

1 4.9 PROVISIONS TO ENCOURAGE THE DEVELOPMENT OF AFFORDABLE HOUSING IN DENNIS

2
3 4.9.1. **PURPOSE AND AUTHORITY.**

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5 The purpose of Section 4.9 is to further the goal of encouraging various lot sizes and housing types for
6 persons of various age and income levels in accordance with Massachusetts General Laws, Chapter 40A,
7 Section 9 which allows municipalities to adopt "incentive" ordinances for the creation of affordable year-
8 round housing, and for the purpose of:

- 9 a.) helping people who, because of rising land prices, have been unable to obtain suitable
10 housing at an affordable price and,
11 b.) maintaining a stable economy by preventing out-migration of residents who provide
12 essential services.

13 The Planning Board is hereby designated the special permit granting authority (SPGA) for all Affordable
14 Housing Development and Affordable Housing Apartment applications under this by-law (4.9), and shall
15 have the power to hear and decide applications for special permits as provided by this section. The Planning
16 Board may adopt regulations for carrying out its duties under this By-law. At least 25% of all housing units
17 created under Section 4.9 shall be year-round, deed-restricted Affordable Housing units as provided for under
18 4.9.4 (Affordable Housing Restriction) and placed on the Subsidized Housing Inventory (SHI) by the
19 applicant and go through the required process to house eligible tenants as required by the State. Another 25%
20 of all housing units created under Section 4.9 (if the deed-restricted Affordable units are only 25%) shall be
21 year-round housing units that are affordable per the guidelines but which need not go through the State
22 mandated deed-restriction and tenant selection process but which must comply with a recorded Special Permit
23 Contract between the developer and the Town. If there are more than 25% SHI units then there may be less
24 than 25% locally affordable units so long as the total of SHI listed and locally affordable is at least 50% of the
25 units with at least 25% on the SHI. At least 75% of all housing units created under Section 4.9 shall be year-
26 round housing units. There shall be no Short-Term Rentals in the year-round housing units.- At least 25% of
27 the total number of bedrooms within any Affordable Housing Development shall be within said restricted
28 housing units.

29 For the purposes of creating Affordable Housing under this bylaw (4.9) there are several methods, some with
30 slightly different requirements, for creating new units. These include:

- 31 1. Affordable Housing Developments (4.9.#);
32 2. Affordable Housing Apartment(s) (4.9.#);
33 3. Affordable Housing Apartments Accessory to Commercial Uses (4.9.#);
34 4. Affordable Lots (4.9.#); and
35 5. Municipally Sponsored Affordable Housing Projects (4.9.#).

36
37 Other methods to create affordable residential units include the following:

- 38 A. § 4.11 Accessory Dwelling Units.
39 B. Security Apartment (§ 2.2.2 – Use Regulation Schedule and § 5 – Definitions)

40 See Definitions below

41
42 4.9.1.1 **PROJECT APPROVAL REQUIREMENTS.** The Planning Board shall consider the following
43 factors in determining whether to approve or deny a special permit under this By-law:

- 44
45 (a) whether the applicant has conformed to the design standards of this By-law and will deliver the
46 needed affordable units;
47 (b) whether the proposed development site plan is designed in its site allocation, proportions,

orientation, materials, landscaping and other features as to provide a stable and desirable character complementary and integral with the site's natural features;~~(The Planning Board shall make a specific finding in its decision for each item);~~ and

(c) whether the development, density increase or relaxation of zoning standards has a material, detrimental effect on the character of the neighborhood or Town and is consistent with the performance standards of the Dennis Zoning By-law.

(d) Need more and more specific criteria and findings.

(e)

4.9.42 AFFORDABLE HOUSING RESTRICTIONS

4.9.4.1 As a condition to any special permit issued under Section 4.9, the applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to the Planning Board. The special permit shall not be exercised until the applicant records the Restriction in the Registry of Deeds and an attested copy of the recording is delivered to the Planning Board.

4.9.4.2 At least 25% of the housing units created under Section 4.9.2, Affordable Housing Development), or more if required, shall be subject to a Restriction and a Regulatory Agreement between the developer and the Town and approved by the Executive Office of Housing and Livable Communities (EOHLC – formerly DHCD). The Restriction shall provide that units made available for ownership shall be made available at a cost including mortgage interest, principal, taxes, insurance and common charges not exceeding 30% of annual income for a household at or below 80% of Barnstable County median income, and shall be sold to households earning at or below 80% of the Barnstable County median income. The Restriction shall limit the re-sale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with Executive Office of Housing and Livable Communities (EOHLC – formerly DHCD) Massachusetts Department of Housing and Community Development’s (“DHCD”) regulations and guidelines under Chapter 40B of the Massachusetts General Laws. For qualification of housing units towards a-the Town’s subsidized housing inventory (SHI). The restriction shall provide that the Affordable units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.3 An Affordable Housing Apartment created under subsection 4.9.3 shall be subject to a Restriction, which shall provide that units made available for rental shall be rented at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.

4.9.4.4 Notwithstanding subsection 4.9.4.2 and 4.9.4.3, maximum rents and sale price shall be governed by the Executive Office of Housing and Livable Communities (EOHLC – formerly DHCD)DHCD’s regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town’s subsidized housing inventory. A Certificate of Occupancy shall not be issued to any unit in a complex until the Affordable Restriction is approve and recorded at the Registry of Deeds by the applicant and the Regulatory Agreement has been approved by EOHLC and the Town and signed by the applicant and recorded at the Registry of Deeds.

4.9.4.5 In addition to requirements of Section 4.9.4, it shall be a condition upon every special permit issued under this By-law that the applicant shall comply with any Massachusetts Executive Office of Housing and Livable Communities (EOHLC – formerly DHCD)Department of Housing and Community Development (“DHCD”) regulations and guidelines for qualification of the Affordable housing units created under this By-law towards the Town’s subsidized housing inventory, including

96 but not limited to the form of the affordable housing restriction and regulations concerning tenant
97 selection and marketing, unit design standards, and income eligibility standards. The Restriction shall
98 further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted
99 housing unit towards the Town’s subsidized housing inventory.

100 4.9.4.6 In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the
101 owner shall give written notice to the Dennis Planning Department, Dennis Housing Authority and
102 Dennis Affordable Housing Trust.

103 4.9.4.7 Current employees of the town of Dennis and residents of the town of Dennis shall have preference
104 over non-residents in the selection of tenants and buyers of housing units subject to a restriction to the
105 extent permitted by Executive Office of Housing and Livable Communities (EOHLC – formerly
106 DHCD)DHCD regulations and state or federal laws.

107 4.9.1.2 **DEFINITIONS**

108 Affordable Housing Apartment: A housing unit created under the provisions of Sections 4.9.3, 4.9.4 or
109 4.9.5, which is subject to an affordable housing restriction pursuant to Section 4.9.4.

110 Affordable Housing Development: A tract of land of more than 2 1/2 acres containing units of
111 residential housing, of which at least 25% are encumbered by affordable housing deed restrictions.

112 Apartment – An apartment is a self-contained housing unit that occupies only part of a building.
113 Apartments may be owner occupied or rented.

114 Attainable Housing:

115 Cottage Colony: A group of three (3) or more buildings on a lot, which are devoted to residential use
116 on a seasonal basis.

117 Disturbed Land:

118 Dwelling Unit: A housing unit that contains kitchen facilities including a stove or oven, refrigerator,
119 and sink, and a bathroom including a bath or shower.

120 Principal Residential Structure: The structure on any given lot in which the primary activity is
121 residential use, which use is the principal use of the lot.

122 Security Apartment: A dwelling unit, of six hundred (600) square feet or less, including separate kitchen
123 facilities and separate bath, located within a commercial structure.

124 Short Term Rental:

125 Special Permit Contract: A recorded notice developed between the developer and the Town confirming
126 the housing cost and tenure arrangements and Special Permit conditions.

127 Year-Round housing unit: A dwelling that is a primary residence for not less than 10 months in a 12-
128 month period as recorded in the Special Permit Contract.

129

130 **4.9.2 AFFORDABLE HOUSING DEVELOPMENTS**

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132 4.9.2.1 Density increases shall be allowed by special permit for Affordable Housing Developments as
133 governed by Section 4.9.2, and any density increases shall be addressed in compliance with Sections
134 4.9.2.2.1 - 4.9.2.2.2 of the by-law.

135 4.9.2.2 Intensity of Use

136

- 137 4.9.2.2.1 The Planning Board shall have discretion to reduce or suspend the minimum requirements
138 otherwise applicable under Section 2.3 (Intensity Regulations) , 3.1 (Off-Street Parking and
139 Loading Requirements) and 4.2 (Multiple Dwellings) for an Affordable Housing
140 Development, provided that the Planning Board finds that the conditions present on the site
141 are adequate to support the proposed use, protect the surrounding neighborhood, and meet the
142 intended goals of providing affordable housing; and provided however that there must be:
- 143 4.9.2.2.1.1 at least 10,000 square feet for each bedroom created in an Affordable Housing Development;
 - 144 4.9.2.2.1.2 a maximum height of 35 feet ~~and or two stories~~;
 - 145 4.9.2.2.1.3 a maximum building coverage of 15%;
 - 146 4.9.2.2.1.4 a maximum total site coverage of 50%; and
 - 147 4.9.2.2.1.5 a minimum building separation of twenty feet.
- 148 4.9.2.2.2 The Planning Board shall have the discretion to permit a density of greater than one bedroom
149 for every 10,000 square feet ~~based upon the recommendation of the Dennis Board of Health~~
150 ~~that the waste water system recommended for the site meets all state and local environmental~~
151 ~~standards for the protection of public health and water quality.~~ if the project is connected to
152 the Water Resource Recovery Facility (hereafter “sewer”) within the next five years or can
153 handle the proposed septic without variance from the health regulations.
- 154 4.9.2.3 Special Permit Requirements for Affordable Housing Developments (4.9.#):
- 155 4.9.2.3.1 A minimum tract of two and one-half (2 1/2) acres shall be required, subject to the provisions
156 of Section 2.3.3.7 regarding minimum upland areas.
 - 157 4.9.2.3.2 A maximum of sixteen (16) dwelling units shall be allowed in any one building.
 - 158 4.9.2.3.3 The Planning Board ~~shall~~ may have the discretion to reduce the off-street parking
159 requirements otherwise applicable under Section 3.1 for the affordable units, where (1) the
160 number of units to be restricted under Section 4.9.4 exceeds 25%, and (2) the applicant
161 demonstrates that the proposed parking is sufficient to address the parking needs of the
162 Affordable Housing Development and does not impact the neighborhood in which it is
163 located.
 - 164 4.9.2.3.4 The tract of land to be developed shall provide for front, rear and side setbacks of 20 feet,
165 which shall constitute vegetated buffers, except for where crossed by site driveways;
 - 166 4.9.2.3.5 Where an applicant proposed to divide the tract of land that is the locus of a proposed
167 Affordable Housing Development, the minimum lot size shall be ten-thousand (10,000)
168 square feet. The Planning Board may, in its sole discretion, reduce the internal front and rear
169 yard setback requirements of Section 2.3.2, provided however, that said setbacks shall be no
170 less than ten (10) feet. The Affordable Housing Development must still comply with the
171 setback requirements of Section 4.9.2.3.4 as if the tract of land was not subdivided.
 - 172 4.9.2.3.6 The Affordable Housing Development must conform to all other requirements of the Zoning
173 By-law. In the event that a provision of Section 4.9.2 conflicts with another provision of the
174 By-law, the provisions of Section 4.9.2 shall control.
 - 175 4.9.2.3.7 For multi-family buildings a properly screened area must be provided for storage of trash and
176 recyclable materials. Outside storage areas or enclosures shall be kept clean and shall be
177 large enough to accommodate the storage of all garbage and refuse containers. Garbage and
178 refuse containers, dumpsters, and compactor systems shall be stored on or above a smooth
179 surface of nonabsorbent material such as concrete or asphalt.

180 4.9.2.3.8 The second unit created, and every fourth unit created there-after shall be deed restricted as
181 permanently affordable units, per the applicable standards in Section 4.9.4 below. In no case
182 shall less than twenty-five percent of the units be affordable. All units created shall be for
183 year-round housing.

184

185 **4.9.3 AFFORDABLE HOUSING APARTMENT(S)**

186 4.9.3.1 The Planning Board may by special permit allow the creation of Affordable Housing Rental
187 Apartments in ~~residential and~~ commercial zoning districts or properties within a quarter mile of a
188 commercial district that have been previously developed (or disturbed), are near transit and will either
189 be on sewer within 10 years or can handle the proposed septic without variance from the health
190 regulations. Affordable Housing Apartments created under this bylaw shall be accessory to either an
191 existing residential use or commercial use.

192 4.9.3.2 An Affordable Housing Apartment must have the following minimum areas: ~~(Per 40B Guidelines~~
193 VI.B.4.(3) unless the applicant has been approved for a waiver from such size requirements by the
194 Executive Office of Housing and Livable Communities (EOHLC – formerly DHCD).

195

196	studio	250 square feet
197	one-bedroom units	700 square feet
198	two-bedroom units	900 square feet
199	three- bedroom units	1,200 square feet
200	four-bedroom units	1,400 square feet

201 4.9.3.3 Special Permit Requirements

202 4.9.3.3.1 The Planning Board shall have the discretion to reduce the off-street parking requirements
203 otherwise applicable under Section 3.1 ~~= for the affordable units, 3-2) -where~~ (1) the number
204 of units to be restricted under Section 4.9.4 exceeds ~~25~~50%, ~~and~~ (2) the applicant
205 demonstrates that the proposed parking is sufficient to address the parking needs of the
206 proposed uses on the site, and (3) the applicant demonstrates that the proposed reduction in
207 required parking does not impact the neighborhood in which it is located, and (4) is located
208 within one-quarter mile of a transit stop.

209 4.9.3.3.2 A properly screened area must be provided for storage of trash and recyclable materials.
210 Outside storage areas or enclosures shall be kept clean and shall be large enough to
211 accommodate the storage of all garbage and refuse containers. Garbage and refuse
212 containers, dumpsters, and compactor systems shall be stored on or above a smooth surface
213 of nonabsorbent material such as concrete or asphalt.

214 4.9.3.3.3 Only those basements with at-grade walk-out capabilities may be created of converted into
215 living space. ~~and g~~Garage parking stalls may be converted into living space only if the
216 applicant can demonstrate an efficient and cost-effective method for providing heat and other
217 utilities to the unit to be created.

218 4.9.3.3.4 The second unit created, and every fourth unit created there-after shall be deed restricted as
219 permanently affordable units per the applicable standards in Section 4.9.4 below. In no case
220 shall less than twenty-five percent of the units be affordable. All units created shall be for
221 year-round housing.

222 4.9.3.4 **DELETED**

223 4.9.3.5 **AFFORDABLE HOUSING APARTMENTS ACCESSORY TO COMMERCIAL USES**

224 An Affordable Housing Apartment may be created by converting an existing accessory structure, or

225 space within a Principal Commercial Structure, to a dwelling unit. The following additional
226 standards and conditions shall govern special permits issued under this sub-section:

227 4.9.3.5.1 No accessory residential uses shall be allowed within the Industrial District with the exception of
228 a Security Apartment per § 2.2.2 – Use Regulation Schedule and § 5 – Definitions.

229 4.9.3.5.2 Commercial structures may be expanded by increasing the footprint or the addition of a second
230 story, where none exists, for the purposes of creating affordable housing apartments. A structure
231 proposed to include an affordable housing apartment may be expanded by the granting of a Special
232 Permit which is based upon a finding by the Planning Board that the conditions present on the site
233 are adequate to support the proposed use, protect the surrounding neighborhood and meet the
234 intended goals of providing affordable housing.

235

236 **4.9.3.6 CONVERSION OF HOTELS, ~~AND~~ MOTELS OR COTTAGE COLONIES TO**
237 **AFFORDABLE HOUSING APARTMENTS**

238 4.9.3.6.1 Affordable Housing Apartments may be created by converting an existing accessory structure, or
239 space within a hotel or motel, into dwelling units. The following additional standards and
240 conditions shall govern special permits issued under this section:

241 4.9.3.6.1.1 Units created through conversions shall not be less than ~~250-225~~ square feet not including areas
242 not intended for human habitation such as areas of the basement, attic or garage. In order to
243 promote the mixture of housing units, the following standards shall apply:

244

245 * ~~No less than 25% of the units created must meet the requirement found in Section 4.9.3.2 for a~~
246 ~~one bedroom unit with a minimum floor area of 700 sf.~~

247 * ~~No more than 25% of the units created may have a minimum floor area of less than 400 sf.~~

248
249 Planning Board may require up to 10% of the units in a Hotel/Motel conversion be two-bedroom
250 units, i.e. units with a minimum floor area of ~~900-700~~ sf.

251 4.9.3.6.2 Hotel or motel structures may be expanded by increasing the footprint or the addition of a second
252 story, where none exists, for the purposes of creating affordable housing apartments. A hotel or
253 motel structure proposed to include an Affordable Housing Apartment may be expanded by the
254 granting of a Special Permit which is based upon a finding by the Planning Board that the
255 conditions present on the site are adequate to support the proposed use, protect the surrounding
256 neighborhood and meet the intended goals of providing affordable housing

257

258 4.9.5 **“AFFORDABLE” LOTS**

259 4.9.5.1 Lots of record as of the June 17, 2003 which do not satisfy minimum lot size requirements and which
260 are not protected as nonconforming lots by law because they are in common ownership with adjoining lots
261 may nevertheless be built upon by Special Permit from the Planning Board under the following conditions:

262 4.9.5.1.1 Each lot contains at least 10,000 square feet of land area and satisfies other applicable Board of Health
263 requirements. Except that no lot located within a Zone II Water Recharge Area shall
264 be built upon.

265 4.9.5.1.2 Each lot has safe and adequate access to a public or private way.

266 4.9.5.1.3 Each lot is similar in nature, i.e. size and shape to the lots immediately adjacent to and across the street
267 from the lot to be separated.

268 4.9.5.1.4 Each lot may not be used for a structure larger than three bedrooms, and there must be a minimum of
269 5,000 square feet of land area for each bedroom.

270 4.9.5.1.5 The applicable front, side and rear setbacks shall be determined by establishing an average setback
271 based upon the principal structures on the lots immediately adjacent to and across the street
272 from the lot to be built upon as a separate lot.

273 4.9.5.1.6 Where two lots are held in common ownership, one of the two lots shall be deed restricted as
274 permanently affordable, per the applicable standards in Section 4.9.4 of the Dennis Zoning
275 Bylaw.

276 4.9.5.1.7 Where more than two lots are held in common ownership, the second, third and fifty percent of the
277 remaining lots to be built upon under the special permit shall be deed restricted as
278 permanently affordable (i.e. the fourth lot may be market rate, fifth shall be affordable, sixth
279 market rate etc), per the applicable standards in Section 4.9.4 of the Dennis Zoning By-Law.

280 4.9.5.1.8 This section shall not prevent a lot owner from building a house on such lot and from transferring
281 the lot to an income eligible immediate family member (sibling, parent or child) by gift or
282 inheritance, provided that the restriction required by this subsection is properly recorded prior
283 to issuance of a building permit provided that the lot owner (or immediate family member)
284 owned the lot as of October 18, 2005.
285

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287 4.9.2.4 **MUNICIPALLY SPONSORED HOUSING PROJECTS**

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289 4.9.2.4.1 **GENERAL OBJECTIVES**

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291 This section is intended to allow the Dennis Board of Selectmen to act as a sponsor for public or

292 public/private joint venture affordable housing projects which:

293

294 a. encourages practical residential development in the reuse of existing structures;

295 b. promotes in-fill (development of vacant lots in an otherwise built-up area) residential development
296 opportunities;

297 c. is compatible with the adjacent neighborhood;

298 d. encourages development of economically priced housing and a variety of types of housing; and

299 e. fosters flexibility and creativity in the creation of affordable housing.
300

301

302 Based upon these provisions, a project for Special Permit submittal to the Dennis Planning Board may be
303 made upon a positive vote of the Dennis Board of Selectmen.

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305

306 **4.9.2.4.2 MODIFIED PROCEDURES**

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308 A municipally sponsored housing project may be allowed upon issuance of a special permit provided that the
309 Planning Board finds that the conditions present on the site are adequate to support the proposed use, protect
310 the surrounding neighborhood, and meet the intended goals of providing affordable housing, and further
311 meets the following requirements:

312

313 a. the minimum requirements of Sections 2.3 (Intensity Regulations), 3.1 (Off-Street Parking and
314 Loading Requirements) and 4.2 (Multiple Dwellings), ~~3.1 and 4.2~~ shall not apply provided however
315 that there must be:

316 a. a maximum height of 35 feet and two stories;

317 b. a maximum building coverage of 15%;

318 c. a maximum total site coverage of 50%;

319 d. a minimum building separation of twenty feet; and

e. a determination that the parking will be adequate in number and size to serve the proposed
use of the site.

- 320 b. For Municipally Sponsored Affordable Housing projects, the Minimum Area of the Tract to be
321 Developed ~~under Section 4.9.2.3.1~~ may be less than 2 ½ acres;
322 c. the maximum density of the Tract to be Developed may be greater than one bedroom per 10,000 sf of
323 land area based upon a recommendation of the Dennis Board of Health that the waste water system
324 recommended for the site meets all state and local environmental standards for the protection of
325 public health and water quality;
326 d. The tract of land to be developed shall provide for front, rear and side setbacks of 20 feet, which shall
327 constitute vegetated buffers, except for where crossed by site driveways; and
328 e. the minimum parking requirement may be less than 2 parking spaces per residential unit. The
329 Planning Board, with the approval of the Select Board, shall have the discretion to reduce all other
330 off-street parking requirements as otherwise applicable under Section 3.1 based upon a finding that
331 the parking is sufficient to meet the needs of the proposed use of the property.
332

333 4.9.2.4.3 Special Permit Granting Authority (SPGA)

334 The Planning Board shall be the Special Permit Granting Authority for Municipally Sponsored
335 Affordable Housing Projects with a formal vote of support from the Select Board.
336

337 4.9.2.4.4 All units created shall be deed restricted as permanently affordable units per the applicable
338 standards in Section 4.9.4 of this by-law unless otherwise noted in conformity with the following
339 requirements. In no case shall less than (50) fifty percent of the units be affordable to households
340 earning less than 80% of the median income. An additional Twenty-five percent of the units shall be
341 affordable for people earning no more than 120% of the area's median income. All units created shall
342 be for year-round housing.
343