

PLANNING FOR HOUSING

Key terms and concepts

WHAT DO WE MEAN BY AFFORDABLE HOUSING?



When most people talk about housing affordability, they simply mean housing that works given their budget. Compared to other cities in the region, much of Lynn's older market-rate housing is relatively inexpensive, though costs for that housing are rising. Lynn is home to many moderate- and lower-income households, and housing is becoming less affordable to them.



Housing planners define "Affordable Housing" as housing that costs 30% or less of a household's income and is deed-restricted to low- or moderate-income residents. Affordable Housing has restrictions to preserve affordability for decades or in perpetuity, ensuring that income-eligible households can stay in their communities without having to make difficult financial decisions, such as skipping meals or doctor's appointments to have enough money to pay for their homes. Without deed restrictions, housing costs can go up as markets rise, making homes that were once inexpensive now costly. Deed-restricted Affordable Housing protects communities from skyrocketing costs and related displacement.



Eligibility to live in deed-restricted Affordable Housing is based on household income and the number of people in the household. This is determined by the Metropolitan Area Median Income (AMI) calculated by the U.S. Department of Housing and Urban Development (HUD). The 2019 AMI for the Greater Boston region, which includes Lynn, is \$113,300. Under many Affordable Housing programs, households eligible for deed-restricted Affordable Housing must be at or below 80% of AMI. For a household of one, 80% AMI is \$63,500; for a household of four, it is \$89,200. Some Affordable Housing programs serve households with lower or higher incomes.

Local Initiative Program (LIP). Massachusetts housing program allowing developers to work with municipal officials to build projects with Affordable Housing units. Differs from typical 40B developments that override local approvals.

Low-income household. Household with an income at or below 80% of AMI.

Mixed-income development. A residential development that includes market-rate and Affordable Housing.

Mixed-use development. A development with more than one use on a single lot, such as residential above retail.

Moderate-income household. Household with an income between 80% and 100% of AMI.

Municipal Affordable Housing Trust (AHT). Under M.G.L. Ch. 44, § 55C, a municipality can establish an AHT by simple majority vote to create and preserve Affordable Housing.

Naturally-occurring affordable housing. Market-rate housing that can be occupied by anyone but does not cost more than 30% of household income.

Section 8. A HUD-administered rental assistance program that subsidizes "mobile" vouchers to help low-income households pay for market-rate housing. It also provides subsidy for eligible rental developments, known as Section 8 Project-Based Vouchers (PBV).

SHI-eligible unit. Deed-restricted Affordable Housing or a market-rate unit in a 40B rental project that DHCD includes on the SHI.

Severe cost burden. When more than 50% of a household's monthly gross income is spent on housing.

U.S. Department of Housing and Urban Development (HUD). America's lead federal agency for financing Affordable Housing and administering the Fair Housing Act.

Department of Housing and Community Development (DHCD). The State's housing agency overseeing state-funded public housing and administering rental assistance programs, Affordable Housing funds, and Chapter 40B.

Displacement. A household is displaced when they move for reasons they can't control. Due to historical and ongoing discrimination, lower-income and/or minority households are usually most vulnerable to displacement.

Fair Housing Act. Established under Title VII of the 1968 Civil Rights Act, the federal Fair Housing Act prohibits discrimination in housing financing, sales, rentals, and other transactions based on race, color, national origin, religion, sex, familial status, sexual orientation, gender identity, and disability.

Fair Housing Law. M.G.L. Ch. 151B is the State Fair Housing Act prohibiting housing discrimination on the basis of race, color religious creed, national origin, sex, sexual orientation, age, children, ancestry, marital status, veteran history, public assistance, or disability.

Fair Market Rent (FMR). A mechanism used by HUD to control costs in the Section 8 rental assistance program. HUD sets FMRs annually as the 40th percentile of gross rents for typical, non-substandard rental units occupied by recent movers in a local housing market.

Gentrification. When displacement occurs in low-income neighborhoods and higher-income residents move in.

Gross rent. Gross rent is the sum of the rent paid to the unit's owner plus any utility costs incurred by the tenant, such as electricity, gas, water and sewer, and trash removal services, but not telephone service.

Household. One or more people occupying a home.

Inclusionary zoning. Local zoning that encourages or requires developers to set aside a portion of their development for Affordable Housing, provide Affordable Housing in another location, or pay fees in lieu of units.



Affordable Housing can take many forms. It may be public housing or private Affordable Housing. The government does not often build Affordable Housing today. More common is Affordable Housing built by nonprofit developers, who can sometimes do 100% Affordable Housing developments. Otherwise, for-profit developers produce Affordable Housing as part of mixed-income projects.



Developing any kind of Affordable Housing requires subsidy, which usually comes from the government. Today's Affordable Housing usually requires multiple subsidies from all levels of government. The most common form of subsidy is the Low Income Housing Tax Credit (LIHTC). Developers can access LIHTC through state and local agencies for the purposes of constructing, acquiring, or rehabilitating Affordable Housing for lower-income households. Sometimes, developers also access private debt and foundation funding to build Affordable Housing.



Some cities and towns require market-rate developments to include Affordable Housing under laws known as inclusionary zoning. In this case, the market-rate units in each development help to subsidize the required Affordable Housing units. Sometimes, inclusionary zoning allows developers to produce Affordable Housing off site or to make a payment to an Affordable Housing Trust instead of building the units. Lynn does not currently have inclusionary zoning.

WHAT IS A HOUSING PRODUCTION PLAN?

In Massachusetts, Housing Production Plans (HPPs) are documents that help municipalities better understand local housing need and demand, development constraints and opportunities, and their goals for future Affordable Housing and sometimes market-rate housing. There are several reasons for communities to create and adopt an HPP:

- Address the unmet housing needs of lower-income residents
- Influence the type, amount, and location of housing
- Set numeric goals to meet the State mandate that 10% of total year-round housing be Affordable Housing
- Work towards these goals and take the further step of applying for certification of the HPP to get Safe Harbor

An HPP consists of:

- Assessment of housing need and demand based on current data, population trends, and regional growth factors
- Analysis of physical and regulatory development constraints
- Specific sites for new housing and housing redevelopment
- Housing goals, including an annual numeric production target
- Implementation strategies to work towards goals

When complete, an HPP is adopted by a municipality's Planning Board and Board of Selectmen or City Council (depending on whether the municipality is a city or town). It is then submitted for approval by the Massachusetts Department of Housing and Community Development (DHCD). Once approved, it serves as a guide to local housing action for a five-year period.

Affordable Housing. Deed-restricted housing for households with low or moderate incomes at a cost that does not exceed 30% of monthly gross income.

Area Median Income (AMI). The median family income within a metropolitan area set by the U.S. Department of Housing and Urban Development. AMI is used to determine household eligibility for most housing assistance programs.

Chapter 40B. M.G.L. Ch. 40B, § 20-23, is a Massachusetts State law administered locally by the Board of Appeals that creates Affordable Housing. In communities below 10% on the SHI, it allows developers to supersede local zoning if 20% to 25% of proposed units are Affordable Housing.

Chapter 40R. M.G.L. Ch. 40R, § 1-14, provides for Smart Growth Overlay Districts (SGOD) with higher density residential development by right (subject to site plan review) provided at least 25% of units are Affordable Housing. Municipalities that adopt a SGOD receive State funding. Assistance with writing 40R zoning and adopting design standards is also available from the State.

Chapter 40S. M.G.L. Ch. 40S, § 1-4, provides funding to municipalities that establish a SGOD to cover the costs of educating any new school-age children who will live there.

Community Preservation Act (CPA). M.G.L. Ch. 44B, § 1-17, allows municipalities to establish a Community Preservation Fund for open space, historic preservation, and Affordable Housing by imposing a surcharge of up to 3% on local property tax bills. Income-eligible and other qualifying households can be exempted. The State provides a partial match to the local funds from the Community Preservation Trust Fund generated from Registry of Deeds fees.

Cost burden. When more than 30% of a household's monthly gross income is spent on housing.

WHAT IS THE SUBSIDIZED HOUSING INVENTORY?

The Massachusetts Subsidized Housing Inventory (SHI) is used to measure each community's stock of deed-restricted Affordable Housing for the purposes of M.G.L. Chapter 40B. The SHI is maintained by the Department of Housing and Community Development. The SHI does not include unsubsidized housing that is currently inexpensive or private market housing rented to low- and moderate-income households through housing vouchers. Importantly, the SHI counts market-rate units in 40B rental developments as Affordable Housing; this encourages rental development in communities striving to reach 10%.

The SHI for each community is compared to the total housing stock to determine if the community is eligible for Safe Harbor. The SHI is updated periodically to reflect new Affordable Housing production, as well as expiration of units. With each new decennial census, a community's SHI is recalculated to reflect the new count of total homes. In Lynn as of 2019, 12.4% of homes are on the SHI.

WHAT IS SAFE HARBOR?

Under Chapter 40B, a community can enforce their zoning and prevent 40B developments by claiming "Safe Harbor." Communities have three mechanisms for asserting Safe Harbor.

1. 10% on the Subsidized Housing Inventory (SHI). If more than 10% of a community's total housing stock is deed-restricted Affordable Housing.
2. HPP Certification. If a municipality has a locally adopted and state approved HPP and is making measurable progress toward reaching the state goal of 10% Affordable Housing by producing Affordable Housing units at an annual rate of 0.5% or 1% of its year-round housing units (Safe Harbor is for a 1-year or 2-year period, respectively).
3. 1.5% General Land Area Minimum (GLAM). If 1.5% of the municipality's total area zoned for residential, commercial, or industrial use is dedicated to deed-restricted Affordable Housing.

It is important to note, however, that meeting any one of these criteria for Safe Harbor does not mean a community has met local need for Affordable Housing. All of these benchmarks consider local land use and development—housing supply—but not residents—housing demand.

HOUSING PRODUCTION PLAN RESOURCES

Learn more about Chapter 40B. The MA Department of Housing and Community Development (DHCD) approves local HPPs, and provides a number of resources to support their development. www.mass.gov/chapter-40-b-planning-and-information

Understand 40B for tenants and homeowners. The Citizen's Housing and Planning Association offers policy and program information, as well as training materials. www.chapa.org/housing-policy/chapter-40b

Contact your local Regional Planning Agency. Visit the Massachusetts Association of Regional Planning Agencies (MARPA) site to find your RPA and inquire about technical assistance with HPPs. www.massmarpa.org

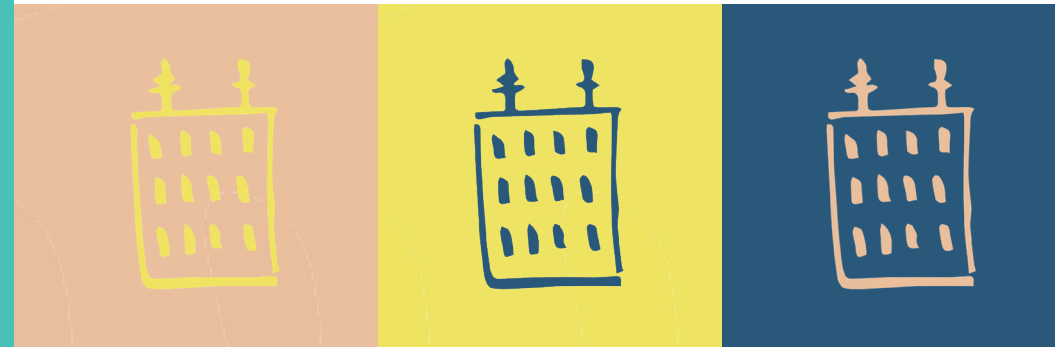
Find housing data on your community. Visit the Massachusetts Housing Partnership's DataTown for local population, housing, and labor force information. www.mhp.net/datatown

See growth projections for your community. MAPC develops population and housing projections for localities in the metro Boston region that are used to guide HPP and other planning processes. www.mapc.org/learn/projections

Check out some real HPPs from across the Commonwealth. DHCD posts approved plans on its websites that anyone can read and be inspired by. www.service-details/chapter-40-b-housing-production-plan

WHAT IS CHAPTER 40B?

Massachusetts General Law Chapter 40B is a state statute that requires municipalities to maintain their stock of Affordable Housing at 10% or more of their total housing stock. If Affordable Housing in a community is less than 10% of all housing, developers may petition the local Zoning Boards of Appeals (ZBA) for a "Comprehensive Permit" for housing developments that do not fully comply with local zoning, provided at least 20-25% of homes in the proposed development are Affordable Housing. Under Chapter 40B, the ZBA has limited grounds for refusal in this case. Currently, more than 10% of Lynn homes are deed-restricted Affordable Housing units, so the City is not currently subject to this type of Comprehensive Permit process.



In most cases, the Affordable Housing built under Chapter 40B could not have been built under local zoning. It is typically of a larger scale and higher density than what is otherwise allowed. Developments created under Chapter 40B include church-sponsored housing for the elderly, single-family subdivisions that include Affordable Housing units, adaptive reuse projects, multifamily rental housing developments, and mixed-income townhouse or condominium developments.

Under Chapter 40B, a Housing Production Plan helps communities set goals around Affordable Housing and their overall housing supply.