

# Cape Cod Model Year-Round Occupancy Incentive Bylaw: Accompanying Guide

# Acknowledgements

---

The model bylaw and guide was drafted in conjunction with the Cape Cod Commission by Outwith Studio; Utile; and attorney Mark Bobrowski of Blatman, Bobrowski, Haverty & Silverstein. The bylaw was developed as part of the Commission's Regional Housing Strategy.

## **Outwith Studio**

June McCartin, Principal  
Esti Shapiro, Associate

## **Utile**

Andrea Baena, Director of Urban Design and Planning  
Tim Love, Principal

## **BBHS**

Mark Bobrowski, Esq.

# Introduction

# Intent of this document

## **Guidance for local officials working from this model bylaw**

---

This guide accompanies a model bylaw for incentivizing developments for year-round occupants on Cape Cod. While the text of the model bylaw is kept to the bare minimum and is written in legal/technical language, this guide explains the thinking behind each of those provisions. It provides context and guidance to local officials and advocates who want to understand and implement a zoning-based year-round occupancy incentive locally using this draft as a starting point.

# Intent of model bylaw

## **Providing financial incentives for year-round occupancy**

---

This model bylaw intends to be a first draft of a zoning amendment that would incentivize residential developments with year-round occupants, especially year-round renters. Local policymakers can use this model bylaw as a starting point, considering the town's and region's needs for year-round occupancy housing, the existing market structure for year-round housing versus vacation housing, the financial incentives required under local market conditions, and the specific zoning restrictions within their local code.

# Background

# Identifying need for year-round housing

---

Year-round housing options are increasingly difficult to find on Cape Cod, particularly for renters, who may not readily have financial resources to secure housing. The rise of vacation rentals has especially affected the supply of housing for year-round residents. Often, renters are placed on leases of less than a year and must move to accommodate vacationers. They may move off-Cape for the season and must commute onto the Cape for work. They do not always return. Housing insecurity tied up in this pattern fuels low retention rates in school districts; disruptions to public services, residents, and business; personal healthcare crises and resultant public health outcomes; and other negative effects.

# Addressing the need for rentals

---

The need for year-round housing is especially acute among renters, but towns cannot simply require rental units. The Home Rule Amendment, Mass. Const. art. LXXXIX, § 7(5), bars enactment of “private or civil law governing civil relationships except as an incident of an independent municipal power.” Massachusetts courts have interpreted Section 7 to limit municipal power to require a particular type of housing tenure—homeownership or rental—in a local bylaw.

While the law cannot mandate a housing tenure, the zoning bylaw can create incentives for property owners to develop certain kinds of housing voluntarily.



# A gap in financial performance

---

There is a large gap in the financial performance of real estate that is reserved for year-round occupants versus housing that can be a second home or vacation rental. There are a few issues at play:

- Year-round Cape Cod residents often have lower incomes than second home owners from off-Cape. This means the typical year-round resident cannot afford the same rents or prices as second home owners, or as visitors renting a house for a short period of time. Second home purchasers can more easily bid up the price of a home, and vacationers may bid up the cost of rental units.
- Beyond that major income distinction, vacation rentals often charge weekly fees comparable to the monthly rents for year-round occupants. The operating costs of vacation rentals are much greater than year-round rentals, but their income is typically greater too and a large gap in net operating income remains.

---

**How can a zoning bylaw legally encourage more housing for year-round residents, especially year-round renters?**

# A suite of incentives

---

This model bylaw proposes a suite of incentives to overcome that rental gap and ensure inclusion of (some) year-round occupants in a development.

In essence, these incentives try to either (a) reduce the development costs of a project containing year-round occupants, or (b) provide additional opportunities for non-year-round housing than would otherwise be allowed.

These incentives are paired with requirements and enforcement mechanisms to ensure that the policy goals are achieved after development.

# Financial assumptions

---

The process for developing this model bylaw tested the incentives against the most extreme financial assumptions likely to be found: a multifamily development in which all dwelling units could be used as market-rate vacation rentals, but for the requirements of the model bylaw. This provides the largest gap in income generated between unrestricted units and year-round occupancy units. As seen in the examples on the following page, not all developments will be viable for vacation rentals, and in those cases, the impact of the incentives would be greater.

# Increased returns

Given the discussion on previous pages, the incentives provided here were found to generate a modest increase in returns compared to a development not making use of the incentives. Making use of all the incentives with easily measurable financial impacts, a developer could increase return on equity by roughly a quarter of a percent when holding other assumptions constant. This scale of increase required production of year-round rental units specifically, relatively high market-rate rents for year-round units, and a blanket parking incentive. The increase in returns was not so great that it provided a windfall to the hypothetical developers. Not all developers would likely use the incentives given the increased project complexity they can entail.

## Change in Profit Metrics by Incentives Applied

Profit Metric	Incentives applied			
	No Incentive	Density	Parking	Density + Parking
Return on Asset	0.00%	+0.01%	+0.04%	+0.10%
Return on Equity	0.00%	+0.03%	+0.10%	+0.24%

# How to Use this Model Bylaw and Guide

# Adapting the model bylaw

---

The technical specifications of this model bylaw try to be readily usable for local implementers, easily fitting into existing bylaws and working well without much adjustment. Nonetheless, there are some decisions towns must make, including:

1. Choosing where (geographically) this incentive may be appropriate
2. Editing specified parameters: [Places where towns must make decisions or insert language about their existing code are called out in brackets and in pink text.]
3. Making any further edits the town deems necessary (to increase support, fit this overlay into the existing zoning bylaw, etc.)

# Bylaw Structure

---

This bylaw creates a set of four incentives for developments that include homes set aside for year-round occupancy:

1. Density Incentive
2. Dimensional Incentive
3. Parking Incentive
4. Permitting Incentive

Year-round occupancy units must meet certain design and monitoring standards, similar to those found in affordable housing requirements (inclusionary zoning).



# Bylaw Table of Contents

## **Table of Contents**

---

1. Purpose
2. Definitions
3. Application
4. Incentives
5. Year-round Project Standards
6. Year-round Housing Regulatory Agreement
7. Monitoring
8. Conflicts

## Terminology in this guide

---

- Throughout, the model bylaw refers to the full amendment as the “section,” assuming that this will be a section of local zoning. The parts of the bylaw listed in the Table of Contents are referred to as “subsections.” Not all zoning bylaws refer to their constituent parts as sections, and any implementing town may need to adjust references to sections/subsections to account for its zoning bylaw’s structure.
- This guide does **not** always use the technical language used in the draft bylaw

# How to Use this Model Bylaw and Guide

# Purpose

# Purpose Declarations

## [Pick and choose]

---

The purpose of this section is to provide incentives for the production of year-round housing on Cape Cod. The Town of [TOWN NAME] recognizes that the demand for vacation rentals and second homes has constrained the supply of housing for full-time residents of the region, consequently destabilizing communities, hampering economic development, and increasing the cost of housing and other goods and services for all people. To improve conditions for all, this section of the zoning bylaw intends to increase production of housing occupied by long-term residents who may want or need to rent their home.

This subsection provides guidance on the background and purpose of the regulations that follow. These statements essentially define the “spirit” of the law.

This is important as it guides permitting authorities and courts in their interpretation of the regulations.

# Definitions

# List of defined terms

**See the following pages for definition text**

---

- Base density
- By-right
- Lot coverage ratio
- Monitoring agency
- Qualified household
- Special permit
- Unrestricted housing units
- Year-round occupancy units
- Year-round ownership units
- Year-round projects
- Year-round rental units

The definitions subsection allows an implementing town to get specific about the meaning of key terms without cluttering the main body of the text. When defined words are used within the year-round occupancy section (and only in this section), they carry the meanings given here.

A town can edit the terms defined in this section, add their own, and/or refer to a definitions section present in the wider zoning bylaw.

See the pages that follow for more on each defined term.

# Base density

---

“Base density” shall mean the number of units allowed at a development site before the application of any year-round housing incentives provided in this section.

The density incentive provided in this model bylaw is based, in part, on the allowed size of a project before any incentive is considered. This pre-incentive allowed density is called the “base density.”



# “By-right” and “Special Permit”

“By-right” shall mean a zoning permitting process wherein development may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. [By-right permitting shall include a Site Plan Review Process specified in [SPR SECTION OF TOWN'S ZONING OR OTHER LAND USE CONTROL BYLAW], through which the [SPR AUTHORITY] may add reasonable conditions to the site plan but cannot deny the development to proceed.]

“Special Permit” shall mean a zoning permitting process wherein development may proceed only with a Special Permit from the [SPECIAL PERMIT GRANTING AUTHORITY] as specified in [SPECIAL PERMIT SECTION OF TOWN'S ZONING], a process that may result in the approval, approval with conditions, or denial of the development proposal.

Permitting processes are key in encouraging the right kind of development.

- By-right processes, which only involve administrative review for conformance to the law, can provide the most certainty for all parties. This is especially true when backed by planning and engagement that leads to predictable, explicit zoning rules.
- Special Permit processes provide flexibility, but increase risks and costs, and therefore can discourage development and decrease affordability. Nonetheless, Special Permit processes can provide flexibility under varied conditions.
- Site Plan Review can act as an in-between, creating certainty around building types and allowed uses, while providing discretion over siting and the building's relationship to the public realm.

Towns should insert the relevant citations for Special Permits in their zoning and, if relevant and desired, Site Plan Review citations in their zoning.

## “Lot Coverage”

---

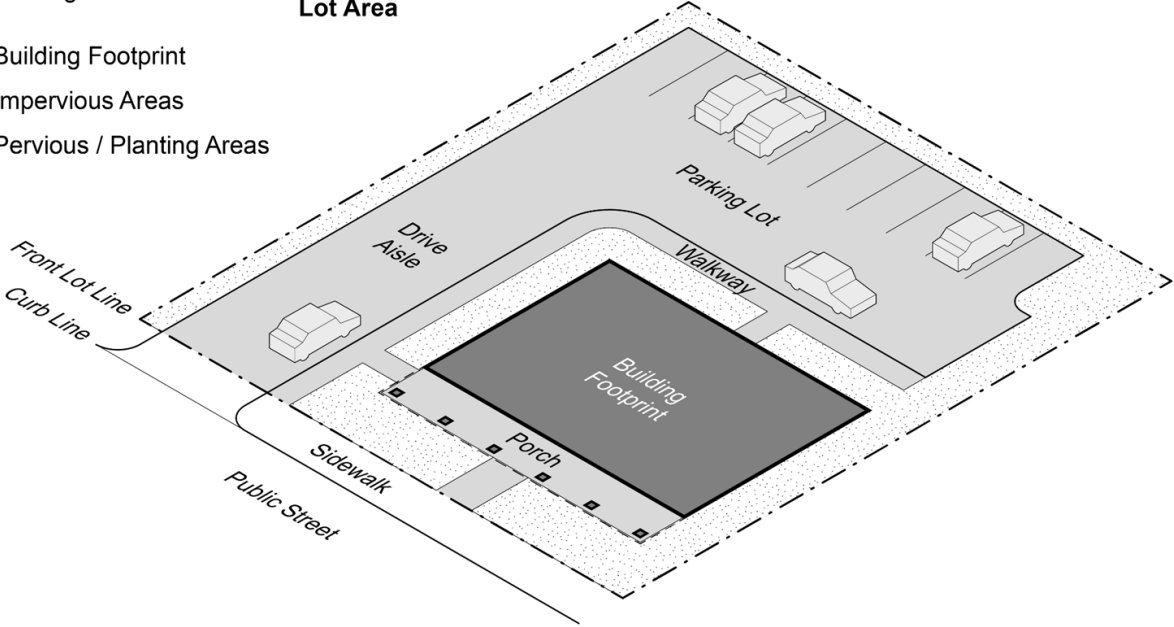
“Lot Coverage Ratio” shall mean portions of a development where the land is covered by an impervious surface, such as buildings, roads, driveways, porches, or other paved or hardscaped areas. Lot coverage ratios shall be expressed as a percent.

Lot coverage is defined in this bylaw to include all impervious surfaces. Because lot coverage regulations are some of the most critical for the viability of development in many Cape towns' zoning codes, this bylaw is explicit in how it defines and manages lot coverage.

# “Lot Coverage Ratio”

Lot Coverage =  $\frac{\text{Building Footprint} + \text{Impervious Areas}}{\text{Lot Area}}$

- Building Footprint
- Impervious Areas
- Pervious / Planting Areas



# “Monitoring Agency”

---

“Monitoring agency” shall mean [INSERT AGENCY NAME HERE].

To ensure the year-round units created through the incentives provided in this model bylaw have year-round occupants, a “monitoring agency” must be assigned to annually confirm with residents that there is no seasonal occupancy for their home. This model is borrowed from zoning bylaws incentivizing deed-restricted affordable housing production.

Depending on organizational relationships and staff capacity, the monitoring agency may be a municipal department, the local Housing Authority, or a housing services organization (typically a housing-focused nonprofit). Towns must assign a monitoring agency in this definition.

## “Qualified Household”

---

“Qualified household” shall mean an individual, family, or set of unrelated individuals who jointly rent a year-round rental unit on a lease of at least 12 months and who occupy that unit for at least 11 months, or who own and occupy a year-round ownership unit for at least 11 months each calendar year. At least one household member must occupy the household for at least 11 months annually to be a qualified household.

In this model bylaw, qualified households are year-round occupants. They may either be renters or owners. Renters must be on a long-term lease of at least one year. For both owners and renters, at least one member of the household must occupy the home for at least 11 months annually for the household to count as a qualified household.

# Regulated developments and features

---

The bylaw defines a nested set of ideas.

- I. **Year-round projects:** residential (or mixed-use projects) containing some proportion of restricted units.
  - A. **Year-round occupancy units:** deed-restricted units reserved for year-round occupants. These can be either:
    1. **Year-round ownership units:** units are owner-occupied and at least one member of the owner household lives there year-round
    2. **Year-round rental units:** which are renter-occupied, with leases of at least one year, and where at least one member of the renter household lives there year-round
  - B. **Unrestricted units:** all dwelling units in a year-round project other than year-round occupancy units.

## “Year-round project”

---

“Year-round project” shall mean any proposed or built housing development that contains year-round occupancy units in any proportion to unrestricted housing units and is permitted under the regulations of this section. Year-round projects may include non-residential uses if allowed by the underlying zoning district and subject to the requirements of that zoning district and related regulations.

Year-round projects are any residential (or mixed-use) projects making use of the incentives of this model bylaw and which are subject to unit restrictions.

Year-round projects do not need to be 100% reserved for year-round occupants. Any portion of deed-restricted year-round occupancy units in a development qualifies it as a year-round project.

## “Year-round occupancy units”

---

“Year-round occupancy units” shall mean housing units that are either:

- Year-round rental units as defined in this section
- Year-round ownership units as defined in this section

Year-round occupancy units are all units restricted for year-round occupancy, regardless of tenure.



# “Year-round ownership units”

---

“Year-round ownership units” shall mean housing units that are owner-occupied and qualify as the owner’s principal residence, as defined in the Code of Massachusetts Regulations (830 CMR 62.3.1), and which are occupied by qualified households. A year-round ownership unit may not be used as a short-term rental subject to Rooms Excise Tax, as defined in the Code of Massachusetts Regulations (830 CMR 64G.1.1). Year-round ownership units may be used as short-term rentals meeting the requirements of the 14-day exemption provided under 830 CMR 64G.1.1.(3)(b).

Year-round ownership units are occupied on a year-round basis by the property owner. They count as year-round occupancy units.

At least one member of the household must live there for at least 11 months per year.

Year-round ownership units may not be used as short-term rentals for more than 14 days in a year. This small short-term rental allowance is in line with state regulations and allows year-round occupants to gain some vacation rental income while they travel, without effectively allowing lodging business operators.

## “Year-round rental units”

---

“Year-round rental units” shall mean housing units that are rented by the property owner to a tenant using a lease or contract for a term of no less than 12 months, and which are occupied by qualified households. A year-round rental unit may not be used as a short-term rental subject to Rooms Excise Tax, as defined in the Code of Massachusetts Regulations (830 CMR 64G.1.1), whether or not its use as a short-term rental would qualify for the 14-day exemption provided under 830 CMR 64G.1.1.(3)(b).

Year-round rental units are not occupied by the owners, but by tenants. They count as year-round occupancy units.

Lease terms must be at least one year long, and at least one member of the household must live there for at least 11 months per year.

Year-round rental units may not be used as short-term rentals for any period of time, in order to ensure property owners do not regularly require renters to leave their home for any period of time.

## “Unrestricted housing units”

---

“Unrestricted housing units” shall mean the housing units within a year-round project that are not set aside as year-round occupancy units under the provisions of this section, which may or may not be occupied by qualified households, and which are not monitored for compliance by the monitoring agency.

Unrestricted housing units are all units in a year-round project that are not year-round occupancy units. They can, for instance, be used for vacation rentals, second homes, or seasonal worker housing.

# Application

# Application

---

- A. The incentives provided in this section shall be granted by-right [and subject to Site Plan Review] to residential [and mixed-use] developments in the following districts: [INSERT BY-RIGHT DISTRICT NAMES].
- B. The incentives provided in this section shall be granted by Special Permit to residential [and mixed-use] developments in the following districts: [INSERT SPECIAL PERMIT DISTRICT NAMES].
- C. Notwithstanding other provisions of this zoning bylaw, the incentives provided under this section shall not be allowed in districts not specified in this subsection.

This subsection specifies where incentives of this bylaw are available and under what permitting standard.

Within a town-defined set of zoning districts, the incentives of this model bylaw are available to all residential development and (optionally) mixed-use development.

The incentives may be available by-right (with or without Site Plan Review) or by Special Permit, depending on the zoning district and at a town's discretion.

# Incentives

# Incentives

---

This model bylaw provides four incentives for year-round projects to help them overcome the financial impact of losing vacation rental or second home income. Towns may choose which incentives to include in a local implementation of the model. The incentives are:

- A density incentive
- A dimensional incentive
- A parking incentive
- A permitting incentive

# Incentives

---

For context:

- On its own, the parking incentive is the most financially impactful incentive available.
- The density incentive is the next most financially impactful.
- The density and parking incentives together have a much larger impact than either independently.
- Generally, the density incentive is only workable if paired with the dimensional incentive. The financial impact of the dimensional incentive was not assessed, since it is likely just a precondition for the density incentive.
- Parameters of the dimensional incentive require considerable input from implementing towns.
- The impact of the permitting incentive is likely significant (as it reduces holding costs while entitlements are sought). However, its scale of impact is dependent on the town and lending terms for any given project.



# Density Incentive

---

- The number of total housing units allowed in a year-round project may be increased above the base density. In exchange for the provision of year-round occupancy units numbering less than or equal to the base density, additional unrestricted units may be allowed on-site according to the following rules:
  - For each year-round ownership unit developed as part of a year-round project, one additional unrestricted unit may be allowed.
  - For each year-round rental unit developed as part of a year-round project, two additional unrestricted units may be allowed.
- No additional units shall be granted for provision of year-round occupancy units in excess of the base density.

This incentive provides bonus units for each year-round occupancy unit as follows: one bonus unrestricted unit for each year-round ownership unit, and two bonus unrestricted units for each year-round rental unit. This difference will be necessary to overcome the potential loss from providing rental over sale units, and to incentivize developers to address the needs of a population particularly vulnerable to housing challenges (year-round Cape Cod residents, particularly renters).

More information on calculating the density bonus is provided on the next page.

# Density bonus calculations

## Base density vs. bonus density

---

- The bonus units are given in exchange for restricting units that would be allowed without the application of incentives (the “base density”). For example, assume there is a site in a zoning district that allows duplex development and is eligible for the year-round housing incentives. If one unit in that duplex is restricted as a year-round rental unit, it would be granted two bonus units. It would have one base year-round rental unit, one base unrestricted unit, and two bonus unrestricted units—a total of four units. If that year-round unit was for homeowners, the development would only be allowed up to three units (1 year-round and 2 unrestricted units).
- Presently, year-round occupancy units require significant financial incentives, and there are diminishing returns in the incentive. There is little risk, therefore, that the density incentive will provoke excessively large density bonuses. However, just in case financial circumstances shift, a cap on the number of bonus units is included by only providing the incentive for the number of units in the base density. Returning to the duplex example, if the developer proposed two year-round ownership units (two base year-round units) they would be allowed two bonus units. If one of those bonus units is restricted for year-round occupancy, it would still only receive the 2-unit bonus for the two restricted base units, for a total of four units. No additional bonus would be given for the bonus unit that is restricted.

# Dimensional Incentive

## Part I: Waiving existing regulations

In applying the density incentive provided under this subsection, year-round projects are allowed to waive the following dimensional and design standards:

- Front, side, rear, and/or internal setback regulations for the whole parcel, as specified in [INSERT CITATION HERE].
- Facade stepback and variation regulations, as specified in [INSERT CITATION HERE].
- Lot coverage regulations, as specified in [INSERT CITATION HERE].
- [... see draft bylaw for the full list]

In all likelihood, taking advantage of the density incentive will require violation of the dimensional regulations of a site. The first part of this bylaw's dimensional incentive is to waive the relevant dimensional rules that might constrain the density incentive. Several regulations might restrict that development at once.

The dimensional regulations relevant to this matter are specific to a zoning district, and may differ considerably within a single town. This model bylaw provides a list of likely constraints that will need to be waived. Towns should assess which dimensional constraints are most important, and include them in local implementation.

# Dimensional Incentive

## Part II: Setting new standards

Year-round projects shall be subject to the following dimensional standards:

- **Setbacks.**
  - The minimum front setback of a year-round project shall be the lesser of
    - [15] feet
    - The setback required in the relevant zoning district
    - The average setback of parcels that are not vacant adjoining the proposed development on the side lot lines.
  - The minimum side and rear setbacks shall be the lesser of
    - [10] feet
    - The setback required in the relevant zoning district

Waiving dimensional regulations wholesale could result in unforeseen and undesirable outcomes. The second part of the dimensional incentive section is to establish new baseline standards. These may need to be adjusted by an implementing town, given other incentives in that town's existing zoning bylaw. Towns may also consider articulating additional standards specific to these projects such as façade variation or building footprint maximums.

### Setbacks

For projects making use of these incentives, minimum setbacks are controlled by the least restrictive option, whether the existing zoning, the existing pattern of buildings on a street, or a minimum setback in the bylaw. The suggested floor for front setbacks is 15 feet and 10 feet for side and rear setbacks. Towns may wish to align these with their local codes and existing built environment.

# Dimensional Incentive

## Part II: Setting new standards

---

Year-round projects shall be subject to the following dimensional standards:

- **Height.** A year-round project may add [one] story and up to [12] feet of building height above the maximum required in the relevant zoning district.
- **Lot coverage.** Year-round projects shall have a maximum lot coverage ratio of no more than [80%].

## Height

This proposed incentive provides one additional story in height to accommodate new units. This may need to be adjusted, at the towns discretion, if any other incentives are at play in local development. An additional 5 feet of building height may be enough to make an upper story more feasible. The maximum height bonus is suggested at 12 feet.

## Lot coverage

Maximum Coverage of the lot with impervious surface cannot exceed a certain threshold. This is suggested at 80%, as a relatively high but common requirement on the Cape in densely developed centers. This could be adjusted given the relevant zoning districts where a town is looking to apply the incentives.

# Dimensional Incentive

## **Relationship to density incentive**

---

The application of dimensional incentives shall not be interpreted to increase the number of allowed dwelling units beyond what is provided under the base density and density incentive provided in this section.

Dimensional relief on its own can often provide opportunities for additional housing units, assuming relatively open zoning requirements. However, to aid the administration of this bylaw and to have predictable impacts on the built environment, this model bylaw eliminates any density impact new dimensional regulations could potentially have on their own.

In essence, the density incentive must be applied first, and the dimensional incentive second, without further impact on density.

# Parking Incentive

## Framework

---

The minimum number of automobile parking spaces shall be determined using the following criteria. The application of this parking incentive shall not be understood as increasing the number of allowable units beyond those provided through the base density and density incentive provided in this section.

...

The parking incentive sets new minimum automobile parking requirements for year-round projects. There are three potential versions of this parking incentive, varying in complexity and impact. Implementing towns will need to choose one of them. Option A has the greatest financial impact, but is less targeted at year-round units. Options B and C reduce the parking requirements only for the year-round units.

## Options

- A. Provide a relatively low minimum parking ratio for all units in a year-round project
- B. Provide a relatively low minimum parking ratio for year-round occupancy units only and regardless of tenure
- C. Provide a relatively low minimum parking ratio for year-round rental units only

# Parking Incentive

## Option A

---

The minimum automobile parking ratio for year-round projects shall be [1.2] spaces per dwelling unit. In exchange for this parking incentive, no less than [10%] of all housing units in a year-round project must be reserved as year-round [occupancy/rental] units.

The first option sets the parking required per dwelling unit, including all year-round occupancy and unrestricted units. The suggested parking ratio in the model bylaw is 1.2 spaces per unit. This figure is relatively low for Cape Cod, but may need to be adjusted given local zoning conditions.

A minimum percent of year-round units is set for projects using this parking incentive option. This is to limit large residential projects providing a limited number of year-round occupancy units in exchange for a large reduction in parking. The threshold of year-round occupancy units required is recommended at 10%. The threshold can also be calculated based on year-round occupancy units generally, or just year-round rental units, at a town's discretion.



# Parking Incentive

## Option B

---

The minimum number of automobile parking spaces for year-round projects shall be determined by the following criteria.

- The minimum parking ratio for unrestricted units shall be that of the relevant zoning district and parking standards specified in [INSERT PARKING CITATION HERE]. This ratio shall be multiplied by the number of unrestricted units in the year-round project, [INCLUSIVE/EXCLUSIVE] of unrestricted units provided through the density incentive given of this subsection.
- The minimum parking ratio for year-round occupancy units shall be [1.2] spaces per year-round occupancy unit. This ratio shall be multiplied by the number of year-round occupancy units in the year-round project [plus unrestricted units provided through the density incentive given in this subsection].

The second option provides a tiered system, with one parking ratio for year-round occupancy units and another for unrestricted units. Towns should decide whether the parking ratio for unrestricted units provided through the density bonus should be subject to the year-round parking ratio or the base unrestricted parking ratio. Allowing bonus unrestricted units to access the year-round parking ratio will increase the impact of this option.

# Parking Incentive

## Option C

---

The minimum number of automobile parking spaces for year-round projects shall be determined by the following criteria.

- The minimum parking ratio for unrestricted units shall be that of the relevant zoning district and parking standards specified in [INSERT PARKING CITATION HERE]. This ratio shall be multiplied by the number of unrestricted units in the year-round project, [INCLUSIVE/EXCLUSIVE] of unrestricted units provided through the density incentive given of this subsection.
- The minimum parking ratio for year-round ownership units shall be [1.2] spaces per year-round ownership unit [plus unrestricted units provided through the density incentive given in this subsection].
- The minimum parking ratio for year-round rental units shall be [0.85] spaces per year-round rental unit [plus unrestricted units provided through the density incentive given in this subsection].

This option provides additional tiering and incentives for year-round projects, providing different parking ratios for unrestricted versus year-round ownership versus year-round rental units. The additional parking ratio tier for year-round rental units is suggested at below 1 space per unit. Like with option B, towns must decide how to treat unrestricted bonus units.

# Parking Incentive

## Other Provisions

---

If the application of the minimum automobile parking ratios required under this section results in fraction parking spaces, the number of required spaces shall be rounded up to the next space.

In the case of mixed-use development, the total amount of parking spaces shall be the sum of the amount of parking required under zoning for any non-residential uses and the amount of parking required per dwelling unit under the provisions of this section.

These provisions clarify how to treat special cases: fractional parking requirements and mixed-use development.

# Parking Incentive

## Reductions

---

Parking requirements may be reduced by Special Permit finding by the Special Permit Granting Authority that the grant of a special permit shall not result in substantial detriment to the neighborhood or the Town. [Reductions may be granted under consideration of the following:

- Peak parking demands that overlap in time significantly or do not overlap in time significantly, depending on the uses of mixed-use projects;
- Age, demographics, socioeconomics, or other characteristics of occupants of the facility that affect the demand for automobile trips;
- Availability of on-street parking or parking at nearby municipally owned facilities.]

This provision provides a discretionary pathway to reduce parking requirements for year-round projects, given demographic, use, and other factors. This Special Permit pathway would be subject to Special Permit requirements given elsewhere in an implementing town's zoning bylaw.

# Permitting Incentive

---

Year-round projects that are granted the incentives of this section by-right shall be allowed by-right [and subject to Site Plan Review].

This incentive provides by-right permitting to all year-round projects. Given the town and the relevant zoning district, multifamily uses may already be allowed by-right. Where projects would otherwise require a Special Permit, though, the impact of allowing by-right development could be financially significant (given large holding costs during a possibly risky permitting process).

# Year-Round Project Standards

# About the standards

---

This section sets standards for the inclusion of year-round units within a residential development.

Some of the standards included here are examples, but towns will need to adjust these to align with policy goals. For example, one town may wish to cluster year-round occupancy units (for instance, if the rest of a year-round project is likely to be seasonally occupied) while other towns may wish to disperse year-round units within a year-round project, to lessen the division between units. These are policy decisions that must be determined locally.

This guide will point out major decision points.

# On-Site Units

---

Year-round occupancy units shall be included on the site of a year-round project.

All year-round occupancy units must be provided at a development site. Inclusionary zoning bylaws, which mandate or incentivize deed-restricted affordable housing in new development, sometimes allow the provision of off-site affordable units or payments in lieu of units (rather than on-site provision). While this is often useful, it adds a layer of complexity that can delay delivery of new restricted units. This model bylaw takes those options off the table.

Towns may wish to include off-site or payment options, though that is not recommended.



## Quality (Optional)

---

Year-round occupancy units shall be similar in size, layout, construction materials, fixtures, amenities, and interior and exterior finishes to comparable unrestricted units in the project.

This provision requires the finishes for year-round occupancy units to be similar to other units. Like with affordable housing requirements, implementing towns may wish to include this provision to reduce the obvious distinctions between year-round unit occupants, which could increase stigma of those occupants and units. Depending on the use of unrestricted units, those distinctions may or may not be important. If unrestricted units in a year-round project are intended to be luxury, this provision could marginally increase development costs. However, most development costs are incurred before finish quality is considered.

## Access (Optional)

---

Year-round occupancy units shall have similar access to common areas, facilities, and services that are enjoyed by comparable unrestricted units in the project including but not limited to outdoor spaces, amenity spaces, storage, parking, bicycle parking facilities, and resident services.

This provision requires that year-round occupancy units have the same access as unrestricted units. Again, the idea for this provision is borrowed from affordable housing mandates/ incentives, which try to reduce division and stigma within projects. However, if the unrestricted units in a given development are likely to be vacation rentals, a town may wish to encourage separate facilities for vacationers (who could be disruptive to year-round residents).

## Unit Size (Optional)

---

### [OPTION FOR TOWNS WISHING TO HAVE THE UNITS MATCH BASELINE PATTERNS OF DEVELOPMENT.]

The proportionate amount of year-round occupancy units defined by size and number of bedrooms within the total amount of year-round occupancy units in the year-round project shall be similar to the proportionate amounts of unrestricted units defined by size and number of bedrooms within the total amount of unrestricted units in the project.

The size of year-round units is a significant policy question for towns. Some may want year-round units to match the unrestricted units in any given year-round project.

Other towns may wish to have a preference for smaller or larger units. This preference should only be used after identification of a need in the community and should not be used to prevent any group from obtaining housing in a project. Towns should be cognizant of possible fair housing issues when adopting housing bylaws and consult town counsel.

Implementing towns should consider their housing needs and choose which option works best for them.

# Year-round Housing Regulatory Agreement

# Ensuring year-round occupancy moving forward: enforcement

---

One major risk with zoning incentives is ensuring the “trade-off” made by the incentive is carried into the future and that policy goals continue to be met. Zoning incentives go famously unmonitored and unenforced, including zoning incentives for affordable housing, community facilities, privately owned public spaces, waterfront access, and more.

This subsection requires all developments using the incentives of the model bylaw make an enforceable agreement. This agreement specifies the terms and conditions of the approval, requires a deed restriction on the property, and creates a mechanism for towns to recoup the value of the incentive if the terms of the agreement are violated. This mechanism is an option of sale of the year-round occupancy units to the town or its designee.

# Agreement established

---

Developers of year-round projects shall enter into a multilateral year-round housing regulatory agreement with the Town of [INSERT TOWN] and the monitoring agency. The regulatory agreement shall specify:

- Relevant dwelling unit counts and proportions
- Relevant parking space counts and ratios
- A list of dimensional nonconformities created by application of this section's density incentive
- The projected fair market value of the year-round development, to be determined by a third party independent appraiser selected by the Town and paid by the developer
- A grant of a transferable option of sale to the Town, exercisable in the case of wanton violation of restrictions
- Acknowledgment of a deed restriction filed with the County Register of Deeds

The regulatory agreement is made between the developer, the town, and the monitoring agency. The regulatory agreement must specify all the terms of the incentives provided in this bylaw, including the density and dimensional bonuses applied, the reduction in fees, and any dimensional nonconformities such as setbacks or lot coverage requirements.

The agreement requires filing a deed restriction with the Barnstable County Register of Deeds specifying the year-round occupancy requirements that apply to year-round units. An example year-round occupancy deed restriction was developed separately from this model bylaw as part of the Cape Cod Commission's regional housing strategy. Towns can use this template as a starting point for the deed restriction (though the template is generic and does not reference the incentives included here).

The regulatory agreement also grants an option of sale of the year-round occupancy units to the town if the terms of the agreement are violated. The option of sale is given at the fair market value of the units at the time of development, and so the option becomes more of a compliance incentive as property values increase over time.

# Certificate of Occupancy

---

No certificate of occupancy may be issued for a year-round project until a year-round housing regulatory agreement has been signed by all parties.

This provision ensures that a year-round project may not be used and occupied unless a regulatory agreement is signed.

# Monitoring



# Ensuring year-round occupancy moving forward: monitoring

---

The enforcement provisions of this model bylaw require that towns know whether or not qualified households are living in year-round occupancy units. This subsection sets up a monitoring requirement for year-round occupancy units, which can be delegated to a monitoring agency within or outside of government. This subsection is similar to the monitoring requirements of inclusionary zoning bylaws related to low-income occupancy. Monitoring agencies are often town departments, local housing authorities, or housing services organizations (typically nonprofits). Towns must assign a monitoring agency in the definitions subsection.

Monitoring requires annual reporting by property owners, testimony of year-round occupancy, and documentary evidence where possible.

# Monitoring and annual reports

---

- Year-round project's compliance shall be monitored on an ongoing basis by the monitoring agency.
- Property owners of year-round occupancy units shall submit reports annually to the monitoring agency.
- The annual report shall attest that each year-round occupancy unit meets the requirements of this section. Reports shall include any leases, deeds, and verification of occupancy as may be required by the monitoring agency.
- The form of annual reports shall be published by the monitoring agency at least 90 days before the report is due.

Annual reports must be submitted by the current property owner to the monitoring agency. For year-round rental units, the landlord would submit the report. For year-round ownership units, the owner-occupant would submit the report.

The form of the report, including documentary evidence required, must be set by the monitoring agency.

# Monitoring violations

---

If a year-round project is found to be in violation of its regulatory agreement, the monitoring agency shall issue notice to the year-round project's present owner and to the Town. The notice shall specify a timeline of no less than 90 days for the owner to bring the year-round project into compliance. Wanton violation following this compliance period shall enable the Town or its designee to exercise the option of sale specified in the regulatory agreement.

This provision specifies how violations found by the monitoring agency are to be dealt with. If a year-round occupancy unit is not occupied by a qualified household (or if annual reports are not submitted), the monitoring agency provides notice to the implementing town and the owner. If a violation is not corrected within three months, then the town may exercise its option to purchase the year-round occupancy units.

# Conflicts

# Conflicts

---

Unless otherwise stated, the requirements of this section shall apply to uses and structures permitted under the regulations of this section. In the event of a conflict, the regulations of this section shall apply.

This provision aids in legal interpretation, whether as entities in the real estate market begin the implementation process or if conflicts were to arise about the meaning of this bylaw in context. The provisions of this bylaw, by default, trump all other provisions.

# Next Steps

## Where to go from here?

---

This guide hopefully sheds insight into the model bylaw text. If a town wants to implement year-round housing incentives in one or more areas, staff and board members should consider the community's goals for those areas, adapt this model bylaw to align with those goals, and hold a public process to vet and edit the bylaw further.

The bylaw can serve as a blueprint for implementing year-round incentives, and it can readily be adopted with a few key decisions by the town. However, it can also serve as inspiration, and towns can use the text and the thinking behind it to arrive at their own unique approaches to year-round housing.

# Cape Cod Model Year-Round Occupancy Incentive Bylaw: Accompanying Guide



# A Year-Round Occupancy Incentive Model Bylaw for Cape Cod Towns



CAPE COD  
COMMISSION

The following model bylaw intends to be a first draft of a zoning amendment that incentivizes year-round housing. Due to the financial benefits of providing vacation housing (whether second homes, vacation rentals, or otherwise), housing for year-round residents can be difficult to access. This is especially true for renter households, who may find few options for year-round leases. The consequences of this market failure are serious, including housing instability; high student turnover in schools and attendant learning challenges; difficulty staffing for Cape Cod businesses, organizations, and public entities; difficulty holding stable employment for the year-round workforce; high housing cost burdens, distortions in the sales market, and more.

This bylaw incentivizes the production of year-round housing, including year-round ownership and rental options. The Home Rule Amendment, Mass. Const. art. LXXXIX, § 7(5), bars enactment of “private or civil law governing civil relationships except as an incident of an independent municipal power.” Massachusetts courts have interpreted Section 7 to limit municipal power to require a particular type of housing tenure—homeownership or rental—in a local bylaw. This bylaw instead bypasses Section 7 by offering a set of incentives to encourage a portion of a development to be held as year-round rental or ownership units.

The proposed incentives include:

- A density bonus (1 unrestricted unit for each year-round ownership unit, 2 unrestricted units for each year-round rental unit)
- Waiving town-defined dimensional rules (while creating new minimum requirements)
- A reduction in parking requirements
- By-right permitting of year-round projects (with an option for site plan review)

This set of incentives can be included altogether or activated individually at the discretion of implementing towns. In many ways, this bylaw follows the form of inclusionary zoning bylaws. From the financial perspective of a developer, the effects are similar, though less extreme than affordability requirements.

The technical specifications in this model bylaw try to be readily usable for local implementers, easily fitting into existing bylaws and working well without much adjustment. **PLEASE SEE THE ACCOMPANYING GUIDE FOR THE REASONING BEHIND THIS MODEL BYLAW'S PROVISIONS.** Nonetheless, there are some places where a town must make decisions about the structure of the

bylaw or the scale of redevelopment. [Places where towns must make decisions or insert language about their existing code are called out in brackets and in pink text.]

The model bylaw was drafted in conjunction with the Cape Cod Commission by Outwith Studio; Utile; and attorneys Blatman, Bobrowski, Haverty & Silverstein.

**SECTION [X]. Year-Round Housing Incentive**

- I. **Purpose.** The purpose of this section is to provide incentives for the production of year-round housing on Cape Cod. The Town of [TOWN NAME] recognizes that the demand for vacation rentals and second homes has constrained the supply of housing for full-time residents of the region, consequently destabilizing communities, hampering economic development, and increasing the cost of housing and other goods and services for all people. To improve conditions for all, this section of the zoning bylaw intends to increase production of housing occupied by long-term residents who may want or need to rent their home.
  
- II. **Definitions.** Within this section, the following terms shall have the following meanings:
  - A. “Base density” shall mean the number of units allowed at a development site before the application of any year-round housing incentives provided in this section.
  
  - B. “By-right” shall mean a zoning permitting process wherein development may proceed under the zoning in place at time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval. [By-right permitting shall include a Site Plan Review (SPR) Process specified in [SPR SECTION OF TOWN'S ZONING OR OTHER LAND USE CONTROL BYLAW], through which the [SPR AUTHORITY] may add reasonable conditions to the site plan but cannot deny the development to proceed.]
  
  - C. “Lot Coverage Ratio” shall mean portions of a development where the land is covered by an impervious surface, such as buildings, roads, driveways, porches, or other paved or hardscaped areas. Lot coverage ratios shall be expressed as a percent.
  
  - D. “Monitoring agency” shall mean [INSERT AGENCY NAME HERE].
  
  - E. “Qualified household” shall mean an individual, family, or set of unrelated individuals who jointly rent a year-round rental unit on a lease of at least 12 months and who occupy that unit for at least 11 months, or who own and occupy a year-round ownership unit for at least 11 months each calendar year. At least one household member must occupy the household for at least 11 months annually to be a

qualified household.

- F. "Special Permit" shall mean a zoning permitting process wherein development may proceed only with a Special Permit from the [SPECIAL PERMIT GRANTING AUTHORITY] as specified in [SPECIAL PERMIT SECTION OF TOWN'S ZONING], a process that may result in the approval, approval with conditions, or denial of the development proposal.
- G. "Unrestricted housing units" shall mean the housing units within a year-round project that are not set aside as year-round occupancy units under the provisions of this section, which may or may not be occupied by qualified households, and which are not monitored for compliance by the monitoring agency.
- H. "Year-round occupancy units" shall mean housing units that are either:
  - 1. Year-round rental units as defined in this section
  - 2. Year-round ownership units as defined in this section
- I. "Year-round ownership units" shall mean housing units that are owner-occupied and qualify as the owner's principal residence, as defined in the Code of Massachusetts Regulations (830 CMR 62.3.1), and which are occupied by qualified households. A year-round ownership unit may not be used as a short-term rental subject to Rooms Excise Tax, as defined in the Code of Massachusetts Regulations (830 CMR 64G.1.1). Year-round ownership units may be used as short-term rentals meeting the requirements of the 14-day exemption provided under 830 CMR 64G.1.1.(3)(b).
- J. "Year-round project" shall mean any proposed or built housing development that contains year-round occupancy units in any proportion to unrestricted housing units and is permitted under the regulations of this section. Year-round projects may include non-residential uses if allowed by the underlying zoning district and subject to the requirements of that zoning district and related regulations.
- K. "Year-round rental units" shall mean housing units that are rented by the property owner to a tenant using a lease or contract for a term of no less than 12 months, and which are occupied by qualified households. A year-round rental unit may not be used as a short-term rental subject to Rooms Excise Tax, as defined in the Code of

Massachusetts Regulations (830 CMR 64G.1.1), whether or not its use as a short-term rental would qualify for the 14-day exemption provided under 830 CMR 64G.1.1.(3)(b).

### III. Application.

- A. The incentives provided in this section shall be granted by-right [and subject to Site Plan Review] to residential [and mixed-use] developments in the following districts: [INSERT BY-RIGHT DISTRICT NAMES].
- B. The incentives provided in this section shall be granted by Special Permit to residential [and mixed-use] developments in the following districts: [INSERT SPECIAL PERMIT DISTRICT NAMES].
- C. Notwithstanding other provisions of this zoning bylaw, the incentives provided under this section shall not be allowed in districts not specified in this subsection.

### IV. Incentives. Year-round projects may take advantage of the following incentives, subject to the provisions of this subsection.

#### A. Density Incentive

- 1. The number of total housing units allowed in a year-round project may be increased above the base density. In exchange for the provision of year-round occupancy units numbering less than or equal to the base density, additional unrestricted units may be allowed on-site according to the following rules:
  - a) For each year-round ownership unit developed as part of a year-round project, one additional unrestricted unit may be allowed.
  - b) For each year-round rental unit developed as part of a year-round project, two additional unrestricted units may be allowed.
- 2. No additional units shall be granted for the provision of year-round occupancy units in excess of the base density.

**B. Dimensional Incentive.**

1. In applying the density incentive provided under this subsection, year-round projects are allowed to waive the following dimensional and design standards:

[Towns should pick and choose which dimensional changes would be most impactful, depending on the requirements of the target districts.]

- a) Front, side, rear, and/or internal setback regulations for the whole parcel, as specified in [INSERT CITATION HERE].
  - b) Facade stepback and variation regulations, as specified in [INSERT CITATION HERE].
  - c) Lot coverage regulations, as specified in [INSERT CITATION HERE].
  - d) Building height regulations, as specified in [INSERT CITATION HERE].
  - e) Open space regulations, as specified in [INSERT CITATION HERE].
  - f) Insert other regulations as needed/desired.
2. Year-round projects shall be subject to the following dimensional standards:
    - a) **Setbacks.**
      - (1) The minimum front setback of a year-round project shall be the lesser of
        - (a) [15] feet
        - (b) The setback required in the relevant zoning district
        - (c) The average setback of parcels that are not vacant adjoining the proposed development on the side lot lines.
      - (2) The minimum side and rear setbacks shall be the lesser of
        - (a) [10] feet
        - (b) The setback required in the relevant zoning district
    - b) **Height.** A year-round project may add [one] story and up to [12] feet of building height above the maximum required in the relevant

zoning district.

c) **Lot coverage.**

(1) Year-round projects shall have a maximum lot coverage ratio of no more than [80%].

3. The application of dimensional incentives shall not be interpreted to increase the number of allowed dwelling units beyond what is provided under the base density and density incentive provided in this section.

C. **Parking Incentive.** The minimum number of automobile parking spaces shall be determined using the following criteria. The application of this parking incentive shall not be understood as increasing the number of allowable units beyond those provided through the base density and density incentive provided in this section.

[There are several options here.

- a. Provide a relatively low minimum parking ratio for all units in a year-round project
- b. Provide a relatively low minimum parking ratio for year-round occupancy units only and regardless of tenure
- c. Provide a relatively low minimum parking ratio for year-round rental units only]

[OPTION A: LOW PARKING RATIO FOR ALL UNITS]

1. The minimum automobile parking ratio for year-round projects shall be [1.2] spaces per dwelling unit. In exchange for this parking incentive, no less than [10%] of all housing units in a year-round project must be reserved as year-round [occupancy/rental] units.

[OPTION B: TIERED PARKING RATIO FOR YEAR-ROUND OCCUPANCY]

1. The minimum number of automobile parking spaces for year-round projects shall be determined by the following criteria.

- a) The minimum parking ratio for unrestricted units shall be that of the relevant zoning district and parking standards specified in [INSERT PARKING CITATION HERE]. This ratio shall be multiplied by the number of unrestricted units in the year-round project,

[INCLUSIVE/EXCLUSIVE] of unrestricted units provided through the density incentive given of this subsection.

- b) The minimum parking ratio for year-round occupancy units shall be [1.2] spaces per year-round occupancy unit. This ratio shall be multiplied by the number of year-round occupancy units in the year-round project [plus unrestricted units provided through the density incentive given in this subsection].

[OPTION C: TIERED PARKING RATIO BY YEAR-ROUND OCCUPANCY AND TENURE]

1. The minimum number of automobile parking spaces for year-round projects shall be determined by the following criteria.
  - a) The minimum parking ratio for unrestricted units shall be that of the relevant zoning district and parking standards specified in [INSERT PARKING CITATION HERE]. This ratio shall be multiplied by the number of unrestricted units in the year-round project, [INCLUSIVE/EXCLUSIVE] of unrestricted units provided through the density incentive given of this subsection.
  - b) The minimum parking ratio for year-round ownership units shall be [1.2] spaces per year-round ownership unit [plus unrestricted units provided through the density incentive given in this subsection].
  - c) The minimum parking ratio for year-round rental units shall be [0.85] spaces per year-round rental unit [plus unrestricted units provided through the density incentive given in this subsection].

[END PARKING RATIO OPTIONS]

2. If the application of the minimum automobile parking ratios required under this section results in fraction parking spaces, the number of required spaces shall be rounded up to the next space.
3. In the case of mixed-use development, the total amount of parking spaces shall be the sum of the amount of parking required under zoning for any non-residential uses and the amount of parking required per dwelling unit under the provisions of this section.



4. Parking requirements may be reduced by Special Permit after a finding by the Special Permit Granting Authority that the grant of a special permit shall not result in substantial detriment to the neighborhood or the Town.

[Towns may consider incorporating other criteria for reducing parking requirements such as the following:

- a) Peak parking demands that overlap in time significantly or do not overlap in time significantly, depending on the uses of mixed-use projects;
- b) Age, demographics, socioeconomics, or other characteristics of occupants of the facility that affect the demand for automobile trips;
- c) Availability of on-street parking or parking at nearby municipally owned facilities.]

#### D. Permitting Incentive

1. Year-round projects that are granted the incentives of this section by-right shall be allowed by-right [and subject to Site Plan Review].

#### V. Year-Round Project Standards

- A. Year-round occupancy units shall be included on the site of a year-round project.

[Provisions B and C are both optional. For larger projects, it may be appropriate to set any units intended for vacation rentals away from year-round occupancy units. Similarly, year-round occupants may prefer separate common areas from any vacation renters.]

- B. Year-round occupancy units shall be similar in size, layout, construction materials, fixtures, amenities, and interior and exterior finishes to comparable unrestricted units in the project.
- C. Year-round occupancy units shall have similar access to common areas, facilities, and services as that are enjoyed by comparable unrestricted units in the project including but not limited to outdoor spaces, amenity spaces, storage, parking, bicycle parking facilities, and resident services.

[Provision D is optional and could be omitted altogether.]

[OPTION FOR TOWNS WISHING TO HAVE THE YEAR-ROUND UNITS MATCH BASELINE PATTERNS OF DEVELOPMENT IN A YEAR-ROUND PROJECT.]

- D. The proportionate amount of year-round occupancy units defined by size and number of bedrooms within the total amount of year-round occupancy units in the year-round project shall be similar to the proportionate amounts of unrestricted units defined by size and number of bedrooms within the total amount of unrestricted units in the project.

## VI. Year-round Housing Regulatory Agreement.

- A. Developers of year-round projects shall enter into a multilateral year-round housing regulatory agreement with the Town of [INSERT TOWN] and the monitoring agency. The regulatory agreement shall specify:

1. Relevant dwelling unit counts and proportions, including
  - a) The base number of dwelling units allowed in a project, before any density bonus is applied
  - b) The number of year-round occupancy units
  - c) The proportion of year-round occupancy units relative to the base number of dwelling units allowed in a project, before any density bonus is applied
  - d) The proportion of year-round occupancy units relative to the base number of dwelling units allowed in a project, after any density bonus is applied
2. Relevant parking space counts and ratios, including:
  - a) The total number of parking spaces
  - b) The ratio of parking spaces for unrestricted units
  - c) The ratio of parking spaces for year-round ownership and rental units, where applicable
3. A list of dimensional nonconformities created by application of this section's density incentive.

4. The projected fair market value of the year-round development, to be determined by a third-party independent appraiser selected by the Town and paid by the developer.
  5. That the owner of the year-round project, if held under single ownership, or the owners of individual year-round occupancy units, if units are owned by separate persons or entities, shall grant to the Town of [TOWN NAME] an unlimited and transferable option of sale of the year-round project, if held under single ownership, or year-round occupancy units, if units are owned by separate persons or entities. The regulatory agreement shall specify that such option of sale may only be exercised by the Town or its designee upon wanton violation of the regulatory agreement, notice of violation by the monitoring agency, and continued violation after a compliance period specified by the monitoring agent. The option of sale will set a price equal to the fair market valuation determined in the regulatory agreement.
  6. That a deed restriction shall be placed on the property, and recorded with the Barnstable County register of deeds, specifying the terms of the regulatory agreement. Deed restrictions shall be placed on the project as a whole if held as a single piece of property, or on individual year-round occupancy units if the project is subdivided, split into condominiums, or otherwise having individual housing units owned as separate pieces of property.
- B. No certificate of occupancy may be issued for a year-round project until a regulatory agreement has been signed by all parties.
  - C. If a year-round project is found to remain in violation of its regulatory agreement after the deadline to come into compliance has passed, the Town or its designee shall have unlimited rights to exercise its option specified in the d regulatory agreement.

**VII. Monitoring.**

- A. A year-round project's compliance shall be monitored on an ongoing basis by the monitoring agency.

- B. Property owners of year-round occupancy units shall submit reports annually to the monitoring agency.
- C. The annual report shall attest that each year-round occupancy unit meets the requirements of this section. Reports shall include any leases, deeds, and verification of occupancy as may be required by the monitoring agency.
- D. The form of annual reports shall be published by the monitoring agency at least 90 days before the report is due.
- E. If a year-round project is found to be in violation of its regulatory agreement, the monitoring agency shall issue notice to the year-round project's present owner and to the Town. The notice shall specify a timeline of no less than 90 days for the owner to bring the year-round project into compliance. Wanton violation following this compliance period shall enable the Town or its designee to exercise the option of sale specified in the regulatory agreement.

**VIII. Conflicts.**

Unless otherwise stated, the requirements of this section shall apply to uses and structures permitted under the regulations of this section. In the event of a conflict, the regulations of this section shall apply.