Hatfield's Assessor's Data

Of the new housing units built between 2000 and 2014, 35% were units in multifamily structures. (Chart 3) These 27 units were spread across seven developments. The largest multifamily developments included a 10-unit building built in 2001 and two 4-unit developments built in 2004 and 2007. The remaining units were in 2- and 3-unit developments.



Development in Hatfield is not geographically concentrated in any particular parts of town. Development since 2000 has, however, been more likely to occur in areas with access to sewer and/or water. (See Map in Appendix A)

In order to be considered affordable and included in the state’s subsidized housing inventory, homeownership opportunities must have a purchase price that is affordable to those earning between 70 and 80% of the Area Median Income¹. In the Pioneer Valley, this means that affordable homeownership units can be sold at or below approximately \$185,000. According to the Town of Hatfield’s Assessor Data, the homes that were built since 2000 were valued at between \$236,100 and \$804,800 and had an average value of \$438,475. (These values include the structure, land and additional improvements on the property.) Thus, none of the developments built during this time would have been considered affordable. Furthermore, land values associated with these developments range from \$45,000 to \$210,000. In most cases (63% of the time), the land alone cost more than half of the affordable sale price limit.



Source: MassGIS- Hatfield’s Assessor’s Data

IN SIMILAR TOWNS

The Town of Hatfield’s Planning Board identified the following communities as communities they felt they were most like or that faced similar challenges: Whately, Granby, Southampton, Hadley, Belchertown, and Southwick. These towns have had varying levels of success with achieving their 10% affordable housing goal. Of the seven towns, only Hadley has met its goal of having more than 10% of its housing stock deeded as affordable—approximately 13%. Three percent of Hatfield’s housing is deeded as affordable, which falls in the middle of the range (0.3-6.4%) of the other towns.

Between 2010 and 2015 Hatfield population grew by 0.5%. Of the six other towns, only Whately saw its population decline during this time period. The other five towns (Southwick, Southampton, Belchertown, Granby and Hadley) all saw their population increase by 1.2-9.15%-- surpassing the population growth rate of Hatfield. Overall, Hatfield

¹ <http://www.mass.gov/hed/community/40b-plan/sale-prices-and-rents.html>

has experienced a slower rate of population growth than its comparable towns likely caused by the similar slow growth in housing units.

In 2015, approximately 25% of Hatfield’s housing stock was occupied by renters and the other 75% was owner-occupied. When comparing this to the other towns selected, Hatfield is one of the communities with a higher than usual percentage of renter occupied units. Other towns with similar occupancy make ups included Hadley (73% owner occupied and 27% rental occupied) and Belchertown (77% owner occupied and 23% renter occupied). The other communities typically saw a split of 85% owner occupied and 15% renter occupied.

For more detail data for each comparison town, see Appendix B.

DEVELOPER INSIGHTS

During this process we spoke with a few developers that have completed projects in the Town of Hatfield. Overall, developers shared that they had a good experience conducting business in the Town. It was noted that Planning Board was reasonable and worked to make sure that development was possible in town, while still ensuring that the town’s regulations were adhered to.

The developers that we talked to were unaware of the Optional Affordable Housing Density Bonus provision that currently exists within the Mixed-Use Overlay district—even though they were developing housing or developing in those zones. While the developers didn’t feel that they had enough information to weigh in on how the adoption of an Inclusionary Zoning By-Law might impact their ability to develop housing in the Town of Hatfield, they did not outright oppose its adoption.

AFFORDABLE HOUSING DENSITY BONUS

The Town of Hatfield adopted a mixed-use overlay district (Section 6.6) into its zoning bylaw in 2014. The purpose of the district was to encourage the development of multiple use properties, such as buildings with retail or office space on the ground floor and residential units on the upper floors. The areas in Hatfield zoned for the mixed-use overlay district were selected because of their transportation access and/or access to utility services—two key things needed to support higher density development. There are a total of 58 parcels in the mixed use zoning district and they are concentrated in four nodes throughout town. The two largest nodes are located along Routes 5 and 10—one at the southern edge of town near the I-91 interchange and the other in the northern section of the corridor near the other I-91 interchange. The remaining nodes are located in the Town Center district of Hatfield.

Section 6.67 of the mixed-use overlay district includes an optional affordable housing bonus. The bonus was created as a way to incentive more privately owned affordable housing units in Town. Developers that designate at least 10% of the housing units in their mixed development as affordable (income limits set at 80% of the Area Median Income) are eligible for a 25% increase in the number of dwelling units permitted. These units must be deeded as affordable in perpetuity. The density bonus can be used in an existing structure if they will lead to net increase in the number of dwelling unit. The density bonus does however exempt mixed-use infill developments from this bonus.

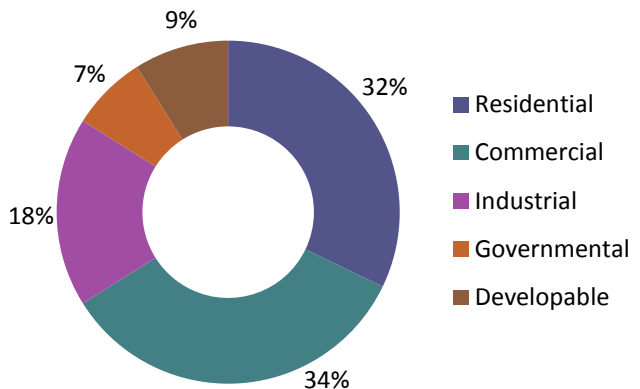
To date, there has been limited mixed-use development in the overlay district and not a single developer has taken advantage of this optional affordable housing density bonus.

ISSUES

EXISTING CONDITIONS OF PARCELS IN MIXED-USE ZONING DISTRICT

Almost of all (91%) of the parcels in the mixed-use zoning district are already developed. The structures currently in place date back to as early 1792 and no structures have been built since the overlay district was created in 2014. The existing structures on the parcels result in a mix of land uses across the district. A majority of the parcels (34%) are commercial uses, 32% of the current uses are residential and 18% are industrial. The remaining parcels are occupied by government uses or are vacant. Of the vacant parcels, only 3.4% meet the minimum lot size and required frontage to be developed under the mixed use district dimensional requirements.

Chart 5: Existing Land Use of Parcels in Mixed Use District



A closer look at the four nodes of mixed use district zoning shows that the land use types vary greatly among the nodes. The node near the Northampton town line has a number of large industrial uses and a smaller mix of residential and commercial. A high concentration of industrial uses is likely a deterrent for residential development, due to the possible nuisances. The node in the town center closest to the river is made up of predominantly governmental uses. These parcels are under the direct control of the city and to date still function

for town purposes. These parcels, while they may be in areas conducive for mixed use development, won't be redeveloped until the facilities are no longer needed by the town—something that is not likely in the near future.

Of the 9% of parcels that are considered developable, three of the five parcels can't be developed under the mixed-use overlay district because they don't meet the dimensional requirements. Two of the parcels fail to meet the minimum lot size required for development and another does not have adequate frontage. Thus, only two parcels with the mixed-use overlay district are vacant and could be developed. This severely limits the possibility of mixed use development and affordable housing in these overlay districts.

ZONING REQUIREMENTS

Developing in the mixed-use in the mixed use overlay district requires a special permit and a traffic study. While this is a way for the town to ensure that they are getting a good development, these requirements add uncertainty and time from the developer's perspective. Uncertainty and can lead to delays, which can increase project costs. Some developers may opt to instead develop what can be done by-right and avoid the overlay district and its additional requirements.

WATER AND SEWER

Three out of the four nodes zoned as mixed-use overlay districts have access to sewer and water. The northern most node of mixed use zoning has limited water access and no sewer access. However, even with access to the Town's sewer and water system development might not be feasible because the capacity of Hatfield existing sewer and water systems are strained. Anthony Lastowski from Hatfield's Water Department shared that the Water Department is reaching the limits outlined in its withdrawal permit from the Massachusetts Department of Environmental Protection. Without a new increased withdrawal permit, which is expensive, the town is limited in its ability to add more large water users to the system. Additionally, while the sewer system has capacity in its pipes to carry more wastewater and sewage, the wastewater treatment plant would require major improvements in order to process the waste. Without access to town water or sewer facilities mixed-use developments at a density that would be high enough to make affordable housing feasible would be almost impossible.

CONFLICTS WITH OTHER ZONING INCENTIVES

The Mixed Use Zoning Overlay in some areas has an underlying business zoning. The business zone is a receiving area for increased density through Hatfield's transfer of development rights zoning provision. This would mean that large commercial and industrial uses could be clustered in these areas. These uses aren't ideal neighbors for mixed-use housing that includes residential uses.

AFFORDABLE HOUSING DENSITY BONUS IN OTHER TOWNS

Zoning ordinances for Whately, Granby, Southampton, Belchertown, and Southwick were reviewed to see if they offered any type of affordable housing density bonus. Southwick and Belchertown did not offer any type of affordable housing incentive. The bonuses for other towns can be found in detail below. See Appendix C for copies of the relevant zoning ordinances.

WHATELY

The Town of Whately incentivizes the development of affordable housing units in Article VII-Growth Control Section 171-40.B.3 of its zoning bylaw. It is important to note that Whately only allows 10 building permits per year as a form of growth control and a developer is typically only allowed to apply for one building permit per year. The Town has a point system, which provides a bonus in the form of extra building lots allowed within a development based on the number of points earned. Applicants need to earn 40 points in order to get a 10% building lot bonus. If 20% of the units in a development are affordable to those earning at or less than 80% of the area median income for 30 years, a developer can receive 20 points. The only other option that yields as many points is the creation of a 55 years or older development. Other options that garner points include habitat conservation, designs compatible with the existing community character, cluster developments, and energy efficiency measures.

Whately's bylaws provides an additional affordable housing bonus. Because an individual can only acquire one building permit per year, the town has allowed for a developer to apply for acquire up to five building permits at one time if the proposed development will have at least 25% of its units set as affordable.

These provisions have been in Whately's zoning bylaw since at least 1991. Given that Whately only has 2 units of affordable housing on the Subsidized Housing Inventory, it is likely that these development incentives are not widely used.

SOUTHAMPTON

Southampton has an Inclusionary Housing bylaw that requires that any new development over 10 units must set aside 10% of its units for those making less than 80% of the Area Median Income. Their inclusionary zoning bylaw includes a "Voluntary Inclusionary Housing Bonus" (Section XVII.04.5.g). If a new development that isn't subject to the inclusionary mandate (has less than 10 units) deeds 10% of its units as affordable, the developer is eligible to take advantage of affordable unit cost offsets. These cost offsets include:

- The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by twenty percent (20%)
- Waiver from one or more of the dimensional requirements
- Waiver from one or more of the subdivision regulations
- Waiver from filing fees by 50%
- Affordable units may take the form of a duplex.
- The addition of up to two market rate units for each affordable unit provided. The minimum lot area per dwelling unit normally requires in the applicable zoning district may be reduced by 20 percent to permit up to two additional market rate units for each on affordable unit required. (This is not applicable if the developer chooses to donate land or makes a fees-in-lieu-of-units payment.)

Southampton adopted its Inclusionary Zoning Bylaw, which includes the Voluntary Inclusionary Housing Bonus, in May of 2014. Since its adoption, no developer has taken advantage of the bonus.

GRANBY

Granby's affordable housing density bonus is identical to Hatfield's current bonus. The "Optional Affordable Housing Bonus" (Section IV.4.46) is included in Granby's Mixed-Use Development Overlay District. Like Hatfield, it

allows for a 25% increase of dwelling units in developments that set aside 10% of their units for those earning up to 80% of the area median income. It also includes the provision that prohibits infill development projects from taking advantage of this density bonus. Granby's Mixed-Use Development Overlay District is located at the five corners section of town—which includes a concentration of commercial and residential uses. This density bonus was adopted in March of 2014 and no one has taken advantage of the density bonus to date.

RECOMMENDATIONS

In regards to the Optional Affordable Housing Density Bonus, the Town of Hatfield's Planning Board has three options to pursue. They include:

1. Keep the density bonus as is and wait for the market demand to yield units. Changes to the bylaw would include removing the provision that prohibits infill development from taking advantage of this density bonus. The Town should also add in language that ensures that these affordable units are administered in a way that makes them eligible for DHCD's Subsidized Housing Inventory and thus count towards Hatfield's 10% affordable housing goal.
2. Keep density bonus and expand to other areas of town that have developable land, such as area zoned for Town Center development. Changes to the bylaw would include removing the provision that prohibits infill development from taking advantage of this density bonus. The Town should also add in language that ensures that these affordable units are administered in a way that makes them eligible for DHCD's Subsidized Housing Inventory and thus count towards Hatfield's 10% affordable housing goal.
3. Remove the optional affordable house density bonus from the mixed-use overlay district. This option should only be followed in the Town of Hatfield anticipated adopting an Inclusionary Zoning bylaw. The Inclusionary Zoning bylaw would require affordable housing units in developments in all zoning districts and would provide for cost offsets to help defray the costs of requiring these affordable units. The Inclusionary Zoning bylaw would also include cost offsets for developers that would like to provide affordable units in developments that are not subjected to the requirements in the Inclusionary Zoning bylaw.

The Hatfield Planning Board has chosen to pursue Option #3. The updated zoning bylaw, which needs to be adopted at Hatfield's Annual Town Meeting, can be found in Appendix D. Additionally, the Inclusionary Zoning bylaw, which was prepared for adoption at Hatfield's Annual Town Meeting can be found later in this report.

INCLUSIONARY ZONING

INTRODUCTION

The Pioneer Valley Regional Housing Plan defines inclusionary zoning, as:

“Inclusionary zoning is a regulatory tool for creating new affordable rental and ownership opportunities in connection with market-rate housing development. For this reason, it is most effective in communities with strong housing markets. Inclusionary housing policies may be mandatory or voluntary, and either require or offer incentives for developers of market-rate projects to set aside a modest percentage of units for low- and moderate income households, helping to create diverse, mixed income neighborhoods and disperse affordable housing throughout the community.²”

In this sense, inclusionary zoning can take many forms. Hatfield’s affordable housing density bonus would be considered inclusionary zoning. In addition, communities that have established Chapter 40R Smart Growth Zoning Districts have a form of inclusionary zoning. (Chapter 40R Smart Growth Zoning Districts are a voluntary program that requires a 20% affordable housing unit set-aside for new development that the community is allow to be denser than what would be allowed using the base zoning district requirements.)

In the most traditional sense, Inclusionary Zoning is a zoning bylaw that requires the inclusion of affordable housing units in developments that have over a certain number of units. This is the form of inclusionary zoning that is being explored and drafted for Hatfield in this project. These bylaws can be applicable to developments in all zoning districts, certain zoning districts or on projects that require a special permit. Towns have the flexibility to set their own unit thresholds and the required number of percentage of affordable units that must be set aside. Inclusionary Zoning bylaws typically give developers a number of ways that they can meet the requirement. These include building the affordable units in the development that triggered the requirement, developing the affordable units off-site in another location, paying the town a fee that is equal to the costs associated with developing the unit, and/or donating land that would be equal in value to unit they aren’t building. Additionally, towns have the option to include cost off-sets that developers may use to ease the burden of meeting the inclusionary zoning requirements.

TOWNS IN THE PIONEER VALLEY WITH INCLUSIONARY ZONING BYLAWS

In the Pioneer Valley only three towns have adopted a mandatory Inclusionary Housing Zoning Bylaw. These towns include Hadley, Southampton and Amherst. Details of their bylaws, which vary immensely, are explored below. See Appendix E for copies of each town’s Inclusionary Zoning Bylaw.

² Pioneer Valley Regional Housing Plan. February, 2014.

Summary of Inclusionary Zoning Bylaws currently adopted in the Pioneer Valley			
	Hadley	Southampton	Amherst
Year Adopted	2006	2014	2005
Units Built to Date	1	0	6
Application	All projects with will result in a net increase of 6+ units	All projects that will result in a net increase of 10+ units	All projects requiring a special permit that will result in a net increase of 10+ units
Affordability Requirement	15% of the units must be affordable	10% of the units must be affordable	1-9 units: none 10-14 units: 1 affordable 15-20 units: 2 affordable 21+ units: 12% of total unit count
Unit Provision	Allows for construction on site, off site, fee-in-lieu of payment or land donation	Allows for construction on site, off site, fee-in-lieu of payment or land donation	Units must be built in the development
Cost Offsets Provided	No cost off-sets provided	-Lot area per dwelling unit reduced by 20% -Waiver from one or more dimensional requirement -Waiver from one or more subdivision regulation -Waiver from filing fees by 50% -Density Bonus- 2 additional market rate units for every affordable unit -May take form of a duplex	No cost off-sets provided

HADLEY

The Town of Hadley adopted their Inclusionary Zoning bylaw in November of 2006. Hadley has had one unit of affordable housing built as a result if its bylaw and has a number of units in the pipeline.

Hadley's inclusionary zoning requirements apply to developments in all housing units that will result in a net increase of six or more dwelling units. (This includes subdivisions and elderly and/or handicapped person housing.) The bylaw requires that at least 15% of the units in the development subjected to the regulation be affordable. The developer can meet this requirement by building the units on-site, building the units off-site, paying an equivalent fees-in-lieu of payment or donating land equal to the value of the affordable units.

SOUTHAMPTON

Southampton adopted its Inclusionary Zoning bylaw in May of 2014. Southampton's Inclusionary Zoning bylaw applies to all projects that will result in a net increase of ten or more dwelling units. The requirements of the bylaw are applicable in all zoning districts, although cluster developments are exempt. Southampton requires that 10% of the units in the project be affordable. The developer can build the unit on-site, build it off site, pay an equivalent fees-in-lieu of payment or donate land equal to the value of the affordable units. To date, no affordable units have been built in Southampton

AMHERST

The Town of Amherst adopted their Inclusionary Zoning bylaw in 2005. To date, six affordable units have been built because of this requirement and another 12-13 units are expected in the near future. Amherst has seen very few units as a result of their Inclusionary Zoning, even as development has boomed in town, because their Inclusionary Zoning bylaw only effects projects that require a special permit based on their use. In the last five years, Amherst has tried to modify their Inclusionary Zoning bylaw to make it apply to a broader range of projects, but the attempts have failed at Town Meeting due to a variety of reasons.

The inclusionary zoning regulations in Amherst apply to all residential developments that require a special permit and will result in additional new dwelling units. The required affordable unit provision varies based on the total number of units in a development. Developments with less than 10 units do not require affordable units. Those with 10-14 units require that a minimum of one unit be affordable; those with 15-20 units require that a minimum of 2 dwelling units be affordable; and those with 21+ units require that 12% of the total unit count be affordable. These units must be dispersed through the development and must be comparable to market-rate units in terms of the quality of their designs, materials and general appearance. Amherst does not allow developers to build their units off-site, pay a fee-in-lieu of payment, or donate land of equal value.

The bylaw requires that 49% of the affordable unit be eligible and countable on the Subsidized Housing Inventory. It also requires that affordable homeownership units be permanently available for low- and moderate-income buyers. Rental units must maintain their affordability rents for a minimum of twenty years.

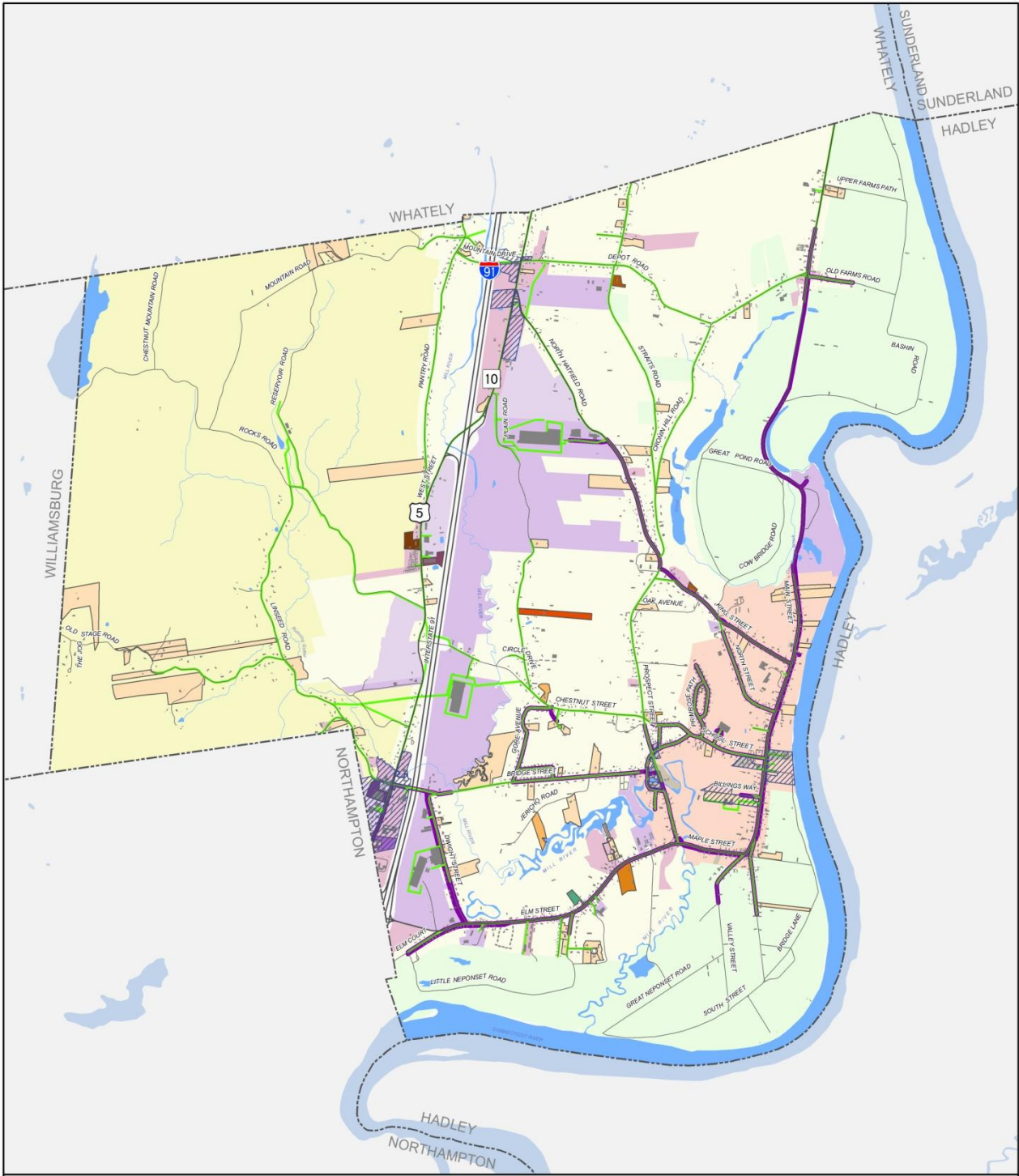
RECOMMENDATIONS

The Hatfield Planning Board felt that with some minor changes, the Southampton Zoning bylaw was the one that most met their needs. The Planning Board felt that all residential developments in all of Hatfield's zoning districts should be subject to this Inclusionary Zoning bylaw. Hatfield elected to emulate Amherst's sliding scale unit requirement in order avoid a lot of developments that included one unit short of triggering the Inclusionary Zoning bylaw. The Planning Board also felt it was important to require the mandated affordable units into the developments in order assure that the affordable units don't get clustered along Route 5 and Route 10. There was also concern about taking fees-in-lieu of payments given the town's limited capacity to develop the units themselves.

Hatfield's Inclusionary Zoning bylaw, which will need to be adopted at Annual Town Meeting, can be found in Appendix F.

APPENDIX

APPENDIX A- POST-2000 DEVELOPMENT MAP



Water & Sewer Service Development Post Year 2000

HATFIELD, MA

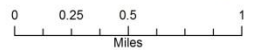
DATA SOURCES:
MassGIS, Pioneer Valley Planning
Commission, Town of Hatfield MA.
This map is based on the best available data.
All information is subject to field verification.

Post 2000 Development by Land Use

- | | |
|-----------|-----------------|
| 1 unit | Farm |
| 2 unit | Function Hall |
| 3 unit | Medical Office |
| 4-8 units | Shopping Center |
| 8+ units | Warehouse |
| Mixed Use | |

ZONING

- | |
|----------------------------|
| (AG) Agricultural |
| (B) Business |
| (I) Industrial |
| (LI) Light Industrial |
| (O-R) Outlying Residential |
| (RR) Rural Residential |
| (TC) Town Center |
| (TCB) Town Center Business |
| Mixed Use Overlay |



- | |
|---------------------|
| Water Service Lines |
| Sewer Service Lines |
| Roads |
| Building Footprints |



APPENDIX B- DATA METRICS OF COMPARATIVE TOWNS

	Hatfield	Southwick	Belchertown	Whately	Southampton	Granby	Hadley
Census Data							
2010							
Population	3,279	9,502	14,649	1,496	5,792	6,240	5,250
Housing Units	1,645	3,878	5,584	699	2,248	2,644	2,024
# owner occupied	1,065	3,061	4,428	577	1,898	2,578	1,381
# renter occupied	418	676	1,014	88	328	66	596
Owner Vac Rate	0%	0%	0.3%	0%	0.7%	2.9%	0%
Renter Vac Rate	0%	8.6%	0%	0%	0%	0%	0%
2015							
Population	3,297	9,640	14,838	1,391	6,022	6,322	5,324
Housing Units	1,623	3,898	5,932	652	2,532	2,475	2,483
# owner occupied	1,168	2,968	4,429	498	2,194	2,021	1,675
# renter occupied	388	598	1,287	93	200	341	613
Owner Vac Rate	0%	2.4%	0.6%	0.6%	0%	0%	0.5%
Renter Vac Rate	0.6%	0%	0%	0%	2.1%	0%	4.4%
Median HH Income	\$65,451	\$80,444	\$76,881	\$73,229	\$79,858	\$86,910	\$65,625
% below poverty	7.3%	5.4%	9.2%	3.6%	5.4%	4.5%	6.8%
DHCD SHI Inventory							
# affordable units	52	168	387	2	44	66	285
%	3%	4.50%	6.40%	0.30%	1.90%	2.70%	13%

APPENDIX C- DENSITY BONUS BYLAWS

1. Town of Whatley Article VIII Growth Control
2. Town of Southampton Inclusionary Zoning Bylaw
3. Town of Granby Mixed Use Overlay District

VOTED AT ANNUAL TOWN MEETING APRIL 29, 2014
APPROVED THE THE ATTORNEY GENERAL JULY 18, 2014

Structures are subject to the height requirements of these zoning bylaws. [Added ATM 4-27-2010 Art. 12]

TRAILER OR RECREATIONAL VEHICLE -- A portable dwelling eligible to be registered and insured for highway use and designed to be used for travel, recreational and vacation use, but not for permanent residence; including equipment commonly called "travel trailers," pickup coaches or campers, motorized campers and tent trailers, and recreational vehicles, but not including mobile homes.

TWO-FAMILY DWELLING (DUPLEX) -- A detached building containing two dwelling units.

WAY, ROAD or STREET -- A public way; a way which the Town Clerk certifies is maintained and used as a public way; a way shown on an approved and endorsed subdivision plan in accordance with the Subdivision Control Law; or a way in existence at the time the Subdivision Control Law was adopted by the town. The way shall have, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic and utilities for the proposed use of the land abutting the way.

**ARTICLE VIII
Growth Control**

[Adopted 5-7-1991 ATM, Art. 19]

~ 171-38. Purpose.

The purpose of the Growth Control Bylaw is to promote orderly growth in the Town of Whately, consistent with the rate of growth over the last 10 calendar years, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the town, its boards and its agencies information, time and capacity to incorporate such growth into a master plan for the community and the regulations of the community and to preserve and enhance existing community character and the value of property.

~ 171-39. Individual building permits.

A. No more than 10 individual building permits for new dwellings shall be issued in any one calendar year unless they meet the criteria found in Subsection B(3) or in ~ 171-40.

B. Building permits for new dwellings will be available starting on January 1 of each year. Permits will be issued on a first-come, first-served basis subject to the following criteria:

(1) No person may receive more than one building permit in a twelve-month period unless they meet the criteria of ~ 171-40.

(2) No more than three permits for new dwellings can be issued in a twelve-month period that are on contiguous lots or that were under common ownership, whether contiguous or not, at the time of the adoption of this Article unless they meet the criteria of ~ 171-40.

(3) Special conservation permits. Five permits in a twelve-month period will be available to applicants with substantial building lots who are willing to dedicate all of the land except that needed for a one-acre house lot to conservation purposes. The dedication would entail a deed restriction or a conservation restriction enforceable by the town or a nonprofit land trust and the town. The special conservation permits will not count toward the overall town building cap. To qualify for one of these permits, the following conditions must be met:

(a) The parcel in question must contain a minimum of 15 acres and 400 feet of frontage on a public way.

(b) All of the land except for the one acre needed for the building site must be placed under a conservation or a deed restriction enforceable by the town or a nonprofit land trust and the town.

(c) Only one single-family dwelling or a duplex would be allowed on the lot.

(d) The building shall be sited to minimize the impact on existing views, prime farmland, valuable forestland and other natural resources.

~ 171-40. Multiple building permits.

A. Up to 10 building permits for 10 dwelling units within a calendar year may be granted using the criteria set out below. The permits would be exempt from the town building permit cap described in ~ 171-39.

B. Any person, persons, corporations, partnerships or other equity interested in building on either more than three contiguous parcels or on more than one parcel of land held in common ownership at the time of passage of this article may apply for up to five permits in a twelve-month period, provided that they meet one or more of the following criteria:

(1) The proposed development is an open space development as defined in ~ 171-25.

(2) The site design for the proposed development minimizes the impact on prime farmland or prime forestland as designated on the land use maps prepared by the Franklin Regional Council of Governments Planning Department.

Minimizing the impact can be accomplished by clustering the proposed units and placing the valuable resources under permanent conservation restrictions.

(3) The proposed development incorporates a minimum of 25% affordable housing. For the purposes of this article, "affordable housing" will be defined as housing that meets the specifications of either federal or state housing assistance programs.

C. If a development proposal which has been approved by all appropriate local boards and commissioners involves more than five dwelling units, the developer may request from the Planning Board a guaranty that five permits for five dwelling units will be issued each following year until the development is complete.

~ 171-41. Procedures.

[Amended 4-30-1996 ATM, Art. 12]

To qualify for a building permit application, the applicant must fill out a growth control application, which he obtained from the Building Inspector. The applicant must complete the growth control application and have its date and time stamped by the Building Inspector. The Building Inspector will be responsible for maintaining a list of applicants and for reviewing the growth control application to determine the conformance of the project with the Growth Control Bylaw. Applicants will be given preference on a first-come, first-served basis for deciding the order of the waiting list. The applicant, upon completion of the phase growth application, is then able to apply for a building permit with the Building Inspector. The Building Inspector will notify the Planning Board of building permits issued under the Phase Growth Bylaw. The Planning Board has the authority to promulgate regulations regarding the contents of the growth control application and may revise it as necessary.

~ 171-42. Building permit amendments.

No change may be made to an existing building permit without the approval of the Building Inspector as required by the State Building Code, 780 CMR 113.8 and 113.9.

~ 171-43. Protection against zoning changes.

The protection against subsequent zoning change granted to land in a subdivision by MGL c. 40A, ~ 6, shall, in the case of development whose completion has been constrained by town actions taken under the Growth Control Bylaw, be extended the length of the time needed to complete a project, with a maximum of 10 years.

SECTION XVII INCLUSIONARY ZONING BYLAW

01.0 Purpose and Intent

The purpose of this bylaw is to:

- expand housing opportunities
- promote economic diversity in our community, and
- include affordable housing in typical market-rate and high-end housing development

At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw be considered as Local Initiative Program (LIP) Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development. Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

02.0 Definitions

Affordable Units: Housing units which the Planning Board finds are affordable for rent or purchase by eligible households making 80% of the median household income for Springfield Median Household Income as calculated by the U.S. Department of Housing and Urban Development, with adjustments for family size, provided that there are deed restrictions, easements, covenants or other mechanisms to ensure that the units are affordable in perpetuity.

Affordable Housing Restriction: A deed restriction of Affordable Housing meeting statutory requirements in MGL c. 184, s 31, and the requirements of this bylaw.

Eligible Household: An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Inclusionary Housing Plan: A document that outlines and specifies the development's compliance with each of the applicable requirements of this Bylaw as part of the approval of a development project.

Income, Low or Moderate: A combined household income which is less or equal to 80% of median income or any other limit established under MGL c. 40B, its regulations or any amendment thereto.

Income, Median Household: The median income, adjusted for household size, for the Springfield Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

03.0 Applicability

1. In Rural Residential (RR), Residential Neighborhood (RN), Residential Village (RV) and Commercial Village (CV), the inclusionary zoning provisions of this bylaw shall apply to the following uses:
 - a) Any project that results in a net increase of ten (10) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
 - b) Any subdivision of land, either by filing a plan for the subdivision of land or the filing of a so-called approval not required plan, for development of ten (10) or more dwelling units; and
 - c) Any life care facility or any elderly persons and/or handicapped persons housing development that includes ten (10) or more dwelling units and accompanying services.
 - d) This bylaw further stipulates that the project shall not be segmented or phased to avoid compliance with the provision of this bylaw either by filing a plan for the subdivision or land or the filing of a so-called approval not required plan (ANR) or by any other means. ANR filed under the same ownership within five years will be considered as under the provision of this bylaw. A development that occurs on adjacent parcels under common ownership shall be considered one development.
 - e) Cluster developments shall be exempt from the requirements of this by-law.
2. The Southampton Housing Authority and the Southampton Planning Board shall jointly review to completion any application found to be under the jurisdiction of this bylaw.

04.0 Requirements

1. Affordable Housing Contribution: All new residential development outlined in section 3.0 shall contribute at least ten (10) percent of the total number of units for affordable housing. Calculation of the number of total affordable units

shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

2. Methods of Affordable Housing Contribution: While the construction of an affordable unit is the preferred method of affordable housing contribution, the applicant may offer, and the Planning Board may accept the following methods of affordable housing contribution in accordance with the provisions outlined by this bylaw:

- a) Constructed or rehabilitated onsite (see Section 05.0); or
- b) Constructed or rehabilitated off-site (see Section 06.0); or
- c) An equivalent fees-in-lieu-of-units payment may be made (see Section 07.0);
- d) Donation of land in fee simple, on or off site, which the Planning Board in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units as specified in Section 07.0. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this bylaw that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The donation of land, if so determined, will be accepted by the town with a stipulation that the land donated shall be used for the development of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development or at an off-site locus.
- e) Any combination of the Section 04.2(a-d) requirements provided that in no event shall the total number units provided be less than the equivalent number of affordable units required by this bylaw.

3. Affordable Housing Restrictions and Regulatory Agreements: All affordable housing units shall be subject to an affordable housing restriction and a Regulatory Agreement in a form acceptable to the Planning Board. Building permits shall not be issued until the restriction and the Regulatory Agreement are recorded at the Registry of Deeds and a copy provided to the Planning Board and the Inspector of Buildings. The Regulatory Agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward Southampton's Subsidized Housing Inventory. The Regulatory Agreement shall also address all applicable restrictions listed in this bylaw.

4. Affordable Unit Enforcement and Monitoring: Long-term enforcement and monitoring of the Regulatory Agreement shall be by an entity approved by the Planning Board. The enforcement and monitoring program shall be paid for by an escrow account established prior to the sale of the first unit and contributed to on an annual basis at a rate negotiated between the Town and the Applicant.

5. Affordable Unit Cost Offsets:
To facilitate the objectives of this Section 05.0, the applicant may offer and the Planning Board may accept, the following in exchange for the provision of affordable housing units:
 - a) The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by twenty percent (20%)
 - b) Waiver from one or more of the dimensional requirements specified in Section 6 of the Zoning bylaw
 - c) Waiver from one or more of the subdivision regulations as specified in the Southampton Subdivision Regulations of the Zoning bylaws
 - d) Waiver from filing fees as listed in the exhibit C of Southampton Planning Board Policies and Procedures by 50%
 - e) Density Bonus. The Planning Board may allow the addition of up to two market rate units for each affordable unit provided. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20 percent to permit up to two additional market rate units for each one affordable unit required in Section 04.1 (above). Applicants who choose affordable housing contribution methods 04.2 (c-d) are not eligible for a density bonus.
 - f) Affordable units may be in the form of a duplex.
 - g) Voluntary Inclusionary Housing Bonus. New affordable housing development that is not subject to Section 03.0 and exceeds the requirements specified in Section 04.1(a) may receive the same benefits specified in Sections 04.5(a) and 04.5(b) when the development is approved by the Planning Board. The net increase in housing units shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.

6. Inclusionary Housing Plan: In addition to the requirements outlined in Section 04.0, the Applicant shall present to the Planning Board an Inclusionary

Housing Plan that outlines and specifies the development's compliance with each of the applicable requirement of this bylaw as part of the approval of a development project. The plan shall specifically contain, at a minimum, the following information regarding the development project:

(a) Preliminary Plan:

- (1) A general description of the development, including whether the development will contain rental units or individually owned units, or both;
- (2) The total number of market rate units and affordable units in the development;
- (3) The total number of attached and detached residential units (as applicable);
- (4) The number of bedrooms in each market rate unit and each affordable unit;
- (5) The square footage of each market rate unit and each affordable unit;
- (6) The location within any multiple-family residential structure and any single family residential development of each market rate unit and each affordable unit;
- (7) Floor plans for each affordable unit;
- (8) The amenities that will be provided to and within each market rate unit and affordable unit; and
- (9) The pricing for each market rate unit and each affordable housing unit.

(b) Final Plan:

- (1) All of the information required for the preliminary Inclusionary Housing Plan pursuant to 04.6(a);
- (2) The phasing and construction schedule for each market rate unit and each affordable unit;
- (3) Documentation and plans regarding the exterior appearances;

05.0 Provisions Applicable to Affordable Housing Units On- and Off-Site:

1. Siting of affordable units: All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Planning Board in its sole discretion makes the final determination of the suitability of the siting of the affordable units.
2. Minimum design and construction standards for affordable units: Projects containing affordable units shall meet the standards set forth by the

Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). These standards are:

- a) All low and moderate income housing units developed through the LIP shall be indistinguishable from market-rate units as viewed from the exterior unless the project has an approved alternative developmental plan
 - b) Unit shall contain complete living facilities including a stove, kitchen, cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities.
 - c) All low and moderate-income units for families must have two or more bedrooms. Units for the elderly or accessible units for disabled persons are exempt from this minimum requirement.
 - d) With respect to units for the elderly, the disabled, and/or within an age restricted Project, Developers are encouraged to consider unit designs in which master bedrooms and bathrooms are located on the first floor.
 - e) In exceptional circumstances, the Director of DHCD may allow a waiver if there is a good reason (other than finances) for failure to meet the design criteria of the LIP. An "Alternative Development Plan" approval would be based on DHCD's evaluation of the reason for variation from the LIP guidelines.
3. Timing of construction or provision of affordable units or lots:
The Inclusionary Housing Plan, Section 4.6, and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.
4. Marketing Plan for Affordable Units: Applicants under this bylaw shall submit a marketing plan or other method approved by Southampton, to the Planning Board for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

06.0 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 05.0, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 04.0 off-site. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to the provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the approval process.

07.0 Fees-in-Lieu-of Affordable Housing Unit Provision

1. As an alternative to the requirements of Section 05.0 or Section 06.0, an applicant may make an equivalent payment to the Town's Affordable Housing Trust Fund, or, in its absence, to a designated housing gift account established by the Town for fees-in-lieu-of the provision of affordable units.
 - a) Calculation of fee-in-lieu-of-units: The applicant for development subject to this bylaw may pay fees-in-lieu of the construction of affordable units. For the purposes of this bylaw, the fee-in-lieu of the construction or provision of affordable units shall be equal to three times the 80 percent Median Household Income for a four person household. The 80 percent figure for the Median Household Income for a four person household is updated annually by HUD (see 02.0 Definitions).
 - b) Schedule of fees-in-lieu-of-units payments: Fees-in-lieu-of-units payments shall be made according to the schedule set forth in Section 05.3, above.
 - c) Use of Fees and Creation of Affordable Units: Cash contributions and donations of land and/or buildings made to the Affordable Housing Trust Fund or, in its absence, to a designated housing gift account established by the Town in accordance with Section 07.1 shall be used only for purposes of providing affordable housing for low or moderate income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments, rehabilitation on existing structures that can be counted toward the 10% affordable housing goal.

08.0 Maximum Incomes and Selling Prices: Initial Sale

1. To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.
2. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.
3. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement (Section 04.3). The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

09.0 Omitted

10.0 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Southampton's zoning bylaw.

Town of Granby Mixed Use Overlay District

Amended: March 10, 2014 Town Meeting

- will be plowed or mowed at least once every year.
- b. Ownership in fee simple conveyed to the Town of Granby with Town approval or to a non-profit farm trust, open space or conservation organization as a gift or for a consideration.

4.31 Relationship to Agricultural Incentive Area

All land which is enrolled in the Agricultural Preservation Zoning district shall become eligible for enrollment in the Granby Agricultural Incentive Area and, once enrolled in the Incentive Area, shall receive any and all benefits and incentives included therein.

4.3 (RESERVED FOR FUTURE USE)

4.4 MIXED USE DEVELOPMENT OVERLAY DISTRICT

4.40 Scope

To regulate Mixed Use Development in appropriate areas of the Town and to protect the public health, safety, and general welfare in the Town of Granby by establishing controls that will facilitate flexible development while protecting the public interest.

4.41 Purposes

The purpose of this bylaw is to foster a greater opportunity for creative development by providing guidelines which encourage a mix of uses compatible with existing and neighboring properties; to provide housing and business uses in locations where a variety of town services are available; to promote utilization of existing buildings and property, and to encourage the provision of open areas. The intent, furthermore, is to encourage interaction among activities located within a Mixed Use Development, to enhance business vitality, reduce vehicular traffic, provide employment and shopping opportunities for residents close to home, ensure the compatibility with each other of the commercial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the character of the area in which they are located by:

1. Allowing a diversity of uses in close proximity in the district within a limited area, including residential, retail and office,
2. Accommodating mixed-use buildings with neighborhood-serving retail, service and other uses on the ground floor and residential units above;
3. Encouraging development that exhibits the physical design characteristics of pedestrian-oriented storefront-style shopping streets;
4. Promoting the opportunity for people to work, meet, shop and utilize services in the vicinity of their residences,
5. Providing opportunities for the development of affordable housing,
6. Providing opportunities for a mixture of uses in the same building,
7. Promoting a positive pedestrian and bicycling environment in the district,
8. Facilitating integrated physical design,
9. Promoting a high level of design quality,

10. Encouraging the development of flexible space for small and emerging businesses,
11. Facilitating development proposals responsive to current and future market conditions, and
12. Encouraging the development of open spaces and parks within the district to accommodate workers, residents, pedestrians and shoppers.

4.42 Establishment and Administration

1. The Mixed Use Overlay District is an overlay district that is superimposed over the underlying zoning districts and is shown on the Zoning Map as set forth on the map entitled "Granby Mixed Use Overlay District" prepared by Pioneer Valley Planning Commission. This map is hereby made a part of the Zoning Bylaw and is on file in the Office of the Town Clerk.
2. The regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s) shall remain in full force, except for those Mixed Use projects undergoing development pursuant to this Section 4.4. Within the boundaries of the Mixed Use Overlay District, a developer may elect either to develop a Project in accordance with the requirements of the Mixed Use Overlay District, or to develop a project in accordance with requirements of the regulations for use, dimension, and all other provisions of the Zoning Bylaw governing the underlying zoning district(s).
3. An applicant may seek development of a Project located within the Mixed Use Overlay District in accordance with the provisions of this Section 4.4, including a request for a Special Permit and/or Site Plan Approval.
4. The provisions of this Section 4.4 shall be administered by the Planning Board, except as otherwise provided herein.

4.43 Definitions

The following definitions shall apply to all mixed use applications under these zoning bylaws.

1. Assisted Living: Housing for older adults, with services provided, such as meals, laundry, and housekeeping.
2. Mixed Use Development: The development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, institutional or entertainment uses in a compact village form, with vehicular access to an accepted public way.
3. Mixed Use Infill: Within the General Business and Industrial Districts, the development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, office, retail, institutional, entertainment uses in a compact village form. A proposed Mixed Use Infill development shall have no minimum area requirements other than those imposed by dimensional requirements of the Granby Zoning Bylaws but shall occur only on parcels of land less than five (5) acres in size.
4. Business Services: Services used in the conducting of business and commerce, including only:
 - a. Consumer and mercantile credit reporting;
 - b. News services;
 - c. Research, development and testing;
 - d. Business management and consulting;

- e. Insurance company service offices;
 - f. Real estate offices.
5. Driveway: A space, located on a lot, built for access to a garage or off-street parking or loading space.
6. Fast Food Restaurant: An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off the premises. Orders are not generally taken at the customers table, and food is generally served in disposable wrapping or containers.
7. Municipal Facilities: Facilities utilized in the provision of services normally provided by municipalities such as schools, parks, playgrounds, municipal office buildings, and maintenance buildings.
8. Personal Services: Establishments primarily engaged in providing services involving the care of a person or his/her apparel, including but not limited to:
- a. Laundering, dry cleaning and garments services not exceeding 5,000 square feet of floor area per establishment;
 - b. Coin operated laundries;
 - c. Shoe repair;
 - d. Photographic services;
 - e. Beauty and barber shops;
 - f. Apparel repair and alteration;
 - g. Funeral services;
 - h. Steam baths;
 - i. Reducing salons and health clubs;
 - j. Clothing rental.
9. Professional Services: Services performed by professional persons for business and personal use, including, but not limited to:
- a. Medical and health offices and clinics not exceeding 5,000 feet of floor area per office or group of offices;
 - b. Planning;
 - c. Engineering and architectural;
 - d. Accounting;
 - e. Auditing and bookkeeping;
 - f. Educational and scientific.
10. Sit-Down Restaurant: An eating establishment of high quality and with turnover rates generally of at least one hour or longer serving food intended for consumption on the premises.
11. Live-work Units: A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

4.44 Use Regulations

1. Uses Allowed By-Right with Site Plan Approval in a Mixed Use Development:
- a. Retail Uses;
 - b. Quality Restaurants;
 - c. Cafes and outdoor dining areas;
 - d. Multi-family Residential uses;

- e. Home Occupations;
 - f. Professional Service Offices;
 - g. Personal Service Establishments;
 - h. Municipal Uses;
 - i. Banks or financial institutions (includes ATMs);
 - j. Health clubs;
 - k. Townhouses (single family dwellings connected by one or more walls);
 - l. Cinema, theatre, or auditoriums;
 - m. Park, recreation or playgrounds;
 - n. Artist studio/residences;
 - o. Assisted living residential uses;
 - p. Artisan manufacturing or production (hand tools only, e.g. jewelry or ceramics);
 - q. Civic uses;
 - r. Live/work units;
 - s. Multiple Uses in the same structure;
 - t. Bars and cocktail lounges
2. Uses permitted by Planning Board Special Permit and Site Plan Approval:
- a. Hotel
 - b. Dry cleaning, linen cleaning, or diaper services which clean clothing articles on site.
 - c. Animal hospitals;
 - d. Drive-up service windows associated with banks, pharmacies or restaurants
3. Uses not permitted:
- a. Industrial uses;
 - b. Motor vehicle sales, maintenance and repair facilities;
 - c. Gasoline filling stations;
 - d. Adult entertainment uses;
 - e. Automobile or truck sales;
 - f. Junkyards
 - g. free standing buildings used for:
 - i. Fast food restaurants
 - ii. High turnover sit-down restaurants
 - iii. Banks/ATMs.
4. Same-structure/On-site Mixed Use:
- There shall be no restriction on combining different categories of use within the same building except any imposed by the State Building Code or other federal, state, or local regulations.
5. Special Permit Criteria for all Mixed Use Developments:
- a. All Mixed Use Developments must meet the Special Permit and Site Plan Approval requirements in Sections 6.2. and 6.3
 - b. All Mixed Use Developments must meet the following additional Special Permit criteria:
 - i. The project complies with the additional performance standards specific to Mixed Use Developments in Section 4.45 below.
 - ii. The project is consistent with the purposes of this bylaw, as stated in Section 4.4.1.
6. Dimensional Requirements:

The dimensional requirements applicable to the Mixed Use Overlay District are shown in the Table of Dimensional and Density Regulations below:

<i>Zoning District</i>	<i>Minimum Lot Area</i>	<i>Minimum Frontage</i>	<i>Minimum Front Yard</i>	<i>Minimum Side Yard</i>	<i>Minimum Rear Yard</i>	<i>Maximum Height</i>	<i>Maximum Lot Coverage</i>
<i>Mixed Use Overlay (with Town Water and Sewer)</i>	<i>45,000 s.f.</i>	<i>200 feet</i>	<i>10 feet</i>	<i>20 feet</i>	<i>20 feet</i>	<i>35 feet/ 2.5 stories</i>	<i>60%</i>

4.45 Performance Standards for Mixed Use Developments:

To the extent feasible, all Mixed Use Developments must meet all of the Performance Standards below.

No use shall be permitted that causes or results in dissemination of dust, smoke, gas or fumes odor, noise, vibration or excessive light under standards set forth in the performance criteria in this chapter.

Any other performance standards of the town shall also apply to uses conducted under this Section of the Granby Zoning Bylaws

1. Access and Traffic Impacts:

- a. Traffic and safety impacts to the existing and proposed roads shall be minimized.
- b. Access shall be provided to the extent feasible through an existing side street or a shared driveway; curb cuts shall be limited.
- c. Pedestrian and vehicular traffic shall be separated; walkways shall be provided for access to adjacent properties and between businesses.
- d. Plans must illustrate provisions for automobile, pedestrian and bicycle circulation. Provisions must be made for motor vehicle, bicycle, and pedestrian circulation connections to adjacent lots.
- e. The Planning Board shall require a detailed traffic study for high volume traffic generating uses with a trip generation rate over 350 vehicles/day (based on Institute of Transportation Engineers rates found in Trip Generation); for the construction of new Mixed Use Development structure of more than 25,000 square feet in gross floor area; and for any external enlargement that brings the Mixed Use Development total to 25,000 square feet gross floor area for all structures. The Planning Board may waive any or all requirements for a traffic study for external enlargements of less than 2,000 square feet of gross floor area in excess of the 25,000 gross floor area threshold. The traffic impact statement shall contain:
 - i. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - ii. The proposed traffic flow pattern for both vehicles and pedestrian access shall be described and related to the site plan, including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - iii. An assessment of the Traffic flow patterns at the site including entrances and egresses, loading and unloading areas, and curb cuts on site and within one hundred (100) feet of the site;
 - iv. A detailed assessment of the traffic safety impacts of the proposed project or use on the carrying capacity of any adjacent highway or road, including the projected number of motor vehicle trips to enter or depart from the site estimated for daily hour and peak hour traffic levels, road capacities and impacts on intersections. Existing daily and peak hour traffic levels and road capacities shall also be given;
 - v. A parking lot vehicle traffic and pedestrian circulation plan shall be designed to minimize conflicts and safety problems.

2. Noise:

- a. In order to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the inhabitants of Granby through the reduction, control, and prevention of such loud or raucous noise that unreasonably disturbs, injures, or endangers the comfort, privacy, repose, health, peace or safety of reasonable persons, all noise levels, measured at a height of four feet (4') above the ground surface at all property lines, using a sound meter which meets the most current American National Standards Institute's Specification for Type II Sound Level Meters, must not exceed the following standards:

Time of Day	Max. Sound Level (dBA)
7:00 a.m. to 7:00 p.m.	65
7:00 p.m. to 10:00 p.m.	50
10:00 p.m. to 7:00 a.m.	45

These standards shall not apply to power tools and equipment (i.e. lawn mowers, leaf blowers, sweepers, etc.) used in the normal maintenance of the site's outdoor areas (i.e. lawn, garden, parking, etc.). Such outdoor maintenance shall be limited to between the hours of 8:00 am 7:00 pm.

- b. Sound levels specified shall not be exceeded for more than 15 minutes in any one day, except for temporary construction or maintenance work, agricultural activity, timber harvesting, traffic, church bells, emergency warning devices, parades, or other special circumstances.
 - c. No person shall engage in or cause very loud construction activities on a site abutting residential use between the hours of 9 P.M. of one day and 7 A.M. of the following day.
 - d. Commercial uses shall be designed and operated, and hours of operation limited where appropriate, so that neighboring residents are not exposed to offensive noise, especially from traffic or late-night activity. No amplified music shall be audible to neighboring residents.
 - e. Residential units shall be constructed so that interior noise levels do not exceed an Ldn of 45 dB in any habitable room.
 - f. Common walls between residential and non-residential uses shall be constructed to minimize the transmission of noise and vibration.
3. Vibration, Smoke and Heat:
- a. Vibration shall not be discernible to any human's sense of feeling for three minutes or more in any one hour for a total of 15 minutes in any one day, or produce an acceleration of more than 0.1 G.
 - b. Smoke shall not be visible beyond a shade darker than No. 1 on the Ringleman Smoke Chart.
 - c. Heat and glare shall not be discernible from the outside of any structure.
 - d. Odor, dust, and fumes shall be effectively confined to the premises or so disposed as to avoid air pollution.
4. Emissions/Nuisance odors
- a. Emissions and odors shall be completely and effectively confined within the building, or so regulated as to prevent any nuisance, hazard, or other disturbance from being perceptible (without the use of instruments) at any lot line of the premises on which the use is located. No emissions are permitted which can:
 - i. cause any damage to health of humans, animals or vegetation
 - ii. cause excessive soiling
 - iii. result in odorous gases or odoriferous matter in such quantities as to be offensive

- b. The determination of what emissions are in violation of this provision shall be made by the zoning Enforcement Officer taking into consideration all of the following:
 - i. the level of the odor;
 - ii. the nature of the odor is usual or unusual;
 - iii. the origin of the odor is natural or unnatural;
 - iv. the level of the ambient odor;
 - v. the proximity of the odor to living/sleeping facilities;
 - vi. the nature and zoning of the area from which the odor emanates and the area where it is received;
 - vii. the duration of the odor; and
 - viii. whether the odor is recurrent, intermittent, or constant.

5. Lighting/Glare:

- a. Lighting systems should be designed, constructed, and installed in a manner that controls glare and light trespass, minimizes obtrusive light, conserves energy and resources while maintaining safety, visibility, security of individuals and property and curtailing the degradation of the nighttime visual environment. Evenly distributed lighting throughout a site will minimize impacts on surrounding neighborhoods and increase efficiency. By directing light where it is needed and only the intensity necessary to serve the intended purpose, these standards will prevent glare and its harsh shadows and blind spots. All lighting shall comply with the following:
 - i. Except for approved exterior lighting, operations producing glare shall be conducted entirely within an enclosed building. No direct or sky-reflected glare, whether from floodlights or from high temperature processes such as welding shall be permitted beyond its lot lines onto neighboring properties, or onto any street.
 - ii. Exterior lighting, including but not necessarily limited to lighting of exterior walls of buildings from an external light source, lighting of parking areas, and lighting of walks and drives shall be done in such a manner to direct light away from adjacent lots and public ways.
 - iii. All outdoor light fixtures and illuminated signs shall be designed, located, installed and directed in such a manner as to prevent light trespass beyond the property line, and light above a ninety-degree horizontal plane. If necessary, an applicant may need to provide photometric plans and/or manufacturing specification sheets to show conformance with these standards
 - iv. All nonessential lighting, including display, parking, and sign lighting, shall be turned off after business hours, leaving only the lighting necessary for site security.
 - v. Site lighting shall conform to the following output standards:

Maximum (footcandle)	Site Average (footcandle)	Footcandle at Property Line
5	2.5	0

- b. Parking areas shall be illuminated to provide appropriate visibility and security during hours of darkness.
- c. Lighting of the site shall be adequate at ground level for the protection and safety of the public in regard to pedestrian and vehicular circulation. The glare from the installation of outdoor lights and illuminated signs shall be contained on the property and shall be shielded from abutting properties. Lighting structures shall be integrated with the site and surrounding uses.
- d. An exterior lighting plan is required for all mixed use development applications. A lighting plan shall include the following items plus any additional information required by the Planning Board if needed to determine compliance with these provisions:

- i. existing and proposed exterior lighting, including building and ground lighting; locations, supports, mounting heights, and orientation of all luminaires.
 - ii. descriptions and diagrams of physical configuration and photometric data, such as those available from manufacturers, indicating fixtures, lamps, reflectors and filters and showing the angle of light cut-off and light distribution patterns.
 - e. All parking areas and pedestrian facilities serving non-residential uses and open to the general public shall be provided with illumination during all hours from dusk to dawn that those facilities are open to the general public. Such illumination shall provide not less than 0.2 average maintained horizontal foot-candles, and an illumination ratio (brightest/darkest) of not more than 4:1. However, the Planning Board may approve alternative arrangements if it determines that, because of special circumstances or alternative provisions, the specified illumination is not necessary or appropriate for the protection of the public safety.
 - f. To avoid lighting impacts, outdoor lighting fixtures shall be mounted no higher than fifteen (15) feet, directed inward to the extent feasible, or otherwise oriented and shielded to avoid glare on adjoining premises and plantings or other screening used to block headlight glare from drives and parking lots onto adjacent properties or roadways.
6. Exterior Storage:
All materials, supplies and equipment shall be stored in accordance with Fire Prevention Standards of the National Board of Fire underwriters and shall be screened from view from public ways and abutting properties.
7. Waste Disposal:
 - a. Waste disposal shall follow state and town Board of Health regulations.
 - b. Storage of waste and waste facilities shall be screened from view from public ways and neighboring properties.
 - c. Appropriate provisions shall be made for the disposal of trash, which may include, but shall not be limited to, the provision of trash compactors within the building or on site, as well as a signed annual contract for rubbish removal.
8. Loading/Unloading:
The Planning Board may require that operations, including loading and unloading shall be limited to weekdays between the hours of 8AM and 7PM only.
9. Walkways:
 - a. For public convenience, a pedestrian and/or bicycle way shall connect all uses and otherwise provide appropriate circulation or continuity to an existing pedestrian or bicycle circulation system. These uses include, but are not limited to residential, parking, transit, bicycling, industrial, recreation, and commercial uses.
 - b. Walkways must conform to requirements of the Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).
 - c. Sidewalks are required along all town streets.
 - d. The development should provide internal and/or public pedestrian connections that are direct, convenient and pleasant with appropriate amenities (e.g. attractive sidewalks and benches).
10. Vehicular Access, Parking and Loading, and Shared Parking Requirements:
 - a. The project shall meet all parking requirements of Section 5.6 of the Granby Zoning Bylaw.
 - b. The minimum number of parking spaces required for Office Uses is 1 space per 200 square feet of floor space.
 - c. The minimum number of parking spaces required for Retail and Consumer Establishments is 1 parking space per 100 square feet of floor area.

- d. The minimum number of parking spaces required for Public Assembly uses is 1 space per every 15 seats.
- e. The minimum number of parking spaces required for Restaurant, Entertainment and Recreation Facilities is 1 space per 300 square feet of customer floor area
- f. The minimum number of parking spaces required for each Dwelling Unit is .5 space per unit and must be within 300 feet of the unit (excluding on-street parking)
- g. Parking shall be located to the side or rear of buildings. In no case shall parking be allowed in the planting strip adjacent to the sidewalk or within the front setback of any lot.
- h. Parking spaces may be located either on or off the lot. Applicant must show proof of space, its location relative to the dwelling unit, and must indicate if the space is owned or leased.
- i. Buildings that do not have frontage on a street must provide access for emergency and service vehicles through the layout and design of driveways, interior service roads, or pedestrian and bicycle circulation corridors.
- j. Where there is more than one category of use, then the number of parking spaces required shall be 70% of the sum of required spaces for each category of use.
- k. The Planning Board may reduce the number of required parking spaces for the commercial portion of the building by 50%.
- l. Off-street loading requirements are:
 - i. multi-family residential, office, retail, consumer service, and public assembly uses require one bay per every 50,000 square feet of floor area.
- m. The Planning Board may allow shared parking in a mixed use development as part of the Special Permit approval. The minimum number of parking spaces for a mixed use development or where shared parking strategies are proposed shall be determined by a study prepared by the applicant following the procedures of the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other procedures approved by the Planning Board. A formal parking study may be waived for small developments where there is established experience with the land use mix and its impact is expected to be minimal. The actual number of parking spaces required shall be based on well-recognized sources of parking data such as the ULI or ITE reports. If standard rates are not available or limited, the applicant may collect data at similar sites to establish local parking demand rates.

11. Development Standards:

- a. New construction design shall be in harmony with the existing neighborhood or district.
- b. Buildings or structures that are listed or eligible for inclusion on the National Register of Historic Places and/or the Massachusetts Register of Historic Places or within a local historic district as established by M.G.L. Chapter 40C, shall be converted, constructed, reconstructed, restored or altered to maintain or promote the status of the building or structure on, or eligibility for inclusion on the State or National Register of Historic Places.
- c. Every effort should be made to meet the design standards of this bylaw and the GRANBY COMMERCIAL/MIXED USE DESIGN GUIDELINES adopted by the Planning Board to ensure that new development is compatible with the unique characteristics of the district. and sense of place. Applicants requiring a Special Permit and/or Site Plan Approval shall indicate how the proposed development addresses the design issues referenced in the GRANBY COMMERCIAL/MIXED USE DESIGN GUIDELINES.

12. Signs:

Signs shall conform to the existing bylaws of the Town of Granby.

13. Landscaping Requirements:

- a. Screening of mechanical equipment, trash, and loading areas shall be provided through the use of walls, fences, and/or dense, evergreen plant materials.

- b. Parking areas shall be screened from adjacent residential uses, streets, and walkways using trees and shrubs adapted to the region, of specimen quality conforming to the American Standard for Nursery Stock, (American Standards Institute, Inc.), and shall be planted according to accepted horticultural standards. Berms may be used for screening along the street in conjunction with plant materials.
 - c. The landscaped perimeter area shall be at least five feet wide.
 - d. Landscaping shall be provided for interior vehicular use areas within the site to provide visual and climatic relief from broad expanses of pavement and to channelize and define logical areas for pedestrian and vehicular traffic.
 - e. The interior parking area within the site shall be landscaped with, in the opinion of the Planning Board, sufficient shade trees. .
 - f. The use of porous pavement and/or perforated brick or block shall be used to the extent feasible to increase on-site water retention for plant material, groundwater supplies, and to reduce problems associated with runoff.
 - g. Completion of the landscaping requirements may be postponed due to seasonal weather conditions for a period not to exceed six (6) months from the time of project completion.
 - h. Applicants shall reference the landscaping recommendations of the Granby Design Guidelines Handbook when preparing a proposed landscape plan.
14. Maintenance of Landscaping and Screening:
- a. All landscaping and screening shall be maintained by the property owner.
 - b. Landscaping and screening plant materials shall not encroach on the public walkways or roadways in a way that impedes pedestrian or vehicular traffic.
 - c. Shrubs or trees that die shall be replaced within one growing season.
 - d. If the property owner fails to maintain the landscaping and screening, the town reserves the right to maintain the landscaping and screening after notifying the owners, agents, renters, or lessees by certified mail at their last known address or at the subject property address, that it shall be removed or trimmed within seven days of the notice by the Director of Public Works.
 - e. The town shall assess the owners, agents, renters, or lessees for the cost of trimming or removal plus an additional amount of up to 20% of the charges for administrative costs, to the owner and to the lessee, agent, occupant, or other person in possession and control of the property.
 - f. If any property owner fails or refuses to pay when due any charge imposed under this section, the Director of Public Works may, in addition to taking other collection remedies, certify due and unpaid charges, including interest, to the Town Treasurer to be levied against the person's property for collection by the county in the same manner as delinquent general taxes upon such property are collected as provided by the Town of Granby.
15. Appearance/Architectural Design:
- a. Architectural design shall be compatible with the historic character and scale of building in the neighborhood and the Town of Granby through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Applicants should consult the Granby Design Guidelines Handbook for specific guidance on design issues.
 - b. Variations in architectural detail, form and siting shall be used to provide visual interest and avoid monotony.
 - c. Existing buildings subject to reconstruction or rehabilitation and proposed buildings shall be compatible with the historic character and scale of contiguous buildings within the immediate neighborhood vicinity.
 - d. Proposed buildings should relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.

- e. Buildings shall be designed so that only retail, restaurant, and personal service establishments shall be located on the ground or below grade building levels.
- f. The entire building façade must be oriented to front and side street property lines and must be located within ten feet of such property lines, with sidewalks in front of buildings.
- g. Public open spaces, such as plazas and pocket parks, are encouraged within the development.
- h. In rendering its decision, the Planning Board may consider whether the building design is compatible with the following design guidelines:
 - i. exterior facades are faced with wood, metal, or vinyl clapboards, or stone or brick;
 - ii. exterior facade treatment is compatible on all four sides;
 - iii. rooflines are peaked;
 - iv. facades facing town streets have windows facing the street.

4.46 Optional Affordable Housing Bonus

- 1. At least ten (10%) percent of the total dwelling units in a mixed use development may be designated as affordable housing. Affordable housing will be defined as those residential units affordable to a household earning up to eighty percent (80%) of the median income in Granby's statistical area.
- 2. The affordable housing units shall include resale, lease or rental controls that will ensure continued affordability by future low and moderate income households. Deed restrictions or similar devices shall be used to limit future sale or rental prices for these purposes.
- 3. The affordable units may be located in an existing structure if their construction constitutes a net increase in the number of dwelling units in the development.
- 4. A bonus of twenty-five percent (25%) additional dwelling units – over and above the allowable density - may be awarded if the above criteria are met.
- 5. Mixed Use Infill developments shall not qualify for this Affordable Housing Bonus.

4.5 Business Park Overlay District

4.5.1 Purpose: to provide areas for office, research and low intensity light-industrial activities, warehousing, wholesaling and similar activities.

4.5.2 General Requirements: All uses permitted in the Research & Development Park District must comply with all of the following:

- a) all activities must take place wholly within an enclosed building
- b) all activities must be capable of operating in such a manner as to control the external effects of the manufacturing process such as noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation, emissions and other nuisance characteristics through prevention or mitigation devices and conduct of operations within the confines of the premises
- c) all lots and uses shall comply with the Industrial District requirements in the Table of Dimensional and Density Regulations
- d) shall have a maximum building area of 60,000 sf,
- e) shall comply with the requirements of Section 5.3 Commercial Development and Landscaping
- f) all permitted uses must receive a Special Permit and Site Plan approval from the Planning Board

4.5.3 Permitted Uses

APPENDIX D- DENSITY BONUS BYLAW FOR TOWN MEETING ADOPTION

Remove the following from Section 6.6 Mixed Use Development in Hatfield's Zoning Bylaw:

6.67 Optional Affordable Housing Bonus

- A. At least ten (10%) percent of the total dwelling units in a mixed use development may be designated as affordable housing. Affordable housing will be defined as those residential units affordable to a household earning up to eighty percent (80%) of the median income in Hatfield's statistical area.
- B. The affordable housing units shall include resale, lease or rental controls that will ensure continued affordability by future low and moderate income households. Deed restrictions or similar devices shall be used to limit future sale or rental prices for these purposes.
- C. The affordable units may be located in an existing structure if their construction constitutes a net increase in the number of dwelling units in the development.
- D. A bonus of twenty-five percent (25%) additional dwelling units – over and above the allowable density - may be awarded if the above criteria are met.
- E. Mixed Use Infill developments shall not qualify for this Affordable Housing Bonus.

APPENDIX E- INCLUSIONARY ZONING BYLAWS

1. State Smart Growth/Smart Energy Toolkit Inclusionary Zoning Model Bylaw
2. Town of Hadley Inclusionary Zoning Bylaw
3. Town of Southampton Inclusionary Zoning Bylaw
4. Town of Amherst Inclusionary Zoning Bylaw



Inclusionary Zoning Bylaw

Introduction

This model bylaw provides a menu of options for crafting inclusionary zoning bylaws that respond directly to local housing demands and real estate financial conditions. The zoning structure begins as a mandatory inclusionary zoning provision, then offers a series of optional exemptions to affordable housing development that mitigate hardships associated with affordable housing development. Section 04.2 includes a variety of incentives that can be used spur affordable housing development and mitigate the costs borne by developers. Commentary below specific provisions details the development implications of each exemption and incentive. Municipalities should carefully consider the development consequences of each of these policy choices in order to assemble zoning bylaws that respond directly to local economies. However, note that previous studies, [<http://www.mhp.net/vision/zoning.php>], indicate that mandatory provisions combined with strong incentives are most effective in promoting affordable housing development.

01.0 Purpose and Intent: The purpose of this bylaw is to encourage development of new housing that is affordable to low and moderate-income households. At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw/ordinance be considered as Local Initiative Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development. Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

02.0 Applicability

1. In all zoning districts, the inclusionary zoning provisions of this section shall apply to the following uses:

- (a) Any project that results in a net increase of [ten (10)] or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and

COMMENT: *The number of units required to trigger the applicability of the inclusionary zoning provisions should reflect local real estate development demands. In built-out communities, inclusionary zoning could apply to developments with fewer units. For example, Brookline's affordable housing requirements apply when six new residential units are proposed. Other Massachusetts communities, including Boston and Cambridge bylaws specify ten (10) as the threshold number of new units required to trigger the application inclusionary zoning bylaws. The Cape Cod Commission regulations specify 30 units, but encourage the member towns to specify a 10-unit minimum.*

(b) Any subdivision of land for development of ten (10) or more dwelling units; and

COMMENT: It is recommended that the Town adopt a companion regulation to prevent intentional segmentation of projects designed to avoid the requirements of this bylaw (e.g. subdividing one large tract into two smaller tracts, each of which will contain fewer than 10 units or phasing a development such that each phase will contain fewer than 10 units). This "anti-segmentation" bylaw can specify that parcels held in common ownership as of the passage of this bylaw cannot later defeat the requirements of this regulation by segmenting the development. Note that the division of land trigger is accomplished by either filing a plan for the subdivision of land or the filing of a so-called approval not required plan.

(c) Any life care facility development that includes ten (10) or more assisted living units and accompanying services.

COMMENT: It is recommended that the Town review zoning definitions for life care facilities to ensure coordination between sections.

03.0 Special Permit: The development of any project set forth in Section 02.0 (above) shall require the grant of a Special Permit from the Board of Appeals or other designated Special Permit Granting Authority (SPGA). A Special Permit shall be granted if the proposal meets the requirements of this bylaw. The application procedure for the Special permit shall be as defined in Section ____ of the Town's zoning bylaw.

04.0 Mandatory Provision of Affordable Units:

1. As a condition of approval for a Special Permit, the applicant shall contribute to the local stock of affordable unit in accordance with the following requirements:

(a) At least ten (10) percent of the units in a division of land or multiple unit development subject to this bylaw shall be established as affordable housing units in any one or combination of methods provided for below:

- (1) constructed or rehabilitated on the locus subject to the Special Permit (see Section 05.0); or
- (2) constructed or rehabilitated on a locus different than the one subject to the Special Permit (see Section 06.0); or
- (3) an equivalent fees-in-lieu of payment may be made (see Section 07.0); or
- (4) An applicant may offer, and the SPGA may accept, donations of land in fee simple, on or off-site, that the SPGA in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units. The SPGA may require, prior to accepting land as satisfaction of the requirements of this bylaw/ordinance,

that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

(b) The applicant may offer, and the SPGA may accept, any combination of the Section 04.1(a)(1)-(4) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this bylaw/ordinance.

COMMENT: The provisions above establish the minimum number of, and methods for, provision of affordable units. Note that the applicant has four choices for providing affordable units. First, they may construct or rehabilitate units on the site subject to the Special Permit. Second, they may construct or rehabilitate units at a different site than the one subject to the Special Permit. Third, they may offer fees-in-lieu of the construction of affordable housing units, more fully discussed in Section 07. Fourth, they may offer, and the SPGA may accept, land on- or off-site for the purposes of constructing affordable units, perhaps by the Town or a non-profit entity or a subsequent developer. Finally, the applicant may propose and the SPGA may accept any combination of options one through four.

(c) As a condition for the granting of a Special Permit, all affordable housing units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Planning Board. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward the [town]'s Subsidized Housing Inventory. The regulatory agreement shall also address all applicable restrictions listed in Section 0.9 of this bylaw. The Special Permit shall not take effect until the restriction, the regulatory agreement and the special permit are recorded at the Registry of Deeds and a copy provided to the Planning Board and the Inspector of Buildings.

COMMENT: Regulatory agreements are an essential component to any affordable housing development as they are the primary vehicle for recording these restrictions in a manner recognized by the Commonwealth. The content of agreements will vary depending on a variety of factors including: the type of housing (rental or ownership), the method of property transferal, the income limits, the town's housing administrative structure, etc. Sample restrictions can often be found attached to approved Plan Production Plans (<http://www.mass.gov/dhcd/components/SCP/PProd/plans.htm>).

2. To facilitate the objectives of this Section 04.0, modifications to the dimensional requirements in any zoning district may be permitted for any project under these regulations, as the applicant may offer and the SPGA may accept, subject to the conditions below:

(a) FAR Bonus. The FAR normally permitted in the applicable zoning district for residential uses may be increased by up to thirty (30) percent for the inclusion of affordable units in accordance with Section 04.1 (above), and at least fifty (50) percent of the additional FAR should be allocated to the affordable units. In a mixed use

development, the increased FAR may be applied to the entire lot, however any gross floor area increase resulting from increased FAR shall be occupied only by residential uses, exclusive of any hotel or motel use.

(b) Density Bonus. The SPGA may allow the addition of two market rate units for each affordable unit provided as part of compliance with the Special Permit. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by that amount necessary to permit up to two (2) additional market rate units on the lot for each one affordable unit required in Section 04.1 (above).

COMMENT: The provisions above provide a baseline density bonus of two market rate units for every one affordable unit provided by an applicant. This density bonus will likely cover the cost to the developer of providing each required affordable unit. These provisions may also make the adoption of mandatory inclusionary zoning more politically feasible. Communities may choose to omit this provision in favor of offering density bonuses for affordable units above and beyond the baseline requirement of 10%. However, the two different approaches may be used together as in this model bylaw. The following provision (04.2(c)) illustrates how density bonuses can be provided for affordable units beyond the baseline 10%.

(c) Voluntary Inclusionary Housing Bonus. New affordable housing development that is not subject to Section 02.0 and exceeds the requirements specified in Section 04.1(a) may receive the same benefits specified in Sections 04.2(a) and 04.2(b) when the development is approved by the SPGA. The net increase in housing units shall not exceed [fifty percent 50%] of the original property yield before any density bonuses were applied.

COMMENT: Where communities are willing to allow density increases for associated with affordable units provided above and beyond the baseline 10%, the important issue to address is what the overall "cap" will be for the density bonus. The model uses a net 50% over the property yield as a potential cap for density increase, but communities could consider higher increases depending on the existing minimum lot size and the goals of their Comprehensive Plan.

05.0 Provisions Applicable to Affordable Housing Units On- and Off-Site:

1. Siting of affordable units. All affordable units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units.
2. Minimum design and construction standards for affordable units. Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units. Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.

COMMENT: The provisions above provide general guidelines meant to ensure that the affordable housing is well integrated with and visually indistinguishable from market rate housing. These goals can be strengthened by specifying site plan and building material standards.

Market-rate Unit (% Complete)	Affordable Housing Unit (% Required)
<30%	-
30% plus 1 unit	10%
Up to 50%	30%
Up to 75%	50%
75% plus 1 unit	70%
Up to 90%	100%

Fractions of units shall not be counted.

3. Timing of construction or provision of affordable units or lots. Where feasible, affordable housing units shall be provided coincident to the development of market-rate units, but in no event shall the development of affordable units be delayed beyond the schedule noted below:

COMMENT: The table above establishes the required schedule for completion of affordable units in conjunction with the completion of market rate units. For example, a 100-lot subdivision requires 10 affordable units. Assume all 10 affordable units are to be constructed on-site. Upon completion of the 31st market rate unit, the developer must construct at least 1 affordable unit (10% of 10). After completion of the 50th unit, the applicant must have constructed at least 3 affordable units (30% of 10), and so on. Towns are free to adjust this schedule, but should bear in mind that a minimum number of market rate units are often needed to create sufficient cash flow to make the overall project work. To that end, it is recommended that the initial affordable unit requirement not be triggered until at least one-third of the market units are constructed.

4. Marketing Plan for Affordable Units. Applicants under this bylaw/ordinance shall submit a marketing plan or other method approved by the Town through its local comprehensive plan, to the SPGA for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

COMMENT: A marketing plan is considered essential to the success of affordable housing development in many parts of Massachusetts. Issues of how the units are advertised, how qualified applicants are sought and determined, and methods for reducing delays for qualified applicants are key to the use of this bylaw/ordinance. As an option, the responsibilities under this provision could be transferred to a local housing partnership or authority.

06.0 Provision of Affordable Housing Units Off-Site:

1. As an alternative to the requirements of Section 05.0, an applicant subject to the bylaw/ordinance may develop, construct or otherwise provide affordable units equivalent to those required by Section 04.0 off-site. All requirements of this bylaw/ordinance that apply to on-site provision of affordable units, shall apply to provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the SPGA as an integral element of the Special Permit review and approval process.

COMMENT: *Allowing off-site provision of affordable units gives flexibility to developers and allows municipalities to more carefully control the siting of new affordable housing development. Towns should add review criteria for the approval of off-site locations to ensure that new affordable housing development promotes the goal of creating mixed-income neighborhoods and encourages development or conversion of affordable units near areas with municipal services or access to public transportation may. Relegating the provision of the affordable units to undesirable portions of the community does little to promote the purposes of this bylaw/ordinance. Furthermore, towns and cities with more economically segregated neighborhoods should consider striking this provision from the bylaws to ensure that each new residential development built in any neighborhood contains some affordable housing.*

07.0 Fees-in-Lieu-of Affordable Housing Unit Provision:

1. As an alternative to the requirements of Section 05.0 or Section 06.0, an applicant may contribute to an established local housing trust fund to be used for the development of affordable housing in lieu of constructing and offering affordable units within the locus of the proposed development or at an off-site locus.

(a) Calculation of fee-in-lieu-of units. The applicant for development subject to this bylaw may pay fees-in-lieu of the construction of affordable units. For the purposes of this bylaw/ordinance the fee-in-lieu of the construction or provision of affordable units will be determined as a per-unit cost as calculated from regional construction and sales reports. The SPGA will make the final determination of acceptable value.

COMMENT: *This Section provides a cash payment option in lieu of providing affordable units. The payment value may differ for each municipality and will depend on the size of the affordable housing unit discount that would be necessary to make the unit affordable (e.g. median sale price of market rate unit minus maximum sale price of a three-bedroom affordable dwelling unit). Fees-in-lieu will need to be recalculated regularly to account for inflation and other market changes. Furthermore, the local housing trust fund will need to be closely regulated to ensure that dollars contributed to the fund are spent exclusively on the provisioning of affordable housing. This is the appropriate section for specifying guidelines for administering the housing trust and stipulating the governance structure by which the trust will be managed.*

Municipalities that significantly lack affordable housing opportunities should consider heavily restricting the fee-in-lieu payment option. In built-out communities, housing trust funds often grow and sit unused because sites appropriate for affordable housing development are not available. Additionally, affordable housing trusts can force municipal agents into the role of real estate developers, which local government officials may be poorly suited for or reluctant to do. Cities such as Cambridge have eliminated the fee-in-lieu payment option in almost all cases except for extreme hardship in order to ensure that affordable housing is built by the developers at the same time that new development is under construction.

(b) Schedule of fees-in-lieu-of-units payments. Fees-in-lieu-of-units payments shall be made according to the schedule set forth in Section 05.3, above.

COMMENT: This section establishes the fee-in-lieu of payments schedule to coincide with the schedule for provision of units established by Section 05.3. For example, a 50-lot subdivision requires five affordable units. An applicant choosing to make fee-in-lieu of payments would be required to pay \$5X (5 units @ \$X per unit). The payment schedule would require 10 percent of the \$5X after the 16th market rate unit was built, and \$100,000 after the 38th market rate unit was built and so on, according to the schedule noted in Section 05.3.

- (c) **Creation of Affordable Units.** Cash contributions and donations of land and/or buildings made to the Town or its Housing Trust in accordance with Section 07.1 shall be used only for purposes of providing affordable housing for low or moderate income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments.

08.0 Maximum Incomes and Selling Prices: Initial Sale:

1. To ensure that only eligible households purchase affordable housing units, the purchaser of a affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.

2. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.

COMMENT: The Department of Housing and Community Development publishes maximum income, selling prices and monthly rent ceilings for occupants of affordable income housing units (Department of Housing and Community Development, Local Initiative Program, July 1996). Individual towns are free to adjust these numbers to accommodate local needs and concerns; however, it is recommended that the Department's guidelines be reviewed prior to setting local ceilings. These provisions may be more appropriately handled by the local housing partnerships rather than the developer.

09.0 Preservation of Affordability; Restrictions on Resale:

1. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement (Section 0.4.1(c)). The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

- (a) **Resale price.** Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted in Section 9.1, above.

COMMENT: For example, if a unit appraised for \$100,000 is sold for \$75,000 as a result of this bylaw, it has sold for 75 percent of its appraised value. If the appraised value of the unit at the time of proposed resale is \$150,000, the unit may be sold for no more than \$112,500--75 percent of the appraised value of \$150,000.

(b) **Right of first refusal to purchase.** The purchaser of an affordable housing unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by Department of Housing and Community Development, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.

(c) The SPGA shall require, as a condition for Special Permit under this bylaw, that the applicant comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 10.1(b), above. The Building Commissioner/Inspector shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded.

COMMENT: This Section provides language to ensure that the affordable housing units remain affordable by restricting re-sales in perpetuity and by granting the Town a right of first refusal to purchase the dwelling unit should a qualified purchaser, beyond the initial purchaser, not be found. The restrictions on resale are designed to encourage the homeowner to maintain and improve the property while at the same time ensure that if and when sold, the new qualified buyer is able to enjoy the same discount between sale price and appraised value. It is important to emphasize that the restrictions on resale do not block, in any way, the property owner from realizing a profit on the resale of the dwelling unit. Rather, as noted, the resale restriction passes on the initial discounted rate enjoyed by the initial buyer to the new, qualified buyer.

10.0 Conflict with Other Bylaws/Ordinances: The provisions of this bylaw/ordinance shall be considered supplemental of existing zoning bylaws/ordinances. To the extent that a conflict exists between this bylaw/ordinance and others, the more restrictive bylaw/ordinance, or provisions therein, shall apply.

COMMENT: This provision establishes that where a conflict exists between this bylaw/ordinance and an existing (or future) bylaw/ordinance, the more restrictive provisions of either would apply. For example, this bylaw/ordinance requires a Special Permit for the division of land into ten or more lots, whereas that requirement may not currently exist in existing town bylaws/ordinances. Section 10.0 states that the more restrictive provision applies during a conflict, thus the Special Permit requirements of this bylaw/ordinance would supersede (overrule) the provisions of existing bylaws/ordinances.

11.0 Severability: If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the [town]'s zoning bylaw.

COMMENT: *This Section is a generic severability clause. Severability clauses are intended to allow a court to strike or delete portions of a regulation that it determines to violate state or federal law. In addition, the severability clause provides limited insurance that a court will not strike down the entire bylaw should it find one or two offending sections.*

§ 26.1

§ 26.2

SECTION XXVI
Accessory Apartments
[Added 11-8-2007 STM by Art. 17]

An accessory apartment, or in-law apartment, is a self-contained housing unit incorporated within a single-family dwelling that is a subordinate part of the single-family dwelling and complies with the criteria below:

§ 26.1. Purpose.

The intent of permitting accessory apartments is to:

- 26.1 Provide older homeowners with a means of obtaining rental income, companionship, security and services and thereby to enable them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave.
- 26.1 Add to the variety of rental housing available to serve households which might otherwise have difficulty finding housing.
- 26.1 Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their lifecycle.
- 26.1 Protect stability, property values, and the single-family residential character of a neighborhood by ensuring that accessory apartments are installed only in owner-occupied houses.
- 26.1 To provide housing units for persons with disabilities.

§ 26.2. Use restrictions.

The installation of an accessory apartment shall require a special permit. The Planning Board shall be the special permit granting authority for installation of an accessory apartment within an existing or new owner-occupied, single-family dwelling and only when all the following conditions are satisfied:

- 26.2 The Board of Health has approved compliance with Title 5 of the State Environmental Code, 310 CMR 15, and all other issues within its jurisdiction. [Amended 5-5-2011 ATM by Art. 18]
- 26.2 The apartment will be a complete, separate housekeeping unit containing both kitchen and bath.
- 26.2 Only one accessory apartment may be created within a single-family house.

- 26.21 ~~The~~ special permit is automatically revoked if an owner no longer lives on the premises. "Owner" is taken to mean the individual or individuals whose name(s) appear(s) on the deed as owner and one or more of whom reside on the premises.
- 26.24 ~~An~~ accessory apartment is allowed under a special permit issued by the Planning Board after approval of a site plan which shows all interior and exterior changes to the building. **[Amended 10-27-2016 STM by Art. 22]**
- 26.25 ~~The~~ site plan approval conforms to the Zoning Bylaw, including but not limited to Section VIII, §§ 8.1.3, 8.5.1.1 through 8.5.1.8, 8.5.1.12 and 8.5.1.14.
- 26.27 ~~The~~ gross floor area of an accessory apartment (including any additions) shall not be greater than 900 square feet.
- 26.28 ~~Once~~ an accessory apartment has been added to a single-family residence, the accessory apartment shall never be enlarged beyond the 900 square feet allowed by this bylaw.
- 26.29 ~~An~~ accessory apartment may not be occupied by more than two adults plus related children. Any guests of the occupants may not stay longer than 14 days in any three-month period. If the owner lives in the smaller apartment, the main residence may not be occupied by more than two adults and related children.
- 26.210 ~~An~~ accessory apartment may not be sublet. An accessory apartment cannot be occupied except under lease that includes a provision against excessive noise or disturbance of the neighborhood. The lease shall also state the apartment cannot be sublet.
- 26.211 ~~A~~ minimum of three off-street parking spaces must be available for use by the owner-occupant(s) and tenants to avoid on-street parking.
- 26.212 ~~The~~ design and room sizes of the apartment must conform to all applicable standards in the health, building and other codes.
- 26.213 ~~Special~~ permits issued under this section shall specify that the owner must occupy one of the dwelling units. Special permit and the notarized letters required in §§ 26.2.14 and 26.2.15 below must be recorded in the Hampshire Registry of Deeds or Land Court, as appropriate, in the chain of title to the property, with documentation of the recording provided to the Building Inspector prior to the occupancy of the accessory apartment.

~~26.2~~ Prior to issuance of a permit, the owner(s) must send a notarized letter to the Building Inspector stating that the owner will occupy one of the dwelling units on the premises as the owner's permanent/primary residence, except for bona fide temporary absences not to exceed three months.

~~26.2~~ When a structure which has received a permit for an accessory apartment is sold, the new owner(s), in order to continue to exercise the permit, must, within 30 days of the sale, submit a notarized letter to the Building Inspector stating that he (they) will occupy one of the dwelling units on the premises as his (their) primary residence. This statement shall be listed as a condition on any permits which are issued under this section.

~~26.2~~ The Planning Board may adopt regulations necessary to fulfill the intent of this bylaw.

§ 26.3. Enforcement and penalties.

~~26.3~~ Notice of violation. When the Zoning Enforcement Officer determines that an activity is not being carried out in accordance with the requirements of this bylaw, the officer shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

~~26.3~~ The name and address of the owner applicant.

~~26.3~~ The address or the description of the building, structure, or land upon which the violation is occurring.

~~26.3~~ A statement specifying the nature of the violation.

~~26.3~~ Noncriminal disposition. Any person who violates any provision of this bylaw, or the terms or conditions in any permit or order prescribed or issued thereunder, shall be subject to the Town of Hadley noncriminal disposition procedure set forth in the § 6.1 of the Zoning Bylaw. The Building Inspector shall be the enforcing entity. The penalty for the violation shall be \$100 per day for days one through 30, \$200 per day for days 31 through 60, and \$300 per day for days 61 and over. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

Town of Southampton Inclusionary Zoning Bylaw

SECTION XVII INCLUSIONARY ZONING BYLAW

01.0 Purpose and Intent

The purpose of this bylaw is to:

- expand housing opportunities
- promote economic diversity in our community, and
- include affordable housing in typical market-rate and high-end housing development

At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw be considered as Local Initiative Program (LIP) Units, in compliance with the requirements for the same as specified by the Department of Housing and Community Development. Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

02.0 Definitions

Affordable Units: Housing units which the Planning Board finds are affordable for rent or purchase by eligible households making 80% of the median household income for Springfield Median Household Income as calculated by the U.S. Department of Housing and Urban Development, with adjustments for family size, provided that there are deed restrictions, easements, covenants or other mechanisms to ensure that the units are affordable in perpetuity.

Affordable Housing Restriction: A deed restriction of Affordable Housing meeting statutory requirements in MGL c. 184, s 31, and the requirements of this bylaw.

Eligible Household: An individual or household whose annual income is less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Inclusionary Housing Plan: A document that outlines and specifies the development's compliance with each of the applicable requirements of this Bylaw as part of the approval of a development project.

Income, Low or Moderate: A combined household income which is less or equal to 80% of median income or any other limit established under MGL c. 40B, its regulations or any amendment thereto.

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Income, Median Household: The median income, adjusted for household size, for the Springfield Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

03.0 Applicability

1. In Rural Residential (RR), Residential Neighborhood (RN), Residential Village (RV) and Commercial Village (CV), the inclusionary zoning provisions of this bylaw shall apply to the following uses:
 - a) Any project that results in a net increase of ten (10) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
 - b) Any subdivision of land, either by filing a plan for the subdivision of land or the filing of a so-called approval not required plan, for development of ten (10) or more dwelling units; and
 - c) Any life care facility or any elderly persons and/or handicapped persons housing development that includes ten (10) or more dwelling units and accompanying services.
 - d) This bylaw further stipulates that the project shall not be segmented or phased to avoid compliance with the provision of this bylaw either by filing a plan for the subdivision or land or the filing of a so-called approval not required plan (ANR) or by any other means. ANR filed under the same ownership within five years will be considered as under the provision of this bylaw. A development that occurs on adjacent parcels under common ownership shall be considered one development.
 - e) Cluster developments shall be exempt from the requirements of this by-law.
2. The Southampton Housing Authority and the Southampton Planning Board shall jointly review to completion any application found to be under the jurisdiction of this bylaw.

04.0 Requirements

1. Affordable Housing Contribution: All new residential development outlined in section 3.0 shall contribute at least ten (10) percent of the total number of units for affordable housing. Calculation of the number of total affordable units

shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

2. Methods of Affordable Housing Contribution: While the construction of an affordable unit is the preferred method of affordable housing contribution, the applicant may offer, and the Planning Board may accept the following methods of affordable housing contribution in accordance with the provisions outlined by this bylaw:

- a) Constructed or rehabilitated onsite (see Section 05.0); or
- b) Constructed or rehabilitated off-site (see Section 06.0); or
- c) An equivalent fees-in-lieu-of-units payment may be made (see Section 07.0);
- d) Donation of land in fee simple, on or off site, which the Planning Board in its sole discretion determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction or set-aside of the affordable units as specified in Section 07.0. The Planning Board may require, prior to accepting land as satisfaction of the requirements of this bylaw that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value. The donation of land, if so determined, will be accepted by the town with a stipulation that the land donated shall be used for the development of affordable housing in lieu of construction and offering affordable units within the locus of the proposed development or at an off-site locus.
- e) Any combination of the Section 04.2(a-d) requirements provided that in no event shall the total number units provided be less than the equivalent number of affordable units required by this bylaw.

3. Affordable Housing Restrictions and Regulatory Agreements: All affordable housing units shall be subject to an affordable housing restriction and a Regulatory Agreement in a form acceptable to the Planning Board. Building permits shall not be issued until the restriction and the Regulatory Agreement are recorded at the Registry of Deeds and a copy provided to the Planning Board and the Inspector of Buildings. The Regulatory Agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward Southampton's Subsidized Housing Inventory. The Regulatory Agreement shall also address all applicable restrictions listed in this bylaw.

4. Affordable Unit Enforcement and Monitoring: Long-term enforcement and monitoring of the Regulatory Agreement shall be by an entity approved by the Planning Board. The enforcement and monitoring program shall be paid for by an escrow account established prior to the sale of the first unit and contributed to on an annual basis at a rate negotiated between the Town and the Applicant.

5. Affordable Unit Cost Offsets:
To facilitate the objectives of this Section 05.0, the applicant may offer and the Planning Board may accept, the following in exchange for the provision of affordable housing units:
 - a) The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by twenty percent (20%)
 - b) Waiver from one or more of the dimensional requirements specified in Section 6 of the Zoning bylaw
 - c) Waiver from one or more of the subdivision regulations as specified in the Southampton Subdivision Regulations of the Zoning bylaws
 - d) Waiver from filing fees as listed in the exhibit C of Southampton Planning Board Policies and Procedures by 50%
 - e) Density Bonus. The Planning Board may allow the addition of up to two market rate units for each affordable unit provided. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20 percent to permit up to two additional market rate units for each one affordable unit required in Section 04.1 (above). Applicants who choose affordable housing contribution methods 04.2 (c-d) are not eligible for a density bonus.
 - f) Affordable units may be in the form of a duplex.
 - g) Voluntary Inclusionary Housing Bonus. New affordable housing development that is not subject to Section 03.0 and exceeds the requirements specified in Section 04.1(a) may receive the same benefits specified in Sections 04.5(a) and 04.5(b) when the development is approved by the Planning Board. The net increase in housing units shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.

6. Inclusionary Housing Plan: In addition to the requirements outlined in Section 04.0, the Applicant shall present to the Planning Board an Inclusionary

Housing Plan that outlines and specifies the development's compliance with each of the applicable requirements of this bylaw as part of the approval of a development project. The plan shall specifically contain, at a minimum, the following information regarding the development project:

(a) Preliminary Plan:

- (1) A general description of the development, including whether the development will contain rental units or individually owned units, or both;
- (2) The total number of market rate units and affordable units in the development;
- (3) The total number of attached and detached residential units (as applicable);
- (4) The number of bedrooms in each market rate unit and each affordable unit;
- (5) The square footage of each market rate unit and each affordable unit;
- (6) The location within any multiple-family residential structure and any single family residential development of each market rate unit and each affordable unit;
- (7) Floor plans for each affordable unit;
- (8) The amenities that will be provided to and within each market rate unit and affordable unit; and
- (9) The pricing for each market rate unit and each affordable housing unit.

(b) Final Plan:

- (1) All of the information required for the preliminary Inclusionary Housing Plan pursuant to 04.6(a);
- (2) The phasing and construction schedule for each market rate unit and each affordable unit;
- (3) Documentation and plans regarding the exterior appearances;

05.0 Provisions Applicable to Affordable Housing Units On- and Off-Site:

1. Siting of affordable units: All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Planning Board in its sole discretion makes the final determination of the suitability of the siting of the affordable units.
2. Minimum design and construction standards for affordable units: Projects containing affordable units shall meet the standards set forth by the

Massachusetts Department of Housing and Community Development Local Initiative Program (LIP). These standards are:

- a) All low and moderate income housing units developed through the LIP shall be indistinguishable from market-rate units as viewed from the exterior unless the project has an approved alternative developmental plan
 - b) Unit shall contain complete living facilities including a stove, kitchen, cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities.
 - c) All low and moderate-income units for families must have two or more bedrooms. Units for the elderly or accessible units for disabled persons are exempt from this minimum requirement.
 - d) With respect to units for the elderly, the disabled, and/or within an age restricted Project, Developers are encouraged to consider unit designs in which master bedrooms and bathrooms are located on the first floor.
 - e) In exceptional circumstances, the Director of DHCD may allow a waiver if there is a good reason (other than finances) for failure to meet the design criteria of the LIP. An "Alternative Development Plan" approval would be based on DHCD's evaluation of the reason for variation from the LIP guidelines.
3. Timing of construction or provision of affordable units or lots:
The Inclusionary Housing Plan, Section 4.6, and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.
4. Marketing Plan for Affordable Units: Applicants under this bylaw shall submit a marketing plan or other method approved by Southampton, to the Planning Board for its approval, which describes how the affordable units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

06.0 Provision of Affordable Housing Units Off-Site

As an alternative to the requirements of Section 05.0, an applicant subject to the bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 04.0 off-site. All requirements of this bylaw that apply to on-site provision of affordable units, shall apply to the provision of off-site affordable units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the approval process.

07.0 Fees-in-Lieu-of Affordable Housing Unit Provision

1. As an alternative to the requirements of Section 05.0 or Section 06.0, an applicant may make an equivalent payment to the Town's Affordable Housing Trust Fund, or, in its absence, to a designated housing gift account established by the Town for fees-in-lieu-of the provision of affordable units.
 - a) Calculation of fee-in-lieu-of-units: The applicant for development subject to this bylaw may pay fees-in-lieu of the construction of affordable units. For the purposes of this bylaw, the fee-in-lieu of the construction or provision of affordable units shall be equal to three times the 80 percent Median Household Income for a four person household. The 80 percent figure for the Median Household Income for a four person household is updated annually by HUD (see 02.0 Definitions).
 - b) Schedule of fees-in-lieu-of-units payments: Fees-in-lieu-of-units payments shall be made according to the schedule set forth in Section 05.3, above.
 - c) Use of Fees and Creation of Affordable Units: Cash contributions and donations of land and/or buildings made to the Affordable Housing Trust Fund or, in its absence, to a designated housing gift account established by the Town in accordance with Section 07.1 shall be used only for purposes of providing affordable housing for low or moderate income households. Using these contributions and donations, affordable housing may be provided through a variety of means, including but not limited to the provision of favorable financing terms, subsidized prices for purchase of sites, or affordable units within larger developments, rehabilitation on existing structures that can be counted toward the 10% affordable housing goal.

08.0 Maximum Incomes and Selling Prices: Initial Sale

1. To ensure that only eligible households purchase affordable housing units, the purchaser of an affordable unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the local housing trust, community development corporation, housing authority or other agency as established by the Town, that his/her or their family's annual income level does not exceed the maximum level as established by the Commonwealth's Department of Housing and Community Development, and as may be revised from time to time.
2. The maximum housing cost for affordable units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development, Local Initiative Program or as revised by the Town.
3. Each affordable unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement (Section 04.3). The purpose of these limitations is to preserve the long-term affordability of the unit and to ensure its continued availability for affordable income households. The resale controls shall be established through a restriction on the property and shall be in force in perpetuity.

09.0 Omitted

10.0 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Southampton's zoning bylaw.

ARTICLE 15 INCLUSIONARY ZONING

SECTION 15.0 INTENT AND PURPOSE
SECTION 15.1 REGULATIONS

SECTION 15.0 INTENT & PURPOSE

The purpose of this Article is to promote the general public welfare, including but not limited to ensuring an economically integrated and diverse community, by maintaining and increasing the supply of affordable and accessible housing in the Town of Amherst. This purpose includes:

- 15.00 Ensuring that new residential development generates affordable housing as defined in Section 12.20.
- 15.01 Ensuring that affordable housing created under this section remains affordable over the long term, with the majority of such housing remaining affordable in perpetuity, except as may be otherwise required under state or federal programs.
- 15.02 Maintaining a full mix of housing types and unrestricted geographic distribution of affordable housing opportunities throughout Amherst.
- 15.03 To the extent allowed by law, ensuring that preference for new affordable housing is given to eligible persons who live or work in Amherst.

SECTION 15.1 REGULATIONS

To ensure the purposes of this section, the following regulations shall apply to residential development in Amherst:

- 15.10 All residential development requiring a Special Permit and resulting in additional new dwelling units shall provide affordable housing units at the following minimum rates:

<u>Total Development Unit Count</u>	<u>Required Affordable Unit Provision</u>
1-9 units	None*
10-14 units	Minimum one (1) dwelling unit
15-20 units	Minimum two (2) dwelling units
21 units	Minimum 12% of total unit count

* While provision of affordable units is not required for developments containing 1-9 units under this section, the Bylaw encourages affordability and provides for incentives. See Sections 4.33 and 4.55.

Where two or more units are required to be provided under this section, a minimum of forty-nine percent (49%) of affordable units shall be eligible and countable for the purpose of the Commonwealth's 40B Subsidized Housing Inventory (SHI) or its successor. Calculation of the number of total affordable units or the number of SHI-eligible units shall, if the required percent of the total results in a fraction, be rounded up to the next whole number where the fractional portion is equal to 0.5 or greater, and shall be rounded down to the next whole number where the fractional portion is less than 0.5.

- 15.11 Affordable and accessible dwelling units provided under Section 15.10 shall be counted as meeting the requirements for density bonuses under the provisions of Section 4.55, Density Bonuses, of this Bylaw.
- 15.12 The applicant shall establish such housing restrictions, conditions, and/or limitations as are necessary to ensure that the affordable housing units provided under this section will be permanently available for purchase by eligible low-and moderate-income buyers, and available for a minimum of twenty years in the case of rental housing.
- 15.13 Housing constructed by a public agency or non-profit corporation using a federal, state, or local housing assistance program may adhere to the requirements set forth by the funding agency provided that the purpose of these regulations are met.

- 15.14 In any residential development, affordable housing units provided shall be dispersed throughout the development, and shall be comparable to market rate units in terms of the quality of their design, materials, and general appearance of their architecture and landscape.

Town of Hatfield

Inclusionary Zoning Bylaw- Draft- 03/08/18

Formatting shown here may not be consistent with the version that gets inserted into the zoning bylaw.

01.0 Purpose and Intent

The purpose of this bylaw is to:

- expand housing opportunities
- promote economic diversity in our community, and
- include affordable housing in typical market-rate housing development
- address the need for affordable housing documented in the Town of Hatfield’s Housing Production Plan

At minimum, affordable housing produced through this regulation should be in compliance with the requirements set forth in G.L. c. 40B sect. 20-24 and other affordable housing programs developed by state, county and local governments. It is intended that the affordable housing units that result from this bylaw be considered as Local Action Units (LAU) under the Local Initiative Program (LIP) Program, in compliance with the requirements for the same as specified by the Department of Housing and Community Development (DHCD). Definitions for affordable housing unit and eligible household can be found in the Definitions Section.

02.0 Definitions

Affordable Units: Housing units which the Planning Board finds are affordable for rent or purchase by eligible households making 80% of the median household income for the Springfield Metropolitan Statistical Area as calculated by the U.S. Department of Housing and Urban Development, or less, with adjustments for family size, provided that there are deed restrictions, easements, covenants or other mechanisms to ensure that the units are affordable in perpetuity.

Affordable Deed Restriction: A deed restriction of Affordable Housing meeting statutory requirements in MGL c. 184, § 31, and the requirements of this bylaw.

Eligible Household: An individual or household whose annual income is at or less than 80% of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Inclusionary Housing Plan: A document that outlines and specifies the development's compliance with each of the applicable requirements of this Bylaw as part of the approval of a development project.

Income, Low or Moderate: A combined household income which is less or equal to 80% of median income or any other limit established under MGL c. 40B, its regulations or any amendment thereto.

Income, Median Household: The median income, adjusted for household size, for the Springfield Metropolitan Statistical Area published by or calculated from regulations promulgated by the United States Department of Housing and Urban Development, pursuant to Section 8 of the Housing Act of 1937, as amended by the Housing and Community Development Act of 1974, or any successor federal or state program.

03.0 Applicability

1. In all zoning districts, the inclusionary zoning provisions of this bylaw shall apply to the following uses:
 - a) Any project that results in a net increase of five (5) or more dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space; and
 - b) Any subdivision of land for development of five (5) or more dwelling units; and
 - c) Any Congregate Housing for the Elderly or Disabled housing development that includes five (5) or more dwelling units and accompanying services.
 - d) This bylaw further stipulates that the project shall not be segmented or phased to avoid compliance with the provision of this bylaw either by filing a plan for the subdivision or land or the filing of a so-called approval not required plan (ANR) or by any other means. ANR filed under the same ownership within five years will be considered as under the provision of this bylaw. A development that occurs on adjacent parcels under common ownership shall be considered one development.
2. Upon determination that an application falls under this regulation, the Hatfield Planning Board will review the application until it is completed or approved. The Hatfield Housing Committee will be provided copies of all relevant documents and will have ample time to supply the Planning Board with comments and concerns.

04.0 Special Permit and Additional Submission Requirements

1. The development of any project set forth in Section 03.0 (above) shall require the grant of a Special Permit from the Planning Board. A Special Permit shall be granted if the proposal meets the requirements of this bylaw. The application procedure for the Special Permit shall be as defined in Section 5.0 of the Town's Zoning bylaw.
2. In addition to the Special Permit submission requirements outlined in Section 5.0 of the Town's zoning bylaw, the following is required:
 - a. Inclusionary Housing Plan: In addition to the requirements outlined in Section 04.0, the Applicant shall present to the Planning Board an Inclusionary Housing Plan that outlines and specifies the development's compliance with each of the applicable requirements of this bylaw as part of the approval of a development project. The plan shall specifically contain, at a minimum, the following information regarding the development project;
 - i. Preliminary Plan:
 1. A general description of the development, including whether the development will contain rental units or individually owned units, or both;
 2. The total number of market rate units and affordable units in the development;

3. The total number of attached and detached residential units (as applicable);
4. The number of bedrooms and bathrooms in each market rate unit and each affordable unit;
5. The square footage of each market rate unit and each affordable unit;
6. The location within any multiple-family residential structure and any single family residential development of each market rate unit and each affordable unit;
7. Floor plans for each affordable unit;
8. The amenities that will be provided to and within each market rate unit and affordable unit; and
9. The pricing for each market rate unit and each affordable housing unit and proposed condominium fees if applicable.

ii. Final Plan:

1. All of the information required for the preliminary Inclusionary Housing Plan pursuant to 04.02.a.i;
 2. The phasing and construction schedule for each market rate unit and each affordable unit;
 3. Documentation and plans regarding the exterior appearances;
 4. Affirmative Fair Housing Marketing Plan as defined by the Massachusetts Department of Housing and Community Development (DHCD). 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 tenant. 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 set forth by DHCD. The Developer may contract for such services provided that any such contractor be experience and qualified under the standards set forth by DHCD.
- b. Draft regulatory agreement for submission to DHCD
- c. Draft affordable housing deed rider to be recorded with the Registry of Deeds

05.0 Requirements

1. Affordable Housing Contribution: All residential development resulting in additional new dwelling units shall provide affordable units at the following minimum rates:

Total Development Unit Count	Required Affordable Unit Provision
< 5 units	None*
5 – 10 units	Minimum of one (1) dwelling unit
11-20 units	Minimum of two (2) dwelling units
21-30 units	Minimum of three (3) dwelling units
For every additional 10 units or portion thereof, a minimum of 1 additional affordable unit must be provided.	

*While the provision of affordable units is not required for developments containing less than 5 units under this section, the Bylaw encourages affordability and provides for incentives. [Section: 05.03]

2. Methods of Affordable Housing Contribution: The affordable units required under this bylaw must be constructed on-site
3. Affordable Unit Cost Offsets: To facilitate the objectives of this Section 05.0, the applicant may request and the Planning Board may approve, the following in exchange for the provision of affordable housing units:
 - a) The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by twenty percent (20%) or to an amount considered reasonable by the Planning Board.
 - b) Waiver from one or more of the dimensional requirements specified in Section 4 of the Town of Hatfield's Zoning bylaw.
 - c) Density Bonus. The Planning Board may allow the addition of up to two market rate units for each affordable unit provided. The minimum lot area per dwelling unit normally required in the applicable zoning district may be reduced by 20 percent to permit up to two additional market rate units for each one affordable unit required in Section 04.1 (above).
 - d) Voluntary Inclusionary Housing Bonus. New affordable housing development that is not subject to Section 03.0 and exceeds the requirements specified in Section 05.01.a may receive the same benefits specified in Sections 05.03 when the development is approved by the Planning Board. The net increase in housing units shall not exceed fifty percent (50%) of the original property yield before any density bonuses were applied.

06.0 Provisions Applicable to Affordable Housing Units:

1. Siting of affordable units: All affordable units constructed or rehabilitated under this Bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development and shall, on average, be no less accessible to public amenities, such as open space, as the market-rate units. The Planning Board in its sole discretion makes the final determination of the suitability of the siting of the affordable units.
2. Minimum design and construction standards for affordable units: Projects containing affordable units shall meet the standards set forth by the Massachusetts Department of Housing and Community Development Local Initiative Program (LIP).
3. Timing of construction or provision of affordable units or lots: The Inclusionary Housing Plan, Section 04.02.a, and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the

market rate units. Building permits shall be issued for the development project based upon the phasing plan. The phasing plan may be adjusted by the Planning Board when necessary in order to account for the different financing and funding environment, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development. Additionally, the building inspector will not grant a Certificate of Occupancy for any unit in the development, until the required affordable units have been completed.

07.0 Maximum Affordable Purchase Prices and Rents

1. Maximum affordable purchase prices and maximum affordable rents shall be affordable to low- or moderate-income homebuyers or tenants in the development. Maximum affordable purchase prices and maximum affordable rents shall adhere to the current low- or moderate-income limits as determined by the U.S. Department of Housing and Urban Development (HUD) applicable to the Town of Hatfield and shall satisfy the Massachusetts Department of Housing and Community Development's Local Initiative Program (LIP) affordability requirements. The applicant shall submit a proposed schedule of maximum affordable purchase prices or rents with the inclusionary housing application.

08.0 Preservation of Affordability

1. All affordable housing units created under this Inclusionary Housing bylaw shall be subject to an affordable housing restriction ensuring that the affordable housing units provided under this ordinance will be permanently (99 years) available for purchase by eligible buyers, and available for a minimum of thirty years (30 years) in the case of rental housing and must be eligible for listing on the State's Chapter 40B Subsidized Housing Inventory. Toward that end, the applicant is required to enter into a regulatory agreement with the Town of Hatfield and DHCD. The Planning Board encourages the applicants use the state's "model" regulatory agreement. To reduce delays, applicants are required to submit a draft regulatory agreement with the submission requirements for the Special Permit so that regulatory agreement details can be worked out during the permitting process. It is the applicant's responsibility to prepare a complete regulatory agreement for signature by the Town and DHCD, to obtain the necessary signatures and to record a fully executed agreement at the Registry of Deeds prior to the issuance of any building permits.
2. In addition, for-sale units must be protected by a deed rider that "lock in" an affordable housing purchase price upon resale. The Town encourages applicants to use the state's "model" affordable housing deed rider. Applicants are required to submit a draft affordable housing deed rider with the special permit application so that details can be worked out during the permitting process. This document must be fully executed and submitted to the Planning Board prior to the issuance of a certificate of occupancy and must also be recorded with the Registry of Deeds at the time of transfer of ownership.
3. Finally, the regulatory agreement requires an annual monitoring procedure to verify that affordable homeownership units remain owner-occupied and that affordable rental units are occupied by low- or moderate-income tenants at rents they can afford. The applicant is responsible for making monitoring agreements with an organization qualified to provide this service on behalf of the Town. Since DHCD will not approve affordable housing units for inclusion on the Subsidized Housing

Inventory unless a satisfactory monitoring plan is in place, it is in the applicant's interest to purchase this service from a qualified organization.

09.0 Conflict with Other Bylaws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

010.0 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Hatfield's zoning bylaw.