

ARTICLE ____ AMEND ZONING BYLAWS – REVISIONS TO SECTION 570
AFFORDABLE HOUSING

To see if the Town will amend the Duxbury Zoning By-laws to delete the existing Section 570 - Affordable Housing in its entirety and replace it with the language printed in the Warrant, and further, that non-substantive changes to the numbering of this By-law are authorized in order to make the numbering conform to the numbering format of the Bylaw; or take any other action in relation thereto.

Submitted by the Duxbury Affordable Housing
Trust and Board of Selectmen

Explanation: The purpose of this proposed amendment to the existing By-law is to simplify and delete redundant and outdated verbiage, update the By-law to reflect the Town's establishment of an Affordable Housing Trust, change the setbacks in the existing By-law to match current zoning setback requirements, removing specific floor-area requirements to enable the Planning Board, as permit granting authority, to use its discretion, and provide the Planning Board with broader discretion in the permit process in certain elements including access, unit size and lot coverage.

570 AFFORDABLE HOUSING

570.1 Purpose

The purposes of this Section 570 are to provide for affordable housing on qualified pre-existing non-conforming lots as defined hereunder, and to allow construction of affordable housing units to meet the needs of present and future residents of the Town with low and moderate incomes. The Planning Board shall be the Special Permit Granting Authority (SPGA) for purposes of this Section 570.

570.2 Definitions

1. Affordable Housing Unit: See Section 560.2.1.
2. Low and Moderate Income Household: A household with income not exceeding eighty percent (80%) of the median household income, adjusted for household size, in the metropolitan or nonmetropolitan statistical area that includes the Town of Duxbury, as determined by the U.S. Department of Housing and Urban Development (HUD).

3. Qualified Affordable Housing Unit Purchaser: See Section 560.2.2.
4. Affordable Housing Restriction: A contract, mortgage agreement, deed restriction, or other legal instrument, acceptable in form and substance to the Town of Duxbury, that effectively restricts occupancy of an affordable housing unit to qualified purchaser or qualified renter, and which provides for administration, monitoring and enforcement of the restriction during the term of affordability. An affordable housing restriction shall run with the land in perpetuity or for the maximum period allowed by law, and be enforceable under the provisions of Massachusetts General Laws Chapter 184, Sections 31-33. The Duxbury Affordable Housing Trust shall have authority to accept and hold affordable housing restrictions on behalf of the Town.
5. Upland Area: All lands not defined as wetlands.
6. Appraised Value: An opinion of value developed by a Massachusetts licensed real estate appraiser that conforms to the Uniform Standards of Professional Appraisal Practice (USPAP).

570.3 Planning Board Rules and Regulations

The Planning Board may adopt rules and regulations to administer this Section 570, including submission requirements and procedures.

570.4 Special Permit Criteria for Eligible Lots

The Planning Board may grant a special permit to allow construction of one Affordable Housing Unit on a lot in the Residential Compatibility (RC) District or Planned Development (PD) District provided the following criteria are satisfied:

1. Pre-Existing Lot: Eligible parcels must have existed as a separate lot of record prior to March 8, 2008. No landowner shall be eligible for more than one (1) Affordable Housing Unit lot from a single parcel of land, or from adjoining parcels of land in common ownership, based on the ownership status of the land as determined by instruments and plans on file at the Plymouth County Registry of Deeds or Registry District of the Land Court as of the March 8, 2008. No lot used for an Affordable Housing Unit shall be further divided. The Planning Board shall note such limitations, with a description of the land affected by such limitations, in its written decision.
2. Dimensional Requirements: Eligible lots must meet the following minimum dimensional requirements prior to the March 8, 2008:
 - a) Lot Area: Eligible lots must have a minimum ten thousand (10,000) square feet of Upland Area;

- b) **Continuous Frontage:** Eligible lots must have twenty-five (25) feet of continuous frontage on a public way.
 - c) **Setbacks:** All setbacks shall meet the requirements set forth in Section 410.4, unless specifically waived by the Planning Board.
3. **Access:** The applicant shall provide safe access for public safety vehicles and personnel to the dwelling unit to be constructed on the lot, and the intersection of such access driveway to the public way shall be placed across the frontage in the best location available to the applicant, unless waived by the Planning Board.
 4. **Dwelling Unit Size and Coverage:** The size of a dwelling unit and number of bedrooms in the Aquifer Protection Overlay District (APOD) shall meet the requirements of Section 406 of the Zoning By-laws, unless waived by the Planning Board.
 5. **Minimum and Maximum Dwelling Unit Size:** The Planning Board may establish by regulation minimum and maximum dwelling unit sizes.
 6. **Purchase or Rent:** The Affordable Housing Unit permitted by this Section 570 shall be restricted for purchase or rent by Low and Moderate Income Households only in accordance with the standards set forth herein.
 7. **Parking:** All private parking areas shall be contained entirely on the property.
 8. **Plans:** The applicant shall submit, along with the special permit application, a surveyed site plan depicting the proposed Affordable Housing Unit and lot layout. The plan shall be prepared by a registered land surveyor, and shall be in such form as will be required for recording with the Plymouth County Registry of Deeds or filing with the Plymouth County Registry District of the Land Court.

All other requirements of this By-law not inconsistent with the provisions of this Section shall remain in full force and effect.

570.5 Use Restrictions

Any Affordable Housing Unit created under this section shall be subject to an Affordable Housing Restriction that meets the requirements of the Department of Housing and Community Development (DHCD), or any successor agency, for inclusion in the Subsidized Housing Inventory (SHI) and any other applicable requirements of the Planning Board's Affordable Housing Special Permit Rules and Regulations. The Duxbury Affordable Housing Trust must approve the Applicant's lottery agent.

570.6 Maximum Incomes and Selling Prices: Initial Sale

1. The Sale of the Affordable Housing Unit shall be to a Qualified Affordable Housing Unit Purchaser in accordance with the Affordable Housing Restriction and, as applicable, the Planning Board's Rules and Regulations.

2. Maximum Housing Cost: The maximum purchase price for an Affordable Housing Unit under this By-law shall not exceed the maximum purchase price allowed for affordable units as established by the Massachusetts Department of Housing and Community Development's (DHCD), Local Initiative Program, or successor agency or program, as may be revised from time to time, or as determined by the Planning Board as a condition of the Affordable Housing Unit Special Permit.

570.7 Preservation of Affordability; Restrictions on Resale

1. Preservation of Affordability: The Affordable Housing Restriction for each Affordable Housing Unit created under this Section 570 shall have provisions governing resale of the Unit. The purpose of such provisions is to preserve the long-term affordability of the unit and to ensure its continued availability to Low and Moderate Income Households.
2. Right of First Refusal. The Affordable Housing Restriction shall grant the Town of Duxbury, the Duxbury Affordable Housing Trust, or DHCD or successor agency an option to purchase the Affordable Housing Unit, if a subsequent Qualified Purchaser cannot be located.

570.8 Conflict with Other By-laws

Where any conflict exists between this Section 570 and the requirements of other federal or state laws or regulations or other local by-laws, the more restrictive requirements shall apply.

570.9 Review by Special Permit Granting Authority

Prior to granting an Affordable Housing Unit Special Permit under this Section 570, the Planning Board shall make the following findings:

1. The proposed Affordable Housing Unit shall be consistent with the general purpose and intent of the Zoning By-law.
2. The increase in density resulting from the grant of a special permit will not have an adverse impact on the surrounding neighborhood.
3. The placement of one Affordable Housing Unit on the non-conforming lot can be accomplished without jeopardizing public health or safety, and without detriment to the environment; and
4. In determining whether to grant a Special Permit for development of an Affordable Housing Unit on a lot under this Section 570, and in determining what conditions, if any, to impose on such a Special Permit, the Planning Board may consider, among other things, circumstances relate to soil conditions,

topography, lot history, wetlands, proposed building locations, public safety and convenience, and the public benefits provided by affordable housing in the community.

570.10 Severability

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the remainder of this Bylaw shall remain in full force and effect.