TOWN OF BERLIN
HOUSING PRODUCTION PLAN

Revised December 7, 2011

Berlin Housing Partnership

Consulting assistance provided by Brown Walker Planners, Inc.
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Introduction

What is a Housing Production Plan?

A Housing Production Plan is a planning document that inventories a community’s housing stock, assesses its housing needs and lays out a proactive strategy for planning for and developing affordable housing.

Why it is needed?

The Massachusetts Department of Housing and Community Development (DHCD) introduced the Planned Production Program in December 2002 and updated it in 2008\(^1\) in accordance with MGL Chapter 40B in order to give municipalities greater control over Comprehensive Permit applications. Under the Planned Production Program today each municipality is required to prepare a Housing Production Plan that demonstrates how the municipality will increase its year-round housing stock eligible for inclusion in the Subsidized Housing Inventory by 0.5% over one year or 1.0% over two years. Following adoption of the Housing Production Plan, if DHCD certifies that the locality has complied with its annual goals or that it has met its two-year goals, the municipality may, through its Zoning Board of Appeals, potentially deny what it considers inappropriate comprehensive permit applications for one or two-years, respectively.

More specifically, if Berlin has achieved certification within 15 days of the opening of the local hearing for a Comprehensive Permit, the ZBA shall provide written notice to Applicant’s for a Comprehensive Permit, with a copy to DHCD, that it considers that a denial of the permit or the imposition of conditions or requirements would be consistent with local needs, the grounds that it believes have been met, and the factual basis for that position, including any necessary documentation.

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

Housing Production Plans, thereby give communities that are under the 10% threshold of Chapter 40B, but are making steady progress in producing affordable housing on an annual basis, more control over comprehensive permit applications for a specified period of time.

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1 The purpose of 760 CMR 56.00 is to implement the statutory scheme of MGL Ch 40B. 760 CMR 56.00 sets forth comprehensive standards and procedures to govern the course of project review, from an initial determination of eligibility by the federal or state agency that is providing a subsidy (the "Subsidizing Agency"), through local permitting review by the Board, to issuance or denial of a Comprehensive Permit, potential appeals to the HAC, and post-permitting procedures.
By documenting Berlin’s existing housing stock, studying the community’s housing issues and understanding its housing needs, Berlin is able to take a proactive approach to developing the type of housing most needed and appropriate for its current residents and for supporting a diversity of future residents.
Section 1: Comprehensive Housing Needs Assessment

One of the main goals of the housing plan is to assess current and future housing demand, supply, cost and affordability in order to identify potential gaps for supply of housing for individuals and households of a variety of incomes.

Population and Households

Population

The 2010 US Census counted 2,866 residents in Berlin, an increase of over 20% since the 2000 Census. With a total landmass of 12.9 square miles, Berlin has a population density of roughly 222 people per square mile. The figure below presents Berlin’s growth in population over the years, as well as the Town’s projected population for the coming decade.

![Population Growth Chart]

Source: US Census

*Projection based on CMRPC data from 2007 (CMRPC had projected Berlin reaching 2,800 by 2015, which the Town has already surpassed)
HOUSEHOLDS BY SIZE AND TENURE

Table 1: Population, Households, Tenure and Household Size for Berlin, MA

<table>
<thead>
<tr>
<th></th>
<th>2000</th>
<th>2010</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Population</td>
<td>2,380</td>
<td>2,866</td>
<td>20.4%</td>
</tr>
<tr>
<td>Population in Group Quarters(^2)</td>
<td>8</td>
<td>3</td>
<td>-62.5%</td>
</tr>
<tr>
<td>Sub-Total Institutional</td>
<td>0</td>
<td>0</td>
<td>X</td>
</tr>
<tr>
<td>Sub-Total Noninstitutional</td>
<td>8</td>
<td>3</td>
<td>-62.5%</td>
</tr>
<tr>
<td>Population by Age</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Under 5 years</td>
<td>172</td>
<td>130</td>
<td>-24.4%</td>
</tr>
<tr>
<td>5 to 9 years</td>
<td>158</td>
<td>159</td>
<td>0.6%</td>
</tr>
<tr>
<td>10 to 14 years</td>
<td>177</td>
<td>209</td>
<td>18.1%</td>
</tr>
<tr>
<td>15 to 19 years</td>
<td>132</td>
<td>156</td>
<td>18.2%</td>
</tr>
<tr>
<td>20 to 24 years</td>
<td>82</td>
<td>104</td>
<td>26.8%</td>
</tr>
<tr>
<td>25 to 34 years</td>
<td>261</td>
<td>243</td>
<td>-6.9%</td>
</tr>
<tr>
<td>35 to 44 years</td>
<td>458</td>
<td>364</td>
<td>-20.5%</td>
</tr>
<tr>
<td>45 to 54 years</td>
<td>395</td>
<td>564</td>
<td>42.8%</td>
</tr>
<tr>
<td>55 to 59 years</td>
<td>152</td>
<td>225</td>
<td>48.0%</td>
</tr>
<tr>
<td>60 to 64 years</td>
<td>98</td>
<td>189</td>
<td>92.9%</td>
</tr>
<tr>
<td>65 to 74 years</td>
<td>180</td>
<td>297</td>
<td>65.0%</td>
</tr>
<tr>
<td>75 to 84 years</td>
<td>86</td>
<td>175</td>
<td>103.5%</td>
</tr>
<tr>
<td>85 years and over</td>
<td>29</td>
<td>51</td>
<td>75.9%</td>
</tr>
<tr>
<td>Population in Households</td>
<td>2,372</td>
<td>2,863</td>
<td>20.7%</td>
</tr>
<tr>
<td>Average Household Size</td>
<td>2.72</td>
<td>2.54</td>
<td>-6.6%</td>
</tr>
<tr>
<td>Average Owner-Occupied Unit</td>
<td>2.86</td>
<td>2.65</td>
<td>-7.3%</td>
</tr>
<tr>
<td>Average Renter-Occupied Unit</td>
<td>2.14</td>
<td>1.94</td>
<td>-9.3%</td>
</tr>
<tr>
<td>Households</td>
<td>872</td>
<td>1,125</td>
<td>29.0%</td>
</tr>
<tr>
<td>Owner-occupied</td>
<td>706</td>
<td>954</td>
<td>35.1%</td>
</tr>
<tr>
<td>Renter-occupied</td>
<td>166</td>
<td>171</td>
<td>3.0%</td>
</tr>
<tr>
<td>Households by persons in Unit</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-person household</td>
<td>163</td>
<td>262*</td>
<td>60.8%</td>
</tr>
<tr>
<td>2-person household</td>
<td>301</td>
<td>403*</td>
<td>33.8%</td>
</tr>
<tr>
<td>3-person household</td>
<td>159</td>
<td>192*</td>
<td>21.0%</td>
</tr>
<tr>
<td>4-or-more-person household</td>
<td>249</td>
<td>268*</td>
<td>7.4%</td>
</tr>
</tbody>
</table>

Source: U.S. Census, American Community Survey (estimate)*

Berlin’s population and its number of households have increased by over 20% in the past decade, with household growth outpacing population growth. Single person households are the most rapidly growing household size, a 60% increase since 2000, doubling the rate of increase of households of three or more persons.

\(^2\) The Census Bureau classifies all people not living in households as living in group quarters. There are two types of group quarters: institutional (for example, correctional facilities, nursing homes, and mental hospitals) and non-institutional (for example, college dormitories, military barracks, group homes, missions, and shelters).
The age of Berlin’s population has also seen substantial change with the number of older citizens increasing and the number of residents aged 25 – 44 decreasing. While there are many reasons for the reduction in residents in this early to mid-adult age category, a lack of affordable entry level housing may be one of them, including the lack of rental units.

### Housing Supply

#### HOUSING TENURE

<table>
<thead>
<tr>
<th></th>
<th>2000</th>
<th>2010</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Housing Units</td>
<td>893</td>
<td>1,189</td>
<td>33.1%</td>
</tr>
<tr>
<td>Total Occupied</td>
<td>872</td>
<td>1,125</td>
<td>29.0%</td>
</tr>
<tr>
<td>Owner-Occupied</td>
<td>706</td>
<td>954</td>
<td>35.1%</td>
</tr>
<tr>
<td>Renter-Occupied</td>
<td>166</td>
<td>171</td>
<td>3.0%</td>
</tr>
<tr>
<td>Total Vacant</td>
<td>21</td>
<td>64</td>
<td>204.8%</td>
</tr>
<tr>
<td>Vacant for Rent</td>
<td>4</td>
<td>5</td>
<td>25.0%</td>
</tr>
<tr>
<td>Vacant for Sale</td>
<td>4</td>
<td>30</td>
<td>650.0%</td>
</tr>
<tr>
<td>Rented or sold, awaiting occupancy</td>
<td>4</td>
<td>6</td>
<td>50.0%</td>
</tr>
<tr>
<td>Vacant Seasonal, Migratory, Occasional Use, or Other</td>
<td>9</td>
<td>23</td>
<td>155.6%</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>33.1%</td>
</tr>
<tr>
<td>Vacancy Rate Ownership</td>
<td>0.6</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Vacancy Rate Rental</td>
<td>2.4</td>
<td>2.8</td>
<td></td>
</tr>
</tbody>
</table>

Source: U.S. Census

As of June 2011, Town of Berlin Assessor’s records list a total of 1,241 housing units, including in-law apartments (which may not have been captured in the Census).

Rental housing is often a more affordable housing choice for households with lower incomes. While Berlin’s housing supply increased by 296 units from 2000 to 2010, rental units accounted for a small fraction of that total, and make up only 15% of Berlin’s housing.

### Vacancy Rates

The vacancy rate reflects the relative availability of housing units, not all of which are of standard quality. Since at least the early 1970s, housing analysts have utilized a range of 5%-7% as a level vacancy rate that is sufficient to accommodate reasonable housing choice. The most common ratio applied to the ownership stock for the availability of homeowner units is 2%. The vacancy rate includes only those units which at the time of the Census were vacant and for sale or for rent. The rate does not include other vacant units such as units already rented or sold awaiting occupancy nor does it include seasonal units or other vacant units held off the market or retained for other purposes. Berlin’s vacancy rate

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3 Vacancy rate is the percentage of all rental units that are unoccupied or not rented at a given time.
appears to have increased to a more favorable level from the 2000 Census (see Table 2), which is likely related to an increase in housing supply over the past decade.\(^4\)

Compared with other communities in the region, Berlin has more favorable vacancy rate for ownership, but a less favorable rate for rental.

**Table 3: Regional Comparison of Occupied Housing Stock and Vacancy Rates in 2010**

<table>
<thead>
<tr>
<th>Occupied Housing 2010</th>
<th>Vacancy Rate 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owner</td>
</tr>
<tr>
<td>Berlin</td>
<td>954</td>
</tr>
<tr>
<td>Marlborough</td>
<td>8,921</td>
</tr>
<tr>
<td>Hudson</td>
<td>5,454</td>
</tr>
<tr>
<td>Northborough</td>
<td>4,319</td>
</tr>
<tr>
<td>Clinton</td>
<td>3,293</td>
</tr>
<tr>
<td>Boylston</td>
<td>1,434</td>
</tr>
<tr>
<td>Bolton</td>
<td>1,542</td>
</tr>
</tbody>
</table>

Source: US Census

**Housing Stock**

**Table 4: Types of Housing\(^5\)**

<table>
<thead>
<tr>
<th>Use Description</th>
<th># of Properties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family detached</td>
<td>784</td>
</tr>
<tr>
<td>Condominium</td>
<td>146</td>
</tr>
<tr>
<td>Two-Family</td>
<td>37</td>
</tr>
<tr>
<td>Three-Family</td>
<td>3</td>
</tr>
<tr>
<td>Apartments (4 to 8 units)</td>
<td>3</td>
</tr>
<tr>
<td>Apartments (8 or more units)</td>
<td>1</td>
</tr>
<tr>
<td>Multiple houses on one parcel(^6)</td>
<td>20</td>
</tr>
<tr>
<td>Rooming / Boarding House</td>
<td>1</td>
</tr>
<tr>
<td>Mixed Use</td>
<td>53</td>
</tr>
</tbody>
</table>

Source: Town of Berlin Assessors, 2011

Single family homes (including condos) are the predominant residential use type in Berlin -- comprising 89% (930) of residential properties. The majority of multi-family uses are two-family homes, and 5% of residential properties include a component of commercial or agricultural uses.

\(^4\) As of June 2011 the known vacancy rate is higher than indicated due to recent foreclosures, pending sales, and unoccupied units.

\(^5\) In-law apartments are not included.

\(^6\) 300 South St, 242 Highland St, 272 Pleasant St, 104 Lyman Rd, 79 Jones Rd, 210 River Rd W, 24 Ball Hill Rd, 79 Pleasant St, 108 Pleasant St, 32 Autumn Ridge Rd, 39 Dudley Rd, 64 Marlboro Rd, 3 Lincoln Rd, 268 West St, 91 West St, 239 Central St, 184 Gates Pond Rd, 283 West St, 36 West St, 308 Randall Rd

\(^7\) Spring House – housing for young mothers and children
In the decades from 1980 to 2000 Berlin averaged 15 new residential units per year. From 2000 to 2010 Berlin issued permits for 261 new residential units. The following table shows the number of new housing units permitted in Berlin for each year of the last decade.

<table>
<thead>
<tr>
<th>Year</th>
<th>Permits Issued</th>
</tr>
</thead>
<tbody>
<tr>
<td>2000</td>
<td>21</td>
</tr>
<tr>
<td>2001</td>
<td>42</td>
</tr>
<tr>
<td>2002</td>
<td>39</td>
</tr>
<tr>
<td>2003</td>
<td>12</td>
</tr>
<tr>
<td>2004</td>
<td>11</td>
</tr>
<tr>
<td>2005</td>
<td>25</td>
</tr>
<tr>
<td>2006</td>
<td>7</td>
</tr>
<tr>
<td>2007</td>
<td>67</td>
</tr>
<tr>
<td>2008</td>
<td>25</td>
</tr>
<tr>
<td>2009</td>
<td>4</td>
</tr>
<tr>
<td>2010</td>
<td>8</td>
</tr>
</tbody>
</table>

Table 5: Residential Building Permits 2000 - 2010

With almost one third of Berlin’s housing stock over 60 years old and almost half (46%) over 40 years old, it is likely that many of Berlin’s residential dwellings would require substantial alteration to be in compliance with the State’s current building code.

Housing Costs and Affordability

**HOUSEHOLD AND FAMILY INCOME**

Housing affordability is determined by comparing median incomes and the availability of housing options within various income ranges. Federal and state affordable housing programs group households by income using the area median family income (MFI) as the benchmark. Housing demand and need has been calculated for four income groups (all based on a family of four threshold): poverty level, low (up to 50% of MFI), moderate (51% to 80% of MFI), and middle (81% to 150% of MFI). Table 7 lists median family and household income for the Town, county, and region.

---

8 Berlin Assessor, June 2011

9 Area median family income is established annually by the U.S. Department of Housing and Urban Development for metro areas and counties.
Table 7: Median Income

<table>
<thead>
<tr>
<th></th>
<th>1999</th>
<th>2005</th>
<th>2009</th>
<th>% Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median Household Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Town-wide</td>
<td>$64,583</td>
<td>N/A</td>
<td>$91,856</td>
<td>42.2%</td>
</tr>
<tr>
<td>Owner-Occupied</td>
<td>$76,388</td>
<td>N/A</td>
<td>$95,817</td>
<td>25.4%</td>
</tr>
<tr>
<td>Renter-Occupied</td>
<td>$23,125</td>
<td>N/A</td>
<td>$65,536</td>
<td>183.4%</td>
</tr>
<tr>
<td>Worcester County</td>
<td>$47,874</td>
<td>N/A</td>
<td>$63,720</td>
<td>33.1%</td>
</tr>
<tr>
<td>Median Family Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Town</td>
<td>$76,419</td>
<td>N/A</td>
<td>$99,211</td>
<td>29.8%</td>
</tr>
<tr>
<td>Worcester County HUD FMR Area¹⁰</td>
<td>$62,700</td>
<td>$58,400</td>
<td>$103,800</td>
<td>65.6%</td>
</tr>
</tbody>
</table>

Source: U.S. Census (2000), American Community Survey (2009 estimate), US Department of Housing and Urban Development

Table 8 lists the income levels for low to middle income households and the percentage of Berlin’s households in each range based on Census 2010 information.

Table 8: Households by Income Range¹¹

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Annual Income Limit*</th>
<th>Estimated # of Households</th>
<th>Estimated % of All Households</th>
</tr>
</thead>
<tbody>
<tr>
<td>At or below Poverty Level+</td>
<td>$22,000</td>
<td>40</td>
<td>3.8%</td>
</tr>
<tr>
<td>Between Poverty Level and Low Income (50% of median income)</td>
<td>$51,200</td>
<td>231</td>
<td>21.9%</td>
</tr>
<tr>
<td>Between Low and Moderate Income (80% of median income)</td>
<td>$81,900</td>
<td>122</td>
<td>11.5%</td>
</tr>
<tr>
<td>Between Moderate Income and Middle Income (150% of median income)</td>
<td>$153,500</td>
<td>450</td>
<td>42.6%</td>
</tr>
<tr>
<td>Middle to Upper Income (above 150% of median income)</td>
<td>Over 153,500</td>
<td>214</td>
<td>20.2%</td>
</tr>
</tbody>
</table>

*Income limits are based on the Eastern Worcester County HUD FMR Area.
+ Poverty level based on threshold for family of four as reported by the American Community Survey (2009).

¹⁰ The Eastern Worcester County, MA HUD Metro FMR Area includes Berlin, Blackstone, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Millville, Southborough, and Upton. Income areas changed in 2006. For the purposes of comparison with other U.S. Census data, this analysis used the 1999 and 2005 MFI as reported for Worcester County and the 2009 MFI as reported for the Eastern Worcester County FMR area.
¹¹ Household income estimates are provided by the 2009 American Community Survey. The number of households in each income range is estimated based on the ACS ranges.
Figure 1: Household Tenure by Income Range

HOUSING COSTS

Housing costs listed in Table 10 are based on Assessors data as well as market data from the Warren Group. Sales recorded by the Assessors as “Arms Length Sales” (ARM) tend to more accurately reflect market value, as these are sales that are not between family members or that are not otherwise affected by distress or relationships. The Warren Group sales are provided here for comparison purposes, but are not exclusively ARM sales.

Table 9: Median Housing Costs

<table>
<thead>
<tr>
<th>Housing Costs</th>
<th>2000</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Median Home Sales Price (Assessors)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Properties (15 in 2000, 27 in 2010)</td>
<td>$310,000</td>
<td>$310,000</td>
</tr>
<tr>
<td>Single Family ARM (7 in 2000, 9 in 2010)</td>
<td>$310,000</td>
<td>$351,500</td>
</tr>
<tr>
<td>Condo ARM (0 in 2000, 8 in 2010)</td>
<td></td>
<td>$175,500</td>
</tr>
<tr>
<td>Median Home Sales Price (Warren Group)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>All Properties</td>
<td>$287,500</td>
<td>$295,000</td>
</tr>
<tr>
<td>Single-family</td>
<td>$259,900</td>
<td>$344,000</td>
</tr>
<tr>
<td>Condo</td>
<td></td>
<td>$219,950</td>
</tr>
<tr>
<td>Median Gross Monthly Rent (American Community Survey)(^{14})</td>
<td>$629</td>
<td>$930</td>
</tr>
</tbody>
</table>

\(^{12}\) Town Statistics from the Warren Group at [http://www.thewarrengroup.com](http://www.thewarrengroup.com).

\(^{13}\) An “Arm’s Length Sale” is one in which the buyer and seller have no relationship to each other which could impact the sale price. When determining the fair market value of a piece of property, the price for the property must be obtained through a potential buyer and seller operating through an arm’s length transaction, otherwise, the price will likely differ from the actual fair market value of the property.

\(^{14}\) The amount of the contract rent plus the estimated average monthly cost of utilities (electricity, gas, and water and sewer) and fuels (oil, coal, kerosene, wood, etc.) if these are paid for by the renter (or paid for the renter by
Table 10: Affordability of Homes for Lower Income Households\textsuperscript{15}

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Maximum Affordable Home Price</th>
<th>Number of Residential Units with Assessed Value in range</th>
<th>% of All Residential Units</th>
<th>Cumulative number of households at or above income range</th>
<th>% of 2010 home sales prices in range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Middle Income</td>
<td>$673,750</td>
<td>1,003</td>
<td>95.6%</td>
<td>572</td>
<td>94.7%</td>
</tr>
<tr>
<td>Moderate Income</td>
<td>$359,480</td>
<td>549</td>
<td>52.3%</td>
<td>122</td>
<td>68.4%</td>
</tr>
<tr>
<td>First time home buyers (60% median income)</td>
<td>$269,500</td>
<td>201</td>
<td>19.2%</td>
<td>53</td>
<td>42.1%</td>
</tr>
</tbody>
</table>

Table 10 indicates that, according to assessed value of Berlin’s residential properties, there is adequate supply of affordable housing stock to accommodate existing moderate to middle income households. Assessed values are often below actual fair market value of a home, although this trend has varied considerably in the past decade. However, a review of 2010 qualified home sales shows that over 68% were sold at an affordable price for moderate income homebuyers and almost all were affordable to middle income home buyers. First time home buyers may be more challenged to find affordable and available housing in Berlin, with around 42% of existing housing stock in the affordable range.

\textsuperscript{14} Maximum affordable home price calculated using income limits derived from median family income for the Eastern Worcester County HUD Fair Market Rent Area. Cost of home ownership assume 5% down, 6% APR for 30 years, 30% of income for principle and interest on mortgage. Home prices based on assessed value of home (from Assessors Database).

\textsuperscript{15} Maximum affordable home price calculated using income limits derived from median family income for the Eastern Worcester County HUD Fair Market Rent Area. Cost of home ownership assume 5% down, 6% APR for 30 years, 30% of income for principle and interest on mortgage. Home prices based on assessed value of home (from Assessors Database).
RENTAL HOUSING AFFORDABILITY

Affordable rent is generally categorized as 30% of total monthly income. Table 11 provides an affordability analysis for Berlin’s rental units. The table summarizes the number of renter households in each income range, the gross rent affordable for that income bracket, the number of rental units within these rent ranges. There is an overall shortage of rental units for all income brackets; this is particularly noteworthy for the income groups that are less likely to pursue home ownership – those below moderate median income levels.

Table 11: Household Income and Affordable Rental Market

<table>
<thead>
<tr>
<th>Income Group</th>
<th>Number of households at or below income level</th>
<th>Cumulative percent of Berlin households</th>
<th>Affordable gross rent (30% of income)</th>
<th>Cumulative number of units available at affordable rent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poverty Level</td>
<td>40</td>
<td>3.8%</td>
<td>$550</td>
<td>7</td>
</tr>
<tr>
<td>Low Income</td>
<td>271</td>
<td>25.6%</td>
<td>$1,280</td>
<td>120</td>
</tr>
<tr>
<td>Moderate Income</td>
<td>393</td>
<td>37.2%</td>
<td>$2,050</td>
<td>130</td>
</tr>
<tr>
<td>Middle Income</td>
<td>843</td>
<td>79.8%</td>
<td>$3,840</td>
<td>130</td>
</tr>
</tbody>
</table>

Source: American Community Survey 2009 (estimates).
Affordable Housing Inventory

EXISTING AFFORDABLE UNITS AND PIPELINE

If a municipality in Massachusetts has less than 10% of its year-round housing set-aside for low- and moderate-income residents according to a State standard, it is considered not to be meeting the regional and local need for affordable housing. Not meeting this affordability standard makes the Town susceptible to a state override of local zoning if a developer chooses to create affordable housing through the Chapter 40B comprehensive permit process. The breakdown of the existing affordable units in Berlin is indicated in Table 12 below.

<table>
<thead>
<tr>
<th>DHCD ID#</th>
<th>Project Name</th>
<th>Address</th>
<th>Type</th>
<th>Total SHI Units</th>
<th>Affordability Expires</th>
<th>Built w/ Comp Permit?</th>
<th>Subsidizing Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>5202</td>
<td>Whitney Estates</td>
<td>Alden Drive off Pleasant Street</td>
<td>Ownership</td>
<td>3</td>
<td>Perpetuity</td>
<td>Yes</td>
<td>DHCD</td>
</tr>
<tr>
<td>8157</td>
<td>Berlin Woods 16</td>
<td>Dudley Road</td>
<td>Ownership</td>
<td>0</td>
<td>Perpetuity</td>
<td>Yes</td>
<td>MassHousing</td>
</tr>
<tr>
<td>8810</td>
<td>Sawyer Hill LLC</td>
<td>Sawyer Hill Road</td>
<td>Ownership</td>
<td>17</td>
<td>Perpetuity</td>
<td>Yes</td>
<td>DHCD</td>
</tr>
<tr>
<td>9293</td>
<td>Northbrook Village II</td>
<td>135 Pleasant Street</td>
<td>Rental</td>
<td>40</td>
<td>Perpetuity</td>
<td>Yes</td>
<td>HUD, DHCD</td>
</tr>
<tr>
<td>283</td>
<td>Northbrook Village</td>
<td>135 Pleasant Street</td>
<td>Rental</td>
<td>40</td>
<td>Perpetuity</td>
<td>Yes</td>
<td>USDA, HUD</td>
</tr>
</tbody>
</table>

| Berlin Total | 100 |
| Census 2000 Year Round Housing Units | 891 |
| Percent Subsidized | 11.22% |
| Census 2010 Year Round Housing Units | 1189 |
| Percent Subsidized | 8.41% |

In addition to the existing subsidized units in Berlin, Riverbridge, a mixed use village project approved for development, is expected to provide at build-out an additional 84 residential units eligible for inclusion on the SHI. With those units added to the current inventory, Berlin would exceed the 10% threshold.

CHAPTER 40B LAND AREA ANALYSIS

Chapter 40B requirements can also be met if low and moderate-income housing exists on sites/land comprising more than 1 and a half percent of the total land area zoned in town for residential, commercial, and industrial uses. The total land area does not include publicly owned land, water bodies, roads, and any flood plain, conservation or open space zone if the zone completely prohibits residential, commercial and industrial use. The portion of the site that has low and moderate income housing units inventoried by DHCD is proportionately included toward the 1.5%.

16 Berlin Woods is permitted to create 32 units, of which 25% (eight) will be eligible for listing on the SHI>
According to an analysis by the Town completed in 2007, the total non-excluded land area in Berlin is 5,267.89 acres. To meet the 1.5% threshold, the Town would need to have at least 79.02 acres devoted to low and moderate income housing. It is estimated that the 100 units of subsidized housing in Berlin occupy less than 25 acres.
Section 2: Housing Issues Analysis

Historically Berlin has been a community of single family homes; with dwellings more closely clustered around small neighborhood centers, but with most scattered along the town’s rural roadways. Since the 1970’s development has included residential subdivisions including age restricted subsidized housing development, and a co-housing development that includes subsidized units, and is built with units close together in order to reduce building footprint and preserve open space.

Berlin believes firmly that major land use decisions should be made by its residents. To date Berlin’s residents have favored sparse residential development and have supported Town policies and zoning that enables this rural development pattern. This, along with the physical characteristics of land in Berlin, and the Town’s capacity to administer the affordable housing program, creates some challenges to the development and management of affordable housing. Most of the issues discussed below were in the Town’s 2006 Housing Production Plan. This Plan indicates what actions or changes have occurred since 2006, and identifies new issues.

Multi-Family Housing

Developing multi-family housing in Berlin requires a long and complicated process due to the Town’s zoning regulations, summarized below. The process has effectively kept multi-family housing out of Berlin to date as all but senior-only multi-family development requires a change of zoning which needs a 2/3 vote of approval at Town Meeting; Senior-only-units require a Special Permit. Meadowbrook, a 64-unit senior residential development that includes four-unit structures was created in 1999 giving Berlin its first multi-family housing. Sawyer Hill Eco-village a 40-B Local Initiative Project created a cohousing project in 2007 that includes triplexes. Most recently Berlin’s residents voted to allow multi-family housing as part of Riverbridge, a mixed-use village. With the completion of Riverbridge, Berlin expects to hold more than ten percent of its housing stock as affordable.
Berlin’s zoning bylaw Section 210 Establishment of Districts lists a Multiple Dwelling District and Section 320 Table of Principal Use Regulations indicates that multiple dwellings are allowed by right subject to site plan review in the Multiple Dwelling District. However no such district exists. Further, Section 550 contains standards for multi-family dwellings that limit structures to no more than twelve units per building, limits access to no more than two dwelling units per building entrance, allows not more than five percent of the dwelling units to have more than two bedrooms and prohibits all but unoccupied basement floors below grade at its entire perimeter. Section 620 Table of Dimension Regulations, lists Multiple Dwelling Apartments as a district and provides dimensional regulations including a minimum lot area of 80,000 square feet for the first three units plus 10,000 square feet for each additional unit.

While regulations exist to control multi-family housing, the fact is that multi-family housing was not allowed in any existing district until 1999. In 1999 Town Meeting voted to create the Senior Residential Overlay District allowing up to four units per dwelling. The Senior Overlay District is termed a floating district which means it can overlay any other zoning district provided the proposed site meets the requirements of Section 720 Senior Residential Development. The requirements include a minimum parcel size of twenty acres, at least two hundred feet of continuous frontage on an existing Town way, and at least thirty percent of the parcel set aside for Common Land for use by residents. Regulations further limit density to no more than three dwelling units, or six bedrooms per acre of developable area. A Special Permit is required for a Senior Residential Development as an alternative to conventional subdivision.

In 2010 Town Meeting voted to create a Village Overlay District on lands around the rotary in South Berlin, and adopt zoning regulations and a Village Development Plan (Section 450) to guide development of a mixed-use village center. Multi-family housing is an allowed use in the Village Overlay District. In addition the zoning regulations include a provision that requires 10% to 15% of the combined total of Dwellings and Continuing Care Retirement Community Independent Living Units be set aside as affordable.

Open Space Residential Development

Open Space Residential Development (OSRD), also referred to as cluster development encourages new subdivisions to be built with smaller lot sizes and dimensional standards than what is required in the underlying zoning district and to permanently preserve open space. OSRD can provide benefits to

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12 Rendering by Architect Daniel Lewis
developers and communities. It provides developers with another option for the layout of residential development that is more flexible, promotes the efficient use of land, lowers costs of development, roads and infrastructure, lowers municipal maintenance and service costs, and preserves open space, community character and natural resources. Developer savings could make providing affordable units more feasible.

Based on the results of a recent community survey (2011 Community Development Planning Survey), Berlin residents have mixed feelings about or don’t fully understand OSRD. The survey indicated that preservation of the town’s rural character was a primary concern, yet residents were split on their support for OSRD as compared with typical subdivisions. Berlin’s Open Space and Recreation Plan notes that residential housing built in conventional subdivisions consumed 3.04 acres of land per unit, while those build in cluster type subdivisions consumed only .35 acres per unit.

Prior to 2006 Berlin voters at Town Meetings twice defeated requests for changes to the Town’s zoning bylaws that would allow OSRD as an option for residential development.

### Subsidized/Affordable Housing

Berlin received certification from the Department of Housing & Community Development on December 16, 2010 that the Town is in compliance with its Affordable Housing Plan. This certification is effective for a two year period beginning on October 27, 2010 to October 26, 2012. It should be noted that with the release of 2010 Census figures Berlin falls to 8.4%.

At present Berlin’s Subsidized Housing Inventory includes 100 units as listed below.

- Northbrook Village: 40 units
- Whitney Estates: 3 units
- Sawyer Hill LLC: 17 units
- Northbrook Village II: 40 units

Berlin’s success in increasing affordable housing from 43 units in 2005 to 100 units in 2010 is due to a number of initiatives.

### Berlin Housing Partnership

The Berlin Housing Partnership was established in the late 1980’s to address the issue of affordable housing in the community. The partnership has five members appointed by the Board of Selectmen to serve terms of three years. Membership has been consistent.

Since its inception, the Partnership has endeavored to remain active and keep the subject of affordable housing before the townspeople through the annual Town Report and public surveys conducted in 1996, 2004, and 2011. The Partnership continues to meet with the Board of Selectmen, Planning Board, Conservation Commission and Town Treasurer as needed. The Partnership regularly reviews tax title land with the Town Treasurer and Assessor, works with private developers, and has attended affordable housing training sessions along with members of the Zoning Board of Appeals. The Housing Partnership has lead or has been instrumental in the following regulatory initiatives and development projects.
Inclusionary Housing Bylaw
Berlin adopted an inclusionary housing bylaw over a decade ago that applies to all new residential development that results in six or more dwelling units. Each such development is required to set aside a minimum of fifteen percent of the new units as affordable units and a minimum of fifteen percent of the total number of bedrooms provided as affordable housing. All affordable units are required to have deed restrictions that protect their affordability in perpetuity. The bylaw was also recently updated to allow the development of two or three dwelling units on a single lot provided all units meet the requirements and purposes of the bylaw and provided the Town has not achieved the 10% requirement as set forth in MGL Chapter 40B.

Senior Residential Overlay District
The Senior Residential Overlay District was adopted in 1999 to permit senior residential development (SRD) as regulated by Section 720 in specific areas approved by Town Meeting. Under provisions of the bylaw the Planning Board may grant a special permit for a SRD as an alternative to conventional subdivision for the purpose of providing housing options for a maturing population that are more affordable than traditional single-family dwellings.

Village Overlay District
The Village Overlay District was approved by Town Meeting in 2009 to permit development of a mixed use village center at the rotary in South Berlin. Regulations include special affordable housing provisions (Section 458.4) that require 10 to 15% of all dwellings and Continuing Care Retirement Community Independent Living Units be set aside as affordable. The Continuing Care Retirement Community has no affordable units. The 10% will be allowed only if all rental units in the development are eligible for inclusion on DHCD’s Subsidized Housing Inventory.

Meadowbrook
Town Meeting voted to change zoning to permit the development of Meadowbrook under the regulations of Berlin’s Bylaw Section 720 Senior Residential Development. Meadowbrook has 64 senior-only residential units. While these units do not have rent or sale price restrictions they do represent a housing option that is generally more affordable to Berlin’s seniors.
**Sawyer Hill LIP**
The Partnership worked with a private developer under the Local Initiative Program (LIP) to create a co-housing project on Sawyer Hill Road. The project, completed in 2009 is a homeownership development that created 68 units, of which 17 are reserved for low income households. At this time, 14 units remain unsold, seven of those being affordable units. While multiple issues are likely in play, the primary cause may be the higher than typical buying costs associated with both affordable or market rate co-housing units.

![Sawyer Hill – Co-Housing Community](image)

**Berlin Woods**
Since 2005, the Partnership has been working with a private developer on a Chapter 40B Comprehensive Permit housing project on Dudley Road, known as Berlin Woods. The Project as approved by the Zoning Board of Appeals includes 32 home ownership condominiums with 25% reserved as affordable. A lottery for applicants for Berlin Woods units is expected soon.

**Northbrook**
Northbrook Village was developed as the town’s first subsidized age restricted and disabled persons housing development in the 1980s. The 40-unit residential project is managed by Winn Residential, a for profit company that manages multi-family residential developments. Northbrook Village is fully occupied and has a current waiting list of 41 applicants[^18]. The Partnership working with the Northbrook Village Board of Directors joined with Montachusetts Home Care, Inc to jointly apply for a HUD 202 grant of 39 affordable units and one manager unit. It was granted in 2009. Having no public water and sewage in town has slowed the project but slowly progress is still being made. Northbrook Village II will also be managed by Winn Residential.

[^18]: Eloise Salls, June 2011
Riverbridge
Riverbridge, authorized and regulated by Berlin’s zoning bylaw Section 450 Village Overlay District is under construction (Phase 1) at the rotary in South Berlin, an area noted as appropriate for mixed-use development in Berlin’s 2006 Housing Production Plan. When completed the mixed use village center will include up to 115 residential dwelling units in a combination of single and multi-family, rental and ownership facilities. In addition the center will include up to 90 independent living units as part of the Continuing Care Retirement Center. A minimum of 10 to 15% of residential units (not including dependent care units within the central facility) will be affordable to low to moderate income households and at least 30% of the total dwelling units will be eligible for inclusion in the SHI.20 In addition four (4) ground floor affordable units will be fully handicapped accessible units. The diversity of housing options within Riverbridge is a positive step in advancing a number of goals of the 2006 Housing

20 The rules, regulation or guidelines of the Massachusetts Department of Housing and Community Development (DHCD) currently provide that all rental dwelling units in rental development that contain at least 25% affordable units are eligible for inclusion in the DHCD’s Subsidized Housing Inventory (SHI).
Production Plan. In addition to providing a substantial number of affordable units it also increases rental properties and provides affordable ground floor ADA accessible units. (See page 17 for a rendering.)

## Housing Conditions

Nearly forty percent of Berlin’s housing stock is over 50 years old; 26% is more than 70 years old. As indicated in the 2006 Housing Production Plan, while no comprehensive inventory has been compiled, it is likely that many of these older residences would not meet today’s various housing codes (plumbing, electricity, weather-proofing, energy efficiency, etc.). Older homes with code deficiencies and inefficiencies are often more affordable housing options than new housing. In many instances, these older homes without architectural appeal are being torn down. It is important to maintain Berlin’s existing housing stock as a means of providing more affordable housing and preserving the town’s historic architecture.

## Public Infrastructure

The Town of Berlin offers no public water or sewer anywhere in town, thus developers are required to have land suitable for accessing water and often more difficult, for providing appropriate wastewater treatment. These requirements increase the cost of developing housing in Berlin, as compared to in municipalities with public water and sewer, and place a substantial burden on large developments which must create and maintain costly private systems. The lack of municipal infrastructure has helped to contain the town’s rate of development, population growth, and rural character. At the same time it has prevented the creation of a more dense development pattern in the village areas of town, a strategy that both increases opportunities for a greater diversity of housing including affordable housing, and reduces pressures on rural undeveloped land. It should be noted however that recent changes to Title 5, the States wastewater regulations, have expanded options for private wastewater disposal, allowing development in areas previously consider as having low potential.

## Municipal Capacity

The Town of Berlin has no housing authority and limited capacity to administer the regulations required to maintain its affordable housing inventory. Mass Housing\(^{21}\) and Citizens’ Housing and Planning Association Inc. (CHAPA)\(^{22}\) provide oversight to the affordable housing in Berlin. Berlin has requested from CHAPA but has not received a summary of the status of affordable housing in Berlin. A yearly report would keep the Housing Partnership apprised of the status of units on the SHI and alert them to changes that have taken place, or that may potentially take place.

The affordable units approved for development in Riverbridge will be administered by the developer or by a housing management firm on behalf of the developer.

\(^{21}\) MassHousing, the state’s affordable housing bank, supports the creation, preservation and long-term viability of affordable homeownership and rental housing opportunities for Massachusetts residents with modest incomes. MassHousing is a self-sustaining agency and does not use taxpayer dollars in its programs.

\(^{22}\) CHAPA is a non-profit membership organization for affordable housing and community development activities throughout Massachusetts. CHAPA’s core activities span four main areas - Housing Advocacy, Research, Community Education and Training, and Coalition Building.
Environmental Constraints

Environmental constraints including wetlands, floodplains, steep slopes, bedrock, and poor soils make much of Berlin’s vacant land ill suited or economically unfeasible for development. Although these challenges for development help to preserve open space and the town’s rural character, they also limit the amount of land available for housing. As development pressures continue these more difficult lands will be considered for buildings.

Municipal Review of Multiple Lot ANR Proposals

Currently the Town does not have any mechanism to review development plans unless they are submitted to the Planning Board as a subdivision proposal (which means the construction of a new subdivision road). Thus, if a developer wanted to create 20 new lots along an existing Town road, the Town would have limited review authority. The plan would simply be submitted to the Planning Board for their signature as an Approval Not Required (ANR) plan. The only municipal review would occur when the developer applies for driveway permits from the Highway Department or building permits from the Building Inspector and these permits are issued after the lots have been created.

The current ANR approval process does not allow for a review of site drainage issues including: volume, degree of infiltration, flow direction and the ability of down-slope drainage structures to accommodate the increased surface water runoff. Many Massachusetts communities have Major Residential Development bylaws in place that provide for municipal review of site planning issues such as drainage, environmental impact and neighborhood impact. It is up to each community to determine what constitutes a “major” residential development. Some local bylaws start the review process at four newly created lots while others aren’t triggered unless ten or more lots are proposed.

Accessory Units

There are a number of benefits of accessory apartments or units that make them an important strategy to consider for increasing housing options. Accessory units generally provide housing that is more affordable than single family units, they provide alternatives to converting farm and forestland to residential development or creating apartment complexes that are incongruent with the town’s character, they encourage neighborhood diversity, and provide homeowners with additional income to support home maintenance.

Berlin’s zoning bylaw, Section 510, allows In-Law Apartments as an accessory use by right in all but its Limited Business, Limited Industrial and Agricultural-Recreation-Conservation districts. To qualify as an in-law apartment, the accessory unit must be occupied by no more than three persons, at least one of which is related by blood or marriage to the resident owner of the premises. This type of accessory units is limited in use, and its relative requirement difficult to enforce.

Section 520 allows for both attached and detached accessory apartments but both require a special permit. Attached apartments have similar requirements to in-law apartments without requiring relative status. Detached apartments are only allowed in structures in existence on January 1, 1990 or if the unit is rented subject to the conditions that make it qualify as a unit of affordable housing based on the requirements of the State of Massachusetts. If the unit does not qualify as affordable it must be rented to a relative or caregiver.
The Town is presently considering the various issues associated with accessory units including enforcement, conversion, character of development, impacts on public services, and affordability.

Conversions

Single family homes of sufficient size and with sufficient land to meet Title V regulations could be converted to two-family or multi-family units increasing opportunities for less expensive housing without consuming additional land or changing the general character of the structure. Berlin’s zoning bylaw, however does not allow multiple dwellings, defined as any dwelling which houses more than one housekeeping unit in any existing zoning district. The principal difference between a two-family and an accessory apartment is the size of the second unit which effectively limits the number of residents. Similar to an accessory unit, conversions could allow homeowners an opportunity to remain in homes they may have outgrown, and gain income without changing residency.

Funding Sources

Some state and federal programs that provide grants for development and building rehabilitation projects aimed at benefitting low and moderate income families are listed below.

**Community Development Block Grant Program:** This is a federal program under the US Department of Housing and Urban Development (HUD). The program is implemented at the state level by DHCD. Offered annually, the Community Development Block Grant Program (CDBG) is a competitive grant program that provides assistance to qualifying cities and towns for housing, community and economic develop projects that assist low and moderate-income residents, or by revitalizing areas of slum or blight. Eligible CDBG projects include but are not limited to housing rehabilitation or development, micro-enterprise or other business assistance, infrastructure, community/public facilities, public social services, planning, removal of architectural barriers to allow access by persons with disabilities, and downtown or area revitalization. Communities interested in applying for CDBG funds need to do a substantial amount of advance work prior to submitting an application.

**The HOME Program** is a HUD program administered through CDBG program designed to support the acquisition and or rehabilitation of existing structures. Acquisition funds are only available to low income families. HOME funds can be used for tenant-based rental assistance, to rehabilitate existing rental and ownership housing and to assist first-time homebuyers.

**The Get the Lead Out Program** is a HUD program managed MassHousing that offers funds for lead abatement to eligible owners of single family homes and 2-4 family properties.

**The Home Improvement Loan Program** is another HUD program managed by MassHousing. This program offers funds to eligible owners of one to four unit residential properties and condominiums so they can make necessary improvements to their residential structures. Eligible improvements include: sewage disposal systems and plumbing needs, safety-related alterations and renovations, energy-related improvements and repairs designed to bring the structure up to local building codes.

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23 Massachusetts Office of Housing and Economic Development website, Grant and Funding Programs June 2011
The Community Septic Management Program is administered at the State level by the Department of Environmental Protection (DEP). The program provides funding to homeowners for repairing failing septic systems. Berlin has participated in this program through its Board of Health since 1999.24

The Weatherization Assistance Program (WAP) is a HUD program administered by a network of local agencies. WAP provides eligible homeowners and tenants with their landlord’s permission with full-scale home energy conservation services. Typical weatherization activities include:

- Air sealing to reduce infiltration
- Attic Insulation
- Sidewall Insulation
- Floor Insulation
- Pipe and/or Duct insulation
- Limited Energy Related Repairs.

The Massachusetts Affordable Housing Trust Fund (AHTF) was established by an act of the State Legislator and is codified under Chapter 121-D of the Massachusetts General Laws. MassHousing and the DHCD jointly administer AHTF.25 The AHTF provides resources to create or preserve affordable housing throughout the state for households whose incomes are not more than 110% of median income. Funds are available for rental, home ownership and mixed-use projects as well as housing for the disabled and homeless, but may be applied only to the affordable units. AHTF funds are primarily to support private housing projects. Housing units created through the AHTF can be counted towards the Town’s 10% threshold for affordable housing under Chapter 40-B.

Funding preferences include projects/developments that
- Produce new affordable housing units
- Provide new affordability
- Create units affordable to households with a range of incomes, particularly units for households with incomes below 80% of area median income
- Include affordable units for families
- Include affordable units for mentally challenged youth and young adults
- Include affordable units for the disabled and the homeless
- Propose the longest term of affordability
- Are sponsored by non-profit organizations
- Use private funding sources and non-state funding sources to leverage the least amount of AHTF funds

The Local Initiative Program (LIP) is administered by DHCD and was established to give municipalities more flexibility in their efforts to provide low and moderate income housing. The program provides technical assistance and other non-financial assistance to housing developed through the initiative of local government to serve households below 50% of the Town’s median household income.

The program limits the state’s review to the most basic aspects of affordable housing: the incomes of the people served, the minimum quality of the housing provided, fair marketing and level of profit. LIP projects must be initiated by the municipality, either through zoning-based approvals (rezoning, special permits, density bonuses, etc.), financial assistance and/or through the provision of land and/or

24 Town of Berlin, Massachusetts, Planned Production Housing Strategy, 2006
25 A-supporting not-for-profit public agency,
buildings. LIP projects can include new construction, building conversion, adaptive re-use and building rehabilitation. LIP projects are usually administered at the local level by a local housing partnership or, in the absence of a housing partnership, the Board of Selectmen. Affordable housing units created by a LIP project will be counted towards the municipality’s 10% low and moderate-income housing threshold.
Section 3: Goals and Objectives

The Town of Berlin is committed to meeting the housing needs of its current and future population in accordance with the requirements of MGL 40B and 760 CMR 56.00.

Affordable Housing Goals

Berlin’s affordable housing goals seek to:
- Balance housing types with projected needs by:
  o increasing the number of efficiency, one and two bedroom affordable units
  o increasing the number of affordable rental units
- Insure use restrictions are perpetual and fair
- Improve standard of affordable housing
- Preserve quality of life through preservation of open space and working farms
- Create affordable housing that fits with the character of the community
- Increase municipal capacity to plan for, create and manage affordable housing

Balance Housing Types with Projected Needs

Based on current trends, including smaller household size, and an aging population, and considering Berlin’s existing housing stock of primarily single family ownership units, this study concludes that rental units and efficiency, one and two bedroom units should be priorities for affordable housing. In particular Berlin has an immediate need to provide rental units to poverty level and low income households.

Require Preferred Use Restrictions

Berlin is seeking to increase its inventory of affordable homes to serve households with incomes no greater that 80% of the area median income. Units will be subject to use restrictions or re-sale controls to preserve their affordability as follows:
- A term of perpetuity is required for both new construction and rehabilitation
- Units will be subject to a Regulatory Agreement between the developer and the subsidizing agency as required.
- Units will be marketed in a fair and open process consistent with State and federal fair housing laws.
- Berlin supports the use of a local selection preference in all projects’ lottery plans for up to 70% of the affordable units in the development. Local preference applies to households which consist of at least one current Berlin resident, one current Berlin municipal employee, one current employee of a Berlin business, and/or one child attending a Berlin school.26

The commonwealth’s Affirmative Fair Housing Marketing Plan (AFHMP) guidelines are attached as an appendix.

26 In 2008, the Commonwealth made some changes to the requirements for local preference. The Town will ensure that Berlin’s local preference process complies with the amended requirements.
**Initiate Home Improvement Program**

Maintaining a home is expensive and often unaffordable to those on limited incomes. Berlin would like to participate in a program that assists low to moderate income households in improving the condition of their existing homes or rental units. The focus on improvements should be on safety and energy efficiency.

**Promote Smart Growth**

Based on the results of community surveys from 1997, 2004, and 2011 Berlin residents overwhelmingly wish to preserve the town’s natural open spaces as well as its working landscapes in order to protect natural resources, community character and quality of life. This can be most effective accomplished by adopting strategies consistent with the principles of smart growth.

<table>
<thead>
<tr>
<th>Smart growth means using comprehensive planning to guide, design, develop, revitalize and build communities for all that:</th>
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<tbody>
<tr>
<td>• have a unique sense of community and place;</td>
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<tr>
<td>• preserve and enhance valuable natural and cultural resources;</td>
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<tr>
<td>• equitably distribute the costs and benefits of development;</td>
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<tr>
<td>• expand the range of transportation, employment and housing choices in a fiscally responsible manner;</td>
</tr>
<tr>
<td>• value long-range, regional considerations of sustainability over short term incremental geographically isolated actions; and</td>
</tr>
<tr>
<td>• promote public health and healthy communities.</td>
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</table>

**Preserve Community Character**

Berlin’s existing rural and village center character is extremely important to its residents. At the same time Berlin’s 2011 community survey results indicated that residents are generally not supportive of affordable housing, and are less supportive today than they were in 2004. This trend may be a result of uncertainty about potential impacts of affordable housing including what it looks like as there are many examples of affordable housing that is not consistent with the character of development Berlin would like to see. Berlin looks to create affordable housing that is physically compatible with its rural and village center character.
Housing Production Goals

Berlin’s Subsidized Housing Inventory (SHI) reached 11.2% in October of 2010 and the Town received a Housing Production Plan Certification Approval from the Department of Housing and Community Development effective for a two year period ending October 26, 2012. The Certification of Municipal Compliance is based on the following findings:

- Berlin has provided evidence that the required number of units described in its request is eligible to be counted toward certification.
- The 40 Subsidized Housing Inventory eligible units in Northbrook Village II meet the number necessary to satisfy a two year certification threshold.
- The housing development is consistent with the production goals outlined in Berlin’s Affordable Housing Plan.

The certification further noted that all units must retain eligibility for the SHI for the entire certification period.

With the release of the 2010 Census, Berlin’s housing count increased to 1,189, causing the percent of affordable housing to drop to 8.41%. Berlin Woods was dropped from the SHI list in 2006. In December 2010, two construction permits were issued, one for a market rate unit and one for an affordable unit. As the other 30 units are constructed for a total eight affordable units. They will return to the SHI list. In addition, Berlin expects to exceed the 10% threshold with the development of the permitted Riverbridge project and intends to create and maintain housing affordability by pursing the recommendations outlined on the following pages.

Berlin averaged around 15 new housing units a year between 1980 and 2000, and then grew by double that amount between 2000 and 2010, due primarily to some large housing complexes as a result of Chapter 40B development. Assuming a continuation of a 30% growth rate over the next decade Berlin would have a total of 1,546 residential units by 2020 and would need 155 affordable units to meet the 10% threshold. This will require that Berlin increase its affordable housing by 55 units or roughly six

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27 Photo by Martin Miller
units a year during the next ten years. That yearly number however would need to increase in some years to meet the requirement to increase affordable housing by .5% in any given year or by 1% over a two year period.

Table 13 on the following page represents Berlin’s numerical goals for addressing its affordable housing shortfall over the next ten years.
<table>
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<tbody>
<tr>
<td>Total units</td>
<td>1189</td>
<td>1225</td>
<td>1261</td>
<td>1297</td>
<td>1333</td>
<td>1369</td>
<td>1405</td>
<td>1441</td>
<td>1477</td>
<td>1513</td>
<td>1549</td>
</tr>
<tr>
<td>New units</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>New 40B units</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>Total 40B units</td>
<td>100</td>
<td>106</td>
<td>112</td>
<td>118</td>
<td>124</td>
<td>131</td>
<td>138</td>
<td>145</td>
<td>152</td>
<td>160</td>
<td>168</td>
</tr>
<tr>
<td>Gap in 40B units</td>
<td>19</td>
<td>17</td>
<td>14</td>
<td>12</td>
<td>9</td>
<td>6</td>
<td>3</td>
<td>-1</td>
<td>-4</td>
<td>-9</td>
<td>-13</td>
</tr>
<tr>
<td>New units needed to increase 40B by .5% of total units in one year</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>New units needed to increase 40B units by 1% of total units over two years</td>
<td>11</td>
<td>11</td>
<td>12</td>
<td>12</td>
<td>13</td>
<td>14</td>
<td>15</td>
<td>15</td>
<td>16</td>
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</tbody>
</table>

Base on the above numerical goals Berlin will exceed the 10% threshold in 2017 and will meet the requirement each year for adding enough new units to increase the total number of affordable units by .5% in any single year or 1% over any two year period.
Section 4: Implementation Strategies

The Berlin Housing Partnership has been vigilant in working with the Town, its committees and boards to advance the community's affordable housing goals. Since completion of its 2006 Housing Plan, the following recommendations from that plan have been addressed:

- **Chapter 40B Housing Proposals:** Town staff, board and committee members and volunteers have attended a Citizen Planner conference and shared information with constituents.
- **Multi-Family Housing in the Commercial-Village Districts:** The Planning Board supported, and Town Meeting voted in 2009, to a change in zoning to create the Village Overlay District which resulted in the permitting of multi-family housing in the area of the South Berlin rotary.
- **Non-Regulatory Means to Promote Homeownership:**
  - The Board of Selectmen authorized participation in the American Dream Down Payment Program that assisted three first time homeowners with down payment monies for Sawyer Hill units in 2009.
  - The HP provided homebuyer counseling/education in conjunction with a lottery for both Sawyer Hill and Alden Drive.

The following recommendations look to address the existing housing issues in Berlin in an effort to meet the housing goals identified in Section Three. A responsible party is identified to lead each strategy and a suggested target date for implementation is included.

### Balance Housing Types with Projected Needs

**MULTI-FAMILY HOUSING**

In order to meet the goal to balance affordable housing options with identified needs the Town of Berlin should support the development of multi-family housing. Town Meeting voted to allow a zoning change and approve a development plan and Development Agreement for Riverbridge that anticipates developing 84 rental units in a multi-family complex. A minimum of 25% of these units will be affordable to low and moderate income households, greatly expanding housing options when built. The Town should continue to support this project as envisioned in its Development Plan as it progresses through Site Plan Review.

**Responsible Municipal Entity:** The Planning Board with input by the Housing Partnership  
**Suggested Target Date:** Dependent on Site Plan Application

**ACCESSORY UNITS**

The Planning Board has been studying the issues associated with accessory units and asked for resident input in its 2011 Community Survey. Accessory apartments in existing residences and in accessory structures built prior to 1991 (as allowed by zoning now) were generally seen as not a problem or supported as an appropriate housing choice in Berlin. Accessory apartments in new accessory structures were only supported by one quarter of responders and were seen as inappropriate by over one third of respondents.

This plan recommends continued study of accessory units with the goals of:
• Providing homeowners with a means of obtaining rental income, companionship, security, and services, thereby enabling them to stay more comfortably in homes and neighborhoods they might otherwise be forced to leave;
• Adding moderately, low and extremely low income priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate, low and extremely low income households who might otherwise have difficulty finding housing;
• Develop housing units in single-family neighborhoods that are appropriate for households at a variety of stages in their life cycle;
• Provide housing units for persons with disabilities;
• Protect stability, property values, and the residential character of a neighborhood.\(^\text{28}\)

Specifically, the state’s Smart Growth/Smart Energy ToolKit says regarding Accessory Dwelling Units. “Do not restrict tenants. Allowing only family members is easiest politically and may limit the overall impact of the units, but it will also limit the use (and reuse) of these units and may result in additional administration costs associated with enforcement. Having no restrictions on accessory dwelling unit tenants gives greater control over the unit to the homeowner while offering more diverse housing opportunities.”

**Responsible Municipal Entity:** The Planning Board  
**Suggested Target Date:** 1-3 years

### Conversions

Conversions of single-family homes to two- or three-family condominiums should be considered as a viable strategy for creating a greater diversity of housing in Berlin where septic and water will support the conversion. This strategy could assure that the character of the residence would not change significantly and would provide additional housing without the consumption of additional vacant land or open space. Like accessory apartments, conversions could be allowed by Special Permit.

**Responsible Municipal Entity:** The Planning Board  
**Target Date:** 1-3 years

### Require Preferred Use Restrictions

As we have done in the past the Berlin Housing Partnership will strive for deed restrictions in perpetuity.

This will require working with developers, the Berlin Planning Board, and others responsible for crafting development agreements for affordable housing projects to ensure that the desired restrictions are included in permitting approvals and development agreements. It will also require that the Town track restrictions to enable the Town to work with the appropriate agency to prevent expirations and maintain restrictions through the most appropriate means.

**Responsible Municipal Entity:** The Berlin Housing Partnership  
**Target Date:** Ongoing

\(^{28}\) Smart Growth/Smart Energy ToolKit Accessory Dwelling Unit Model Bylaw
Initiate Home Improvement Program

The Town should seek State Grant opportunities that could assist low to moderate income property owners with the upkeep of their homes and work to build municipal capacity to administer programs identified.

**Responsible Municipal Entity:** The Berlin Housing Partnership

**Target Date:** 1-3 years

Promote Smart Growth

The principles of smart growth support sustainable communities including the creation of affordable housing.

Some Smart Growth strategies that Berlin should consider include:

- **The Community Preservation Act**  
  Was voted down twice by Town Meeting in the past  
  - Allows communities to create a local Community Preservation Fund to raise money through a surcharge of up to 3% on all property tax bills. CPA funds collected under the surcharge must be expended for allowed purposes under the Act (Open Space, Historic Preservation, Affordable Housing and Outdoor Recreation). The Act also creates a state matching fund, which may serve as an incentive to communities to pass the CPA.

- **Open Space Residential Design**  
  Have been created through a public process and Town Meeting vote: Riverbridge, Sawyer Hill LLC  
  - An approach to residential development that promotes open space preservation based on environmental and social priorities. It features partnership in development design between municipal officials and developers that provides innovative flexible incentives for highest marketability, mixed housing types and land uses, and minimal disturbance to the natural terrain.29

- **Transfer of Development Rights (TDR)**  
  - Is the exchange of zoning privileges from areas with low population needs, such as farmland, to areas of high population needs or capacity, such as downtown areas. These transfers allow for the preservation of open spaces and historic landmarks, while allowing the more urban areas to expand and increase in density.

- **Low Impact Development (LID)**  
  - An approach to the site planning process that first identifies critical natural resource areas for preservation. Then, once the building envelope is established, LID techniques, such as maintaining natural drainage flow paths, minimizing land clearance, clustering buildings, and reducing impervious surfaces are incorporated into the project design.

For each of the above strategies the Town should undertake a community outreach and planning process that seeks to inform its citizens along with its boards and committee members of the value of these preservation and development tools. Following the public process the Planning Board should assess the community’s support for the strategy and proceed accordingly.

**Responsible Municipal Entity:** The Planning Board

**Target Date:** 1-5 years

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29 Massachusetts Smart Growth/Smart Energy ToolKit
Preserve Community Character

**REVIEW OF MULTIPLE LOT ANR PROPOSALS**

The development of housing on multiple lots along existing roads has had a significant impact on Berlin’s rural character yet the Town has no authority under its existing zoning to review such projects. The potential for further major residential development projects of this type is of a continuing concern. The Town should consider creating a bylaw that grants authority to the Planning Board for Major Residential Review of proposed developments that create multiple lots and dwellings along an existing Town road. The purpose of the bylaw would be to ensure that new large scale residential development respects the character of the community and minimizes environmental impacts. Regulations could allow for municipal review of site planning issues such as the cumulative impacts of the proposed development in regards to drainage, storm water management, erosion control, and other environmental and neighborhood impacts.

**Responsible Municipal Entity:** The Planning Board  
**Target Date:** 1-3 years

*View from top of Sawyer Hill Road*

**DESIGN GUIDELINES**

Chapter 40B regulations found in 760 CMR 56.00 require subsidizing agencies, in making their determination of eligibility (for a Comprehensive Permit) to consider:

- if the site of the proposed Project is generally appropriate for residential development,
- if the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns

Developing design guidelines for areas the Town believes are appropriate for affordable housing is a proactive approach to guide development and to help preserve community character as subsidizing agencies can consider a town’s design guidelines in making its determination of eligibility for a Comprehensive Permit. In addition design guidelines can help residents visualize the impact affordable
housing may have on their community. Guidelines should be comprehensive but flexible and should address those site and design elements that the subsidizing agency has the authority to consider.

- Relationship to adjacent buildings and streets
- Building massing and scale
- Building typology
- Facade appearance and orientation
- Architectural and site details
- Design treatments of the edge
- Environmental resources
- Topography

Design guidelines for affordable housing should be developed through an open and inclusive public process. Funding for design guidelines may be eligible for Technical Assistance funding through Massachusetts Housing Partnership.30

**Responsible Municipal Entity:** The Planning Board with the Zoning Board of Appeals  
**Target Date:** Dependent on Comprehensive Permit Application

### Increase Municipal Capacity

The Town should work with Citizens’ Housing and Planning Association (CHAPA) and Mass Housing Partnership to develop a clear administrative and communication process. The procedure should assure that yearly summaries that document the history and status of affordable housing units that the agencies are responsible for are sent to the Berlin Housing Partnership. The Housing Partnership should also be notified whenever the status of a unit changes. This could allow the Partnership to alert potential buyers or renters that have contacted them of a potential opportunity.

**Responsible Municipal Entity:** The Berlin Housing Partnership  
**Target Date:** Immediately

Another way to build municipal capacity is to participate in a regional housing collaborative focused on the housing issues of the area’s smaller towns to allow the sharing of ideas, models, and experiences. It is not apparent that such a regional collaborative exists so it may be necessary to create a separate model for this purpose or request focus meetings or special sessions from existing regional housing organizations.

**Responsible Municipal Entity:** The Berlin Housing Partnership  
**Target Date:** Immediately

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30 The Massachusetts Housing Partnership (MHP) provides technical assistance to local Zoning Boards of Appeal (ZBA) in the review of permit applications for Comprehensive Permits pursuant to Chapter 40B of the Massachusetts General Laws (“Chapter 40B”) and the regulations promulgated there under at 760 C.M.R. 56.00 (the “Regulations”).

The purpose of the MHP Chapter 40B Technical Assistance Program is to assist the Zoning Board of Appeals, and other relevant municipal boards, in the review of specific Chapter 40B development proposals. MHP provides awards of up to $15,000 to municipalities to engage qualified third-party consultants to work with the ZBA to increase local capacity and to assist in the review and permitting process for development projects applying for Chapter 40B Comprehensive Permits.
Appendix

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

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

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

A. Developer Staff and Contractor Qualifications

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

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

- The entity has successfully carried out similar AFHMP responsibilities for a minimum of three (3) projects in Massachusetts or the individual with primary responsibility for the resident selection process has successfully carried out similar AFHMP responsibilities for a minimum of five (5) projects in Massachusetts.
• The entity has the capacity to address matters relating to English language proficiency.

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

B. **Affirmative Fair Housing Marketing Plan**

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

• Informational materials for applicants including a general description of the overall project that provides key information such as the number of market/affordable units, amenities, number of parking/garage spaces per unit, distribution of bedrooms by market and affordable units, accessibility, etc.

• A description of the eligibility requirements.

• Lottery and resident selection procedures.

• A clear description of the preference system being used (if applicable).

• A description of the measures that will be used to ensure affirmative fair marketing will be achieved including a description of the affirmative fair marketing and outreach methods that will be used, sample advertisements to be used, and a list of publications where ads will be placed.

• Application materials including:
  o The application form.
  o A statement regarding the housing provider’s obligation not to discriminate in the selection of applicants, and such a statement must also be included in the application materials.
  o Information indicating that disabled persons are entitled to request a reasonable accommodation of rules, policies, practices, or services, or to request a reasonable modification of the housing, when such accommodations or modifications are necessary to afford the disabled person equal opportunity to use and enjoy the housing.\(^1\)
  o An authorization for consent to release information.

• For homeownership transactions, a description of the use restriction and/or deed rider.

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\(^1\) It is important to remember that legal obligations with respect to accessibility and modifications in housing extend beyond the Massachusetts Architectural Access Board requirements, including federal requirements imposed by the Fair Housing Act, the Americans with Disabilities Act, and the Rehabilitation Act. Under state law, in the case of publicly assisted housing, multiple dwelling housing consisting of ten or more units, or contiguously located housing consisting of ten or more units (see M.G.L. c. 151B, § 1 for definitions), reasonable modification of existing premises shall be at the expense of the owner or other person having the right of ownership if necessary for the disabled person to fully enjoy the premises. M.G.L. c. 151B, § 4(7A). See also 24 C.F.R. part 8 for Rehabilitation Act requirements of housing providers that receive federal financial assistance.
The Subsidizing Agency must approve the AFHMP before the marketing process commences. In the case of a Local Action Unit (LAU), DHCD and the municipality must approve the AFHMP. The AFHMP shall be applied to affordable units upon availability for the term of affordability and must consist of actions that provide information, maximum opportunity, and otherwise attract eligible persons protected under state and federal civil rights laws that are less likely to apply.

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

- Advertisements should be placed in local and regional newspapers, and newspapers that serve minority groups and other groups protected under fair housing laws. Notices should also be sent to local fair housing commissions, area churches, local and regional housing agencies, local housing authorities, civic groups, lending institutions, social service agencies, and other non-profit organizations.

- Affordable units in the Boston Metro Area (Boston-Cambridge-Quincy MSA) must be reported to the Boston Fair Housing Commission’s Metrolist (Metropolitan Housing Opportunity Clearing House). Such units shall be reported whenever they become available (including upon turnover).

- Affordable and/or accessible rental units must be listed with the Massachusetts Accessible Housing Registry whenever they become available (including upon turnover). See http://www.chapa.org.

- Available affordable ownership units must also be listed with CHAPA’s lottery website (see http://www.chapa.org) and with the Massachusetts Affordable Housing Alliance (MAHA) website (see http://www.mahahome.org).

- Marketing should also be included in non-English publications based on the prevalence of particular language groups in the regional area. To determine the prevalence of a particular language by geographical area, see for example http://www.doleta.gov/reports/CensusData/LWIA_by_State.cfm?state=MA.

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

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

3 Note: The owner or other person having the right of ownership shall, in accordance with M.G.L. c. 151B, §4(7A), give at least fifteen days notice of the vacancy of a wheelchair accessible unit to the Massachusetts Rehabilitation Commission. Said statute also requires the owner or other person having the right of ownership to give timely notice that a wheelchair accessible unit is vacant or will become vacant to a person who has, within the past 12 months, notified the owner or person or person having the right of ownership that such person is in need of a wheelchair accessible unit.
Advertisements should run a minimum of two times over a sixty day period and be designed to attract attention. Marketing of ownership units should begin approximately six months before the expected date of project occupancy.

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

The Fair Housing logo (\textsuperscript{4}) and slogan (“Equal Housing Opportunity”) should be included in all marketing materials. The logo may be obtained at HUD’s website at: http://www.hud.gov/library/bookshelf11/hudgraphics/fheologo.cfm.

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

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

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

\section*{Homeownership – Establishing Sales Prices}
Sale prices shall be established at the time of the initial marketing of the affordable units. Thereafter, the prices of homes can not be increased for lottery winners, even if interest rates and HUD income guidelines change.

\textsuperscript{4} 42 U.S.C. § 3604(c); M.G.L. c. 151B, § 4(7B).
For large, phased developments maximum sale prices of units sold in subsequent phases will be
calculated prior to the start of marketing for each phase, or approximately 6 months prior to
expected occupancy of the units. In such cases, each phase will require its own affirmative fair
marketing efforts and lottery.

C. Local Preference

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

- Demonstrate in the AFHMP the need for the local preference (e.g., the community may
  have a disproportionately low rental or ownership affordable housing stock relative to
  need in comparison to the regional area); and

- Demonstrate that the proposed local preference will not have a disparate impact on
  protected classes.

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

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

Allowable Preference Categories

1. Current residents: A household in which one or more members is living in the city or
town at the time of application. Documentation of residency should be provided, such
as rent receipts, utility bills, street listing or voter registration listing.

2. Municipal Employees: Employees of the municipality, such as teachers, janitors,
firefighters, police officers, librarians, or town hall employees.

3. Employees of Local Businesses: Employees of businesses located in the municipality.

4. Households with children attending the locality’s schools, such as METCO students.

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

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

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

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

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

**Avoiding Potential Discriminatory Effects**

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

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

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

- The Developer should hold a preliminary lottery comprised of all minority applicants who did not qualify for the local preference pool, and rank the applicants in order of drawing.
- Minority applicants should then be added to the local preference pool in order of their rankings until the percentage of minority applicants in the local preference pool is equal to the percentage of minorities in the surrounding HUD-defined area.
- Applicants should be entered into all pools for which they qualify. For example, a local resident should be included in both pools.

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5 Note: This protective measure may not be dispositive with respect to discriminatory effects. For example, the non-local applicant pool may contain a disproportionately large percentage of minorities, and therefore adjusting the local preference pool to reflect demographics of the regional area may not sufficiently address the discriminatory effect that the local preference has on minority applicants. Therefore, characteristics of the non-local applicant pool should continually be evaluated.
• Minorities should be identified in accordance with the classifications established by HUD and the U.S. Census Bureau, which are the racial classifications: Black or African American; Asian; Native American or Alaska Native; Native Hawaiian or Pacific Islander; or other (not White); and the ethnic classification Hispanic or Latino.

D. **Household Size/ Larger Households Preference**

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

• Maximum allowable household size may not be more restrictive than the State Sanitary Code or applicable local bylaws, and may not violate state and federal civil rights laws.

• Maximum allowable household size may not be more restrictive than the Large Household Preference established below.

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

a. There is at least one occupant per bedroom.\(^6\)

b. A husband and wife, or those in a similar living arrangement, shall be required to share a bedroom. Other household members may share but shall not be required to share a bedroom.

c. A person described in the first sentence of (b) shall not be required to share a bedroom if a consequence of sharing would be a severe adverse impact on his or her mental or physical health and the lottery agent receives reliable medical documentation as to such impact of sharing.

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

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

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

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

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

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

The lottery application must address a household’s:
- income
- assets
- size and composition
- minority status (optional disclosure by the household)
- eligibility as a first-time buyer (for ownership units)
- eligibility for local preference

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

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

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

**Lottery Procedure**
Once all required information has been received, qualified applicants should be assigned a registration number. **Only applicants who meet the eligibility requirements shall be entered into a lottery. The lottery shall be conducted after any appeals related to the project have been completed and all permits or approvals related to the project have received final action.**

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

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

\(^8\) In the case of project based Section 8 properties where resident selection is to be performed by the housing authority pursuant to a Section 8 waiting list, a lottery procedure is not required.
appropriately sized households for smaller units. This process continues until all available units have been assigned to appropriately sized applicant households.

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

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

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

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

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

- Total applicants in lottery: 100
- Total minority applicants: 20
- The community in which the lottery takes place falls within the HUD Boston Metropolitan Statistical Area which has a minority population of 20.7%.

1. Determine the number of applicants who claim a LOCAL preference according to approved criteria.

2. Determine the number of minority applicants in the LOCAL preference pool.

3. Determine the percentage of minority applicants in the LOCAL preference pool.

<table>
<thead>
<tr>
<th>Total Applicants in Local Preference Pool</th>
<th>Total Minority Applicants in Local Preference Pool</th>
<th>% Minority Applicants in Local Preference Pool</th>
</tr>
</thead>
<tbody>
<tr>
<td>60</td>
<td>10</td>
<td>16.7%</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Applicants in Supplemented Local Preference Pool</th>
<th>Total Minority Applicants in Supplemented Local Preference Pool</th>
<th>% Minority Applicants in Supplemented Local Preference Pool</th>
</tr>
</thead>
<tbody>
<tr>
<td>64</td>
<td>14</td>
<td>21.8%</td>
</tr>
</tbody>
</table>

5. Draw all ballots from the adjusted LOCAL pool and assign rankings to each household. Preference for appropriately sized households will still apply and all efforts should be made to match the size of the affordable units to the legitimate need for bedrooms of each household.

6. Once all units for LOCAL residents have been allocated, the OPEN pool should proceed in a similar manner. All LOCAL residents should have ballots in both pools, and all minority applicants that were put in the LOCAL pool should remain in the OPEN pool as well.

**F. Homeownership**

1. Household Eligibility

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

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

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

b. single parents, where the individual owned a home with his or her partner or resided in a home owned by the partner and is a single parent (is unmarried or legally separated from a spouse and either has 1 or more children of whom the individual has custody or joint custody, or is pregnant);

c. households where at least one household member is 55 or over;

d. households that owned a principal residence not permanently affixed to a permanent foundation in accordance with applicable regulations; and
e. households that owned a property that was not in compliance with State, local or model building codes and that cannot be brought into compliance for less than the cost of constructing a permanent structure.

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

2. Final Qualification and Closing

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

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

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

3. Resales

AFHMP requirements apply to the housing for its duration. The AFHMP must include a plan, satisfactory to the Subsidizing Agency (to DHCD and the municipality in the case of a LAU), to address AFHMP requirements upon resale. The proposal must, at a minimum, require that units for re-sale to eligible purchasers be listed with CHAPA and MAHA's homeownership lottery sites as described above and establish minimum public advertising requirements. The proposal cannot impose the AFHMP requirements upon a homeowner other than requiring compliance with requirements of a Use Restriction, reasonable public advertising, and listing with CHAPA and MAHA.

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