

Town of Bradford
Workforce Housing Ordinance

I. Purpose. The purpose of this Article is to provide reasonable opportunities for the development of workforce housing within Bradford for both home ownership and rental opportunities. The Town recognizes the importance and benefit to the community and its citizens in the establishment of suitable opportunities for workforce housing. The Town recognizes that there are some situations in which normal zoning, site plan review and/or subdivision requirements may be waived without sacrificing public health, safety and welfare so long as proper safeguards are maintained. Accordingly, it has been deemed advisable to adopt workforce housing in accordance with 674:58-61 in order to:

- A. Encourage and provide for the development of affordable housing or workforce housing;
- B. Ensure the continued availability of a diverse supply of home ownership and rental opportunities for moderate income households;
- C. Meet the goals related to affordable housing provisions set forth in the town’s Master Plan of 2006; and
- D. Comply with the requirements RSA674:58-61.

II. Authority. This innovative land use control is adopted under the authority of RSA 674:21, and is intended as an “Inclusionary Zoning” provision as defined in RSA 674:21(I)(k) and 674:21(IV)(a)

III. Definitions

- A. Affordable: Affordable means housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that does not exceed 30 percent of the household’s gross annual income.
- B. Multi-family housing: for the purpose of workforce housing development means a building or structure containing 5 or more dwelling units, each designed for occupancy by an individual household.
- C. Reasonable and realistic opportunities for the development of workforce housing: opportunities to develop economically viable workforce housing within the framework of Bradford’s ordinances and regulations adopted pursuant to this chapter and consistent with RSA 672:1, III-e.
- D. Workforce housing/owner occupied: housing which is intended for sale and which is affordable to a household with an income of no more than 100% of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.
- E. Workforce housing/renter occupied: rental housing which is affordable to a household with an income of no more than 60% of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development. Housing developments that exclude minor children from more than 20% of the units, or in which more than 50% of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing for the purposes of this subdivision.

- F. Area Median Income (AMI): the median income of the greater region, either the HUD Metropolitan or Non-Metropolitan Fair Market Rent Area to which the community belongs, as is established and updated annually by the United States Department of Housing and Urban Development. Income considers both wage income and assets.

IV. Incentives for Workforce Housing. After considering all cost factors including, but not limited to, land, subdivision improvements for roads, utilities & drainage, marketing, insurance, labor, building materials, and profit to identify a total gross cost of the project and per unit gross costs, the Planning Board may approve one or more of the following incentives only if the applicant demonstrates the Town’s land use ordinances and regulations induce a cost prohibitive project.

The Planning Board may:

- allow a decrease of the minimum lot size.
- allow a decrease in road frontage.
- set minimum setbacks on each lot. Perimeter setbacks shall be sufficient to buffer and protect adjacent properties and the street from encroachment. This may include a vegetative buffer, as determined by the Planning Board, where necessary.
- approve a reduction in open space. Open space shall be sufficient to accommodate the needs of the proposed occupants of the project.

V. Density Bonus

- A. A site plan or subdivision plan that will guarantee a designated percentage of units that are committed to affordability for 30 years as defined by RSA 674:58 will be granted a density bonus. The maximum percent density bonus shall be 1/2 of the percentage of lots designated as affordable as shown in the table below.

	Percent of total units that are affordable workforce housing	Density bonus	Percentage lot size reduction
Housing Development	20% of units	10%	9%
	50% of units	25%	20%
	100% of units	50%	33%

- B. The Planning Board may allow a reduction of the minimum lot size to accommodate the increased site density as long as soil conditions permit the siting of septic and wells within the decreased lot size.
- C. The applicant shall submit a yield plan with sufficient detail including soil types and slope as well as any natural resource constraint zoning such as wetland/lot size on percentage restrictions to determine the achievable density on the parcel that would meet the zoning standards.

VI. Procedural Requirements. Development of a workforce housing project in accordance with the provisions of this article is permitted through a Conditional Use Permit administered by the Planning Board.

- A. **Conditional Use Permit Application:** A complete application for a Conditional Use Permit includes the materials listed below in addition to an application for a Site Plan Review and/or a Subdivision. An application for a Conditional Use Permit can be processed concurrently with the application for a Site Plan Review and/or a Subdivision, as required for the specific project.

1. Notice of Intent to Build Workforce Housing: Any person who applies to the Planning Board for approval of a development that is intended to qualify as workforce housing under RSA 674:58-61 shall file a written statement of such intent as part of the application.
 2. An application form.
 3. List and 3 copies of mailing labels of the abutters, the applicant and any easement holders on the property in question.
 4. Fees as prescribed in the subdivision and site plan review.
 5. An application under this article must include, but is not limited to, the following data to ensure project affordability:
 - a. Calculation of the number of units provided under this Article and how it relates to its provisions.
 - b. A project cost estimate including, but not limited to all costs for land; costs for constructing subdivision improvements including roads, utilities and drainage; financing; profit; sales & marketing; insurance; labor; building materials; and other cost factors. A gross total project cost and gross cost per housing unit shall be identified.
 - c. Description of each unit's size, type, estimated cost and other relevant data.
 - d. Documentation of household eligibility as required in Section VIII.A. of this Article.
 - e. All agreements established as part of Section VIII B. (Assurance of Continued Affordability of this Article).
 - f. List of required variances, conditional use permits, and special exceptions including justification of their necessity and effectiveness in contributing to affordability.
 - g. Cost savings associated with any written waiver request to the application submittal requirements or the standards outlined in the site plan review regulations or the subdivision regulations.
 6. Written requests for waivers from any of the application submittal requirements or standards outlined in the site plan review regulations or the subdivision regulations.
- B. Conditional Use Permit Criteria:** The applicant shall demonstrate to the Planning Board that the application for workforce housing meets the following criteria before the Planning Board may grant a Conditional Use Permit:
1. The Planning Board must determine that the type and density of proposed workforce housing units is compatible with or provides a compatible transition to the use and density of any neighboring residential areas and that the project will be designed in a manner that is harmonious with neighboring developments, natural surroundings, and housing context (the housing type, density and land use in the surrounding area).
 2. Workforce Housing projects with Multi-Family Housing shall:
 - a. Have a landscaped buffer fifty (50) feet in width around the perimeter of the project; and
 - b. Have direct access to a Class V or better street; and
 - c. Be served by state approved community water and community sewer systems;
or
 - d. Be served by public water and sewer service

3. The housing proposed shall qualify as Workforce Housing as defined in ARTICLE III Definitions.
4. The project shall comply with all Zoning Ordinance, Site Plan Review Regulations and/or Subdivision Regulations, other than those standards relaxed under Article IV and Article V.
5. In determining the minimum lot size in areas served by on-site water and sewer systems, the minimum lot size shall comply with the New Hampshire Department of Environmental Services minimum lot sizing based on soil type and slope.
6. Until such time as municipal water and/or sewer systems are in place, no multi-family housing shall contain more than five (5) units.

C. Procedural Requirements - Decision Process

1. Notice of Conditions: If the Planning Board approves an application to develop workforce housing subject to conditions or restrictions, it shall notify the applicant in writing of such conditions and restrictions and give the applicant an opportunity to establish the cost of complying with the conditions and restrictions and the effect of compliance on the economic viability of the proposed development. The board's notice to the applicant of the conditions and restrictions shall constitute a conditional approval solely for the purposes of complying with the requirements of RSA 676:4 I(i). It shall not constitute a final decision for any other purpose, including the commencement of any applicable appeal period.
2. Submission of evidence to establish cost of complying with conditions: Upon receiving notice of conditions and restrictions as described above, the applicant may submit evidence to establish the cost of complying with the conditions and restrictions and the effect on economic viability within the period directed by the board, which shall not be less than 30 days.
 - a. Upon receipt of such evidence from the applicant, the Planning Board shall allow the applicant to review the evidence at the Planning Board's next regular business meeting for which ten days of public notice can be provided. Ten (10) days notice by certified mail shall be given to abutters, the applicant and the holders of any conservation, preservation, or agricultural easements on the subject property. At such meeting, the Planning Board may also receive and consider evidence from other sources.
 - b. The Planning Board may affirm, alter, or rescind any or all of the conditions or restrictions of approval after such meeting.
 - c. Subject to subparagraph (d), the Planning Board shall not issue its final decision on the application before such meeting, unless the applicant fails to submit the required evidence within the period designated by the Planning Board, in which case it may issue its final decision any time after the expiration of the period.
 - d. If an applicant notifies the Planning Board in writing at any time that the applicant accepts the conditions and restrictions of approval, the Planning Board may issue its final decision without further action under this paragraph.
3. Appeals: Any person who has filed the written notice and whose application is denied or is approved with conditions or restrictions which have a substantial adverse effect on the viability of the proposed workforce housing development may appeal the municipal action to the Superior Court under RSA 677:4 or RSA 677:15 seeking

permission to develop the proposed workforce housing. A Planning Board decision on the issuance of a Conditional Use Permit cannot be appealed to the Zoning Board of Adjustment (RSA 676:5 III).

4. In any appeal where the applicant has failed to file the statement required in Section VI. A.1, the applicant shall not be entitled to a judgment by a court on appeal that allows construction of the proposed development, or otherwise permits the proposed workforce housing development to proceed despite its nonconformance with the municipality's ordinances or regulations.

VII. General Requirements of Workforce Housing Units

- A. Architectural compatibility of all units: The dwellings qualifying as workforce housing shall be compatible in architectural style and exterior appearance with the market-rate dwellings of similar type, (i.e. affordable and market-rate multifamily units, affordable and market-rate single family homes) in the proposed development. The workforce housing units should be interspersed throughout the overall development and not concentrated in a separate area of the development. Workforce housing units shall be mixed with, and not clustered together or segregated in any way from the market-rate units.
- B. Phasing: The phasing plan for the development shall provide for the development of workforce housing units concurrently with the market-rate units.

VIII. Affordability

- A. Certification of Income Levels: To ensure that only eligible households purchase/rent the designated affordable housing units, the purchaser/renter of a workforce housing unit must submit copies of their last three years federal income tax returns with written certification, verifying that their annual income level, combined with household assets, does not exceed the maximum level as established by this ordinance. The tax returns and written certification of income and assets must be submitted to the developer of the housing units, or the developer's agent, prior to the transfer of title. A copy of the tax return and written certification of income and assets must be submitted to all parties charged with administering and monitoring this ordinance, within 30 days following the transfer of title.
- C. Assurance of continued affordability: Workforce housing units offered for sale shall require a lien, granted to the Town of Bradford, be placed on each workforce housing unit. The value of the lien shall be equal to the difference between the fair market value of the unit and its reduced affordable sale price, which is indexed according to the qualifying income standards. The municipality's lien is inflated over time at a rate equal to the Consumer Price Index (CPI). Future maximum resale values shall be calculated as the fair market value minus the CPI adjusted lien value. Subsequent sales are not limited based on income targets, but the combination of the maintenance of the municipality's lien and adherence to this Article's definition of affordable housing for a period of 30 years from the date of the initial sale of the property.
- D. Workforce housing rental units shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions.

- E. Documentation of restrictions: Deed restrictions, restrictive covenants, or contractual arrangements related to dwelling units established under this Article must be documented on all plans filed with the town's Planning Board and with the Registry of Deeds.

IX. Administration, Compliance, and Monitoring

- A. This Article shall be administered by the Planning Board.
- B. Certificate of Occupancy: No certificate of occupancy shall be issued for a workforce housing unit without written confirmation of the income eligibility of the tenant or buyer of the workforce housing unit and the confirmation of the rent or price of the workforce housing unit as documented by an executed lease or purchase and sale agreement.
- C. Ongoing responsibility for monitoring the compliance with resale and rental restrictions of workforce housing units shall be the responsibility of an organization designated by the Board of Selectmen (such as but not limited to the New Hampshire Housing Finance Authority) or, in the absence of an outside monitoring organization, the Bradford Planning Board or its designee.
- D. Annual Report: The owner of a project containing workforce housing units for rent shall prepare an annual report certifying that the gross rents of affordable units and the household income of tenants of workforce housing units have been maintained in accordance with this Article. Such reports shall be submitted to the monitoring agent indicated in C above, or their designee and shall list the contract rent and occupant household incomes of all workforce housing units for the calendar year.

X. Relationship to other ordinances and regulations. No portion of this ordinance shall nullify the provisions of any other town ordinance provisions which relate to environmental protection, water supply, sanitary disposal, traffic safety, and fire and life safety protection. Where workforce housing applicants propose a development of single family homes or mixed single family and multi-family homes, all provisions of the subdivision and site plan regulations shall apply unless waived by the Planning Board. Where workforce housing applicants propose development of multi-family units or mixed commercial and multi-family units, the site plan regulations shall apply unless waived by the Planning Board.

XI. Conflict. If any provisions of this ordinance are in conflict with the provisions of other ordinances, the more restrictive provisions shall apply, except for any provision dealing with affordability, in which the provisions of this ordinance shall apply.