



**After the Zoning:**

**Collaborating with the LIP Local Action Program**

**Thursday January 15, 2026**

**Elizabeth Rust, Regional Housing Services Office**

**Sponsored by Mass Housing Partnership**



# Agenda

## Session Overview

- Introduction
- LIP Local Action Unit Program
- Lexington Planning Expertise
- Q&A Break
- LIP Application
- Regulatory Framework
- Monitoring
- Recap, Q&A



# Welcome

- Quick Introduction: Type into the chat
  - Name
  - Geographical service area, municipality
  - Role
    1. ***Municipal staff*** tasked with administering LIP LAU
    2. ***Consultant*** tasked with preparing LIP LAU materials
    3. ***Subsidizing Agency staff*** tasked with overseeing LIP LAU
    4. ***Planning Commission/RHSO staff*** tasked with assisting municipalities administering program

# What is an RHSO?

## REGIONAL HOUSING SERVICES OFFICE, *ESTABLISHED 2011*



Member Towns receive housing services for an annual fee per Inter- Municipal Agreement:

- Local Support (Studies, analysis, feasibility, project review)
- Monitoring and Inventory Management
- Program Development and Administration
- Assessment Valuations
- Other affordable housing services
- RHSO Website
- Regional Efforts, Trainings



RHSO Personnel deliver services through Lead Community.

	Housing Units	SHI Units	SHI%
Acton	9151	738	8.06%
Bedford	5424	989	18.23%
Concord	7172	715	9.97%
Lexington	12252	1,341	10.95%
Lincoln	2322	298	12.83%
Maynard	4730	425	8.99%
Natick	15563	1,545	9.93%
Sudbury	6523	775	11.88%
Wayland	5227	477	9.13%
Weston	3999	151	3.78%
	72,363	7,454	10.30%

Concord Provides:

- Staffing and Contracting
- Administrative expenses
- Accounting
- Office support
- Technology
- Other

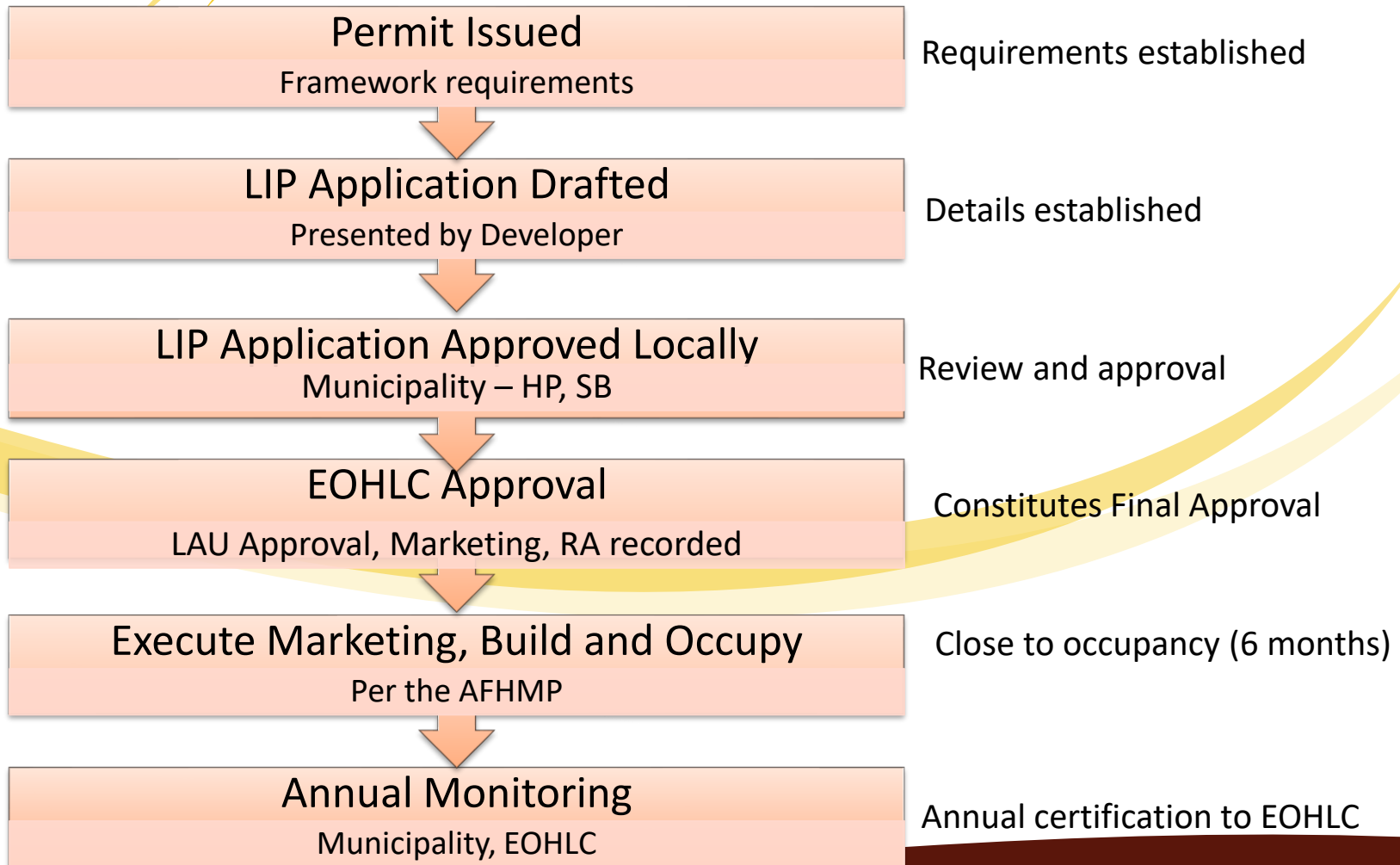


# Why use the LIP Program

- **Why LIP LAU Program**
  - Eligible Program for SHI inclusion (handout)
  - Regulatory Framework
    - Program Guidelines, Legal forms of Regulatory Agreement, Deed Rider, Consent/sub-ordination, ex..
  - Technical support – Municipalities, Developers, Residents
- **What the LIP LAU Program is NOT**
  - Zoning relief
  - Source of financial subsidy (LIHTC, AHTF, HOME, or other)
  - 40B: NO agency review BEFORE permit
  - Automatic approval for SHI



# LIP LAU Process (handout)





# Foundational Requirements

All units that are intended to go onto the ***Subsidized Housing Inventory (“SHI”)*** must be marketed under an approved Affirmative Fair Housing Marketing Plan

Detailed requirements in the EOHLC 40B Guidelines, Section 3.

- <https://www.mass.gov/doc/guidelines-gl-c40b-comprehensive-permit-projects-subsidized-housing-inventory>
- Applies to all activities from outreach and marketing to occupancy and waiting lists
- Developers (and lottery agent) responsibility to follow guidelines.

These guidelines are also used with other programs, and in conjunction with HUD- approved Tenant Selection Plans

- HUD requirements take priority if there are differences



# SHI Eligibility

## Five required elements to 'count' units on the SHI

1. Occupancy limited to households earning up to 80% of AMI
2. Housing units created under an approved housing subsidy program (Binder)
3. Property has a recorded use restriction, restricting occupancy and specifying other details
4. Housing units subject to an Affirmative Fair Housing Marketing Plan
5. Maximum housing cost parameters are met

## SHI timing for LIP LAU

- Ownership: LIP Deed Restriction recorded at closing for individual unit; not at recording of Regulatory Agreement
- Rental (new): Regulatory Agreement is recorded and permits issued
- Rental (existing property): Regulatory Agreement recorded, OP and executed leases

*Note: 40B units are eligible at issuance of 40B permit, not the same as LIP LAU*





# LIP LAU Municipal Actions

1. Issue Zoning Permit (handout)
2. Approve LIP Application (handout)
3. Issue Building/Occupancy Permits
4. Execute Regulatory Agreement
5. Support Marketing Period
6. Annually Certify Compliance
7. Monitoring, Other Activities
  - Rental: Approve Rents, annual certification
  - Ownership: Resales, Refinances, annual certification
  - Respond to resident inquiries



# Step 1: Issue Zoning Permit

## Set the Stage

- Number and specific locations of the affordable units
- Floor Plans:
  - Unit detail – size, bedrooms, bath, affordability level
  - Closets and storage
- Parking
- Timing
- Preferences
- Suggested Permit Conditions (Binder)
- Monitoring Agreement, consider



# View from the Field -

## Meghan Roche –

Lexington Assistant Planning Director



# Q&A Break

We'll take questions for a few minutes  
Presentation resumes in 5 minutes



# Review LIP Application

## Compare to the Permit and Other Submitted Materials

### Section 1: Application and AFHMP

- LIP LAU Application: Unit table
- AFHMP: Use Checklist (handout)
- Application and Flyer

### Section 2: Plans

- Permit
- Site plan
- Floor plans, units identified
- Parking!

### Section 3: Legal components

- Regulatory Agreement
- Lease/Deed Rider
- Condo documents
- Good standing/Other



# Review LIP Application

## Section 1: Areas for Review

- LIP LAU Application: Unit table
- Property and Unit Information
- What is rent/sales price? What fees are resident paying for?
- Eligibility: Income, Assets, Other
- Preference: Clear description of preferences.
- Documentation: Materials needed
- Lottery description and process, timeline
- Non-discrimination, Reasonable Accommodations Statement, Certification and Authorization
- Lease and Deed Rider information



# Preferences



## Different From Eligibility Requirements

1. Accessible Features/Units
2. Household Size Preference
3. Local Preference – initial occupancy only
  - Use all allowable categories
  - Municipality provides justification, at most 70%
  - Follow policies and procedures

Note: Age Restriction is a **project** parameter, not a preference or eligibility



# Income Limits

Based on Area: [http://www.huduser.gov/portal/datasets/il/il15/area\\_definitions.pdf](http://www.huduser.gov/portal/datasets/il/il15/area_definitions.pdf)

Based on the number of persons per household

## Income Definitions

- 100% Area Median Income, Base Income Number
- 30% Extremely low income
- 50% Very low income (may not be arithmetically determined from the others)
- 80% Low income (may not be arithmetically determined from the others)

### Barnstable Town, MA MSA

FY 2025 MFI: \$124,100	EXTR LOW INCOME	28700	32800	36900	41000	44300	47600	50850	54150
	VERY LOW INCOME	47850	54700	61550	68350	73850	79300	84800	90250
	LOW-INCOME	74800	85450	96150	106800	115350	123900	132450	141000

### Boston-Cambridge-Newton, MA-NH MSA

#### Boston-Cambridge-Quincy, MA-NH HMFA

FY 2025 MFI: \$160,900	EXTR LOW INCOME	34750	39700	44650	49600	53600	57550	61550	65500
	VERY LOW INCOME	57900	66200	74450	82700	89350	95950	102550	109200
	LOW-INCOME	92650	105850	119100	132300	142900	153500	164100	174650

#### Brockton, MA HMFA

FY 2025 MFI: \$131,400	EXTR LOW INCOME	27600	31550	35500	39400	42600	45750	48900	54150
	VERY LOW INCOME	46000	52600	59150	65700	71000	76250	81500	86750
	LOW-INCOME	72950	83400	93800	104200	112550	120900	129250	137550

#### Lawrence, MA-NH HMFA

FY 2025 MFI: \$141,300	EXTR LOW INCOME	29700	33950	38200	42400	45800	49200	52600	56000
	VERY LOW INCOME	49500	56550	63600	70650	76350	82000	87650	93300
	LOW-INCOME	72950	83400	93800	104200	112550	120900	129250	137550





# Calculating Rents

**Gross Rent = 30% of the monthly Income Limits, adjusted for household size**

- MassHousing: # bedrooms \*1.5
- EOHLC: # bedrooms +1

**Subtract Utility Allowance (from local subsidized housing agency or provider)**

- Subtract from rent the amount of utilities that the tenant will pay
- Note the utility allowance provider in the AFHMP

2025 LIP Sample Rents (80% AMI)			Utility Allowance		
	1BR	2BR		1BR	2BR
Income Limit	\$105,850	\$119,100	Elec heat	\$105	\$128
Gross rent	\$2,646	\$2,977	Elec	\$97	\$130
Utility Allowance	\$302	\$389	HW heat	\$34	\$45
Net rent	\$2,344	\$2,588	Water	\$18	\$23
			Sewer	\$48	\$63
			Total	\$302	\$389

## NOTES:

- *Rents for units funded by other programs may differ*
- *These are not Section 8 Fair Market Rents*



# Calculating Sales Prices

	May 2022 (5.25%)		Nov 2023 (8.01%)		Oct 2025 (6.59%)	
	2BR condo	3BR SFH	2BR condo	3BR SFH	2BR condo	3BR SFH
Price	\$279,900	\$329,600	\$241,200	\$293,000	\$301,000	\$351,300
Income	\$100,700	\$111,850	\$106,650	\$118,450	\$119,100	\$132,300

Condo - 2BR 80%		Fee Simple 3BR 80%	
Housing Cost:		Housing Cost:	
Sales Price	\$301,000	Sales Price	\$351,300
5% Down payment	\$15,050	5% Down payment	\$17,565
Mortgage	\$285,950	Mortgage	\$333,735
Interest rate	6.59%	Interest rate	6.59%
Amortization	30	Amortization	30
Monthly P&I Payments	\$1,824.36	Monthly P&I Payments	\$2,129.22
Tax Rate	\$14.72	Tax Rate	\$14.72
monthly property tax	\$369	monthly property tax	\$431
Hazard insurance	\$100	Hazard insurance	\$117
PMI	\$186	PMI	\$217
Condo/HOA fees (if applicable)	\$125	Condo/HOA fees (if applicable)	
Monthly Housing Cost	\$2,605	Monthly Housing Cost	\$2,894
Necessary Income:	\$104,191	Necessary Income:	\$115,767
Household Income:		Household Income:	
# of Bedrooms	2	# of Bedrooms	3
Sample Household size	3	Sample Household size	4
HUD 80% AMI	\$119,100	HUD 80% AMI	\$132,300
Target Housing Cost (80%AMI)	\$2,978	Target Housing Cost (80%AMI)	\$3,308
10% Window	\$104,213	10% Window	\$115,763
Target Housing Cost (70%AMI)	\$2,605	Target Housing Cost (70%AMI)	\$2,894



# Step 2: Approve LIP Application

## **Approve**

- Housing partnership/Trust
- Mayor/Select Board
- Developer submits to EOHLC

## **Execute Regulatory Agreement**

- Once approved by EOHLC (Binder)
- Marketing can start
- RA: **Three Originals**
  1. Developer and Bank first
  2. Municipality
  3. EOHLC



# Timeline

## Final AFHMP

- 3 months before marketing (at least)
- After all permits
- Obtain formal approvals

## Open Application Period

- 6 months prior to occupancy
- 60 day minimum, two times in print media
- Information session mid-way

## Lottery

- 15-30 days after close of application period
- Careful review and assignment of tickets
- Allow time for reconsideration

## Occupancy

- Leasing – ~30 days
- Purchasing – ~60 days

## Post-lottery

- Wait list: No local preference
- Advertise/post
- Follow AFHMP, update every 5 years



## Step 3: Marketing, Lottery, Occupancy

- Final sales prices/rents
  - Might involve local approval
- Local outreach
  - KEY ACTIVITY for municipality
- Lottery information
  - Attend sessions
  - Demographics
- SHI eligibility
  - Request when eligible



# Local Outreach

## Municipal Opportunity!

- Website
- Employees, Boards, Committees
- Who keeps the ‘interest list’?
- From each lottery,
  - How many applicants by bedroom size
  - How many local applicants
  - Consolidate



Lottery Date	Property	#AFU	#Applicants (by #br)	#Local (by #br)
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# Regulatory Agreement

- Use Standard EOHLC form (handout)
  - EOHLC Best Practices and Policy (handout)
- Municipal Certification
  - Section 2g (rental), section 7a (ownership)
  - “Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to EOHLC that each of the Low- and Moderate-Income Units continues....”
- Rental:
  - Fixed/Floating
  - Rent increases



# Monitoring

## Scope of Municipal Monitoring

### 1. Rental:

- Rent Approvals, Review Property Annual Reports, Marketing Review

### 2. Ownership:

- Annual certifications, refinancing, capital improvements, resales, annual reporting

### 3. Annual reporting

### 4. General resident inquiries





# Rental Monitoring

1. Monthly Rent Requirement
2. Tenant Eligibility Requirement
3. Unit Physical Maintenance Requirement
4. Number and Mix of Affordable Units Requirement
5. Affirmative Fair Marketing Requirement



# Rent Increases

Expect requests annually after Income Limit update

Have Annual Report and last year's rent increase available

Regulatory Agreement allows for rent based on income limit

- Increased Income Limits, Decreased Utility Allowances raise rents
- For 2025, HUD used median family income data from the 2023 ACS and then updated with wage growth (8% since 2023)
- Prior HUD used an inflation forecast from the Congressional Budget Office (CBO)

## Renewals versus new tenants

- 2021 EOHLC: Renewals: Lesser of Calculated Rent or 5%
- 2022 EOHLC: Urged continuance

30-day time frame for approval from request

	%Chg
2025	1.6%
2024	9.9%
2023	5.9%
2022	10.7%
2021	5.0%
2020	7.9%
2019	9.9%
2018	3.7%
2017	7.0%
2016	4.8%
2015	2.8%
2014	0.6%
2013	3.6%



# Ownership Monitoring

1. Annual Self-certifications
2. Review Registry of Deeds
3. Review, approval Resale, refinance, capital improvements
  - Expect requests annually after Income Limit update



# Recap and closing



## **Key Points for Success**

1. Ensure the LIP Materials provide clarity about the entire process
2. Know the municipal role, and required timeframes
3. Identify internal responsibilities
4. Lead the municipal process



# Closing

## Q&A

### Contacts:

- Liz Rust, RHSO, [Liz@RHSOHousing.org](mailto:Liz@RHSOHousing.org)
- Meghan Roche, Lexington, [mmcnamara@lexingtonma.gov](mailto:mmcnamara@lexingtonma.gov)
- Aly Sabatino, EOHLC LIP LAU, [alyxandra.sabatino@mass.gov](mailto:alyxandra.sabatino@mass.gov)

# FROM THE PLANNER'S DESK

Meghan Roche, AICP Candidate  
Assistant Planning Director  
Town of Lexington

# LEXINGTON, MASSACHUSETTS

## 2023

Passed zoning to encourage multi-family housing development, consistent with State legislation requiring MBTA communities to provide multi-family housing as of right.

Zoned more than 250 acres of property for as of right multifamily housing.

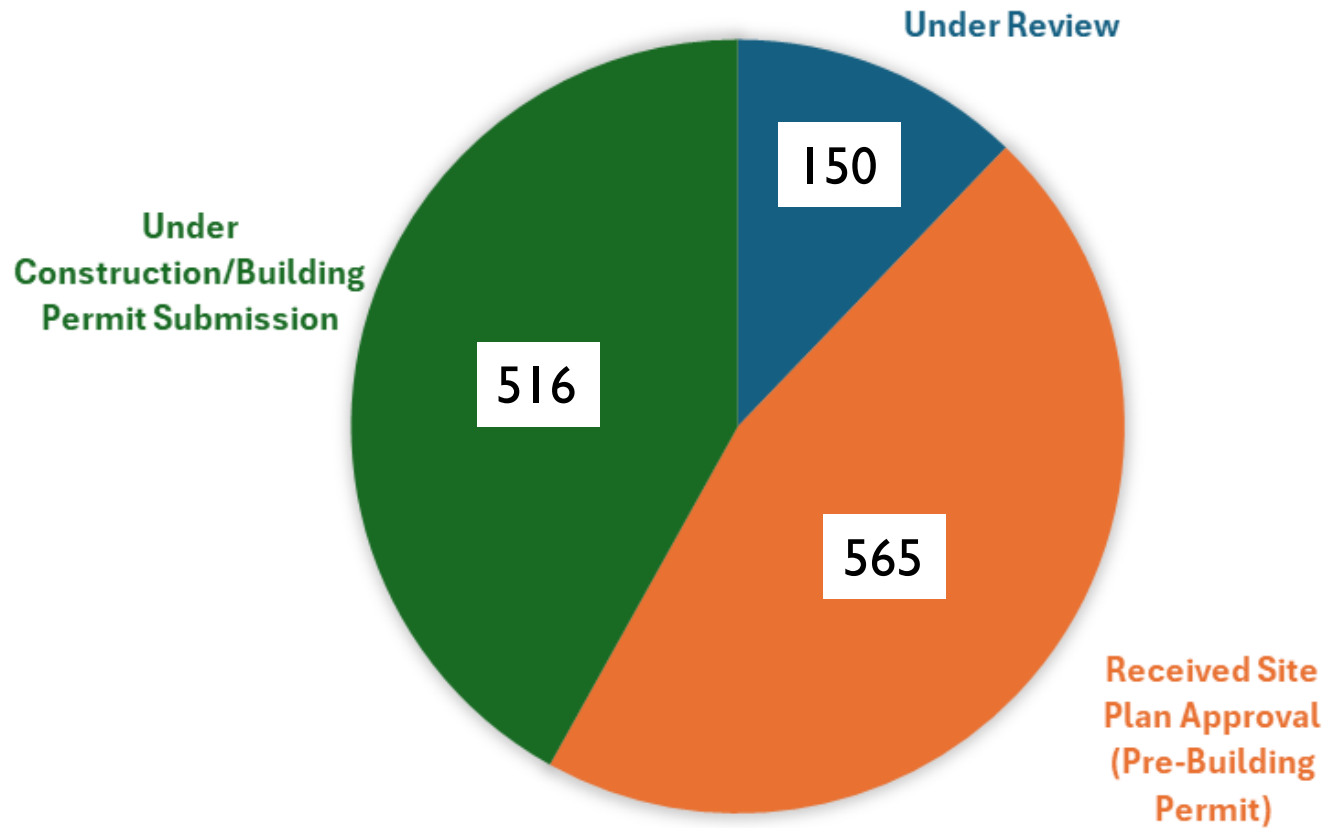
## 2025

Amended the 2023 zoning by removing some of the districts and adding more limitations. The amended zoning is in compliance with the MBTA Multi-Family 3A zoning and guidelines.



17 Hartwell Ave, source: <https://www.bxp.com/properties/17-hartwell-avenue>

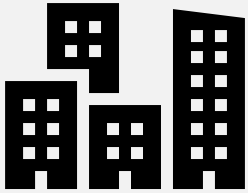
## Lexington's Total Dwelling Units under MBTA Zoning



Lexington's Planning Board has approved a total of 10 multi-family development projects since the zoning was adopted for a grand total of 1,081 new dwelling units, including 158 Inclusionary Dwelling Units. This includes apartment, townhouse and garden condominium units.



# ZONING BYLAW

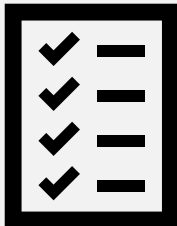


10-13 units proposed = 10% of units shall be Inclusionary Dwelling Units (IDUs) limited to households earning 80% of the AMI and eligible for inclusion on the SHI



14+ units proposed = 15% of units shall be IDU's limited to households earning 80% of the AMI and eligible for inclusion on the SHI

Units shall be substantially similar in size, layout, parking, construction materials, fixtures, amenities, and interior and exterior finishes to the other dwelling units in the same dwelling. Shall have same access to common areas enjoyed by other occupants



No certificate of occupancy for a dwelling unit in a development permitted under this section shall be issued until the regulatory agreements for any inclusionary dwelling units are recorded.

## SITE PLAN REVIEW



### Pre-application Development Review Team (DRT) Meeting

Provide Inclusionary requirements with the income requirements, rental & sales limitations table at first meeting. Inform applicant that they are responsible for hiring a Certified Lottery Agent



Regulations require Applicant to provide narrative summary of the proposed Inclusionary Dwelling Unit(s)



Lexington Planning Board's general policy guide are to recommend local preference of up to 25% in rental projects containing 20 or more inclusionary dwelling units. The Planning Board does not recommend any local preference in ownership developments.

# WORKED WITH RHISO TO CREATE INFORMATIONAL TABLE

## Restricted Rents, Sales Prices and Income Limits (2025)

	Area Median Income				
	50%	80%	100%	120%	150%
<b>Max Sales Prices (using estimated condo fee, 5% down)</b>					
1BR Detached	\$161,300	\$282,000	\$352,800	\$431,300	\$548,900
2BR Detached	\$181,400	\$317,400	\$396,900	\$485,200	\$617,500
3BR Detached	\$201,500	\$352,600	\$441,100	\$539,100	\$686,200
1BR Condo	\$143,000	\$263,800	\$334,600	\$413,000	\$530,600
2BR Condo	\$160,100	\$296,100	\$375,600	\$463,800	\$596,100
3BR Condo	\$177,100	\$328,200	\$416,700	\$514,800	\$662,000
4BR Condo	\$170,900	\$356,500	\$452,000	\$557,900	\$663,300
<b>Max LIP Rents (gross rent )</b>					
Studio	\$1,448	\$2,316	\$2,816	\$3,379	\$4,224
1BR	\$1,655	\$2,646	\$3,218	\$3,862	\$4,827
2BR	\$1,861	\$2,978	\$3,620	\$4,344	\$5,430
3BR	\$2,068	\$3,308	\$4,023	\$4,827	\$6,034
<b>Max LIP Rents (net rent using an estimated allowance)</b>					
Studio	\$1,323	\$2,191	\$2,691	\$3,254	\$4,099
1BR	\$1,505	\$2,496	\$3,068	\$3,712	\$4,677
2BR	\$1,661	\$2,778	\$3,420	\$4,144	\$5,230
3BR	\$1,818	\$3,058	\$3,773	\$4,577	\$5,784

Income Limits (4/1/2025)					
	HH1	HH2	HH3	HH4	HH5
Effective: 4/1/2025	1	2	3	4	5
50%	\$57,900	\$66,200	\$74,450	\$82,700	\$89,350
80%	\$92,650	\$105,850	\$119,100	\$132,300	\$142,900
100%	\$112,630	\$128,720	\$144,810	\$160,900	\$173,772
110%	\$123,893	\$141,592	\$159,291	\$176,990	\$191,149
120%	\$135,156	\$154,464	\$173,772	\$193,080	\$208,526
150%	\$168,945	\$193,080	\$217,215	\$241,350	\$260,658

## Site Plan Approval Decision for a 130 Unit Apartment Building w/ 20 Inclusionary Dwelling Units



The Applicant and the Certified Lottery Agent prepare the LIP-LAU application

Planning Staff will review and inform Applicant when it's ready

Planning Staff will work with the Town Manager to get the LIP-LAU application on the agendas of the Housing Partnership Board and the Select Board for approval and signature.

Applicant submits to EOHLC

### D. Inclusionary Dwelling Units:

19. Prior to the issuance of the first building permit, the applicant shall hire a certified lottery agent to manage the Inclusionary Dwelling Units described above through the Local Initiative Program (LIP) as a LAU (Local Action Unit) for inclusion on the Subsidized Housing Inventory (SHI).
20. Prior to the issuance of the first building permit, the applicant shall submit the LIP-LAU (Local Initiative Program for Local Action Units) application package to Planning staff and the Regional Housing Services Director for review and approval. The application shall then be submitted to the Housing Partnership Board Chair, the Chair of the Select Board, and finally to the MA Executive Office of Housing & Livable Communities (EOHLC). The LIP-LAU package shall include:
  - a. A project narrative;
  - b. The unit mix in tabular form;
  - c. The approved site plan;
  - d. Floor plans with dimensions of the rooms;
  - e. An Affordable Fair Housing Marketing Plan per EOHLC guidelines;
  - f. A sales price/rate calculator;
  - g. A Regulatory Agreement with perpetual affordability;
  - h. Inclusionary dwelling units shall be available to households earning no greater than 80% of the AMI;
  - i. To the extent permitted by applicable law, the Affordable Fair Housing Marketing Plan may include a local selection preference for up to 25% of the inclusionary dwelling units, provided the town justifies the request and EOHLC accepts the justification.
  - j. Parking spaces for the inclusionary dwelling units shall be discounted to 60% of the cost of the parking spaces of the market-rate units if parking is rented separately from the dwelling units.
21. Prior to obtaining a certificate of occupancy, the applicant shall submit written confirmation that the project is consistent with the approved LAU-LIP application package and verifying that the inclusionary dwelling units are substantially similar to the market rate dwelling units. This shall be submitted to the Planning Office and Building Commissioner for review and confirmation prior to occupancy of the inclusionary dwelling units.
22. Prior to occupancy of any of the market rate units, a copy of the approved and Registry recorded Regulatory Agreement for the inclusionary dwelling units shall be submitted to the Planning Office.
23. The lottery for the inclusionary dwelling units shall be held prior to issuance of an occupancy permit for the 37<sup>th</sup> market rate unit in the development.
24. When any inclusionary dwelling unit receives an occupancy permit, the applicant shall notify the Planning Office staff and Regional Housing Services Director so it may be added to the SHI.
25. The inclusionary dwelling units shall have annual verification by the monitoring agent (the Town through the Regional Housing Services Office and the EOHLC).

# CONSTRUCTION, POST-DEVELOPMENT, & MONITORING

- Review building permit plans to verify inclusionary dwelling units are as approved by Planning Board & consistent with LIP-LAU application.
- Lexington utilizes OpenGov online permitting, which ensures Planning Staff review any permits before issuance. Staff also use an internal tracking sheet
- Require applicants provide written confirmation that the inclusionary units are designed to the standards required as part of the Regulatory Agreement and are substantially similar to the market rate units
- Prior to planning sign off on occupancy permits, staff performs site visit and will perform visual check on units
- Submit for SHI listing after occupancy permit issued



93 Bedford St, source: <https://thelexresidences.com/gallery/>

THANK YOU!

Meghan Roche

Town of Lexington, Assistant Planning Director



[mroche@lexingtonma.gov](mailto:mroche@lexingtonma.gov)



<https://lexingtonma.gov/373/Planning-Office>

## APPENDIX II.1

### Eligible Subsidy Programs

#### State Programs

Affordable Housing Trust Fund  
 Chapter 167 (Special Needs Housing)  
 Chapter 200 (Veterans' Housing)  
 Chapter 667 (Elderly Low Income Housing)  
 Chapter 689 (Special Needs Housing)  
 Chapter 705 (Family Low Income Housing)  
 DHCD Capital Improvement and Preservation Fund (CIPF)  
 DHCD Commercial Area Transit Node Housing Program (CATNHP)  
 DHCD Community Based Housing Program (CBH)  
 DHCD Community Development Block Grant (CDBG) including:  
     Homeowner Rehab, HDSP (some uses), and CDF (some uses)  
 DHCD Facilities Consolidation Fund (FCF)  
 DHCD Homeownership Opportunity Program (HOP) <sup>4</sup>  
 DHCD Housing Innovations Fund (HIF)  
 DHCD Housing Stabilization Fund (HSF)  
 DHCD Local Initiative Program (LIP)  
 DHCD Mass Rental Voucher Program (MRVP) Project Based Vouchers Only  
 DHCD Tax Exempt Local Loans to Encourage Rental Housing (TELLER)  
 DMH Community Based Housing (Group Homes)  
 DMR Community Based Housing (Group Homes)  
 MGL Chapter 40R (Smart Growth Zoning Act)  
 Massachusetts Low Income Housing Tax Credits (LIHTC)  
 Massachusetts Housing Partnership Fund (MHP) MATCH Program  
 Massachusetts Housing Partnership Fund (MHP) Permanent Rental Financing Program  
 EOT Transit Oriented Development (TOD) Infrastructure & Housing Support Program  
 MassDevelopment Tax-Exempt Bond Programs  
 MassHousing Chapter 13A Interest Reduction Subsidy Program  
 MassHousing Chapter 236 Program  
 MassHousing Elder Choice  
 MassHousing Elder Mixed Income Program  
 MassHousing Housing Starts  
 MassHousing Mixed-Income (Taxable/Tax-Exempt) Financing Program  
 MassHousing Multi-Family Rental  
 MassHousing Options for Independence  
 MassHousing Rental Development Action Loan (RDAL)  
 MassHousing State Housing Assistance for Rental Production (SHARP)

#### Federal Programs<sup>5</sup>

FHLBB Affordable Housing Program (AHP)  
 FHLBB New England Fund (NEF)  
 Federal Low Income Housing Tax Credit Program (LIHTC)  
 HUD CDBG (Homeowner Rehabilitation in some cases)<sup>6</sup>

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<sup>4</sup> Private HOP projects are eligible to count towards the SHI.

<sup>5</sup> HUD is the U.S. Dept. of Housing and Urban Development; FHLBB is the Federal Home Loan Bank; USDA Rural Housing Service was the Farmers' Home Administration.

HUD Federal Public Housing  
 HUD HOME Program (Rental Production, Project-Based Homeownership, Homeowner Rehab)<sup>7</sup>  
 HUD Section 202 (Supportive Housing for the Elderly)  
 HUD Section 221(d)(3)  
 HUD Section 231  
 HUD Section 236  
 HUD Section 8 Demo Dispo (administered by MassHousing)  
 HUD Section 8 Mark-to-Market (administered by MassHousing)  
 HUD Section 8 Moderate Rehabilitation Program (some units administered through DHCD)  
 HUD Section 8 Moderate Rehabilitation Single Room Occupancy (SRO) Program  
 HUD Section 8 New Construction  
 HUD Section 8 Project Based Assistance  
 HUD Section 8 Project-Based Rental Certificate Program  
 HUD Section 8 Substantial Program  
 HUD Section 811 (Supportive Housing for Persons with Disabilities)  
 HUD Shelter Plus Care (Project-Based Rental Assistance and SRO-Based Assistance only)  
 USDA Rural Housing Service (RHS) Rural Rental Housing 515 Program

### **Ineligible Subsidy Programs**

The following programs, as well as programs not appearing anywhere on this listing are not usually deemed low- or moderate-income housing programs for purposes of G.L. c. 40B§ 20-23, 760 CMR 56.00.<sup>8</sup>

DHCD Alternative Housing Voucher Program (AHVP)  
 DHCD Community Development Action Grant (CDAG)  
 DHCD Massachusetts Rental Voucher Program (formerly Chapter 707 Program)  
 DHCD Soft Second Loan Program (also administered through MHP)  
 Hospitals  
 HUD Shelter Plus Care (Tenant-Based Rental Assistance, Sponsor-Based Rental Assistance)  
 HUD Emergency Shelter Grants Program  
 HUD HoDAG (Housing Development Action Grant)  
 HUD HOME Program (Tenant Based Rental Assistance, Homeownership Purchaser Based)  
 HUD HOPE (Home Ownership for People Everywhere)  
 HUD Section 8 Housing Choice Voucher Program (HCVP)  
 HUD Section 8 Loan Management Set-Aside Program  
 HUD Section 8 Property Disposition Set-Aside Program  
 HUD Section 8 Rental Certificate Program  
 HUD Section 221(d)(2) & 221(d)(4)  
 HUD Urban Development Action Grant (UDAG )  
 Military Housing  
 Prisons  
 Special Needs Schools  
 USDA Rural Development Section 502 Program

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<sup>6</sup> In the case of newly created units, units are eligible if administered through DHCD or if locally administered and approved by the Department under the Local Initiative Program.

<sup>7</sup> Id.

<sup>8</sup> This listing does not attempt to be all-inclusive because of the large number of housing related programs and programs that have a housing component. This list provides examples of programs that are frequently mistaken as an eligible housing program.





# Regional Housing Services Office

*Serving Acton, Bedford, Concord, Lexington, Lincoln, Maynard, Natick, Sudbury, Wayland, and Weston*

Office Address: 37 Knox Trail, Acton, MA 01720  
Phone: (978) 287-1092

Website: [WWW.RHSOhousing.org](http://WWW.RHSOhousing.org)  
Email: [INFO@RHSOhousing.org](mailto:INFO@RHSOhousing.org)

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## Local Initiative Program, Local Action Units Basic Process Flow

The Executive Office of Housing and Livable Communities (EOHLC) sponsors the Local Initiative Program ([LIP](#)), which provides the regulatory framework for affordable or inclusionary units to register them on the state's Subsidized Housing Inventory (SHI).

This means that developments with an affordable component that are permitted through local zoning – inclusionary housing, MBTA/#a, overlay districts, and other such mechanisms – can utilize the LIP Program to regulate their units and register them on the SHI. These units are called Local Action Units (LAU) under the LIP Program.

The LIP LAU cycle has five major steps.

### **1. Permit**

The developer and applicant presents, discusses and finalizes all the specifics of the development including its affordable component during the hearing process. The final plans and particulars related to the affordable units are ideally contained in the approved plans and permit. Specifically:

- The number and specific locations of the affordable units
- The size of the units (square feet and number of bedrooms) and their affordability level.
- Conditions relative to the building permit and/or timing of occupancy relative to the unrestricted units. Sample conditions: Submission of LIP LAU application to EOHLC prior to building/occupancy permit. Occupancy permit for affordable unit/s in line with market rate unit so that the affordable units are not within the last 20% of occupancy.

When the board permit (usually from the Planning Board or Zoning Board) is issued, the developer is best served to start planning for the LIP LAU affordability component by employing a certified lottery agent.

All new units to the affordable housing program, whether existing structures or new construction, must be leased/purchased through a lottery as specified through an approved Affirmative Fair Marketing Plan.

Certified lottery agents are familiar and authorized to prepare such plans and perform the lottery function.

### **2. Regulate**

The LIP LAU application process starts with creating the [LIP LAU Application](#) and completes with the recording of the Regulatory Agreement. This process can take upwards of six months depending on the readiness of the information.

The LIP LAU application package contains the following information, as drafted by the certified agent:

- Project narrative, with demonstrative local municipal action
- Final and recorded Zoning permit (usually from a Planning Board, Zoning Board, or similar permit granting authority)
- Unit mix – market and affordable – in tabular form



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- Site plan, with affordable units identified, and floor plans (showing dimensions of rooms)
- Affordable Fair Housing Marketing Plan, including application materials and sample advertisement, including timeline of occupancy, avenues of outreach/advertising, description of eligibility, preferences and priorities, fees charged and wait list process. The AFHMP is prepared in accordance with the [guidelines](#).
- Sales Price/Rental rate calculator, with utility allowance schedule (for rental)
- Local Preference justification (if applicable)
- Condominium details: Master Deed, Declaration of Trust, Condo Budget
- Draft/redline Regulatory Agreement.

Once complete, the LIP LAU application is signed by the local housing partnership (if applicable) and the Chair of the Select Board/municipal CEO, before submitting to EOHLC.

The EOHLC review may take 3-4 months, depending on the complexity of the project, the completeness of the materials, and other project specific elements.

Once EOHLC approves the LIP LAU application, marketing can begin and the Regulatory Agreement can be executed (applicant, town, EOHLC) and then recorded.

### **3. Marketing and Lottery**

Marketing should not start more than 6 months from occupancy, and with current prices/rents. Marketing cannot start without monitoring agent approval (municipality and EOHLC).

Monitoring agent approval (municipality and EOHLC) is required for any changes from the approved AFHMP. This includes prices/rents, additional charges/fees, or other items. Often, a final re-pricing is done immediately before marketing starts to incorporate current pricing parameters.

If the marketing is done too early, applicants may no longer be interested. Applicants needs to be determined eligible 60-90 days before residency.

Once started, the marketing period is at least 60 days, with an information session held mid-way. The lottery agent reviews the applications for eligibility, and holds the lottery. The top ranked households are given a reasonable period to make their decision.

From there, leasing or purchasing occurs. No contracts (P&S/Lease) can be executed prior to the Regulatory Agreement being recorded.

### **4. Occupancy**

Once all conditions are met and occupancy permits issued, the rental units are leased, and/or ownership units are purchased. Ownership units have the deed rider/restriction attached to the deed at closing. The units are then eligible to be added to the Subsidized Housing Inventory (SHI).

### **5. Monitoring**

Rental units: Annual income recertification by the property owner, submitted to the monitoring agents annually.

Ownership units: Annual verification by the monitoring agent.



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## **LIP LAU Permit Considerations**

General: **Require that the affordable units count on the SHI.** While this is not sufficient to make the units eligible for the SHI, it lays out the requirement succinctly and clearly. The decision should specifically note that the affordable units are affordable in perpetuity.

Location: **Affordable units must be proportionately distributed throughout a Project.** The affordable units should be listed by address/unit# on the plan and in the decision. Configurations to review – higher proportion of affordable units adjacent to a busy road or further from common area amenities, affordable units are all middle units in a townhouse style project. Require that all low- and moderate-income housing units developed shall be indistinguishable from market-rate units as viewed from the exterior. From a plan review, 'Exterior' includes decks/patios and types of parking and any other exterior amenity.

Size and style: **Same proportion of unit sizes.** If there are 20% market rate 3BR then require 20% affordable 3BR. Proportional on square footage, garage sizes, duplex units, unit styles, etc. Specifically detail the total number of units by unit size, the affordable by unit size, and the market by unit size.

Parking: Sample condition: **The Applicant shall provide (1) parking space to each unit for no charge. The applicant may charge a rental fee for additional spaces, provided that the affordable units shall be offered a second space at no charge or at a reduced charge of no more than 60% of the lowest fee charged for a second space to any market rate unit renter.**

Interiors: While the low- and moderate-income units need not be given the same interior finishes and amenities as the market rate units, the interiors shall be of good quality and finished prior to occupancy. The amenities should be documented by the applicant in the file of record. One simple way to capture this is to have the applicant details of what is different for the affordable units. Everything not listed should be the same. Appliances and lighting should be at Energy Star while flooring, bath fixtures, kitchen cabinetry be quality grade not builder grade. Consider requiring tile/resilient/hardwood flooring throughout the affordable units to improve air quality and reduce maintenance cost long-term.

Appliances: LIP Units shall contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities. Appliances should be good quality and same size as market rate.

For existing properties to be converted to affordable dwelling units, detail specific improvements being made prior to occupancy, based on inspection report.

Condominium Considerations - The board should review condo/homeowners' association budget and support estimates to ensure that it is adequate. Too often the condo budget is underestimated for initial purchases. Affordable owners should explicitly be given one vote per unit.

The Board might specify how the affordable unit condo fee is calculated. The most common is to base it on the value/price, resulting in a lower condo fee, and higher sales price, often resulting in a more affordable solution over time. The other option is to base it on square footage, resulting in equal/similar condo fees for the affordable units and the market rate units, and a lower sales price. The advantage is that it might provide for a more harmonious condominium association.

Timing: If a project is phased, the Board should condition that affordable units are built at proportionally the same rate as the market units. Never have the affordable units last or the last 20% of units. **The LIP Application should be submitted to the Town for approval before the first building permit. The Regulatory Agreement must be recorded before the first occupancy permit.**

# **LOCAL INITIATIVE PROGRAM APPLICATION FOR LOCAL ACTION UNITS**

## **Introduction**

The Local Initiative Program (LIP) is a state housing initiative administered by the Executive Office of Housing and Livable Communities (EOHLC) to encourage communities to produce affordable housing for low- and moderate-income households.

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

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

The Department shall certify units submitted as Local Action Units if they meet the requirements of 760 CMR 56.00 and the Local Initiative Program Guidelines, which are part of the Comprehensive Permit Guidelines and can be found on the EOHLC website at [www.mass.gov/eohlc](http://www.mass.gov/eohlc).

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

**Executive Office of Housing and Livable Communities  
100 Cambridge Street, Suite 300  
Boston, MA 02114**

**Attention: Alyxandra Sabatino, LIP/HOP Coordinator  
Telephone: 617-573-1328  
Email: [alyxandra.sabatino@mass.gov](mailto:alyxandra.sabatino@mass.gov)**

## Community Support Narrative, Project Description, and Documentation

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

## Signatures of Support for the Local Action Units Application

### Chief Executive Officer:

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

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

### Chair, Local Housing Partnership: (as applicable)

Signature \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

**Municipal Contact Information:**

**Chief Executive Officer:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Town Administrator/Town  
Manager/Mayor:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**City/Town Planner:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Town Counsel:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

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

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**Community Contact Person:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

**The Project:**

<b>Developer:</b>	Name: _____
	Address: _____ _____
	Phone: _____
	Email: _____
<b>Project Site:</b>	Address: _____ _____

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

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

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

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

**Unit Composition**

<u>Type of Unit</u> (Condo/Fee Simple/ Rental)	<u># of Units</u>	<u># of BRs</u>	<u># of Baths</u>	<u>Gross Square Feet</u>	<u>Livable Square Feet</u>	<u>Proposed Sales Prices/Rents</u>	<u>Proposed Condo Fee/ Utility Allowance</u>
Affordable:							
Market:							
<b>Total:</b>							

**Please attach the following documents to your application:**

1. Documentation of municipal action (e.g., copy of special permit, CPA funds, land donation, etc.)

2. Long-Term Use Restrictions (request documents before submission):

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

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

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

3. Documents of Project Sponsor's (developer's) legal existence and authority to sign the Regulatory Agreement:

- appropriate certificates of Organization/Registration and Good Standing from the Secretary of State's Office
- mortgagee consents to the Regulatory Agreement
- Trustee certificates or authorization for signer(s) to execute all documents
- Copy of Site Plan

4. For Condominium Projects Only: The Master Deed with schedule of undivided interest in the common areas in percentages set forth in the condominium master deed

5. For Rental Projects Only: A copy of the lease with lease addendum and Local Housing Authority's current Utility Allowances

6. Affirmative Fair Marketing and Lottery Plan, including:

- ads and flyers with HUD Equal Housing Opportunity logo
- informational materials for lottery applicants
- eligibility requirements
- lottery application and financial forms
- lottery and resident selection procedures
- request for local preference and demonstration of need for the preference
- measures to ensure affirmative fair marketing, including outreach methods and venue list
- name of Lottery Agent with contact information

See Section III of the Comprehensive Permit Guidelines at: <http://www.mass.gov> (enter LIP 40b guidelines in Search field) for more information.

**PLEASE** contact our office if you have any questions: 617-573-1328.



# **Municipal Checklist for LIP LAU packages**

<b>City/Town:</b>	<b>Reviewer:</b>
<b>Project Name:</b>	<b>Address:</b>

The checklist is intended to assist the municipality with LIP Local Action Unit application package reviews. It does not address the totality of the requirements of the AFHMP Guidelines found in Section III of the Comprehensive Permit Guidelines issued by the Executive Office of Livable Communities. The AFHMP Plan will be reviewed and assessed against the AFHMP Guidelines in its entirety by EOHLC before approval.

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## **Section 1: LIP LAU Application and AFHMP**

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### **LIP LAU APPLICATION:**

Is Local Action documented and consistent with Municipal Action? YES ☐ NO ☐

Review Municipal Contacts and signature page. Who will be signing?

Review Unit table for consistency with permit and plans:

- Number of units, by unit size
- Square footage of units
- Pricing of units, including market units

Are all attachments present?

### **AFFIRMATIVE FAIR HOUSING AND MARKETING PLAN (AFHMP):**

Will the notice be placed widely in local and regional newspapers and postings, including local fair housing commissions, local/regional religious institutions, housing authorities, social service agencies, nonprofits? YES ☐ NO ☐

Will advertisements be placed in newspapers that serve minority groups and other protected classes? YES ☐ NO ☐

Are sample ads included and is the marketing comparable in local, regional and minority newspapers? YES ☐ NO ☐

Are applications made available at public, wheelchair accessible locations including one that has some night hours? Has the municipality assisted with this? YES ☐ NO ☐

Does the advertisement and other marketing make it easy to obtain? Can the application be downloaded YES ☐ NO ☐

Fair Housing:

- Are Fair Housing logo and slogan included in all materials
- Is there a statement of the housing provider's obligation to not discriminate

## **Municipal Checklist for LIP LAU packages**

- Does marketing refrain from describing characteristics of desirable applicants/residents (e.g., “for four persons only”, “active lifestyle community,” “empty nesters”)?
- Does marketing convey unlawful preferences or limitations (e.g., only white models)?

### **RESIDENT SELECTION:**

Are copies of a sample application and information packets for potential applicants included and clearly describe the units, their amenities, pricing and fees? YES ☐ NO ☐

Is the community choosing to implement a local selection preference? If YES, has the municipality provided the justification?

Ensure no durational requirements for living or working in the community?

Are local preference units subject to different or more beneficial terms than other affordable units?

For ADA units, compare the affordable to market allocation. Does this align to the municipality goals?

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## Section 2: Plans

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Are the plans consistent with the plans on record: YES ☐ NO ☐

- Location of affordable units
- Location of ADA units
- Layout of parking
- Floor plan models of affordable units

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## Section 3: Legal

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Review units, sizes and other ‘redlined’ sections

Review exhibit B for consistency

Rental specifics:

- Review rent increase language
- Ensure units are ‘floating’ not fixed
- Review process for over-income tenants



Commonwealth of Massachusetts  
EXECUTIVE OFFICE OF HOUSING &  
LIVABLE COMMUNITIES

*Aly Sabatino, LIP/HOP  
Coordinator*

*Edward M. Augustus Jr.,  
Secretary*

1



# Best Practices

For Local Action Units

2

## Submit a Complete Application & Start the LAU Process Early



Please attach the following documents to your application:

1. Documentation of municipal action (e.g., copy of special permit, CPA funds, land donation, etc.)
2. Long-Term Use Restrictions (request documents before submission):
  - For ownership projects,** this is the Regulatory Agreement for Ownership Developments, redlined to reflect any proposed changes, and/or the model deed rider.
  - For rental projects,** this is the Regulatory Agreement for Rental Developments, redlined to reflect any proposed changes.
  - For HOME-funded projects,** this is the HOME covenant/deed restriction. When attaching a HOME deed restriction to a unit, the universal deed rider cannot be used.
3. Documents of Project Sponsor's (developer's) legal existence and authority to sign the Regulatory Agreement:
  - appropriate certificates of Organization/Registration and Good Standing from the Secretary of State's Office
  - mortgagee consents to the Regulatory Agreement
  - Trustee certificates or authorization for signer(s) to execute all documents
  - Copy of Site Plan
4. For Condominium Projects Only: The Master Deed with schedule of undivided interest in the common areas in percentages set forth in the condominium master deed
5. For Rental Projects Only: A copy of the lease with lease addendum and Local Housing Authority's current Utility Allowances
6. Affirmative Fair Marketing and Lottery Plan, including:
  - ads and flyers with HUD Equal Housing Opportunity logo
  - informational materials for lottery applicants
  - eligibility requirements
  - lottery application and financial forms
  - lottery and resident selection procedures
  - request for local preference and demonstration of need for the preference
  - measures to ensure affirmative fair marketing, including outreach methods and venue list
  - name of Lottery Agent with contact information

3

## Condition Your Decision



The affordable units and ADA units shall not be segregated from the market rate units and in accordance with Article 15, Inclusionary Zoning of the Zoning Bylaw, the affordable units shall be "dispersed throughout the development and shall be comparable to the market rate units in terms of the quality of design, materials and general appearance of their architecture and landscape."

The Applicant shall submit a Local Action Unit application to DHCD under the Local Initiative Program, enter into a Rental Regulatory Agreement with DHCD and the Town, and comply with all DHCD requirements, so as to ensure that the Affordable Units will be included in the DHCD Subsidized Housing Inventory for the Town.

The Affordable Units are to remain affordable in perpetuity. Subject to DHCD approval, this requirement shall be included in the Regulatory Agreement. The affordability requirement shall remain in effect in perpetuity, even if the requirement is not included in the Regulatory Agreement or if the Regulatory Agreement is terminated.

Affordable Units shall be marketed and rented to income-eligible households in accordance with DHCD regulations and guidelines for the Local Initiative Program ("Guidelines"), which require the approval by DHCD of an affirmative fair housing marketing plan. The costs associated with the development and implementation of the marketing plan, including advertising and processing for the Affordable Units, shall be borne by the Applicant.

Subject to the approval of DHCD, a qualified agent shall be engaged by the Applicant to administer the initial marketing and lottery for the Affordable Units, and to maintain a waiting list for subsequent rentals, in compliance with the income eligibility requirements for tenants of the Affordable Units.

The affordable units shall be designated and shown on a floor plan provided to the Planning Department prior to the issuance of any building permit.

The affordable units shall be available and the tenant selection process shall be in process at the time of any full or partial certificate of occupancy for completed units. However, at the discretion of the Building Commissioner, a certificate of occupancy may be issued and exclude the affordable units until the tenant selection process has been completed and Inspection Services has been provided documentation of the completed selection process. The affordable units shall be occupied at all times only by qualifying tenants in accordance with the Regulatory Agreement.

4

**Talk to us  
Beforehand**



Example:

What happens if  
affordable units are  
occupied without an  
approved LAU application  
& Marketing Plan?

5

**Affordable Units  
are a Long-Term  
Town and City  
Commitment**



**Rent Determination:**

Project sponsor must submit annually a  
proposed schedule of monthly rents to the  
municipality and EOHLC for review and  
approval.

**Rental Annual Reporting:**

Project sponsor submits Annual Compliance  
Report to the EOHLC and the Municipality  
certifying compliance of the Project with the  
Affordability Requirement.

6

## Affordable Units are a Long-Term Town and City Commitment



### Ownership Annual Reminder:

You will keep this home as your primary residence; you must live in this home. It is not permissible to rent it or allow a third party to use it without approval from [Name of Monitoring Agent].

You cannot refinance the home without prior approval from (Name of Monitoring Agent)

If you decide to improve your property we strongly suggest that you contact us before getting started. You cannot add the value of improvements to your home without prior approval from [Name of Monitoring Agent].

If you decide to sell the home, you will notify us of your intention.

7

## Contact Information

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**Rieko Hayashi, LIP Director**

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**Phone: 617.573.1426**

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[Rieko.Hayashi@Mass.Gov](mailto:Rieko.Hayashi@Mass.Gov)

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**Aly Sabatino, LAU Coordinator**

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**Phone: 617.573.1328**

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[Alyxandra.Sabatino@mass.gov](mailto:Alyxandra.Sabatino@mass.gov)



8



# Commonwealth of Massachusetts

## EXECUTIVE OFFICE OF HOUSING & LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus, Jr., Secretary

### **Local Initiative Program Policy Guidance Regarding Approval of Local Action Units Developed “As of Right”**

The Local Initiative Program (“LIP” or the “LIP Program”) is a state program that encourages communication to collaborate with the Executive Office of Housing and Livable Communities (“EOHLC”) to produce low- and moderate-income housing through 40B Comprehensive Permits or through other eligible municipal actions, the latter of which are referred to as “Local Action Units” or “LAU” projects. Examples of municipal actions that are eligible for LAU include zoning-based approvals (e.g., special permit or site plan review approval), conveyance of publicly owned land, or utilization of Community Preservation Act funds, among others, so long as the municipal action is conditioned on the provision of affordable units.

Affordable units in LAU projects may be eligible for inclusion on the state’s Subsidized Housing Inventory (“SHI”), but only if they meet SHI eligibility requirements under EOHLC’s M.G.L. c. 40B Guidelines.<sup>1</sup> Regardless of how a project is reviewed and approved at the local legal, affordable units will only be included on the SHI if they meet all criteria for inclusion, as set forth in the Guidelines.

EOHLC anticipates increased interest in LAU due to the new statutory requirement for an “MBTA community” to be established at least one zoning district in which multi-family housing is allowed as of right.<sup>2</sup> While the multi-family zoning requirement for MBTA communities applies to specific municipalities, this guidance is intended to provide more detail for any community wishing to seek LAU approval where local affordability requirements (e.g., inclusionary zoning) are applied to a project developed “as of right”. The term “as of right” is defined in the Zoning Act as “development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval” (“As of Right Project”).

The LIP Program will review a zoning-based LAU application for an As of Right Project if (1) local affordability requirements are applied to the project through the applicable zoning and (2) a site-specific approval is conditioned on the project meeting those local affordability

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<sup>1</sup> 40B guidelines, available at: <https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf> (see Section II.A for SHI eligibility criteria).

<sup>2</sup> M.G.L. c.40A, §3A. See also Section 4.b of the *Compliance Guidelines for Multi-family Zoning Districts Under Section 3A of the Zoning Act* (the “3A Guidelines”), clarifying that certain affordability requirements are consistent with as of right zoning for the purposes of compliance with M.G.L. c.40A, §3A. <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>.

requirements. For As of Right Projects, the LIP Program will accept the following as site-specific approval:

- (i) Site plan approval;<sup>3</sup> or
- (ii) If the applicable zoning does not provide for site plan approval, issuance of a building permit.

To ensure that As of Right Projects meet requirements for LAU (and including of units in the SHI), EOHLC strongly encourages to discuss prospective LAU projects with LIP staff as early as possible prior to issuance of either site plan approval (if applicable) or the building permit. LIP staff will identify any areas of concern regarding the project's eligibility and may provide preliminary or conditional approval of the project, if appropriate.

The information included below highlights important LAU requirements and considerations but is not exhaustive. For further information, see:

- **The LIP information page:**

<https://www.mass.gov/service-details/local-initiative-program>

- **40B Guidelines:**

<https://www.mass.gov/files/documents/2017/10/10/guidecomprehensivepermit.pdf>

- **Noting in particular:**

Section II.A (SHI eligibility)

Section III (Affirmative Fair Housing Marketing and Resident Selection)<sup>4</sup>

### **Important Requirements and Considerations for LAU Projects**

#### **LAU Application:**

EOHLC's application form for LAU is available on the EOHLC website:  
<https://www.mass.gov/service-details/local-initiative-program>

LAU applications for As of Right Projects must include:

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<sup>3</sup> As described in Section 4.a. of the 3A Guidelines, Massachusetts courts have recognized site plan review as a permissible regulatory tool, including for uses that are permitted as of right, so long as the scope of review is limited to imposing reasonable terms and conditions on the proposed use.  
<https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>.

<sup>4</sup> The AFHMP guidelines are also found as stand-alone guidelines at  
<https://www.mass.gov/files/documents/2016/07/oj/afhmp.pdf>.



- Documentation of site-specific approval (site plan approval, or, if the applicable zoning does not provide for site plan approval, issuance of a building permit);
- Zoning ordinance/by-law section with provision requiring affordability (e.g., inclusionary zoning or multifamily zoning with required affordability);
- The Affirmative Fair Housing Marketing and Resident Section Plan required by Section III of the 40B Guidelines;
- Regulatory Agreement required by Section VI.B.9 of the 40B Guidelines; ownership projects must also include a copy of the required deed rider;<sup>5</sup>
- Site plan; condominium documents, including the Master Deed and Declaration of Trust, if applicable;
- Evidence of compliance with design standard set forth in Section VI.B.4 of the 40B Guidelines;<sup>6</sup> and
- Other relevant documents as required or as may be requested by EOHLC.

**Affordable units – no matter how they come into existence – do not count on the SHI unless they comply with the criteria in the 40B Guidelines as well as EOHLC’s stand-alone Affirmative Fair Housing Marketing and Resident Section guidelines, so be sure to review the Guidelines carefully. In particular, please note the following key requirements:**

### **Affordability:**

Affordable units under the LIP Program must be made available to households earning not more than eighty percent (80%) of the Area Median Income (“AMI”), adjusted for family size as determined by the U.S. Department of Housing and Urban Development.<sup>7</sup>

EOHLC, the Municipality, and the Project Sponsor/Developer will all enter into a LIP Regulatory Agreement restricting the affordable units in perpetuity. A shorter term of affordability will be approved only upon a showing that a longer term is infeasible or not in the public interest. For ownership projects, a LIP deed rider must also be recorded with the sale of each affordable unit.

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<sup>5</sup> Section VI.C.2 of the 40B Guidelines incorporates certain Comprehensive Permit project requirements into the LAU application, including the Regulatory Agreement requirement under Section VI.B.9.

<sup>6</sup> Section VI.C.2 of the 40B Guidelines incorporates certain Comprehensive Permit project requirements into the LAU application, including the Design and Construction Standards under Section VI.B.4.

<sup>7</sup> Please note that to comply with the district requirements under the 3A Guidelines, an MBTA community cannot require units to be affordable to households below 80% AMI without special approval from EOHLC. Affordable units that are income restricted for households above 80% AMI are not SHI eligible.

### **Affirmative Fair Housing Marketing and Resident Selection Plan (AFHMP):**

LAUs **must** be subject to an AFHMP that meets EOHLC requirements and is approved by LIP staff. If the municipality is requesting a local preference for resident selection, it **must** also be approved by EOHLC. EOHLC will review the documented need and extent of the local preference in the context of the size of the community, the size of the project, and the regional need for affordable housing. Municipalities are encouraged to contact LIP staff early in the development process to learn more about specific requirements for local preference approval. Please note that the preference must be limited to initial lease-up or initial sale and subject to the requirements of the AFHMP guidelines. Please also note that, for age-restricted housing for persons 55 years of age or older, selection or occupancy policies, special permits or other zoning approvals, or underlying zoning must not prohibit persons 18 years of age or younger from occupying those affordable units.<sup>8</sup>

### **Design and Construction Standards:**

Certain design/construction standards must be met for LAU projects which are highlighted in Section VI.B.4 of the LIP Guidelines.

- **Noting in particular:**
  - Affordable units must be indistinguishable from market-rate units as viewed from the exterior.
  - Units must contain complete living facilities including a stove, kitchen cabinets, plumbing fixtures, a refrigerator, microwaves, and access to laundry facilities.
  - Affordable units must be proportionately distributed throughout a project, in terms of both location and unit size/type.

For more information about the LAU process or questions about the application, please contact:

Rieko Hayashi, Local Initiative Program Director  
617-573-1426  
[rieko.hayashi@mass.gov](mailto:rieko.hayashi@mass.gov)

Alyxandra Sabatino, LIP/HOP Coordinator  
617-573-1328  
[alyxandra.sabatino@mass.gov](mailto:alyxandra.sabatino@mass.gov)

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<sup>8</sup> See *Local Initiative Program Policy Regarding Restrictions on Children in Age-Restricted 55+ Housing*.  
<https://www.mass.gov/doc/lip-policy-regarding-restrictions-on-children-in-55-housing/download>.

LOCAL INITIATIVE PROGRAM  
REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
OWNERSHIP PROJECT

This Regulatory Agreement and Declaration of Restrictive Covenants (the “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and among the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities (“EOHLC”), pursuant to G.L. c. 23B §1 as amended by Chapter 7 of the Acts of 2023, the City/Town of \_\_\_\_\_ (“the Municipality”), and \_\_\_\_\_, a Massachusetts corporation/limited partnership/limited liability company, having an address at \_\_\_\_\_, and its successors and assigns (“Project Sponsor”).

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the “Act”) and the final report of the Special Legislative Commission Relative to Low- and Moderate-Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the “Regulations”) which establish the Local Initiative Program (“LIP”);

WHEREAS, the Project Sponsor intends to construct a housing development known as \_\_\_\_\_ at a \_\_\_\_-acre site on \_\_\_\_\_ Street/Road in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the “Project”);

WHEREAS, such Project is to consist of a total number of \_\_\_\_\_ condominium units/detached dwellings (the “Units”) and \_\_\_\_\_ of the Units will be sold at prices specified in this Agreement to persons or households with incomes at or below eighty percent (80%) of the regional median household income (the “Low- and Moderate-Income Units”);

WHEREAS, **[For comprehensive permit projects add:** upon application of the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor, EOHLC made a determination of project eligibility pursuant to 760 CMR 56.04 and the Project Sponsor has received a comprehensive permit from the Zoning Board of Appeals of the Municipality, which permit is recorded/filed at the \_\_\_\_\_ Registry of Deeds/Registry District of the Land Court (the “Registry”) in Book \_\_\_\_\_, Page \_\_\_\_\_/as Document No. \_\_\_\_\_ (the “Comprehensive Permit”) **[For Local Action Units add:** the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Project Sponsor have made application to EOHLC to certify that the units in the Project are Local Action Units (as that term is defined in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by EOHLC with the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, **[for comprehensive permit projects add:** EOHLC is issuing its final approval of the Project within the LIP Program pursuant to Section 19 of this Agreement, and has given and will give technical and other assistance to the Project] **[for Local Action Units add:** EOHLC has given and will give technical and other assistance to the Project];

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, EOHLC, the Municipality, and the Project Sponsor hereby agree and covenant as follows:

1. The Project Sponsor agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the “Plans and Specifications”) **[for comprehensive permit projects add:** and in accordance with all terms and conditions of the Comprehensive Permit]. In addition, all Low- and Moderate-Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved “Alternative Development Plan” as set forth in the *Comprehensive Permit Guidelines* (the “Guidelines”)) published by EOHLC, and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

_____	of the Low- and Moderate-Income Units shall be one-bedroom units;
_____	of the Low- and Moderate-Income Units shall be two-bedroom units;
_____	of the Low- and Moderate-Income Units shall be three-bedroom units; and,
_____	of the Low- and Moderate-Income Units shall be four-bedroom units.

All Low- and Moderate-Income Units to be occupied by families must contain two or more bedrooms. Low- and Moderate-Income Units must have the following minimum areas:

one-bedroom units	-	700 square feet
two-bedroom units	-	900 square feet
three-bedroom units	-	1200 square feet
four-bedroom units	-	1400 square feet

The Project must fully comply with the State Building Code and with all applicable state and federal building, environmental, health, safety and other laws, rules, and regulations, including without limitation all applicable federal and state laws, rules and regulations relating to the operation of adaptable and accessible housing for persons with disabilities. **[For comprehensive permit projects add:** Except to the extent that the Project is exempted from such compliance by the Comprehensive Permit,] the Project must also comply with all applicable local codes, ordinances and by-laws.

Each Low- and Moderate-Income Unit will be sold for no more than the price set forth in Exhibit B attached hereto and made a part hereof to an Eligible Purchaser. An Eligible Purchaser is a Family (i) whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U. S. Department of Housing and Urban

Development and (ii) whose assets do not exceed the limits specified in the Guidelines. A “Family” shall mean two or more persons who will live regularly in the Low- or Moderate-Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The “Area” is defined as the \_\_\_\_\_ MSA/HMFA/County.

2. Upon the occurrence of one of the events described in 760 CMR 56.03(2), the Project will be included in the Subsidized Housing Inventory as that term is described in 760 CMR 56.01. Only Low- and Moderate-Income Units will be counted as SHI Eligible Housing as that term is described in 760 CMR 56.01 for the purposes of the Act.

3. (a) At the time of sale of each Low- and Moderate-Income Unit by the Project Sponsor, the Project Sponsor shall execute and shall as a condition of the sale cause the purchaser of the Low- and Moderate-Income Unit to execute an Affordable Housing Deed Rider in the form of Exhibit C attached hereto and made a part hereof (the “Deed Rider”). Such Deed Rider shall be attached to and made a part of the deed from the Project Sponsor to the Unit Purchaser. Each such Deed Rider shall require the Unit Purchaser at the time he desires to sell the Low- and Moderate-Income Unit to offer the Low- and Moderate-Income Unit to the Municipality and to EOHLC at a discounted purchase price more particularly described therein. The Municipality and EOHLC shall have the option upon terms more particularly described in the Deed Rider to either purchase the Low- and Moderate-Income Unit or to find an Eligible Purchaser. The Deed Rider shall require the Unit Purchaser and the Eligible Purchaser to execute at the time of resale a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low- and Moderate-Income Unit which will be attached and made a part of the deed from the Unit Purchaser to the Eligible Purchaser, so that the affordability of the Low- and Moderate-Income unit will be preserved each time that subsequent resales of the Low- and Moderate-Income unit occur. (The various requirements and restrictions regarding resale of a Low- and Moderate-Income Unit contained in the Deed Rider are hereinafter referred to as the (“Resale Restrictions”). If upon the initial resale or any subsequent resale of a Low- and Moderate-Income Unit, the Municipality and EOHLC are unable to find an Eligible Purchaser for the Low- and Moderate-Income Unit, and the Municipality and EOHLC each elect not to exercise its right to purchase the Low- and Moderate-Income Unit, then the then current owner of the Low- and Moderate-Income Unit shall have the right to sell the Low- and Moderate-Income Unit to any person, regardless of his income (an “Ineligible Purchaser”) at the Maximum Resale Price and subject to all rights and restrictions contained in the Deed Rider, and provided that the Unit is conveyed subject to a Deed Rider identical in form and substance to the Deed Rider then in effect with respect to the Low- and Moderate-Income Unit which will be attached and made part of the deed from the Unit Purchaser to the Ineligible Purchaser.

(b) For each sale of a Low- and Moderate-Income Unit, EOHLC must approve the terms of the Eligible Purchaser’s mortgage financing as evidenced by EOHLC’s issuance of the Resale Price Certificate described in the Deed Rider.

(c) The Municipality agrees that in the event that it purchases a Low- and Moderate-Income Unit pursuant to its right to do so contained in the Deed Rider then in effect with respect to such Low- and Moderate-Income Unit, that the Municipality shall within six (6) months

of its acceptance of a deed of such Low- and Moderate-Income Unit, either (i) sell the Low- and Moderate-Income Unit to an Eligible Purchaser at the same price for which it purchased the Low- and Moderate-Income Unit plus any expenses incurred by the Municipality during its period of ownership, such expenses to be approved by EOHLC, subject to a Deed Rider satisfactory in form and substance to EOHLC and the recording of an Eligible Purchaser Certificate satisfactory in form and substance to EOHLC, the method for selecting such Eligible Purchaser to be approved by EOHLC or (ii) rent the Low- and Moderate-Income Unit to a person who meets the income guidelines of the LIP Program, upon terms and conditions satisfactory to EOHLC and otherwise in conformity with the requirements of the LIP Program. If the Municipality fails to sell or rent the Low- and Moderate-Income unit as provided herein within said six (6) month period, or if at any time after the initial rental of the Low- and Moderate-Income Unit by the Municipality as provided herein the Low- and Moderate-Income Unit becomes vacant and remains vacant for more than ninety (90) days, then such Low- and Moderate-Income Unit shall cease to be counted as SHI Eligible Housing, and shall no longer be included in the Subsidized Housing Inventory.

(d) Each Low- and Moderate-Income Unit will remain SHI Eligible Housing and continue to be included in the Subsidized Housing Inventory for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor is in default hereunder; (2) the Project and Low- and Moderate-Income Unit each continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) either (i) a Deed Rider binding the then current owner of the Low- and Moderate-Income Unit to comply with the Resale Restrictions is in full force and effect and the then current owner of the Low- and Moderate-Income Unit is either in compliance with the terms of the Deed Rider, or the Municipality is in the process of taking such steps as may be required by EOHLC to enforce the then current owner's compliance with the terms of the Deed Rider or (ii) the Low- and Moderate-Income Unit is owned by the Municipality and the Municipality is in compliance with the terms and conditions of the last preceding paragraph, or (iii) the Low- and Moderate-Income Unit is owned by EOHLC.

**4. [For comprehensive permit projects where the Project Sponsor is a for-profit entity add:**

(a) Effective August 7, 2007, EOHLC has adopted the policies, procedures, and forms for determining limited dividend compliance set forth in the MassHousing document entitled "Preparation of Cost Certification upon Completion of Homeownership 40B Project for Which MassHousing Serves as Project Administrator: Guidance to Developers and Municipalities" (the "MassHousing Guidance"). The MassHousing Guidance shall govern the cost certifications obligations of the Project Sponsor under this Agreement.

(b) The Project Sponsor shall be a limited dividend organization as defined by 760 CMR 56.01. Project Sponsor agrees that the aggregate profit from the Project which shall be payable to Project Sponsor or to the partners, shareholders or other owners of Project Sponsor or the Project shall not exceed twenty percent (20%) of total development costs of the Project, which development costs have been approved by EOHLC (the "Allowable Profit").]

(c) Within one hundred eighty (180) days after Substantial Completion of the Project (as that term is defined in the MassHousing Guidance) or, if later, within sixty (60) days of the date on which all units in the Project are sold, the Project Sponsor shall deliver to the Municipality and to EOHLC an itemized statement of total development costs together with a statement of gross income from the Project received by the Project Sponsor to date in form satisfactory to EOHLC (the “Certified Cost and Income Statement”) prepared and certified by a certified public accountant satisfactory to EOHLC. EOHLC requires the prequalification of the certified public accountant hired by the Project Sponsor as more particularly set forth in Article IV (D) of the Guidelines. If all units at the Project have not been sold within twenty-four (24) months of Substantial Completion, a sale price for the remaining unsold units shall be imputed in an amount equal to the average of the last three (3) arms-length sales of comparable units, and a final Certified Cost and Income Statement shall be required within sixty (60) days thereafter. Prior to EOHLC’s acceptance of the Certified Cost and Income Statement and for a period of 30 days after EOHLC provides the Municipality with its determination of compliance with the limited dividend requirement, the Municipality shall have the option of having the Certified Cost and Income Statement evaluated for accuracy (e.g., absence of material errors) applying the same standards as EOHLC by an independent auditor selected by the Municipality. EOHLC will reasonably review any inaccuracies identified by the Municipality during this period and shall thereafter make a final determination of the Project Sponsor’s compliance with the limited dividend requirement.

(d) .All profits from the Project in excess of the Allowable Profit (the “Excess Profit”) shall be paid by the Project Sponsor to the Municipality. The Municipality agrees that upon the receipt by the Municipality of any Excess Profit, the Municipality shall deposit any and all such Excess Profit into an affordable housing fund, if one exists in the Municipality, and otherwise into a fund established pursuant to G.L. c.44 §53A to be used by the Municipality for the purpose of reducing the cost of Low- and Moderate-Income Units to Eligible purchasers upon resale or for the purpose of encouraging, creating, or subsidizing the construction or rehabilitation of housing for persons and families of Low- and Moderate-Income elsewhere in the Municipality. The expenditure of funds from the Affordable Housing Fund shall be reported on an annual basis to EOHLC. For so long as the Project Sponsor complies with the requirements of this Section 4, the Project Sponsor shall be deemed to be a limited dividend organization within the meaning of the Act.]

**[For comprehensive permit projects where the Project Sponsor is a non-profit entity add:** Within one hundred eighty (180) days after Substantial Completion of the Project or, if later, within sixty (60) days of the date on which all the units in the Project are sold, the Project Sponsor shall complete and deliver to the Municipality and to EOHLC the section of the Local Initiative Program Application for Comprehensive Permit Projects entitled “Project Feasibility – Ownership Projects” (ownership pro forma, profit analysis, and cost analysis), documenting the actual development costs of and income from the Project, prepared and signed by the Chief Financial Officer of the Project Sponsor. Substantial Completion shall be deemed to have occurred when construction of the Project is sufficiently complete so that the Unit may be occupied and amenities may be used for their intended purpose, except for designated punch list items and seasonal work which does not interfere with the residential use of the Low- and Moderate-Income Units.]

5. (a) Prior to marketing or otherwise making available for sale any of the Units, the Project Sponsor must obtain EOHLC's approval of a marketing plan (the "Marketing Plan") for the Low- and Moderate-Income Units. Such Marketing Plan must describe the buyer selection process for the Low- and Moderate-Income Units and must set forth a plan for affirmative fair marketing of Low- and Moderate-Income Units and effective outreach to protected groups underrepresented in the municipality, including provisions for a lottery, consistent with the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low- and Moderate-Income Units, subject to all provisions of the Regulations and Guidelines, provided that any local preference shall apply only to the initial unit sales by the Project Sponsor. When submitted to EOHLC for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the buyer selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and EOHLC directives reflecting the agreement between EOHLC and the U.S. Department of Housing and Urban Development in the case of *NAACP, Boston Chapter v. Kemp*. **If the Project is located in the Boston-Cambridge-Quincy, MA-NH MSA, the Project Sponsor must list all Low- and Moderate-Income Units with the Boston Fair Housing Commission's MetroList (Metropolitan Housing Opportunity Clearing Center); other requirements for listing of units are specified in the Guidelines.** All costs of carrying out the Marketing Plan shall be paid by the Project Sponsor.

(b) The Project Sponsor may use in-house staff to draft and/or implement the Marketing Plan, provided that such staff meets the qualifications described in the Guidelines. The Project Sponsor may contract for such services provided that any such contractor must be experienced and qualified under the standards set forth in the Guidelines. A failure to comply with the Marketing Plan by the Project Sponsor or by the Municipality shall be deemed to be a default of this Agreement. The Project Sponsor agrees to maintain for at least five years following the sale of the last Low- and Moderate-Income Unit, a record of all newspaper ads, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by EOHLC which may be inspected at any time by EOHLC. All Marketing Documentation must be approved by EOHLC prior to its use by the Project Sponsor or the Municipality. The Project Sponsor and the Municipality agree that if at any time prior to or during the process of marketing the Low- and Moderate-Income Units, EOHLC determines that the Project Sponsor, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Project Sponsor or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by EOHLC.



6. Neither the Project Sponsor nor the Municipality shall discriminate on the basis of race, religion, color, sex, sexual orientation, familial status, age, disability, marital status, national origin, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of buyers for the Units; and the Project Sponsor shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

7. (a) The Project Sponsor agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. EOHLC and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Project Sponsor and the Project in order to monitor the Project Sponsor's compliance with the terms of this Agreement.

(b) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to EOHLC that each of the Low- and Moderate-Income Units continues to be occupied by a person who was an Eligible Purchaser at the time of purchase; that any Low- and Moderate-Income Units which have been resold during the year have been resold in compliance with all of the terms and provisions of the Deed Rider then in effect with respect to each such Low- and Moderate-Income Unit, and in compliance with the Regulations and Guidelines and this Agreement; and that the Project and the Low- and Moderate-Income Units have otherwise been maintained in a manner consistent with the Regulations and Guidelines, this Agreement, and the Deed Rider then in effect with respect to each Low- and Moderate-Income Unit.

8. Upon execution, the Project Sponsor shall immediately cause this Agreement and any amendments hereto to be recorded/filed with the Registry, and the Project Sponsor shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Project Sponsor shall immediately transmit to EOHLC and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

9. The Project Sponsor hereby represents, covenants and warrants as follows:

(a) The Project Sponsor (i) is a \_\_\_\_\_, duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Project Sponsor (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Project Sponsor is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Project Sponsor will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by EOHLC, or other permitted encumbrances, including mortgages referred in paragraph 10, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Project Sponsor, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially or adversely affect its financial condition.

10. (a) Except for sales of Low- and Moderate-Income Units to Eligible Purchasers and sales of other Units to unit owners in the ordinary course of business as permitted by the terms of this Agreement, the Project Sponsor will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a “Sale”) or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of EOHLC and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Project Sponsor’s obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Project is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless EOHLC or the Municipality notifies the Project Sponsor within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal

government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or

- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Project Sponsor shall provide EOHLC and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of the Project Sponsor; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in the Project Sponsor (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of the Project Sponsor's interest in the Project or any part of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, EOHLC's consent under this Section 10 shall not be required with respect to the grant by the Project Sponsor of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

The Project Sponsor hereby agrees that it shall provide copies of any and all written notices received by the Project Sponsor from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

11. Until such time as decisions regarding repair of damage due to fire or other casualty, or restoration after taking by eminent domain, shall be made by a condominium association or trust not controlled by the Project Sponsor, (or if the Project consists of detached dwellings, by homebuyers) Project Sponsor agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Project Sponsor will use its best

efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with the terms of this Agreement, subject to the approval of the Project's lenders, which lenders have been approved by EOHLC and the Municipality.

12. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

13. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

EOHLC: Executive Office of Housing and Livable Communities  
Attention: Local Initiative Program Director  
100 Cambridge Street, Suite 300  
Boston, MA 02114

Municipality:

Project Sponsor:

14. (a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, the Project Sponsor and its successors and assigns, and EOHLC and its successors and assigns and the Municipality and its successors and assigns. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement shall be perpetual, provided however, that this Agreement shall terminate if (a) at any time hereafter there is no Low- and Moderate-Income Unit at the Project which is then subject to a Deed Rider containing the Resale Restrictions, and there is no Low- and Moderate-Income Unit at the Project which is owned by the Municipality or EOHLC as provided in Section 4 hereof, **[For comprehensive permit projects add: or (b) if a Comprehensive Permit is not granted to the Project Sponsor for the Project by either the Municipality's Board of Appeals (as that term is defined in the Regulations) or by the Housing Appeals Committee (as that term is used in the Act) within a period of eighteen months from the date of execution of this Agreement, or (c) if at any time the Comprehensive Permit is revoked and all applicable appeal periods with respect to such revocation have expired]**. The rights and

restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

(b) The Project Sponsor intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Project Sponsor's successors in title, (ii) are not merely personal covenants of the Project Sponsor, and (iii) shall bind the Project Sponsor, its successors and assigns and enure to the benefit of EOHLC and its successors and assigns for the term of the Agreement. Project Sponsor hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

(c) The Resale Restrictions contained in each of the Deed Riders which are to encumber each of the Low- and Moderate-Income Units at the Project pursuant to the requirements of this Agreement shall also constitute an affordable housing restriction as that term is defined in G.L. c. 184, §31 and as that term is used in G.L. c. 184, §§26, 31, 32, and 33. Such Resale Restrictions shall be for the benefit of both EOHLC and the Municipality and both EOHLC and the Municipality shall be deemed to be the holder of the affordable housing restriction created by the Resale Restrictions in each of the Deed Riders. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. To the extent that the Municipality is the holder of the Resale Restrictions to be contained in each of the Deed Riders, the Director of EOHLC by the execution of this Agreement hereby approves such Resale Restrictions in each of the Deed Riders for the Low- and Moderate-Income Units of the Project as required by the provisions of G.L. c. 184, §32.

15. The Project Sponsor and the Municipality each agree to submit any information, documents, or certifications requested by EOHLC which EOHLC shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. (a) The Project Sponsor and the Municipality each covenant and agree to give EOHLC written notice of any default, violation or breach of the obligations of the Project Sponsor or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If EOHLC becomes aware of a default, violation, or breach of obligations of the Project Sponsor or the Municipality hereunder without receiving a Default Notice from Project Sponsor or the Municipality, EOHLC shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "EOHLC Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of EOHLC within thirty (30) days after the giving of the Default notice by the Project Sponsor or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the EOHLC Default Notice, then at EOHLC's option, and without further notice, EOHLC may terminate this Agreement, or EOHLC may apply to any state or federal court for specific performance of this Agreement, or EOHLC

may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If EOHLC elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16(a), then the Low- and Moderate-Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed SHI Eligible Housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory. The foregoing sentence shall not apply to Low- and Moderate-Income Units that have been conveyed in compliance and remain in compliance with Section 3 of this Agreement.

17. The Project Sponsor represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

18. EOHLC may delegate to the Municipality any of its oversight and enforcement responsibilities under this Agreement, with the agreement of the Municipality, by providing written notice of such delegation to the Project Sponsor and the Municipality.

**[For comprehensive permit projects add:**

19. (a) When executed by EOHLC, this Agreement shall constitute Final Approval of the Project as described in 760 CMR 56.04(7). EOHLC hereby reaffirms and incorporates by reference in this Agreement each of the findings with respect to project eligibility required by 760 CMR 56.04(1) made in the Site Eligibility Letter for the Project dated \_\_\_\_\_.] **[If the Project Sponsor is a for-profit entity add:** The Project Sponsor hereby explicitly acknowledges its obligation to comply with the cost examination requirements defined in 760 CMR 56.04(8).]

**[If the Project Sponsor is a for-profit entity add:**

(b) The Project Sponsor has provided financial surety in a form and in the amount required by the Guidelines to ensure completion of the cost examination to the satisfaction of the EOHLC and the distribution of excess funds as required at 760 CMR 56.04(8)(c). EOHLC will provide a copy of this Agreement to the Municipality's Board of Appeals as required by 760 CMR 56.04(7).]

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

Executed as a sealed instrument as of the date first above written.

PROJECT SPONSOR

By: \_\_\_\_\_  
Its:

EXECUTIVE OFFICE OF HOUSING AND  
LIVABLE COMMUNITIES

By: \_\_\_\_\_  
Its:

MUNICIPALITY

By: \_\_\_\_\_  
Its:

Attachments: Exhibit A - Legal Property Description  
Exhibit B - Prices & Location of Low & Moderate Income Units  
Exhibit C - Form of Deed Rider

Consent forms signed by any and all mortgagees whose mortgages are recorded prior to this Regulatory Agreement must be attached to this Regulatory Agreement.

© EOHLC When used in the Local Initiative Program, this form may not be modified without the written approval of the Executive Office of Housing and Livable Communities.

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of the \_\_\_\_\_ [Project Sponsor], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_,ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the City/Town of \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public

My Commission Expires:

**CONSENT AND SUBORDINATION OF MORTGAGE  
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated \_\_\_\_\_ given by \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ ("Mortgage").

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

(If the Project has more than one mortgagee, add additional consent forms.)

**COMMONWEALTH OF MASSACHUSETTS**

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of \_\_\_\_\_ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

## EXHIBIT A

Re:

\_\_\_\_\_  
(Project name)

\_\_\_\_\_  
(City/Town)

\_\_\_\_\_  
(Developer)

### Property Description

## EXHIBIT B

Re: \_\_\_\_\_  
(Project name)  
\_\_\_\_\_  
(City/Town)  
\_\_\_\_\_  
(Developer)

### Maximum Selling Prices, Initial Condominium Fees, and Percentage Interest Assigned to Low- and Moderate-Income Units

	<u>Sales Price</u>	<u>Condo Fee</u>	<u>% Interest</u>
One-bedroom units	\$ _____	\$ _____	_____
Two-bedroom units	\$ _____	\$ _____	_____
Three-bedroom units	\$ _____	\$ _____	_____
Four-bedroom units	\$ _____	\$ _____	_____

### Location of Low- and Moderate-Income Units

The housing units which are Low- and Moderate-Income Units are those designated as lot/unit numbers \_\_\_\_\_ on:

- ☐ a plan of land entitled \_\_\_\_\_ recorded with the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_, Page \_\_\_\_.
- ☐ floor plans recorded with the Master Deed of the \_\_\_\_\_ recorded with the \_\_\_\_\_ Registry of Deeds in Book \_\_\_\_, Page \_\_\_\_.



LOCAL INITIATIVE PROGRAM

**REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS  
FOR  
RENTAL PROJECT  
Local Action Units**

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and among the Commonwealth of Massachusetts, acting by and through the Executive Office of Housing and Livable Communities ("EOHLC") pursuant to G.L. c.23B §1 as amended by Chapter 7 of the Acts of 2023, the city/town of \_\_\_\_\_ ("the Municipality"), and \_\_\_\_\_, a Massachusetts [corporation/limited partnership/limited liability company], having an address at \_\_\_\_\_, and its successors and assigns ("Developer").

WITNESSETH:

WHEREAS, pursuant to G.L. c. 40B, §§ 20-23 (the "Act") and the final report of the Special Legislative Commission Relative to Low- and Moderate-Income Housing Provisions issued in April 1989, regulations have been promulgated at 760 CMR 56.00 (the "Regulations") which establish the Local Initiative Program ("LIP") and *Comprehensive Permit Guidelines: M.G.L. Chapter 40B Comprehensive Permit Projects - Subsidized Housing Inventory* have been issued thereunder (the "Guidelines");

WHEREAS, the Developer intends to construct a rental housing development known as \_\_\_\_\_ at a/an \_\_\_\_\_-acre site on \_\_\_\_\_ Street/Road in the Municipality, more particularly described in Exhibit A attached hereto and made a part hereof (the "Project");

WHEREAS, such Project is to consist of a total number of \_\_\_\_\_ rental dwellings (the "Units") and \_\_\_\_\_ of the Units will be rented at rents specified in this Agreement to Eligible Tenants as specified in paragraph two of this Agreement (the "Low- and Moderate-Income Units");

WHEREAS, the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) and the Developer have made application to EOHLC to certify that the units in the Project are Local Action Units (as that term is defined in the Guidelines) within the LIP Program; and

WHEREAS, in partial consideration of the execution of this Agreement, EOHLC has issued or will issue its final approval of the Project within the LIP Program and has given and will give technical and other assistance to the Project;

NOW, THEREFORE, in consideration of the agreements and covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which each of the parties hereto hereby acknowledge to the other, EOHLC, the Municipality, and the Developer hereby agree and covenant as follows:

1. Construction. The Developer agrees to construct the Project in accordance with plans and specifications approved by the Municipality (the "Plans and Specifications"). In addition, all Low- and Moderate-Income Units to be constructed as part of the Project must be indistinguishable from other Units in the Project from the exterior (unless the Project has an approved "Alternative Development Plan" as set forth in the Guidelines and must contain complete living facilities including but not limited to a stove, refrigerator, kitchen cabinets, plumbing fixtures, and washer/dryer hookup, all as more fully shown in the Plans and Specifications.

_____	of the Low- and Moderate-Income Units shall be one-bedroom units;
_____	of the Low- and Moderate-Income Units shall be two-bedroom units;
_____	of the Low- and Moderate-Income Units shall be three-bedroom units; and,
_____	of the Low- and Moderate-Income Units shall be four bedroom units.

All Low- and Moderate-Income Units to be occupied by families must contain two or more bedrooms. Low- and Moderate-Income Units must have the following minimum areas:

studio units	-	250 square feet
one-bedroom units	-	700 square feet
two-bedroom units	-	900 square feet
three-bedroom units	-	1200 square feet
four-bedroom units	-	1400 square feet

During the term of this Agreement, the Developer covenants, agrees, and warrants that the Project and each Low- and Moderate-Income Unit will remain suitable for occupancy and in compliance with all federal, state, and local health, safety, building, sanitary, environmental, and other laws, codes, rules, and regulations, including without limitation laws relating to the operation of adaptable and accessible housing for persons with disabilities. The Project must comply with all similar local codes, ordinances, and by-laws.

2. Affordability.

(a) Throughout the term of this Agreement, each Low- and Moderate-Income Unit will be rented for no more than the rental rates set forth herein to an Eligible Tenant. An Eligible Tenant is a Family whose annual income does not exceed eighty percent (80%) of the Area median income adjusted for family size as determined by the U.S. Department of Housing and Urban Development ("HUD"). A "Family" shall mean two or more persons who will live

regularly in the Low- and Moderate-Income Unit as their primary residence and who are related by blood, marriage, or operation of law or who have otherwise evidenced a stable inter-dependent relationship; or an individual. The “Area” is defined as the \_\_\_\_\_ MSA/HMFA/Non-Metropolitan County.

(b) The monthly rents charged to tenants of Low- and Moderate-Income Units shall not exceed an amount equal to thirty percent (30%) of the monthly adjusted income of a Family whose gross income equals eighty percent (80%) of the median income for the Area, with adjustment for the number of bedrooms in the Unit, as provided by HUD. In determining the maximum monthly rent that may be charged for a Low- and Moderate-Income Unit under this clause, the Developer shall include an allowance for any utilities and services (excluding telephone) to be paid by the resident. Annual income shall be as defined in 24 C.F.R. 5.609 (or any successor regulation) using assumptions provided by HUD. The initial maximum monthly rents and utility allowances for the Low- and Moderate-Income Units are set forth in Exhibit B attached hereto. If the rent for a Low- and Moderate-Income Unit is subsidized by a state or federal rental subsidy program, then the rent applicable to the Low- and Moderate-Income Unit may be limited to that permitted by such rental subsidy program, provided that the tenant’s share of rent does not exceed the maximum annual rental expense as provided in this Agreement.

Annually as part of the annual report required under Subsection 2(e) below, the Developer shall submit to the Municipality and EOHLC a proposed schedule of monthly rents and utility allowances for all Low- and Moderate-Income Units in the Project. Such schedule shall be subject to the approval of the Municipality and EOHLC for compliance with the requirements of this Section. Rents for Low- and Moderate-Income Units shall not be increased without the Municipality’s and EOHLC’s prior approval of either (i) a specific request by Developer for a rent increase or (ii) the next annual schedule of rents and allowances. Notwithstanding the foregoing, rent increases shall be subject to the provisions of outstanding leases and shall not be implemented without at least 30 days’ prior written notice by Developer to all affected tenants. If an annual request for a new schedule of rents for the Low- and Moderate-Income Units as set forth above is based on a change in the Area median income figures published by HUD, and the Municipality and EOHLC fail to respond to such a submission within thirty (30) days of the Municipality’s and EOHLC’s receipt thereof, the Municipality and EOHLC shall be deemed to have approved the submission. If an annual request for a new schedule of rents for the Low- and Moderate-Income Units is made for any other reason, and the Municipality and EOHLC fail to respond within thirty (30) days of the Municipality’s and EOHLC’s receipt thereof, the Developer may send EOHLC and the Municipality a notice of reminder, and if the Municipality and EOHLC fail to respond within thirty (30) days from receipt of such notice of reminder, the Municipality and EOHLC shall be deemed to have approved the submission.

Without limiting the foregoing, the Developer may request a rent increase for the Low and Moderate Units to reflect an increase in the Area median income published by HUD between the date of this Agreement and the date that the Units begin to be marketed or otherwise made available for rental pursuant to Section 4 below; if the Municipality and EOHLC approve such rent increase in accordance with this subsection, the Initial Maximum Rents and Utility



Allowances for Low- and Moderate-Income Units in Exhibit B of the Agreement shall be deemed to be modified accordingly.

(c) **[For developments with “floating” units add:** If, after initial occupancy, the income of a tenant of a Low- and Moderate-Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low- and Moderate-Income Unit in conformance with Section 2(a) of this Agreement, or otherwise demonstrates compliance with Section 2(a) of this Agreement.] **[For developments with “fixed” units add:** If, after initial occupancy, the income of a tenant of a Low- and Moderate-Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the unit will be deemed a Low- and Moderate-Income Unit so long as the unit continues to be rent-restricted and the tenant’s income does not exceed 140% of the maximum income permitted. If the tenant’s income exceeds 140% of the maximum income permitted at the time of annual income determination, the unit will be deemed a Low- and Moderate-Income Unit until the tenant’s one-year lease term expires. When the over-income tenant voluntarily vacates the unit and when the unit is again rented to an Eligible Tenant, the unit will be deemed a Low- and Moderate-Income Unit and included in the Subsidized Housing Inventory upon the Municipality’s application to EOHLC.]

(d) If, after initial occupancy, the income of a tenant in a Low- and Moderate-Income Unit increases, and as a result of such increase, exceeds one hundred forty percent (140%) of the maximum income permitted hereunder for such a tenant, at the expiration of the applicable lease term, the rent restrictions shall no longer apply to such tenant.

(e) Throughout the term of this Agreement, the Developer shall annually determine whether the tenant of each Low- and Moderate-Income Unit remains an Eligible Tenant. This determination shall be reviewed by the Municipality and certified to EOHLC as provided in section 2(g), below.

(f) The Developer shall enter into a written lease with each tenant of a Low- and Moderate-Income Unit which shall be for a minimum period of one year and which provides that the tenant shall not be evicted for any reason other than a substantial breach of a material provision of such lease.

(g) Throughout the term of this Agreement, the Chief Executive Officer shall annually certify in writing to EOHLC that each of the Low- and Moderate-Income Units continues to be Low- and Moderate-Income Unit as provided in sections 2 (a) and(c), above; and that the Project and the Low- and Moderate-Income Units have been maintained in a manner consistent with the Regulations and Guidelines and this Agreement.

### 3. Subsidized Housing Inventory.

(a) The Project will be included in the Subsidized Housing Inventory upon the occurrence of one of the events described in 760 CMR 56.03(2). **[If 25% or more of the Units**

**are Low- and Moderate-Income Units add:** All of the Units] **[If less than 25% of the Units are Low- and Moderate-Income Units add:** Only Low- and Moderate-Income Units] will be deemed Low- and Moderate-Income housing to be included in the Subsidized Housing Inventory.

(b) Units included in the Subsidized Housing Inventory will continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Developer are in default hereunder; (2) the Project and each of the Low- and Moderate-Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time and (3) each Low- and Moderate-Income Unit remains a Low- and Moderate-Income Unit as provided in section 2(c), above.

4. Marketing. Prior to marketing or otherwise making available for rental any of the Units, the Developer must obtain EOHLC's approval of a marketing plan (the "Marketing Plan") for the Low- and Moderate-Income Units. Such Marketing Plan must describe the tenant selection process for the Low- and Moderate-Income Units and must set forth a plan for affirmative fair marketing of Low- and Moderate-Income Units to protected groups underrepresented in the Municipality, including provisions for a lottery, as more particularly described in the Regulations and Guidelines. At the option of the Municipality, and provided that the Marketing Plan demonstrates (i) the need for the local preference (e.g., a disproportionately low rental or ownership affordable housing stock relative to need in comparison to the regional area), and (ii) that the proposed local preference will not have a disparate impact on protected classes, the Marketing Plan may also include a preference for local residents for up to seventy percent (70%) of the Low- and Moderate-Income Units, subject to all provisions of the Regulations and Guidelines and applicable to the initial rent-up only. When submitted to EOHLC for approval, the Marketing Plan should be accompanied by a letter from the Chief Executive Officer of the Municipality (as that term is defined in the Regulations) which states that the tenant selection and local preference (if any) aspects of the Marketing Plan have been approved by the Municipality and which states that the Municipality will perform any aspects of the Marketing Plan which are set forth as responsibilities of the Municipality in the Marketing Plan. The Marketing Plan must comply with the Regulations and Guidelines and with all other applicable statutes, regulations and executive orders, and EOHLC directives reflecting the agreement between EOHLC and the U.S. Department of Housing and Urban Development in the case of NAACP, Boston Chapter v. Kemp. **If the Project is located in the Boston-Cambridge-Quincy MA-NH Metropolitan Statistical Area, the Developer must list all Low- and Moderate-Income Units with the City of Boston's MetroList (Metropolitan Housing Opportunity Clearing Center), at Boston City Hall, Fair Housing Commission, Suite 966, One City Hall Plaza, Boston, MA 02201 (671-635-3321).** All costs of carrying out the Marketing Plan shall be paid by the Developer. A failure to comply with the Marketing Plan by the Developer or by the Municipality shall be deemed to be a default of this Agreement. The Developer agrees to maintain for five years following the initial rental of the last Low- and Moderate-Income Unit and for five years following all future rentals, a record of all newspaper advertisements, outreach letters, translations, leaflets, and any other outreach efforts (collectively "Marketing Documentation") as described in the Marketing Plan as approved by EOHLC which may be inspected at any time by EOHLC. All Marketing Documentation must be approved by

EOHLC prior to its use by the Developer or the Municipality. The Developer and the Municipality agree that if at any time prior to or during the process of marketing the Low- and Moderate-Income Units, EOHLC determines that the Developer, or the Municipality with respect to aspects of the Marketing Plan that the Municipality has agreed to be responsible for, has not adequately complied with the approved Marketing Plan, that the Developer or Municipality as the case may be, shall conduct such additional outreach or marketing efforts as shall be determined by EOHLC.

5. Non-discrimination. Neither the Developer nor the Municipality shall discriminate on the basis of race, creed, color, sex, age, disability, marital status, national origin, sexual orientation, familial status, genetic information, ancestry, children, receipt of public assistance, or any other basis prohibited by law in the selection of tenants; and the Developer shall not so discriminate in connection with the employment or application for employment of persons for the construction, operation or management of the Project.

6. Inspection. The Developer agrees to comply and to cause the Project to comply with all requirements of the Regulations and Guidelines and all other applicable laws, rules, regulations, and executive orders. EOHLC and the Chief Executive Officer of the municipality shall have access during normal business hours to all books and records of the Developer and the Project in order to monitor the Developer's compliance with the terms of this Agreement.

7. Recording. Upon execution, the Developer shall immediately cause this Agreement and any amendments hereto to be recorded with the Registry of Deeds for the County where the Project is located or, if the Project consists in whole or in part of registered land, file this Agreement and any amendments hereto with the Registry District of the Land Court for the County where the Project is located (collectively hereinafter, the "Registry of Deeds"), and the Developer shall pay all fees and charges incurred in connection therewith. Upon recording or filing, as applicable, the Developer shall immediately transmit to EOHLC and the Municipality evidence of such recording or filing including the date and instrument, book and page or registration number of the Agreement.

8. Representations. The Developer hereby represents, covenants and warrants as follows:

(a) The Developer (i) is a \_\_\_\_\_ duly organized under the laws of the Commonwealth of Massachusetts, and is qualified to transact business under the laws of this State, (ii) has the power and authority to own its properties and assets and to carry on its business as now being conducted, and (iii) has the full legal right, power and authority to execute and deliver this Agreement.

(b) The execution and performance of this Agreement by the Developer (i) will not violate or, as applicable, has not violated any provision of law, rule or regulation, or any order of any court or other agency or governmental body, and (ii) will not violate or, as applicable, has not violated any provision of any indenture, agreement, mortgage, mortgage note, or other instrument to which the Developer is a party or by which it or the Project is bound, and (iii) will not result in the creation or imposition of any prohibited encumbrance of any nature.

(c) The Developer will, at the time of execution and delivery of this Agreement, have good and marketable title to the premises constituting the Project free and clear of any lien or encumbrance (subject to encumbrances created pursuant to this Agreement, any loan documents relating to the Project the terms of which are approved by EOHLC, or other permitted encumbrances, including mortgages referred to in paragraph 17, below).

(d) There is no action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency now pending, or, to the knowledge of the Developer, threatened against or affecting it, or any of its properties or rights, which, if adversely determined, would materially impair its right to carry on business substantially as now conducted (and as now contemplated by this Agreement) or would materially adversely affect its financial condition.

9. Transfer Restrictions.

(a) Except for rental of Units to Low- or Moderate-Income Tenants as permitted by the terms of this Agreement, the Developer will not sell, transfer, lease, or exchange the Project or any portion thereof or interest therein (collectively, a “Sale”) or (except as permitted under Section (d) below) mortgage the Property without the prior written consent of EOHLC and the Municipality.

(b) A request for consent to a Sale shall include:

- A signed agreement stating that the transferee will assume in full the Developer’s obligations and duties under this Agreement, together with a certification by the attorney or title company that it will be held in escrow and, in the case of any transfer other than a transfer of Beneficial Interests, recorded in the Registry of Deeds with the deed and/or other recorded documents effecting the Sale;
- The name of the proposed transferee and any other entity controlled by or controlling or under common control with the transferee, and names of any affordable housing developments in the Commonwealth owned by such entities;
- A certification from the Municipality that the Development is in compliance with the affordability requirements of this Agreement.

(c) Consent to the proposed Sale shall be deemed to be given unless EOHLC or the Municipality notifies the Developer within thirty (days) after receipt of the request that either

- The package requesting consent is incomplete, or
- The proposed transferee (or any entity controlled by or controlling or under common control with the proposed transferee) has a documented

history of serious or repeated failures to abide by agreements of affordable housing funding or regulatory agencies of the Commonwealth or the federal government or is currently in violation of any agreements with such agencies beyond the time permitted to cure the violation, or

- The Project is not being operated in compliance with the affordability requirements of this Agreement at the time of the proposed Sale.

(d) The Developer shall provide EOHLC and the Municipality with thirty (30) day's prior written notice of the following:

- (i) any change, substitution or withdrawal of any general partner, manager, or agent of Developer; or
- (ii) the conveyance, assignment, transfer, or relinquishment of a majority of the Beneficial Interests (herein defined) in Developer (except for such a conveyance, assignment, transfer or relinquishment among holders of Beneficial Interests as of the date of this Agreement).
- (iii) the sale, mortgage, conveyance, transfer, ground lease, or exchange of Developer's interest in the Project or any party of the Project.

For purposes hereof, the term "Beneficial Interest" shall mean: (i) with respect to a partnership, any partnership interests or other rights to receive income, losses, or a return on equity contributions made to such partnership; (ii) with respect to a limited liability company, any interests as a member of such company or other rights to receive income, losses, or a return on equity contributions made to such company; or (iii) with respect to a company or corporation, any interests as an officer, board member or stockholder of such company or corporation to receive income, losses, or a return on equity contributions made to such company or corporation.

Notwithstanding the above, EOHLC's consent under this Section 9 shall not be required with respect to the grant by the Developer of any mortgage or other security interest in or with respect to the Project to a state or national bank, state or federal savings and loan association, cooperative bank, mortgage company, trust company, insurance company or other institutional lender made at no greater than the prevailing rate of interest or any exercise by any such mortgagee of any of its rights and remedies (including without limitation, by foreclosure or by taking title to the Project by deed in lieu of foreclosure), subject, however to the provisions of Section 14 hereof.

Developer hereby agrees that it shall provide copies of any and all written notices received by Developer from a mortgagee exercising or threatening to exercise its foreclosure rights under the mortgage.

10. Casualty; Demolition; Change of Use.

(a) The Developer represents, warrants, and agrees that if the Project, or any part thereof, shall be damaged or destroyed or shall be condemned or acquired for public use, the Developer (subject to the approval of the lender(s) which has provided financing) will use its best efforts to repair and restore the Project to substantially the same condition as existed prior to the event causing such damage or destruction, or to relieve the condemnation, and thereafter to operate the Project in accordance with this Agreement.

(b) The Developer shall not, without prior written approval of EOHLC and the Municipality and an amendment to this Agreement, change the type or number of Low- and Moderate-Income Units. The Developer shall not demolish any part of the Project or substantially subtract from any real or personal property of the Project, or permit the use of the dwelling accommodations of the Project for any purpose except residences and any other uses permitted by the applicable zoning then in effect;

11. Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Massachusetts. Any amendments to this Agreement must be in writing and executed by all of the parties hereto. The invalidity of any clause, part, or provision of this Agreement shall not affect the validity of the remaining portions hereof.

12. Notices. All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when delivered by hand or when mailed by certified or registered mail, postage prepaid, return receipt requested, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate by written notice:

EOHLC: Executive Office of Housing and Livable Communities  
Attention: Local Initiative Program Director  
100 Cambridge Street, 3rd Floor  
Boston, MA 02114

Municipality:

Developer:

13. Term.

(a) This Agreement and all of the covenants, agreements and restrictions contained herein shall be deemed to be an affordable housing restriction as that term is defined in G.L. c. 184, § 31 and as that term is used in G.L. c.184, § 26, 31, 32 and 33. This Agreement shall bind, and the benefits shall inure to, respectively, Developer and its successors and assigns, and EOHLC and its successors and assigns and the Municipality and its successors and assigns. EOHLC has determined that the acquiring of such affordable housing restriction is in the public interest. The term of this Agreement, the rental restrictions, and other requirements provided herein shall be perpetual.

(b) The Developer intends, declares and covenants on behalf of itself and its successors and assigns (i) that this Agreement and the covenants, agreements and restrictions contained herein shall be and are covenants running with the land, encumbering the Project for the term of this Agreement, and are binding upon the Developer's successors in title, (ii) are not merely personal covenants of the Developer, and (iii) shall bind the Developer, its successors and assigns and enure to the benefit of EOHLC and the Municipality and their successors and assigns for the term of the Agreement. Developer hereby agrees that any and all requirements of the laws of the Commonwealth of Massachusetts to be satisfied in order for the provisions of this Agreement to constitute restrictions and covenants running with the land shall be deemed to be satisfied in full and that any requirements of privity of estate are also deemed to be satisfied in full.

14. Lender Foreclosure. The rights and restrictions contained in this Agreement shall not lapse if the Project is acquired through foreclosure or deed in lieu of foreclosure or similar action, and the provisions hereof shall continue to run with and bind the Project.

15. Further Assurances. The Developer and the Municipality each agree to submit any information, documents, or certifications requested by EOHLC which EOHLC shall deem necessary or appropriate to evidence the continuing compliance of the Project Sponsor and the Municipality with the terms of this Agreement.

16. Default.

(a) The Developer and the Municipality each covenant and agree to give EOHLC written notice of any default, violation or breach of the obligations of the Developer or the Municipality hereunder, (with a copy to the other party to this Agreement) within seven (7) days of first discovering such default, violation or breach (a "Default Notice"). If EOHLC becomes aware of a default, violation, or breach of obligations of the Developer or the Municipality hereunder without receiving a Default Notice from Developer or the Municipality, EOHLC shall give a notice of such default, breach or violation to the offending party (with a copy to the other party to this Agreement) (the "EOHLC Default Notice"). If any such default, violation, or breach is not cured to the satisfaction of EOHLC within thirty (30) days after the giving of the Default notice by the Developer or the Municipality, or if no Default Notice is given, then within thirty (30) days after the giving of the EOHLC Default Notice, then at EOHLC's option, and without further notice, EOHLC may either terminate this Agreement, or

EOHLC may apply to any state or federal court for specific performance of this Agreement, or EOHLC may exercise any other remedy at law or in equity or take any other action as may be necessary or desirable to correct non-compliance with this Agreement.

(b) If EOHLC elects to terminate this Agreement as the result of a breach, violation, or default hereof, which breach, violation, or default continues beyond the cure period set forth in this Section 16, then the Low- and Moderate-Income Units and any other Units at the Project which have been included in the Subsidized Housing Inventory shall from the date of such termination no longer be deemed Low- and Moderate-Income housing for the purposes of the Act and shall be deleted from the Subsidized Housing Inventory.

(c) The Developer acknowledges that the primary purpose for requiring compliance by the Developer with the restrictions provided herein is to create and maintain long-term affordable rental housing, and by reason thereof the Developer agrees that EOHLC or the Municipality or any prospective, present, or former tenant shall be entitled for any breach of the provisions hereof, and in addition to all other remedies provided by law or in equity, to enforce the specific performance by the Developer of its obligations under this Agreement in a state court of competent jurisdiction. The Developer further specifically acknowledges that the beneficiaries of its obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. In the event of a breach of this Agreement, the Developer shall reimburse EOHLC for all costs and attorney's fees associated with such breach.

17. Mortgagee Consents. The Developer represents and warrants that it has obtained the consent of all existing mortgagees of the Project to the execution and recording of this Agreement and to the terms and conditions hereof and that all such mortgagees have executed the Consent and Subordination of Mortgage to Regulatory Agreement attached hereto and made a part hereof.

**[REMAINDER OF PAGE INTENTIONALLY BLANK]**



Executed as a sealed instrument as of the date first above written.

DEVELOPER

\_\_\_\_\_

By: \_\_\_\_\_  
Its:

EXECUTIVE OFFICE OF HOUSING AND  
LIVABLE COMMUNITIES

By: \_\_\_\_\_  
Its:

MUNICIPALITY

By: \_\_\_\_\_  
Its Chief Executive Officer

Attachments: Exhibit A - Legal Property Description  
Exhibit B - Rents for Low- and Moderate-Income Units

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of the \_\_\_\_\_ [Developer], and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the Commonwealth of Massachusetts acting by and through the Executive Office of Housing and Livable Communities, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ for the City/Town of \_\_\_\_\_, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**CONSENT AND SUBORDINATION OF MORTGAGE  
TO REGULATORY AGREEMENT**

Reference is hereby made to a certain Mortgage dated \_\_\_\_\_ given by \_\_\_\_\_ to \_\_\_\_\_, recorded with the \_\_\_\_\_ Registry of Deeds at Book \_\_\_\_\_, Page \_\_\_\_\_ (“Mortgage”).

The Undersigned, present holder of said Mortgage, hereby recognizes and consents to the execution and recording of this Agreement and agrees that the aforesaid Mortgage shall be subject and subordinate to the provisions of this Agreement, to the same extent as if said Mortgage had been registered subsequent thereto. The Undersigned further agrees that in the event of any foreclosure or exercise of remedies under said Mortgage it shall comply with the terms and conditions hereof.

[NAME OF LENDER]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

(If the Development has more than one mortgagee, add additional consent forms.)

**COMMONWEALTH OF MASSACHUSETTS**

COUNTY OF \_\_\_\_\_, ss. \_\_\_\_\_, 20\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the preceding document, as \_\_\_\_\_ of \_\_\_\_\_ Bank, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## EXHIBIT A

Re:

\_\_\_\_\_  
(Project name)

\_\_\_\_\_  
(City/Town)

\_\_\_\_\_  
(Developer)

### Property Description

## EXHIBIT B

Re: \_\_\_\_\_  
(Project name)  
\_\_\_\_\_  
(City/Town)  
\_\_\_\_\_  
(Developer)

### Initial Maximum Rents and Utility Allowances for Low- and Moderate-Income Units

	<u>Rents</u>	<u>Utility Allowance</u>
Studio units	\$ _____	\$ _____
One-bedroom units	\$ _____	\$ _____
Two-bedroom units	\$ _____	\$ _____
Three-bedroom units	\$ _____	\$ _____
Four-bedroom units	\$ _____	\$ _____