



Town of Brewster Housing Partnership

2198 Main St., Brewster, MA 02631

(508) 896-3701

HOUSING PARTNERSHIP MEETING AGENDA

2198 Main Street

September 21, 2023 at 6:00 PM

Housing Partnership

Jillian Douglass
Chair

Ralph Marotti
Vice Chair

Vanessa Greene

Lisa Forhan

Adrienne Jones

Sarah Robinson

Steve Seaver

Asst. Town
Manager
Donna Kalinick

Housing
Coordinator
Jill Scalise

This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

Members of the public who wish to access the meeting remotely may do so in the following manner:

Phone: Call (929) 436-2866 or (301) 715-8592. Webinar ID: 853 9402 2099 Passcode: 301097

To request to speak: Press *9 and wait to be recognized.

Zoom Webinar: <https://us02web.zoom.us/j/85394022099?pwd=M2JSaDJWYTZPK113eVZPVnVmaTdiUT09>

Passcode: 301097 To request to speak: Tap Zoom "Raise Hand", then wait to be recognized.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by accessing the meeting remotely, as noted above. Additionally, the meeting will be broadcast live, in real time, via **Live broadcast** (Brewster Government TV Channel 18), **Livestream** (livestream.brewster-ma.gov), or **Video recording** (tv.brewster-ma.gov).

Please note that the Housing Partnership may take official action, including votes, on any item on this agenda.

1. Call to Order
2. Declaration of a Quorum
3. Meeting Participation Statement
4. Recording Statement - "As required by the Open Meeting Law we are informing you that the Town will be video and audio taping as well as broadcasting this public meeting. In addition, if anyone else intends to either video or audio tape this meeting they are required to inform the chair."
5. Accessory Dwelling Unit Bylaw Update
6. Community Preservation Committee Housing Applications - Chair's letters with Partnership recommendations
7. Volunteer Fair September 30th
8. Housing Updates
9. For Your Information / Correspondence
10. Matters Not Reasonably Anticipated by the Chair
11. Minutes of Previous Meetings
12. Housing Partnership Meeting Minutes
13. Next Scheduled Meeting October 19, 2023
14. Adjournment

Date Posted:
9.12.23

Date Revised:

Received by Town Clerk:

BREWSTER TOWN CLERK



Town Of Brewster
2198 Main Street
Brewster, Massachusetts 02631-1898
(508) 896-3701 x1150

Office of:
Planning Department

Date: September 8, 2023
To: Select Board
From: Town Planner on behalf of the Planning Board
Re: Proposed ADU Amendments, Brewster Zoning Bylaw
Sections 179-2 & 179.42.2; Table 1; Table 2

At its meeting on August 23, 2023, the Planning Board voted to submit the above-referenced draft zoning amendments related to Accessory Single-Family Dwelling Units (ADUs) to the Select Board in order to commence the formal zoning amendment process set out under MGL Ch. 40A, Section 5.

The Planning Board respectfully requests that the Select Board, at its meeting on September 11, 2023, vote to accept the drafts and commit them back to the Planning Board for public hearing as proposed zoning amendments.

The Planning Board has noticed the public hearing for its meeting on September 13, 2023.

At a series of public meetings and listening sessions beginning in May 2023, the Planning Board prepared the draft amendments with input from the public, certain related boards and committees, and town staff.

The purpose of the amendments, as reflected in the drafts, is to liberalize the creation of ADUs to help address year-round housing supply concerns in the town while at the same time preserving residential neighborhoods. Though more liberal in certain ways, the draft amendments are more restrictive in others. The language has been strengthened that ADUs are not for commercial or short-term rental use but rather for year-round dwelling use, in keeping with the single-family residential uses to which they are accessory.

After the hearing process concludes, the Planning Board contemplates recommending the proposed amendments for adoption to Town Meeting, either as currently drafted or as might be further amended through the hearing process, and requesting that the Select Board include the proposed amendments on the Fall Town Meeting Warrant.

In addition to the drafting, technical and structural amendments, the following is a high-level summary of the proposed substantive amendments, as previously discussed and drafted by the Planning Board:

1. Removed the requirement to obtain a special permit for an ADU in the Pleasant Bay and Herring River Watersheds, and the Zone II;
2. Lowered the special permit minimum lot area requirement from 30,000 sq ft to 15,000 sq ft for an ADU;

3. Deleted percentage limitation on ADU size and increased the maximum allowable floor area size for an ADU from 900 sq ft to 1000 sq ft;
4. Added the VB district to where an ADU is allowed by right on lots 15,000 sq ft or greater (as is the case in all the residential “R” districts);
5. Added a purpose clause that emphasizes ADUs are for year-round dwelling purposes;
6. Reduced ADU parking requirements;
7. Created an opportunity for part time residents to create an ADU by special permit;
8. Clarified further that an ADU is a use accessory to a single-family dwelling and is not a commercial or accommodations-type use;
9. Clarified further that short term rental use is not allowed on a lot with an ADU;
10. Gave more discretion to the building commissioner to establish procedures for the administration and enforcement of ADUs.
11. Removed annual building permit caps for the creation of ADUs.

CURRENT ADU ZONING PROVISIONS

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Article IX Special Regulations

§ 179-33 General provisions.

[Amended 5-14-1984 ATM, Art. 110]

The regulations which follow shall apply to the particular use or activity, whether it is permitted by right or by special permit as an exception. In addition, the Planning Board, prior to the granting of a special permit, may also impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this chapter, including but not limited to the following: front, side or rear yards greater than the minimum required by this chapter, screening, buffers or planting strips, fences or walls, as specified by the Board; modification of the exterior appearance of the structures; limitation upon the size, number of occupants, method and time of operation or extent of facilities, regulation of number and location of driveways or other traffic features and off-street parking or loading or other special features beyond the minimum required in this chapter.

§ 179-42.2 Accessory single-family dwelling units (ADUs).

[Added 12-3-2018 FYTM, Art. 12]

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ADU may be located within or adjacent to a single-family house, or in a building accessory to a single-family house, subject to the Definitions of § 179-2; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section.
- B. An ADU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADUs within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- C. All construction in connection with an ADU attached to a principal dwelling shall conform to building setbacks for a single-family house in the Zoning District where it is located.
- D. Either the principal dwelling or the ADU must be occupied by the owner of the property, as defined in § 179-2 and the remaining dwelling unit shall be leased for periods of not less than 12 months. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that either the principal dwelling or the accessory single-family dwelling unit will be, and/or has been, used as the principal residence of the owner for the next twelve-month period and that the remaining dwelling will be leased for a period of not less than 12 months.
- E. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- F. There shall be no renting of rooms or boarding of lodgers in an ADU.
- G. An ADU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code, and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ADU.
- H. There shall be no more than two residential units in total on a lot containing an ADU.

- I. A minimum of one parking space per bedroom of the ADU shall be provided.
- J. An ADU shall be clearly subordinate in use, size and design to the principal single-family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single-family residential property and the privacy of abutting properties is maintained.

§ 179-42.3 Accessory commercial dwelling units (ACDUs).
[Added 12-3-2018 FYTM, Art. 12]

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ACDU may be located within or adjacent to a commercial building, or in a building on the same lot as a commercial use, subject to the Definitions of § 179-2; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and all standards of this section.
- B. An ACDU may be located in a Commercial High Density or Village Business District.
- C. An ACDU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADU's within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.
- D. All construction in connection with an ACDU shall conform to building setbacks for a commercial building in the Zoning District where it is located.
- E. The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that the ACDU will be, and/or has been, leased for a period of not less than 12 months.
- F. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.
- G. There shall be no renting of rooms or boarding of lodgers in an ACDU.
- H. An ACDU shall conform to all applicable State and local laws regulating new construction or new residential use including the State Building Code and applicable plumbing, electrical, fire, health and conservation regulations and bylaws. A Certificate of Occupancy shall be required for any ACDU.

The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.

Article I General Provisions

§ 179-1 Authority; purpose.

- A. The Brewster Zoning Bylaw, adopted in 1960, and all subsequent amendments thereto, hereinafter called "this chapter," is adopted and from time to time amended as authorized by MGL c. 40A, as amended, herein called the "Zoning Act," and by Article 89 of the Amendments to the Constitution, the Home Rule Amendment.
- B. In conjunction with the purposes stated in the Zoning Act, this chapter shall provide protection for inland and coastal wetlands, as well as existing and potential watersheds, and shall give direction and effect to the development objectives and recommendations contained in the Brewster Master Plan of 1970, as may be amended from time to time.

§ 179-2 Definitions.

- A. Words used in the present tense indicate the future; the singular number includes the plural and the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended" or "offered to be used or occupied"; the words "building," "structure," "lot," "land" or "premises" shall be construed as though followed by the words "or any portion thereof," and the word "shall" is always mandatory and not merely directory. [Amended 5-3-1999 ATM, Art. 29; 11-17-2003 FYTM, Art. 16]
- B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY COMMERCIAL DWELLING UNIT (ACDU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is located within a structure containing a commercial, wholesale or industrial use, or in a separate structure on the same lot as a commercial, wholesale or industrial use. An ACDU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the commercial, wholesale or industrial unit, whichever is less. Unenclosed additions constructed to serve an ACDU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ACDU.

[Added 12-3-2018 FYTM, Art. 12]

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

A housing unit, complete with its own sleeping, cooking and sanitary facilities, that is accessory and clearly subordinate to a principal dwelling. An ADU may be located within a single-family house containing a principal dwelling, or in a building accessory to a single-family house. An ADU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the principal dwelling, whichever is less. Unenclosed additions constructed to serve an ADU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ADU.

[Added 12-3-2018 FYTM, Art. 12]

BUILDING, ACCESSORY RESIDENTIAL

A detached residential structure, customarily incidental to the existing principal residential structure and located on the same lot with the principal residential structure to which it is accessory. Such structures include but are not limited to guesthouse, shed, boathouse, playhouse, shelter for domestic pets, pool

houses, private swimming pools, tennis courts and detached garages. An accessory residential building may or may not contain bedrooms.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, MULTIFAMILY

A building containing three or more dwelling units.

DWELLING, ONE FAMILY DETACHED

A single, separate dwelling unit, designed for occupancy by one family.

[Added 5-7-2012 ATM, Art. 23]

DWELLING, ONE FAMILY SECURITY

One family dwelling unit for owner occupancy or for occupancy by personnel hired by the owner for the protection of property and safe operation of a permitted use.

[Added 5-7-2012 ATM, Art. 23]

DWELLING UNIT

One or more living and sleeping rooms providing complete living facilities for the use of one or more individuals constituting a single housekeeping unit, with permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY

One or more persons, including domestic employees, occupying a dwelling unit and living as a single, nonprofit housekeeping unit.

FLOOR AREA, NET

The sum of the areas of the several floors of a building measured from the interior faces of the walls. It does not include cellars, unenclosed porches or attics not used for human occupancy or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirement of this chapter or any such floor space intended and designed for accessory heating and ventilating equipment.

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Arts. 39, 40 and 41; 12-8-1980 STM, Art. 18; 5-11-1981 ATM, Art. 32; 5-11-1982 ATM, Arts. 80 and 81; 5-14-1984 ATM, Arts. 100, 101 and 103; 8-27-1984 STM, Arts. 58 and 59; 5-13-1985 ATM, Arts. 89 and 93; 5-11-1987 ATM, Art. 86; 5-9-1988 ATM, Art. 97; 10-17-1988 STM, Art. 26; 5-8-1989 ATM, Art. 47; 5-14-1990 STM, Arts. 6 and 10; 12-14-1992 STM, Art. 2; 11-15-1993 FYTM, Art. 20; 11-15-1999 FYTM, Art. 23; 5-1-2000 ATM, Art. 35 11-17-2003 FYTM, Arts. 19 and 24; 11-18-2001 FYTM, Arts. 17 and 21; 5-3-2004 ATM, Art. 24; 11-15-2004 FYTM, Art. 17; 5-2-2005 ATM, Art. 31; 11-13-2006 FYTM, Art. 25; 5-7-2007 ATM, Art. 24; 11-5-2007 FYTM, Art. 19; 11-17-2008 FYTM, Art. 18; 5-2-2011 ATM, Art. 33; 11-7-2011 FYTM, Arts. 13 and 17; 5-7-2012 ATM, Arts. 24 and 28; 5-6-2013 STM, Art. 6; 5-6-2013 ATM, Art. 23; 5-5-2014 ATM, Arts. 22 and 30; 12-3-2018 FYTM, Arts. 11, 12, and 13]

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	P	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of 30,000 square feet or more	P	P	P	S	S	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than 30,000 square feet	S	S	S	S	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling unit	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

ZONING

179 Attachment 2

**Town of Brewster
Area Regulations**

Minimum Required Lots¹

[Amended 12-10-1979 STM, Art. 37; 5-12-1980 ATM, Art. 42; 5-14-1984 ATM, Arts. 104 and 105; 8-27-1984 STM, Art. 57; 5-13-1985 ATM, Arts. 66, 74 and 94; 5-12-1986 ATM, Arts. 35 and 36; 5-11-1987 ATM, Art. 82; 5-9-1988 ATM, Art. 96; 10-17-1988 STM, Art. 26; 11-13-2006 FYTM, Arts. 29 and 33; 11-5-2007 FYTM, Art. 13; 5-5-2008 ATM, Art. 20; 5-7-2012 ATM, Art. 26; 12-3-2018 FYTM, Art. 12]

BREWSTER CODE

District	Use	Area (square feet)	Lot Frontage ² (feet)	Yards ^{3,4,5,6,7}		
				Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second dwelling unit of a duplex	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second dwelling unit of a duplex	150	40	25	25
C-H	Row commercial	40,000	150	30	20	20
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	200	100	30	30
	Any other permitted structure or principal use ¹⁴	15,000	80	30	15	15
V-B	Any permitted structure or principal use	15,000	80	30	15	15
I	Any permitted structure or use, other than those listed above for the CH Zone (footnote 9) ⁹	20,000	100	30	15	40

NOTES:

- ¹ In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, public utilities, accessory single-family dwelling units (ADUs), and accessory commercial dwelling units (ACDUs) that comply with all provisions of §§ 179-42.2 and 179-42.3, respectively. ADUs may be permitted by right in the R-L, R-M and R-R zoning districts on lots of 30,000 square feet or greater, by Special Permit in these districts on lots less than 30,000 square feet, and by Special Permit in the C-H, V-B and I zoning districts. Also, residential lots may contain two single-family units if the lot is twice that required by the Table of Area Regulations for single-family residences in that district and if each unit is provided proper street access.
- ² The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- ³ At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- ⁴ No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- ⁵ Projections into required yards or other required open spaces are permitted subject to the following:
Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- ⁶ Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- ⁷ The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- ⁸ Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

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permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see S-I rather than Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor living area not exceeding 600 square feet, and including not more than one bedroom, a kitchen, living room and bath, shall be allowed by a special permit granted by the Board of Appeals. Such dwelling shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences during which the unit is not rented.

¹⁴ **Editor's Note:** The C-L District which immediately followed was removed at the request of the Town

**PROPOSED AMENDMENTS TO ADU ZONING
PROVISIONS – MARK UP**

Article IX Special Regulations

§ 179-42.2 Accessory single-family dwelling units (ADUs).

The purposes of this ADU Section are to promote the creation of year-round rental dwelling units in the Town; to increase housing choice and the diversity of housing types in the Town; and to preserve the community, especially by facilitating housing that allows seniors, working people and young adults to remain and live in Brewster; all while supporting the existing desirable character of Brewster's residential neighborhoods and districts.

Accessory single-family dwelling units shall be permitted subject to the following standards:

A. An ADU may be located within, ~~or connected adjacent to~~ or adjoining a single-family- ~~dwellinghouse~~, or in a ~~detached, building~~-accessory residential building to a single-family dwellinghouse, subject to ~~the Definitions of § 179-2; the requirements of Table 1, Use Regulations, and Table 2, Area Regulations/Minimum Required Lots; and~~ all standards of this Section. An ADU shall maintain a separate entrance(s), either directly from the outside or through an entry or shared corridor sufficient to meet the requirements of the State Building Code for safe egress. Also see the Definitions section of this Chapter, § 179-2.

B. There shall be no more than one ADU per lot.

~~An ADU may be located within a Zone II (Zone of Contribution to a Public Drinking Water Well), in the watershed of the Herring River, or the watershed to Pleasant Bay, subject to approval of a Special Permit by the Zoning Board of Appeals. All ADUs within these areas shall be required to install advanced nitrogen treatment septic systems, if deemed necessary.~~

C. An ADU shall have no more than two bedrooms and no more than one thousand (1000) square feet of net floor area.

D. A minimum of one parking space for the ADU shall be provided in addition to the parking spaces for the principal dwelling.

E. A detached, accessory residential building in which an ADU is located shall not otherwise contain bedrooms not associated with the ADU.

F. All construction in connection with an ADU shall be subject to and comply with all other provisions of this Chapter, as applicable, including without limitation the building height, coverage and setback requirements for the underlying lot, either as set out in Table 2, Area Regulations, Table 3, Height and Bulk Regulations, or as otherwise may be permitted in Article VIII of this Chapter. To the extent there is conflict between the provisions in this Section and other provisions in this Chapter, the provisions in this Section shall control. ~~attached to a principal dwelling shall conform to building setbacks for a single-family house in the Zoning District where it is located.~~

G~~D~~. There shall be no minimum lot size required to construct and maintain an ADU. However, a Special Permit, pursuant to the applicable standards in Section 179-51 herein, and Table 1, Use Regulations, shall be required from the Planning Board for an ADU on a lot less than 15,000 sq. ft.

H. Either the principal dwelling or the ADU shall ~~must~~ be occupied by the owner of the property on a year-round basis, except for bona fide temporary absences, as defined in § 179-2 and the other remaining dwelling unit shall be used for year-round dwelling purposes, leased or occupied for continuous periods

of not less than twelve (12) months at a time. Notwithstanding the foregoing, an owner who does not so occupy the property on a year-round basis may apply for a Special Permit from the Planning Board, pursuant to the applicable standards in Section 179-51 herein, to authorize an ADU on the property and the use of whichever dwelling unit(s) said owner does not intend to occupy, either the principal dwelling, the ADU, or both, for year-round dwelling purposes, to be leased or occupied for continuous periods of not less than twelve (12) months at a time. Pursuant to its Special Permit authority under Section 179-51 of this Chapter, the Planning Board may consider and require, among other things, safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the dwelling units.

~~The property owner shall be required to file a notarized affidavit with the Building Department annually, stating that either the principal dwelling or the accessory single family dwelling unit will be, and/or has been, used as the principal residence of the owner for the next twelve month period and that the remaining dwelling will be leased for a period of not less than 12 months.~~

~~E. No more than 20 building permits shall be issued for the combined total of ADUs and ACDUs in a single calendar year.~~

~~IF. An ADU shall be used and designed consistent with the single-family residential nature of the underlying property. There shall be no renting of rooms or boarding of lodgers in an ADU. An ADU shall not be used as an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms, or boarding of lodgers in an ADU on a short-term basis, and no Short-Term Rental use shall be permitted on a lot containing in an ADU.~~

~~JG. An ADU shall be subject shall conform to all applicable State and local laws and regulations, regulating new construction or new residential use including without limitation the State Building Code and related Certificate of Occupancy requirements; and applicable State plumbing, electrical, and fire codes; Title 5, 310 CMR 15.00, and the State Sanitary Code, 105 CMR 410.00, and corresponding local Board of Health regulations; health and conservation State and local Wetlands laws and regulations and bylaws. A Certificate of Occupancy shall be required for any ADU.~~

~~H. There shall be no more than two residential units in total on a lot containing an ADU.~~

~~I. A minimum of one parking space per bedroom of the ADU shall be provided.~~

~~J. An ADU shall be clearly subordinate in use, size and design to the principal single family dwelling. An ADU shall be designed so that, to the maximum extent practical, the appearance of the property on which it is to be located remains that of a single family residential property and the privacy of abutting properties is maintained. K. An ADU shall not be severed in use or ownership from the principal dwelling to which it is accessory, including but not limited to subjecting the underlying lot or any portion thereof to the condominium form of ownership.~~

~~L. The owner of a property with an ADU shall be required to file a written affidavit with the Building Department certifying compliance with the standards of this Section, including the use and occupancy standards. The Building Department shall establish, administer, and maintain, and may amend from time to time, the affidavit process and forms referenced herein.~~

~~MN. The Building Commissioner is authorized to establish an administrative permitting and/ or registration process for ADUs, in addition to other permits or approvals that might be required, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.~~

~~NO. Without limiting other enforcement remedies or actions available under this Chapter, including fines, the Building Commissioner is authorized to order that the cooking facilities and supporting utilities and fixtures within an ADU be removed in order to abate a violation of this Section.~~

Article I General Provisions

§ 179-2 Definitions.

B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

~~A dwelling unit located housing on the same lot unit, complete with its own sleeping, cooking and sanitary facilities, that is accessory and clearly subordinate to as the principal single-family dwelling to which it is accessory. An ADU shall be considered an accessory use. An ADU may be located within a single-family house containing a principal dwelling, or in a building accessory to a single-family house. An ADU shall have no more than two bedrooms and shall have a maximum habitable area of 900 square feet or 40% of the habitable area of the principal dwelling, whichever is less. Unenclosed additions constructed to serve an ADU such as an entry, secondary egress or exterior stairs shall not be included in the maximum habitable area of the ADU.~~

DWELLING, ONE FAMILY DETACHED

~~A building containing a single, separate dwelling unit, designed for use and occupancy by one family, which shall be considered a principal use and principal structure under this Chapter. Also referred to herein as a “single-family dwelling” or “single-family residence.”~~

FLOOR AREA, NET

~~The sum of the living areas on all the several floors within the perimeter of a building or portion thereof measured from the outside interior faces of the exterior walls, or dividing walls as applicable, without deduction for interior partitions and the like. It does not include cellars, unenclosed decks, porches, entries, or attics or unconditioned storage, cellar, mechanical, garage, or utility areas, or spaces similar to the foregoing, not used designed, intended for or capable of being used for human habitation or occupancy. or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirement of this chapter or any such floor space intended and designed for accessory heating and ventilating equipment.~~

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	-*P	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of <u>1530,000</u> square feet or more	P	P	P	-*S	<u>PS</u>	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than <u>1530,000</u> square feet	S	S	S	-*S	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling unit	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

*Except as may be permitted for pre-existing nonconforming single-family residential properties under Article VIII of this Chapter 179.

[BREWSTER CODE, ZONING, CH. 179, TABLE/ ATTACHMENT 2, AREA REGULATIONS]

District	Use	Area (square feet)	Lot Frontage ² (feet)	Yards ^{3,4,5,6,7}		
				Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second principal dwelling unit of a duplex	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling unit of a duplex	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling unit of a duplex	150	40	25	25
C-H	Row commercial	40,000	150	30	20	20
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	200	100	30	30
	Any other permitted structure or principal use ¹⁴	15,000	80	30	15	15
V-B	Any permitted structure or principal use ¹⁴	15,000	80	30	15	15
I	Any permitted structure or use, other than those listed above for the C-H District Zone (footnote 9) ⁹	20,000	100	30	15	40

NOTES:

- 1 In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, and public utilities, ~~accessory single family dwelling units (ADUs), and accessory commercial dwelling units (ACDUs) that comply with all provisions of §§ 179-42.2 and 179-42.3, respectively. ADUs may be permitted by right in the R-L, R-M and R-R zoning districts on lots of 30,000 square feet or greater, by Special Permit in these districts on lots less than 30,000 square feet, and by Special Permit in the C-H, V-B and I zoning districts.~~ Also, residential lots may contain two principal single-family detached dwellings units, if the lot is twice that required by the Table of Area Regulations for single-family dwellings residences in that district and if each dwelling unit is provided proper street access.
- 2 The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- 3 At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- 4 No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- 5 Projections into required yards or other required open spaces are permitted subject to the following:
Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- 6 Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- 7 The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- 8 Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

9 No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
10 Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots) shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

11 Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

12 For subsidized elderly housing, see ~~S-I Section 179-42~~ rather than this Table 2.

13 An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor ~~living~~ area not exceeding 600 square feet, and ~~including not more than one bedroom, a kitchen, living room and a bathroom, is~~ shall be allowed by a special permit granted by the Board of Appeals. Such ~~building dwelling~~ shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences ~~during which the unit is not rented.~~ A lot shall not contain both an ADU and an accessory apartment.

14 Except that single-family dwelling uses and structures in the V-B district shall be subject to the R-M district requirements set out in this Table 2.

Editor's Note: The C-L District ~~which immediately followed~~ was removed pursuant to Article 51, Annual Town Meeting, May 8, 1989, at the request of the Town.

**PROPOSED AMENDMENTS TO ADU ZONING
PROVISIONS – CLEAN**

Article IX Special Regulations

§ 179-42.2 Accessory single-family dwelling units (ADUs).

The purposes of this ADU Section are to promote the creation of year-round rental dwelling units in the Town; to increase housing choice and the diversity of housing types in the Town; and to preserve the community, especially by facilitating housing that allows seniors, working people and young adults to remain and live in Brewster; all while supporting the existing desirable character of Brewster's residential neighborhoods and districts.

Accessory single-family dwelling units shall be permitted subject to the following standards:

- A. An ADU may be located within, connected to or adjoining a single-family dwelling, or in a detached, accessory residential building to a single-family dwelling, subject to all standards of this Section. An ADU shall maintain a separate entrance(s), either directly from the outside or through an entry or shared corridor sufficient to meet the requirements of the State Building Code for safe egress. Also see the Definitions section of this Chapter, § 179-2.
- B. There shall be no more than one ADU per lot.
- C. An ADU shall have no more than two bedrooms and no more than one thousand (1000) square feet of net floor area.
- D. A minimum of one parking space for the ADU shall be provided in addition to the parking spaces for the principal dwelling.
- E. A detached, accessory residential building in which an ADU is located shall not otherwise contain bedrooms not associated with the ADU.
- F. An ADU shall be subject to and comply with all other provisions of this Chapter, as applicable, including without limitation the building height, coverage and setback requirements for the underlying lot, either as set out in Table 2, Area Regulations, Table 3, Height and Bulk Regulations, or as otherwise may be permitted in Article VIII of this Chapter. To the extent there is conflict between the provisions in this Section and other provisions in this Chapter, the provisions in this Section shall control.
- G. There shall be no minimum lot size required to construct and maintain an ADU. However, a Special Permit, pursuant to the applicable standards in Section 179-51 herein, and Table 1, Use Regulations, shall be required from the Planning Board for an ADU on a lot less than 15,000 sq. ft.
- H. Either the principal dwelling or the ADU shall be occupied by the owner of the property on a year-round basis, except for bona fide temporary absences, and the other dwelling unit shall be used for year-round dwelling purposes, leased or occupied for continuous periods of not less than twelve (12) months at a time. Notwithstanding the foregoing, an owner who does not so occupy the property on a year-round basis may apply for a Special Permit from the Planning Board, pursuant to the applicable standards in Section 179-51 herein, to authorize an ADU on the property and the use of whichever dwelling unit(s) said owner does not intend to occupy, either the principal dwelling, the ADU, or both, for year-round dwelling purposes, to be leased or occupied for continuous periods of not less than twelve (12) months at a time. Pursuant to its Special Permit authority under Section 179-51 of this Chapter, the Planning Board may consider and require, among other things, safeguards to ensure that privacy to abutting properties is reasonably maintained and that there are appropriate management and facilities in place to serve the dwelling units.

- I. An ADU shall be used and designed consistent with the single-family residential nature of the underlying property. An ADU shall not be used as an accommodations-type use, such as a lodging house. There shall be no subletting, renting of rooms, or boarding of lodgers in an ADU on a short-term basis, and no Short-Term Rental use shall be permitted on a lot containing an ADU.
- J. An ADU shall be subject to all applicable State and local laws and regulations, including without limitation the State Building Code and related Certificate of Occupancy requirements; State plumbing, electrical, and fire codes; Title 5, 310 CMR 15.00, and the State Sanitary Code, 105 CMR 410.00, and corresponding local Board of Health regulations; and State and local Wetlands laws and regulations.
- K. An ADU shall not be severed in use or ownership from the principal dwelling to which it is accessory, including but not limited to subjecting the underlying lot or any portion thereof to the condominium form of ownership.
- L. The owner of a property with an ADU shall be required to file a written affidavit with the Building Department certifying compliance with the standards of this Section, including the use and occupancy standards. The Building Department shall establish, administer, and maintain, and may amend from time to time, the affidavit process and forms referenced herein.
- M. The Building Commissioner is authorized to establish an administrative permitting and/ or registration process for ADUs, in addition to other permits or approvals that might be required, to assist in documenting ADUs in the Town for informational or zoning compliance purposes.
- N. Without limiting other enforcement remedies or actions available under this Chapter, including fines, the Building Commissioner is authorized to order that the cooking facilities and supporting utilities and fixtures within an ADU be removed in order to abate a violation of this Section.

Article I
General Provisions

§ 179-2 **Definitions.**

B. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SINGLE-FAMILY DWELLING UNIT (ADU)

A dwelling unit located on the same lot as the principal single-family dwelling to which it is accessory. An ADU shall be considered an accessory use.

DWELLING, ONE FAMILY DETACHED

A building containing a single, separate dwelling unit, designed for use and occupancy by one family, which shall be considered a principal use and principal structure under this Chapter. Also referred to herein as a “single-family dwelling” or “single-family residence.”

FLOOR AREA, NET

The sum of the living areas on all floors within the perimeter of a building or portion thereof measured from the outside faces of the exterior walls, or dividing walls as applicable, without deduction for interior partitions and the like. It does not include unenclosed decks, porches, entries, or unconditioned storage, cellar, mechanical, garage, or utility areas, or spaces similar to the foregoing, not designed, intended or capable of being used for human habitation or occupancy.

DRAFT

ZONING

179 Attachment 1

**Table 1
Use Regulations
Town of Brewster**

KEY:

P = Permitted Use

S = Special Permit Use

Use with a dash ("-") = Prohibited Use

		District							
		R-R	R-L	R-M	C-H	V-B	I	MRD	PWS-CF
Residential									
1.	Accessory residential building	P	P	P	-*	P	-	-	-
2.	Accessory commercial dwelling unit "ACDU"	-	-	-	S	S	-	-	-
3.	Accessory single-family dwelling unit "ADU" on a lot of 15,000 square feet or more	P	P	P	-*	P	-	-	-
4.	Accessory single-family dwelling unit "ADU" on a lot less than 15,000 square feet	S	S	S	-*	S	-	-	-
5.	Affordable multifamily dwelling units "AMFDU"	-	-	-	P	-	-	-	-
6.	Cluster residential development	S	S	S	-	-	-	-	-
7.	Construction trailer	P	P	P	P	P	P	-	-
8.	Major residential development	S	S	S	S	-	-	-	-
9.	Multifamily dwelling	-	-	-	S	-	-	-	-
10.	One-family detached dwelling	P	P	P	-	P	-	-	-
11.	One-family security dwelling	-	-	-	P	P	P	-	-
12.	Planned residential development	-	S	S	-	-	-	-	-
13.	Row or town houses	-	-	-	S	-	-	-	-
14.	Subsidized elderly housing	S	S	S	S	-	-	-	-

*Except as may be permitted for pre-existing nonconforming single-family residential properties under Article VIII of this Chapter 179.

[BREWSTER CODE, ZONING, CH. 179, TABLE/ ATTACHMENT 2, AREA REGULATIONS]

District	Use	Area (square feet)	Yards ^{3,4,5,6,7}			
			Lot Frontage ² (feet)	Front (feet)	Side (feet)	Rear (feet)
R-R	Any permitted structure or principal use	100,000 plus 100,000 for the second principal dwelling	200	40	25	25
R-L	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling	150	40	25	25
R-M	Any permitted structure or principal use	60,000 plus 60,000 for the second principal dwelling	150	40	25	25
C-H	Row commercial	40,000	200	100	30	30
	Multifamily dwellings	130,000 plus 10,000 per bedroom	200	100	30	30
	Hotel and motel	130,000 plus 2,000 per unit	200	100	30	30
	Row house or townhouse	130,000 plus 10,000 per bedroom	80	30	15	15
	Any other permitted structure or principal use	15,000	80	30	15	15
V-B	Any permitted structure or principal use ¹⁴	15,000	100	30	15	40
I	Any permitted structure or use, other than those listed above for the C-H District ⁹	20,000				

NOTES:

- 1 In general, only one principal structure shall be permitted on one lot. The exceptions are planned residential developments, row commercial development, subsidized elderly housing, planned business developments, community facilities, building and construction trade shop or garage uses, and public utilities. Also, residential lots may contain two principal single-family detached dwellings if the lot is twice that required by the Table of Area Regulations for single-family dwellings in that district and if each dwelling is provided proper street access.
- 2 The width of the lot, measured at the front yard setback line, shall be at least 80% of the lot frontage.
- 3 At each end of a through lot, there shall be a setback depth required which is equal to the front yard depth required for the district in which each street frontage is located.
- 4 No building, except a boathouse or building used for agricultural purposes, shall be within 50 feet of any water body, watercourse or wetland area or, if subject to flooding, within 50 feet beyond its flood line to the higher elevation.
- 5 Projections into required yards or other required open spaces are permitted subject to the following:
 Balcony or bay window, limited in total length to 1/2 the length of the building, not more than two feet.
 Open terrace or steps or stoop, under four feet in height, up to 1/2 the required yard setback.
 Steps or stoop over four feet in height, windowsill, chimney, roof eave, fire escape, fire tower, storm enclosure or similar architectural features, not more than two feet.
- 6 Accessory buildings and structures. Any permitted accessory building in any R District shall conform to the following provisions:
 It shall not occupy more than 40% of the required rear yard. It shall be not less than 40 feet for R-R and R-L Districts and 30 feet for an R-M District from any street lot line and shall be not less than 25 feet in any R-R or R-L District or 20 feet in the R-M District from any lot line. It shall not exceed 30 feet in height.
 A temporary stand for retail sale of agricultural or farm products, where permitted. May be six feet from the front lot line.
 Any permitted barn shall be at least 50 feet from any street lot line or side or rear property line and at least 100 feet from any abutter's dwelling.
- 7 The front, side and rear yard clearances shown in this table for multifamily dwellings are applicable to each structure containing dwelling units. These distances should be used as though each structure is set on a separate lot. For example, two structures sitting side by side would have side yard clearances each of 30 feet or a total of 60 feet between the structures.
- 8 Intensity of use applications to nursing convalescent home. For purposes of interpreting the portion of this chapter, the term "unit" shall mean each bed designed for use by an individual receiving care at such facility. The first three units of a nursing/convalescent home shall require a minimum land area equal to the lot requirements for any

permitted structure or principal use in the district in which located, with the exception in the C-H District, where 20,000 square feet shall be required for the first three units of a nursing/convalescent home. In all districts where such use is allowed, including by special permit, each additional unit shall require a minimum of 4,000 square feet of land area. Front, side and rear yard requirements within the respective districts where special permits are required may be increased at the discretion of the Board of Appeals, if the size of the project, proximity to incompatible adjacent uses or other factors potentially having an adverse effect on the health, safety or welfare of the persons under care at such facility justifies a more extensive buffer from property lines. The Board of Appeals shall ensure that egress from such facility shall be on a street which should be safe and adequate.

⁹ No building, loading space, parking space or structure, other than a sign, shall be located within 200 feet of the Industrial District boundary line in an Industrial District.
¹⁰ Exception, panhandle lots. This exception shall only apply to a single parcel of land at least three times the area required for a single lot in that residential district, intended to be divided or subdivided into not more than two lots. Such a division or subdivision may be exempt from any or all of the requirements of the Town of Brewster Planning Board rules and regulations, upon the express written approval of the Planning Board. The regulations for lot frontage as set forth in this section may be waived by the Planning Board upon the following conditions:

There shall be no further subdivision of the lot(s).

The lots) shall be used for single-family residential purposes.

The area of the access to the lot as determined by the Planning Board shall not be used in determining lot size.

The access to the lot as determined by the Planning Board shall not be used to provide access to any other lots.

In no event shall the lot frontage and lot width be less than 30 feet.

¹¹ Multiple use of this section of this chapter shall not be used as a means of accomplishing the subdivision of land without the construction of ways.

¹¹ Cottage colony conversion. An existing nonconforming cottage colony may not be converted to a single-family dwelling use under separate ownership, unless the lot upon which each building is located complies with the minimum requirements for single-family dwellings in the zoning district in which the land is located, and such nonconforming cottage colony may not be converted to a single-family use under condominium-type ownership, unless the lot meets the minimum zoning requirements in which the land is located.

¹² For subsidized elderly housing, see Section 179-42 rather than this Table 2.

¹³ An owner-occupied building containing two dwelling units, one of which shall be an accessory apartment with a net floor area not exceeding 600 square feet and not more than one bedroom, is allowed by a special permit granted by the Board of Appeals. Such building shall be deemed to be owner-occupied if either dwelling unit is occupied by the property owner of record on a year-round basis, except for bona fide temporary absences. A lot shall not contain both an ADU and an accessory apartment.

¹⁴ Except that single-family dwelling uses and structures in the V-B district shall be subject to the R-M district requirements set out in this Table 2.

Editor's Note: The C-L District was removed pursuant to Article 51, Annual Town Meeting, May 8, 1989.



Brewster Housing Partnership
2198 Main Street
Brewster, MA 02631-1898
Phone: (508) 896-3701
Fax: (508) 896-8089

Office of:
Board of Selectmen
Town Administrator

Faythe Ellis, Chair
Brewster Community Preservation Committee (CPC)
Brewster Town Offices
2198 Main Street
Brewster, MA 02631

August 31, 2023

Re: Housing Partnership Vote in Support of CPA Funding Allocation of \$250,000 to replenish the Brewster Affordable Housing Buy-Down Program

Dear Ms. Ellis and Esteemed Committee Members;

On August 30, 2023, the Partnership received a presentation by Assistant Town Administrator Donna Kalinick outlining the application for \$250,000 of CPA funds to continue the Town's program for offering income-eligible buyers supplemental funds in return for new deed restrictions, which will keep the homes affordable to future buyers.

The funding request indicates that this program has been most applicable to preserve affordability of previously subsidized properties, when those units come up for re-sale, because these units may be at risk of becoming unaffordable (when the Maximum Resale Price Formula contained in a deed restriction for an existing subsidized home is applied to the current appraised value for the property, producing a projected sales price that exceeds the ability of an income-eligible buyers' ability to pay).

By applying these funds to units that are already on the Subsidized Housing Inventory (SHI), the Town is able to not only correct the flawed existing deed restriction formula, to leverage a larger degree of Affordability in perpetuity, but also to use a smaller additional investment, relative to the current production cost of new units, which would be needed to replace any expiring ones. In this way, this program and these funds allow the Town to stretch its limited resources further.

The Housing Partnership voted unanimously to whole-heartedly endorse and support this CPA funding application for an additional \$250,000 to continue the Town's successful program, and to officially assign the Town's Affordable Housing Trust the oversight and tracking of on-going program management contracts. We are also hoping that the Program will not preclude the use of these funds to create new Affordable units, by purchasing new deed restrictions for units, if units are ever offered for sale at below-market prices, and when an income-eligible buyer is voluntarily seeking to impose a future resale deed-restriction, in return for one-time, purchase-price gap-funding.

We anticipate that the need for this program, and the gratitude of program participants, is likely to continue for generations. Thank you for your consideration.

Sincerely,

Jillian Douglass, Chair
Brewster Housing Partnership

Cc: Brewster Select Board



Brewster Housing Partnership
2198 Main Street
Brewster, MA 02631-1898
Phone: (508) 896-3701
Fax: (508) 896-8089

Office of:
Board of Selectmen
Town Administrator

Faythe Ellis, Chair
Brewster Community Preservation Committee (CPC)
Brewster Town Offices
2198 Main Street
Brewster, MA 02631

August 31, 2023

Re: Housing Partnership Vote in Support of CPA Funding Allocation of \$500,000 to Supplement the Hard & Soft Cost to Develop 45 Affordable Apartments as “Spring Rock”

Dear Ms. Ellis and Esteemed Committee Members;

On Thursday, August 31, 2023, the Brewster Housing Partnership received a presentation from David Quinn Director of Development for Housing Assistance Corporation and Vita Shklovsky of Community Development Partners. The presentation detailed the final design plans for the development of the 16.9-acre, V-shaped, parcel of town-owned land located between Millstone Road and the golf-side of Ocean Edge Resort.

Since this land was originally designated for the development of Affordable housing in 2005, there seems universal consensus that the time has come to finally build. As a Local Initiative Project, the Town has worked diligently, post the pandemic shut-down to keep this project on track. The Town’s collaborative work with the Massachusetts Housing Partnership (MHP) from 2019 to 2021, concurrent with the update of the Town’s Housing Production Plan was extremely effective in engaging citizen input related to community needs as well as neighborhood concerns.

The final design created by the team of Union Studio and Horsley Witten proposes an attractive, compact, resource efficient, village-style grouping of 12 buildings, surrounded by thoughtful vegetated buffers, and leaving 72% (a little over 12 acres) of the site undeveloped and undisturbed.

The neighborhood will consist of a mix of nine (9) townhouse buildings, and one (1) larger multi-family structure containing thirteen (13) apartments, creating forty-five (45) new Affordable rental housing units with 79 delineated parking spaces and a designated overflow area to accommodate 11 additional cars. Clearly, the site has future capacity for additional overflow parking or amenities, if needed.

With 100% of these units serving households with incomes between 30% and 80% of AMI, the unit mix (15 1-bed, 25 2-bed and 5 3-bed) is reflective of current demand and wait-list demographics.

This project has an extremely tight, but well-crafted budget, created by an up-to-date experienced team, which intends to also manage the property. At a per unit construction cost of \$414,000, it is clear that this \$27,178,227 project, with a projected rental income of \$958,416, will need every bit of supplemental development funding it can rally. Having pain-stakenly

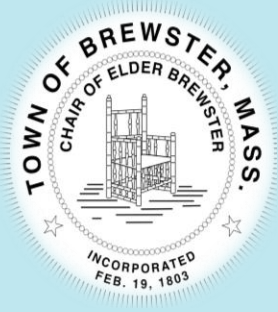
guided this project's planning and design, the Town should be proud to supplement its construction costs in the amount of \$500,000.

After in-depth review of the Spring Rock application, the Brewster Housing Partnership voted unanimously to support and endorse the \$500,000 request. We hope that the voting citizens at the November 2023 Brewster Town Meeting will too.

Sincerely,

Jillian Douglass, Chair
Brewster Housing Partnership

Cc: Brewster Select Board



On behalf of the Select Board, Bay Property Planning Committee, and Town Management, we invite you to join us for Brewster's

First Annual Volunteer Fair

At our inaugural Brewster Volunteer Fair, members from board, committees, and commissions will be available to talk to residents about their role in shaping our community. Members will have the opportunity to present the ongoing work their team is responsible for and the planned initiatives for the upcoming year.

Residents will be able to explore opportunities to get involved and learn more about the election and appointment process.

Please join us!

Saturday September 30, 2023

Dining Hall, Bay Property

10am – 12pm

We are requesting each board, committee, and/or commission select 1-3 representatives to host a table at the event.

Immediately following the Volunteer Fair, we invite all members of boards, committees, and commissions to join us for an appreciation luncheon from 12pm – 1pm.

Please RSVP to Erika Mawn no later than Sept. 22nd
emawn@brewster-ma.gov / (508) 896-3701 x1100

THANK YOU FOR ALL YOU DO!





Town of Brewster

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MINUTES OF THE LOCAL PREFERENCE INFORMATION SESSION

DATE: August 17, 2023
TIME: 6:00 PM
PLACE: 2198 Main Street

PARTICIPANTS: **Housing Partnership-** Chair Jillian Douglass, Lisa Forhan, Vanessa Greene, Sarah Robinson, Steve Seaver, **Select Board-** Chair Chatelain, Selectperson Bingham, Selectperson Hoffmann, Selectperson Whitney, **Affordable Housing Trust-** Chair Timothy Hackert, Vanessa Greene, Donna Kalinick, Ned Chatelain, Maggie Spade-Aguilar, **Town Manager** – Peter Lombardi, **Housing Coordinator-** Jill Scalise

REMOTE PARTICIPANTS: **Housing Partnership-** Ralph Marotti. **Affordable Housing Trust-** Tony Freitas and Paul Ruchinkas. **Finance Committee-** Chair Pete Dahl, Robert Tobias, Alex Hopper, Andy Evans, Bill Hency, Frank Bridges. **Community Preservation Committee-** Chair Faythe Ellis, Sarah Robinson, Sharon Marotti, Elizabeth Taylor, Bruce Evans, Peggy Jablonski, Paul Ruchinkas

Call to Order, Declaration of a Quorum, Meeting Participation Statement and Recording Statement

- Select Board Chair Chatelain called the meeting to order at 6:03pm and declared a quorum with all members present except for Selectperson Chaffee.
- Housing Partnership Chair Douglass called the meeting to order at 6:03pm and completed a roll call vote.
- Affordable Housing Trust Chair Hackert called the meeting to order at 6:04pm and completed a roll call vote.
- Finance Committee Chair Dahl called the meeting to order at 6:05pm at completed a roll call vote.
- Community Preservation Committee Chair Faythe Ellis called the meeting to order at 6:05pm and completed a roll call vote.

Select Board Chair Chatelain read the meeting participation statement and the recording statement.

Presentation by Donna Kalinick, Assistant Town Manager and Jill Scalise, Housing Coordinator

Ms. Kalinick shared that the State recently notified the Town that the Housing Production Plan was certified for the third time in the last five years. The Town had an increase in the number of units on the Subsidized Housing Inventory (SHI), in 2017 there were 250 units or 5.2% of the required 10% and currently we have 372 units that have been certified, an increase to 7.2%. Ms. Kalinick thanked all the committees for contributing to the housing program.

Ms. Scalise provided her definition of local preference, a priority for people who live, work, or have a child attending school in a locality. Local preference doesn't exist on its own, it includes the guidelines for G.L. C. 40B Comprehensive Permit Projects for Subsidized Housing Inventory, Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines. Any affordable unit on the Subsidized Housing Inventory (SHI) has to go through the Affirmative Fair Housing process and local preference fits as one part of the process.



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For a local preference to be part of the process, the municipality has to demonstrate a need and make a request to the Executive Office of Housing and Living Communities (EOHLC) to receive local preference. The municipality must also justify the extent of the Local Preference (the percentage of units to be set aside for those in the local community). Ms. Scalise noted that it can't be more than 70% of the affordable units in a project. The ultimate decision is made by the State, the Executive Office of Housing and Livable Communities (EOHLC). The State makes sure that there is not a negative impact on protected classes. Ms. Scalise reviewed the protected class under the Federal Fair Housing Act and the State of Massachusetts.

Ms. Scalise reviewed the steps that a municipality would take to request Local Preference, the first is to provide the developer and the subsidizing agency (EOHLC) documentation to support the desire and the request for local preference must be made within three months of the issuance of a comprehensive permit. The subsidizing agency as well as the municipality must approve the local preference as part of the Affirmative Fair Housing Marketing Plan (AFHMP), this can't be done in a comprehensive permit. Ms. Scalise provided information on who may qualify for Local Preference:

- Must be a current resident: a household in which one or more members is living in the city or town at the time of application.
- Municipal employees
- Employees of local businesses
- Households with children attending the locality's school, includes school choice students and regional schools within in the municipality.

One of the concerns with Local Preference is making sure there isn't any negative impact on those in protected classes. When determining the Local Preference categories, the geographic boundaries for local resident preference may not be smaller than the municipal boundaries, Ms. Scalise noted that most include all of Brewster. For Regional Preferences it must be the whole Metropolitan Statistical Area (MSA), for Brewster this is Barnstable County. Durational requirements related to Local Preference, meaning how long an applicant has lived in, worked, or gone to school in a preference area is not permitted. Preferences extended to local residents should also be made available to applicants who have a bona fide job offer or housing offer within the town. Ms. Scalise continued to review Local Preference guard rails, which include:

- A preference for households that work in the community must not discriminate against persons with disabilities and elderly households.
- Advertising must not have a discriminatory effect on eligible applicants. Local Preference must not be advertised as they may discourage people from applying.
- Local Preference only applies to the initial sale or lease up.

Eligible applicants are first placed into a lottery, the number and type of pools will depend on the project. There is a Local Preference pool and an Open pool, local applicants will be placed in both pools. Ms. Scalise explained Minority Balancing, a step taken to make sure the whole system is working the correct way. This step determines if the percentage of applicants that identify as ethnic or racial minority in the local preference pool must be equal or greater to the percentage of minority residents in the MSA, which for



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Brewster is 15%. Ms. Scalise went on to detail the steps and provide an example if the percentage of minority local resident households in the Local pool is less than the percentage in the MSA.

Ms. Kalinick shared Brewster's experience with Local Preference:

- Paul Hush Way- 14 homes in two phases
 - 70% Local Preference was granted
 - Significant CPA funding, approximately \$1.4M
 - 157 total applicants over two lotteries, 49 qualified
 - Both the lottery pool and home ownership build selection demonstrated a fair and diverse representation of qualified applicants
- Brewster woods- 30 rental affordable units (land owned by Brewster Housing Authority)
 - 70% Local Preference was granted
 - Funding through CPA (\$550K) and MassWorks grant (\$1.68M)
 - Affordable fair marketing and lottery for 27 units, 3 of the units because of the funding source went through a different process. Units were for folks at 30-60% of Area Medium Income (AMI)
 - 240 total applications, 128 applicants qualified
 - 40 applicants in the local preference pool, no minority balancing required
- Serenity at Brewster
 - 132 rental units, community for aged 55+, 27 units are deed restricted at 80% of the AMI
 - 50% Local Preference was granted, no Town funding was involved
 - 72 total applications, 53 applicants qualified, minority balancing used in the lottery
 - 14 applicants in the supplemental local preference pool, all offered apartments at Serenity

Ms. Kalinick reviewed the new Habitat for Humanity build for two homes at Phoebe Way, sharing that there will be two 3-bedroom affordable homes, one at 60% AMI and one at 80% AMI. There is \$100K of Brewster CPA funds, and there will be one veteran's preference home, a first for Habitat for Humanity.

Ms. Scalise announced that the Town is at a Local Preference decision point with Spring Rock Village, 0 Millstone Road, having received a comprehensive permit in June. There will be 45 affordable rental homes and we are currently in the 90 day window to request Local Preference. Ms. Scalise provided an overview of the property:

- \$285K of CPA funds was used to purchase the 1.5-acre access parcel in 2018
- Town designated 16.6 acres of Town land for Community Housing
- Town through the Brewster Affordable Housing Trust (BAHT) went through a feasibility study, completed community outreach, and led a Request for Proposal in 2021. The Town accepted a proposal from Preservation of Affordable Housing (POAH) and Housing Assistance Corporation (HAC)
- The proposal includes 12 buildings with 15 one-bedroom units, 25 two-bedroom units and 5 three-bedroom units at a mix of 30-50% AMI, 50-60% AMI and up to 80% AMI



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Ms. Scalise shared that POAH and HAC are working on their financing. Most of the land will be left as is, which was part of the proposal request and community input. The Barnstable County Median Family Income is \$124,300, SHI affordable housing is low to moderate income housing that goes up to 80% of the AMI. For 2023, HUD has set the income limits by household size. Ms. Scalise showed how this responds to salaries in Brewster and municipal workers, noting that entry level positions could qualify depending on their family status. The Select Board has the option to request up to 70% Local Preference. The request must be made to the EOHLIC by September 14, 2023, who will make the final decision.

Questions and Discussions

Each Board and Committee had the opportunity to ask questions and make comments about the presentation. Ms. Scalise made the following clarifications throughout this portion of the informational session:

- The Local pool needs to have 15% of minority residents apply, there are no requirements as to who is chosen.
- Reasons that someone may not qualify include the mortgage process, changes in income and information that may have been on the application that is not accurate.
- The State requires a Town to have 10% of the number of year-round units on the SHI, make a .5% gain towards that goal and have a certified Housing Production Plan to place the Town in safe harbor. Safe Harbor means that if there is a comprehensive permit project, the Town has the ability to use its own local zoning rather than the State's level of zoning, giving the Town more control of what can happen. Town's can stay in Safe Harbor for one year, if a Town reaches the 10% goal, they stay in Safe Harbor as long as they meet that goal.
- Any housing that is on SHI or is affordable housing must go through an Affirmative Fair Housing Marketing Plan and Resident Selection Plan regardless of Safe Harbor status.
- The understanding is that any applicant that is living in Brewster at the time of the application is eligible as there is no duration requirement.
- Specific eligibility questions would be answered by the State and a certified lottery agent is hired by the Town who assists with specific questions regarding eligibility, including local businesses.
- An example of Regional Preference on Cape is the Village at Nauset Green, Ms. Scalise understands that they received 65% Local Preference for the Town of Eastham and 10% Regional Preference for Barnstable County (she is still waiting confirmation).
- Through research it was determined that the land used for this project was used historically for wood lots and the wood used for fishing weirs in the Bay, the name of the driveway will be Wood Lot Way. Additionally, Spring Rock is a glacier erratic found on old deeds for this area, including the access parcel.
- If a unit becomes vacant after the initial lease up, the management company would work off of a waitlist that was created from the lottery.
- The Affirmative Fair Housing Plan has specific requirements for marketing units, the Town's Housing Program also completes outreach through the Town website, Chamber of Commerce, large employers to help spread the word.



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- The Town is certified until June 2024 through the Housing Production Plan, unless the State changes the SHI the Town will need to add 24-30 units to become certified again, however there are no projects lined up at the moment.
- Ms. Scalise shared that the Town is prepared to characterize the need for Local Preference, referencing the years-long waitlist for the Housing Authority. She also shared that the number of renters in Brewster that are housing cost burdened is 64%, that 42% of the housing stock is seasonal housing, and less than 9% is rental housing. These are the types of data points that demonstrate the need in our community for rental housing.
- The next census that will be completed to identify an assessment for housing will be in 2030. Ms. Scalise noted that the 2020 data was received recently.
- The definition for ethnic and racial minorities is determined by the census definition.
- Ms. Scalise shared that educational efforts are being made by the Barnstable Home Consortium across the county as well as efforts made by Housing Assistance Corporation.
- Ms. Kalinick shared that we expect POAH and HAC to request funding assistance from surrounding Community Preservation Committees for Spring Rock Village.
- The diversity in the Town of Brewster has been improving through all the Housing Programs work, there were no exact numbers to be shared.
- Ms. Kalinick shared that 81% of applicants in both Brewster Woods and Serenity at Brewster were from one of the fifteen towns on Cape.

Adjournments

- Finance Committee member Bridges moved to adjourn at 7:31pm. Member Evans seconded the motion. Roll call vote: member Tobias- yes, member Hopper -yes, member Evans-yes, member Henchy- yes, Member Bridges- yes, Chair Dahl-yes, the vote was 6-Yes, 0-No.
- Community Preservation Committee member Taylor moved to adjourn at 7:32pm. Member Jablonski seconded the motion. Roll call vote: member Robinson-yes, member Marotti-yes, member Taylor-yes, member Evans-yes, member Jablonski-yes, member Ruchinkas-yes, Chair Ellis- yes, the vote was 7-Yes, 0-No.
- Affordable Housing Trust member Kalinick moved to adjourn at 7:32pm. Member Spade-Aguilar seconded the motion. Roll call vote: member Ruchinkas-yes, member Kalinick-yes, member Greene-yes, member Freitas-yes, member Chatelain-yes, member Spade-Aguilar-yes, Chair Hackert-yes, the vote was 7-Yes, 0-No.
- Housing Partnership member Seaver moved to adjourn at 7:33pm. Member Greene seconded the motion. Roll call vote: member Marotti- yes, member Robinson-yes, member Greene-yes, member Forhan-yes, member Seaver-yes, Chair Douglass-yes, the vote was 6-Yes, 0-No.
- Selectperson Whitney moved to adjourn at 7:33pm. Selectperson Bingham seconded the motion. Roll call vote: selectperson Bingham-yes, selectperson Hoffmann-yes, selectperson Whitney-yes, Chair Chatelain-yes, the vote was 5-Yes, 0-No.



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Respectfully submitted by Erika Mawn,
Executive Assistant to the Select Board

Board/ Committee	Approval Date
Select Board	September 11, 2023
Housing Partnership	
Affordable Housing Partnership	
Finance Committee	
Community Preservation Committee	

Donna Kalinick

From: jill douglas <tawktame@hotmail.com>
Sent: Tuesday, September 19, 2023 2:09 PM
To: Donna Kalinick
Subject: FW: ACTION: Sign CHAPA's letter to support LIHTC

Hi –I'm seeing this too late for the BHP Agenda, but do you think we could include it in the FYIs?

Sent from [Mail](#) for Windows

From: [Matt Noyes, CHAPA](#)
Sent: Monday, September 18, 2023 4:05 PM
To: [Jillian Douglass](#)
Subject: ACTION: Sign CHAPA's letter to support LIHTC

[View this email in your browser](#)



**Sign CHAPA's Letter to Support
LIHTC in the Tax Bill**

Dear Friends,

In June, the Senate passed a tax relief package that includes an increase to the state's Income Housing Tax Credit (LIHTC), a top priority for CHAPA. The Senate proposal increases authorization for LIHTC by \$20 million to a total of \$60 million annually and removes the sunseting of the program, making funding for LIHTC permanent with the authorization of \$60 million per year.

[The final version of the tax relief bill is being negotiated by a conference committee](#) tasked with reconciling differences between the House and Senate proposals. **LIHTC was not included in the House bill and advocacy is needed to include funding for LIHTC in the final version of the Legislature's tax relief legislation.**

Please [sign your organization to CHAPA's letter to the conference committee](#), urging them to include the Senate's LIHTC language in their final report.

The Massachusetts Low Income Housing Tax Credit (LIHTC) program is a critical tool that brings together public and private investment to finance the production and preservation of affordable housing across Massachusetts. Since its creation in 1999, the state LIHTC has successfully supported the production of nearly 25,147 homes, including 21,547 affordable apartments and 4,000 market-rate rentals. Increasing the state LIHTC will make it possible to create more of the affordable homes people need.

To sign on, [complete this form](#) by 12:00 PM on September 22nd. If you have any questions, please contact CHAPA's Policy Director, Matt Noyes, at mnoyes@chapa.org or 781-608-8671.

Sign on to the Letter



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