

760 CMR 76.00: SEASONAL COMMUNITIES

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76.01: Statement of Purpose

The Seasonal Community designation was established by St. 2024, c. 150, § 5 and creates a framework for designating communities with substantial seasonal variations in employment and developing policies and programs to help them unlock production and preservation opportunities for affordable and attainable year-round housing. The designation is designed to recognize the unique challenges in these municipalities and to create distinctive tools to address their housing needs. To effectuate St. 2024, c. 150, § 5, 760 CMR 76.00, establishes frameworks for the implementation of the powers made available to, and the requirements placed upon, a Seasonal Community.

76.02: Definitions

Acquired. To purchase or obtain ownership of a Dwelling Unit in fee simple or to otherwise purchase or obtain a leasehold interest in a Dwelling Unit.

Affordable Housing Restriction. As defined in M.G.L. c. 184, § 31 and approved by EOHLIC pursuant to M.G.L. c. 184, § 32.

Area Median Income or AMI. The area median household income as determined by the United States Department of Housing and Urban Development.

Artist Housing. An Attainable Housing Unit that is designed for occupancy by households containing at least one person who by vocation produces or supports artistic and literary activities as may be defined by a Seasonal Community and will use the Dwelling Unit in pursuit of the artistic or literary vocation.

As of Right. As defined in M.G.L. c. 40A, § 1A.

Attainable Housing Unit. A Year-round Housing Unit that is subject to an Affordable Housing Restriction or any other use restriction, whether stated in the form of a deed restriction, easement, covenant or condition in any deed, mortgage, will, agreement, lease, or other legally binding instrument, executed by or on behalf of the owner of the land that limits occupancy to an individual or household with income that does not exceed 250% AMI, or such lower limit as may be established by a Seasonal Community. Nothing in 760 CMR 76.00 changes the Subsidized Housing Inventory eligibility criteria, and no Attainable Housing Unit shall be counted on the Subsidized Housing Inventory unless it satisfies the requirements for the Subsidized Housing Inventory under 760 CMR 56.03(2) or any other regulation or guidance issued by EOHLIC.

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Board. The board of trustees for a Trust.

Building Code. The Massachusetts state building code, 780 CMR.

Commissioner. The Commissioner of the Department of Revenue.

Comprehensive Housing Needs Assessment. An assessment of housing needs in a Seasonal Community in accordance with 760 CMR 76.08.

County Agency. Any department or office of county government and any division, board, bureau, commission, district, institution, tribunal, authority or other instrumentality thereof or thereunder.

County Employee. A person holding an office, position, employment, or membership in a County Agency that serves a Seasonal Community, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, or intermittent basis.

Detached Dwelling Unit. A Dwelling Unit that shares no common or contiguous wall with another building or structure.

Developed. The construction or rehabilitation of a Dwelling Unit, which may include direct financial assistance, property tax relief or donation of municipal land; provided, however, that the term "developed" shall not include technical assistance or other supportive services.

Dwelling Unit. A single housing unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Endorsement. The signing of a plan of land by the Planning Board of a Seasonal Community pursuant to the subdivision control law under M.G.L. c. 41, §§ 81K through 81GG, certifying either approval of the plan of land or that approval under the subdivision control law is not required.

EOHLC. The Executive Office of Housing and Livable Communities established pursuant to M.G.L. c. 23B.

EOHLC Office of Fair Housing. The office of fair housing established pursuant to M.G.L. c. 23B, § 31.

Fair Housing Complaint. A complaint alleging housing discrimination pursuant to a state, federal, or local anti-discrimination law, including but not limited to, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), Title VI of the Civil Rights Act (42 U.S.C. 2000d *et seq.*), and M.G.L. c. 151B, as amended, brought through any of the following:

- (a) private right of action filed in state or federal court or with the United States Department of Housing and Urban Development, the Massachusetts Commission Against Discrimination, or similar local agency with authority to investigate, adjudicate, and enforce such complaints, or
- (b) brought by the United States Department of Housing and Urban Development, the United States Department of Justice, the Massachusetts Commission Against Discrimination, the Massachusetts Office of the Attorney General, or a local agency with similar authority to bring such complaints.

Floor Area. The sum of the areas of a Dwelling Unit of compliant ceiling height pursuant to the Building Code, measured from the interior faces of exterior walls but excluding crawl spaces, lofts, enclosed porches and similar spaces.

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Frontage. The horizontal distance between the side boundaries of a Lot, measured along the front Lot line abutting a street, way, or other means of physical access, as may be defined by a Seasonal Community.

Internal Revenue Code. The United States Internal Revenue Code.

Local Building Code. Rules and regulations imposing more restrictive standards than those established by the Building Code for construction, alteration, repair, demolition, and removal in a city or town that have been approved by the Board of Building Regulations and Standards pursuant to M.G.L. c. 143, § 98.

Lot. An area of land with definite boundaries that is used, or available for use, as the site of a structure, or structures.

Movable Tiny House. A Tiny House that is a House Trailer or Auto Home, as defined in M.G.L. c. 90, § 1 or has been determined by the registrar of motor vehicles to be a motor vehicle, as defined in M.G.L. c. 90, § 1 and is required to be registered pursuant to M.G.L. c. 90.

Municipal Agency. Any department or office of a city or town government and any council, division, board, bureau, commission, district, regional school district, institution, tribunal, authority or other instrumentality thereof or thereunder.

Municipal Employee. A person holding an office, position, employment or membership in a Municipal Agency of a Seasonal Community, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, or intermittent basis, but excluding

- (a) elected members of a town meeting and
- (b) members of a charter commission established under Article LXXXIX of the Amendments to the Constitution.

Planning Board. As defined in M.G.L. c. 41, § 81L.

Primary Residence. The primary place of residence for an individual or household as determined by a Seasonal Community.

Recording. A deed or other title instrument establishing that the Lot that has been duly recorded in the registry of deeds or registered in the district of the land court in the county where the Lot is located.

Regional Trust. A Year-Round Housing Trust Fund created pursuant to M.G.L. c. 23B, § 32(d)(iv) for the participation and benefit of more than one Seasonal Community.

Residential Property Tax Exemption. The residential property tax exemption for class one, residential properties adopted pursuant to M.G.L. c. 59, § 5C that is applied only to the principal residence of a taxpayer as used by the taxpayer for income tax purposes.

Seasonal Community Essential Public Employee. A household where at least one person is a Municipal Employee, County Employee or State Employee whose employment is necessary to the public health and public safety of maintaining a year-round community in a Seasonal Community, including, but not limited to, teachers at public institutions, public works employees, public safety employees, publicly employed first responders, town administrators and other employees essential for municipal operations.

Seasonal Community. A municipality that has been designated as a seasonal community and has accepted such designation pursuant to M.G.L. c. 23B, § 32(b).

Secretary. The Secretary of EOHLIC.

Setback. The minimum linear distance between a boundary of a Lot and a structure located on said Lot.

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Single-family Residential Zoning District. Any Zoning District where single-family residential dwellings are a permitted or an allowable use, including any Zoning District where single-family residential dwellings are allowed As of Right or by Special Permit.

Special Permit. A permit issued by a Municipality's special permit granting authority pursuant to M.G.L. c. 40A, § 9.

State Agency. Any department of state government including the executive, legislative or judicial, and all councils thereof and thereunder, and any division, board, bureau, commission, district, institution, tribunal, authority or other instrumentality within such department, and any independent state authority, district, commission, instrumentality or agency.

State Employee. A person holding an office, position, employment, or membership in a State Agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, or intermittent basis.

Subsidized Housing Inventory. As defined in 760 CMR 56.02: *Definitions*.

Tiny House. A Detached Dwelling Unit that is the principal dwelling on a Lot and is not more than 400 square feet in Floor Area.

Trust. A Year-Round Housing Trust Fund created pursuant to M.G.L. c. 23B, § 32(d)(iv), including Regional Trusts.

Undersized Lot. A Lot that at the time of Recording or Endorsement is located in a Single-family Residential Zoning District, does not meet the minimum Lot size requirements for the Zoning District and has not merged with an adjacent Lot under common ownership.

Year-round Housing Occupancy Restriction. A limitation on the use and occupancy of a Dwelling Unit, whether or not stated in the form of a deed restriction, easement, covenant or condition in any deed, mortgage, will, agreement, lease or other legally binding instrument, executed by or on behalf of the owner of the land that limits occupancy to individuals or households who have executed an agreement with a Seasonal Community, or its designee, to occupy the Dwelling Unit as their Primary Residence for not less than ten months in a 12-month period, subject to reasonable exceptions for temporary absences as may be included in such agreement. Such agreement shall be recorded with the registry of deeds or registered in the district of the land court in the county where the Dwelling Unit is located and shall be made part of the deed that encumbers such Dwelling Unit.

Year-round Housing Unit. A Dwelling Unit located in a Seasonal Community that is subject to a Year-round Housing Occupancy Restriction.

Zoning. Ordinances and by laws, including base, underlying, and overlay zoning, adopted by cities and towns to regulate the use of land, buildings and structures to the full extent of the independent constitutional powers of cities and towns to protect the health, safety and general welfare of their present and future inhabitants.

Zoning District. A geographic area within a Municipality which, pursuant to Zoning, is subject to use and structure requirements that are uniform within the area.

76.03: Municipal Acceptance or Denial of a Seasonal Communities Designation

(1) A municipality that has received a Seasonal Community designation pursuant to M.G.L. c. 23B, § 32(b) shall accept or deny such designation by majority vote of the municipal legislative body pursuant to M.G.L. c. 4, § 4 and shall notify the Secretary of the result of said vote within ten business days via certified mail, or any other method specified by the Secretary.

(2) A municipality that has accepted a designation pursuant to 760 CMR 76.03(1) may revoke such designation in the same manner as acceptance.

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(3) A municipality that votes to deny a designation under 760 CMR 76.03(1) may subsequently accept the designation by majority vote of the municipal legislative body and notify the Secretary pursuant to 760 CMR 76.03(1) without the need for redesignation pursuant to M.G.L. c. 23B, § 32(b).

76.04: Zoning Requirements

(1) A Seasonal Community shall amend its Zoning to allow the following uses As of Right in Single-family Residential Zoning Districts, in accordance with the procedures for Zoning adoption and amendment set forth in M.G.L. c. 40A:

(a) A Seasonal Community shall amend its Zoning to allow Tiny Houses As of Right in Single-family Residential Zoning Districts, provided that such As of Right Zoning for Tiny Houses shall include the following:

1. A requirement that Tiny Houses shall be Year-round Housing Units;
2. A requirement that Tiny Houses shall comply with all applicable requirements of the Building Code and all applicable requirements of the Local Building Code, if any; and
3. Provisions that may allow or further regulate Movable Tiny Houses.

(b) A Seasonal Community shall amend its Zoning to allow Attainable Housing Units on Undersized Lots As of Right in Single-family Residential Zoning Districts, provided that such As of Right Zoning for Attainable Housing Units on Undersized Lots shall require the following:

1. As of Right Zoning for Attainable Housing Units on Undersized Lots established pursuant to this section shall, at a minimum, allow Attainable Housing Units As of Right if the Undersized Lot is at least 10,000 square feet or 25% of the minimum lot size for the Single-family Residential Zoning District where the Undersized Lot is located, whichever is greater; provided, however, that nothing in 760 CMR 76.04 prohibits a Seasonal Community from establishing more permissive Lot size requirements for the As of Right development of Attainable Housing Units on Undersized Lots.

2. As of Right Zoning for Attainable Housing Units on Undersized Lots established pursuant to this section shall not require more than one foot of Setback for every 1,000 square feet of Lot size; provided however, that in no event shall a Setback requirement exceed 15 feet and in no event shall a Frontage requirement exceed 20 feet; and provided further, that nothing in 760 CMR 76.04 prohibits a Seasonal Community from establishing more permissive Setback requirements for the As of Right development of Attainable Housing Units on Undersized Lots.

3. Any single-family residential Dwelling Unit allowed As of Right on an Undersized Lot under Zoning established pursuant to 760 CMR 76.04 shall:

- a. to the extent required by the Seasonal Community, adhere to any applicable floor to area ratio requirements of the Seasonal Community and
- b. comply with all applicable federal, state, regional and municipal laws or regulations governing wastewater and sewer systems, provided that any such regional or municipal law or regulation shall not be more restrictive than any federal or state law or regulation, unless a more restrictive regional or municipal law or regulation is necessary to address one or more specific and articulable concerns directly related to public health, safety or welfare and such concerns cannot reasonably be mitigated by alternative means.

4. Any Dwelling Unit, whether an Attainable Housing Unit, or otherwise, that is built on an Undersized Lot under Zoning created pursuant to 760 CMR 76.04(1)(b) shall be subject to a Year-round Occupancy Restriction and shall comply with any applicable prohibitions, limitations, or other requirements of the Seasonal Community related to seasonal homes, as defined by the Seasonal Community, or short-term rentals, as defined by the Seasonal Community, provided that in no event shall a Seasonal Community allow the use of any Dwelling Unit on an Undersized Lot as a seasonal home or short-term rental for less than six months in a year.

(c) Nothing contained within 760 CMR 76.00 is intended to supersede or conflict with any federal law which may be applicable to Zoning adopted by a Seasonal Community pursuant to 760 CMR 76.04.

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- (2) A Seasonal Community shall:
- (a) Submit to EOHLC the text of Zoning adopted pursuant to 760 CMR 76.04(1) in the following manner:
1. for Seasonal Communities subject to Attorney General review and approval pursuant to M.G.L. c. 40, § 32, no later than 60 days from final Attorney General action on the submission; or
  2. for Seasonal Communities not subject to Attorney General review and approval pursuant to M.G.L. c. 40, § 32, not later than 60 days from adoption by the Seasonal Community.
- (b) Maintain a record of all development permitted under such Zoning established pursuant to 760 CMR 76.04(1), which shall include, but not be limited to, the address, gross floor area, and any income restrictions that apply to Dwelling Units developed under such Zoning, and make such record available to EOHLC upon request.

76.05: Year-round Housing Trust Fund

- (1) A Seasonal Community may establish a Trust to provide for the creation and preservation of Attainable Housing Units for the benefit of year-round residents.
- (2) A Seasonal Community may establish a Trust by a majority vote of the municipal legislative body under M.G.L. c. 4, § 4 and may establish a Regional Trust with other Seasonal Communities, provided that each Seasonal Community participating in such Regional Trust accepts its participation in the Regional Trust by a majority vote of the municipal legislative body.
- (3) A Regional Trust shall expire after a set term of calendar years agreed upon by all members to said trust, measured from the date of its creation or reauthorization, unless specifically reauthorized for a subsequent period by all Seasonal Communities participating in such Regional Trust. If EOHLC revokes the designation of a Seasonal Community participating in a Regional Trust pursuant to 760 CMR 76.12, the Seasonal Community that has had its designation revoked may continue to participate in said Regional Trust only until the expiration of such term, or after five years from the creation or authorization of said Regional Trust, whichever is sooner.
- (4) Each Trust shall have a Board, which shall include not less than five trustees.
- (5) A Board for a Trust that is not a Regional Trust shall include the chief executive officer, as defined by M.G.L. c. 4, § 7, of the city or town, or its designee, and where the chief executive officer is a multi-member body, that body shall designate one of its members to serve on the Board. All other trustees of such Board shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the select board.
- (6) A Board for a Regional Trust shall include, to the extent that it is practicable, not less than one resident from each Seasonal Community participating in such Regional Trust. A trustee from each Seasonal Community shall be appointed in a city by the mayor or by the city manager in a Plan D or Plan E municipality, subject in either case, to confirmation by the city council, and in a town by the select board unless the Regional Trust has established a process for participating Seasonal Communities to appoint, elect, or otherwise designate trustees, provided that a Regional Trust shall ensure, to the extent practicable, representation from each community participating in the Trust.
- (7) Trustees of a Board for a Trust or Regional Trust shall serve for a term not to exceed three years and may be reappointed for successive terms.
- (8) A trustee of a Board for a Trust or Regional Trust may, to the extent not otherwise prohibited by law, serve on any other municipal board or committee, including, but not limited to a board of trustees established pursuant to M.G.L. c. 44, § 55C.

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(9) The powers of the Board, all of which shall be carried out in furtherance of the purpose of the Trust and in accordance with M.G.L. c. 44B and M.G.L. c. 23, § 32, shall include, to the extent not otherwise prohibited by law, the following powers, which may be modified or omitted to the extent authorized by law:

- (a) To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property, including a Year-round Housing Occupancy Restriction, tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from M.G.L. c. 44B; provided, however, that any such money received from M.G.L. c. 44B shall be used exclusively for community housing, as defined in M.G.L. c. 44B, § 2, and shall remain subject to all the rules, regulations and limitations of M.G.L. c. 44B when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from M.G.L. c. 44B are reported to the community preservation committee of the city or town for inclusion in the community preservation initiatives report to the department of revenue;
- (b) To purchase and retain real or personal property;
- (c) To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the board deems advisable notwithstanding the length of any such lease or contract;
- (d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Board engages for the accomplishment of the purposes of the Trust;
- (e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Board deems necessary;
- (f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Board deems advisable;
- (g) To apportion receipts and charges between incomes and principal as the Board deems advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- (h) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
- (i) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Board may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Board may deem necessary and appropriate;
- (j) To carry property for accounting purposes other than acquisition date values;
- (k) To borrow money on such terms and conditions and from such sources as the Board deems advisable, to mortgage and pledge trust assets as collateral;
- (l) To make distributions or divisions of principal in kind;
- (m) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and to continue to hold the same for such period of time as the Board may deem appropriate;
- (n) To manage or improve real property, including but not limited to subdividing said real property; and to abandon any property which the Board determined not to be worth retaining;
- (o) To hold all or part of the trust property uninvested for such purposes and for such time as the Board may deem appropriate;
- (p) To extend the time for payment of any obligation to the Trust; and
- (q) Any additional powers authorized by any general law or special law.

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- (10) To the extent authorized by law, moneys paid to the Trust in accordance with any zoning ordinance or by-law, fee, or private contribution may be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust may, to the extent authorized by law, become Trust property and, to the extent authorized by law, need not be further appropriated. All moneys remaining in the trust at the end of any fiscal year, whether or not expended by the Board within one year of the date they were appropriated into the Trust, may, to the extent authorized by law, remain Trust property.
- (11) To the extent required by law, the Trust shall be a public employer and the members of the board shall be public employees for purposes of M.G.L. c. 258.
- (12) To the extent required by law, the Trust shall be deemed a municipal agency and the Trustees special municipal employees, for purposes of M.G.L. c. 268A.
- (13) The books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices.
- (14) To the extent required by law, the trust shall be a governmental body.

76.06: Housing Preference for Seasonal Community Essential Public Employees

- (1) A Dwelling Unit Acquired or Developed by a Seasonal Community may include a preference for Seasonal Community Essential Public Employees, subject to the following limitations:
- (a) A Seasonal Community Essential Public Employee preference for a Dwelling Unit shall not violate state and federal fair housing laws, which include but are not limited to, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), Title VI of the Civil Rights Act (42 U.S.C. 2000d *et seq.*), and M.G.L. c. 151B, as amended, including through discriminatory effects on classes of persons protected under such state or federal fair housing laws; and
  - (b) A Seasonal Community Essential Public Employee preference for a Dwelling Unit that is otherwise eligible for the Subsidized Housing Inventory or is assisted by EOHLC shall comply with all of the following:
    1. EOHLC Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines or other related EOHLC guidance or directives pertaining to affirmative fair housing marketing and resident selection, as may be required by EOHLC, and as may be amended from time to time; and
    2. Applicable state and federal subsidy program requirements.
- (2) A preference for Seasonal Community Essential Public Employees under 760 CMR 76.06(1) may be cited as a state program or policy supporting housing for a specified group for the purposes of the general public use requirement under § 42(g)(9) of the Internal Revenue Code so long as the preference otherwise complies with applicable law and the Seasonal Community has complied with the requirements under 760 CMR 76.06(3).
- (3) A Seasonal Community implementing a Housing Preference for Seasonal Community Essential Public Employees under this section shall gather and maintain records including:
- (a) A narrative describing the need for the preference, supported by data collected by the Seasonal Community and any public input presented to the Seasonal Community as may be available.
  - (b) A narrative describing how the Seasonal Community determined the employment types that are necessary to the public health and public safety of maintaining a year-round community in the Seasonal Community.
  - (c) A narrative describing how the preference will be applied to tenant selection for a Dwelling Units subject to such preference.

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(d) The number of Dwelling Units within the Seasonal Community that the preference applies to. For each Dwelling Unit where the preference applies, the Seasonal Community shall gather and maintain the following:

1. The date that such preference was applied to the unit;
2. Whether the unit is an Attainable Housing Unit and the income requirements for occupancy;
3. Whether the unit is a rental unit or owner-occupied; and
4. The number of bedrooms in the unit.

(e) To the extent feasible, a summary of demographic information of applicant and resident households of Dwelling Units subject to the preference, in a form as may be designated by the Secretary.

(4) A Seasonal Community implementing a Housing Preference for Seasonal Community Essential Public Employees under 760 CMR 76.06 shall make available all records gathered and maintained pursuant to 760 CMR 76.06(3) upon reasonable request by EOHLIC, in a form that may be designated by the Secretary.

(5) A Seasonal Community implementing a Housing Preference for Seasonal Community Essential Public Employees under 760 CMR 76.06 shall provide written notice to the EOHLIC Office of Fair Housing within ten days of any of the following:

- (a) receipt of notice of any Fair Housing Complaint against the Seasonal Community pertaining to such preference; and
- (b) receipt of any information that demonstrates, or may demonstrate upon reasonable investigation, the existence of a Fair Housing Complaint against an owner, manager or agent thereof of a Dwelling Unit subject to such preference.

76.07: Artist Housing

(1) A Seasonal Community may expend funds designated for the creation and preservation of Artist Housing, subject to the following limitations:

- (a) Artist Housing shall not violate state and federal fair housing laws, which include but are not limited to, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), Title VI of the Civil Rights Act (42 U.S.C. 2000d *et seq.*), and M.G.L. c. 151B, as amended, including through discriminatory effects on classes of persons protected under such state or federal fair housing laws;
- (b) Artist Housing that is otherwise eligible for the Subsidized Housing Inventory or is assisted by EOHLIC shall comply with all of following:
  1. EOHLIC Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines or other related EOHLIC guidance or directives pertaining to affirmative fair housing marketing and resident selection, as may be required by EOHLIC, and as may be amended from time to time; and
  2. applicable state and federal subsidy program requirements.

(2) A Seasonal Community expending funds designated for the creation and preservation of Artist Housing under this section shall gather and maintain records including, but not limited to:

- (a) A narrative describing the need for the creation and preservation of Artist Housing, supported by data collected by the Seasonal Community and any public input presented to the Seasonal Community as may be available;
- (b) A narrative describing how the Artist Housing will be designed to support the pursuit of artistic or literary vocations; and
- (c) A narrative describing how a household's qualification for Artist Housing will be fairly determined and applied to tenant selection for Artist Housing.

(3) A Seasonal Community expending funds for Artist Housing under this section shall provide written notice, in a form provided by EOHLIC, to the EOHLIC Office of Fair Housing within ten days of any of the following:

- (a) receipt of notice of any Fair Housing Complaint against the Seasonal Community pertaining to Artist Housing and

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- (b) receipt of any information that demonstrates, or may demonstrate upon reasonable investigation, the existence of a Fair Housing Complaint against an owner, manager or agent thereof of Artist Housing.

76.08: Comprehensive Housing Needs Assessment

- (1) A Seasonal Community may expend funds to develop a Comprehensive Housing Needs Assessment, up to but no more frequently than twice per calendar year, which shall at a minimum examine the following:
  - (a) The Seasonal Community's existing demographics and housing stock, along with a projection of future population and housing needs;
  - (b) The capacity of existing infrastructure to accommodate current population and anticipated future growth in the Seasonal Community; and
  - (c) Housing development constraints and limitations on its current and future needs, including but not limited to availability and capacity of water and sewer infrastructure, availability of developable land, and environmental factors limiting housing development.

76.09: Year-round Housing Occupancy Restrictions

- (1) A Seasonal Community, a Trust, or a Regional Trust of which it is a member, may require, hold and enforce a Year-round Housing Occupancy Restriction for rental or other housing created pursuant to 760 CMR 76.04, 760 CMR 76.05 and 760 CMR 76.07.
- (2) A Year-round Housing Occupancy Restriction held by a Seasonal Community shall, to the extent authorized under M.G.L. c. 184, be exempt from the following:
  - (a) the requirements under M.G.L. c. 184, §§ 27 through 30; and
  - (b) the procedural requirements under M.G.L. c. 184, § 32.
- (3) If a Year-round Housing Occupancy Restriction held by a Seasonal Community provides no term limit, then such restriction shall be subject to the 30 year limitation imposed by M.G.L. c. 184, § 23, unless eligible for exemption pursuant to M.G.L. c. 184, § 23.
- (4) If a Dwelling Unit is subject to an Affordable Housing Restriction, the holder of the Year-round Housing Occupancy Restriction shall execute an agreement to subordinate obligations and covenants under the Year-round Housing Occupancy Restriction to the obligations and covenants under the Affordable Housing Restriction.
- (5) A Seasonal Community shall maintain a record of all Year-round Housing Occupancy Restrictions within the Seasonal Community, including the address and any income restrictions placed on Dwelling Units subject to said Year-round Housing Occupancy Restrictions, and shall make said record available to EOHLC upon request.

76.10: Residential Exemption

- (1) Pursuant to M.G.L. c. 23B, § 32(f), a Seasonal Community that has adopted the Residential Property Tax Exemption, may, at the option of the board of selectmen or mayor, with the approval of the city council, as the case may be, increase such exemption to not more than 50% of the average assessed value of all class one, residential, parcels within such city or town.
- (2) Upon request by the Commissioner, a Seasonal Community shall provide to the Commissioner evidence of its acceptance of the Seasonal Community designation and evidence of its vote to increase the residential property tax exemption under 760 CMR 76.10(1). The Commissioner may require modifications to a proposed increase to ensure efficient and lawful administration of local property tax collection, including but not limited to, establishing an effective date for the exemption increase.

7.10: continued

(3) A city or town that has revoked a Seasonal Community designation pursuant to 760 CMR 76.03(2) or had a Seasonal Community designation revoked by EOHLC pursuant to 760 CMR 12.00 shall not continue to provide an increase to the Residential Property Tax Exemption pursuant to 760 CMR 76.10(1) and shall be limited to a Residential Property Tax Exemption that does not exceed the maximum exemption provided under M.G.L. c. 59, § 5C.

(4) Nothing in this section shall be construed to modify any other requirements of M.G.L. c. 59, § 5C.

76.11: Waivers

A Seasonal Community may apply to EOHLC for a waiver from any of the requirements under M.G.L. c. 23B, § 32 and any of the requirements under 760 CMR 76.00 by submitting a form developed by EOHLC which shall require the Seasonal Community to provide a written statement of facts on which such waiver request is based and any supporting documentation, and any additional information as may be required by EOHLC. In deciding whether to grant a waiver, EOHLC may consider whether the requirement that the Seasonal Community has requested a waiver for can reasonably be carried out by existing staff or a regional staff person performing equivalent duties and whether compliance with the requirement will result in undue hardship.

76.12: Revocation of Designation

EOHLC may revoke a Seasonal Community designation under any of the following circumstances:

(a) The Seasonal Community fails to adopt zoning pursuant to 760 CMR 76.04(1) within 24 months from the effective date of 760 CMR 76.00 or 24 months from the local acceptance of the designation pursuant to 760 CMR 76.03, whichever is later;

(b) The Seasonal Community does not meaningfully permit new residential units under zoning established pursuant to 760 CMR 76.04(1). For the purposes of 760 CMR 76.12, EOHLC may use the following factors to determine whether a Seasonal Community has meaningfully permitted new residential units:

1. The number of Year-round Housing Units in the Seasonal Community;
2. The number of Year-round Housing Units permitted under zoning adopted by a Seasonal Community pursuant to 760 CMR 76.04(1);
3. The annual percentage increase in Year-round Housing Units in a Seasonal Community; and
4. The annual gross number of Year-round Housing Units in a Seasonal Community.

(c) EOHLC determines that the Seasonal Community no longer satisfies the criteria for designation pursuant to M.G.L. c. 23B, § 32(b), on which data may be reassessed from time to time, provided, however, that EOHLC may only revoke a Seasonal Community's designation based on that community's consistent failure to satisfy said criteria over five or more consecutive years.

REGULATORY AUTHORITY

St. 2024, c. 150, § 5; M.G.L. c. 23B, § 32(h).