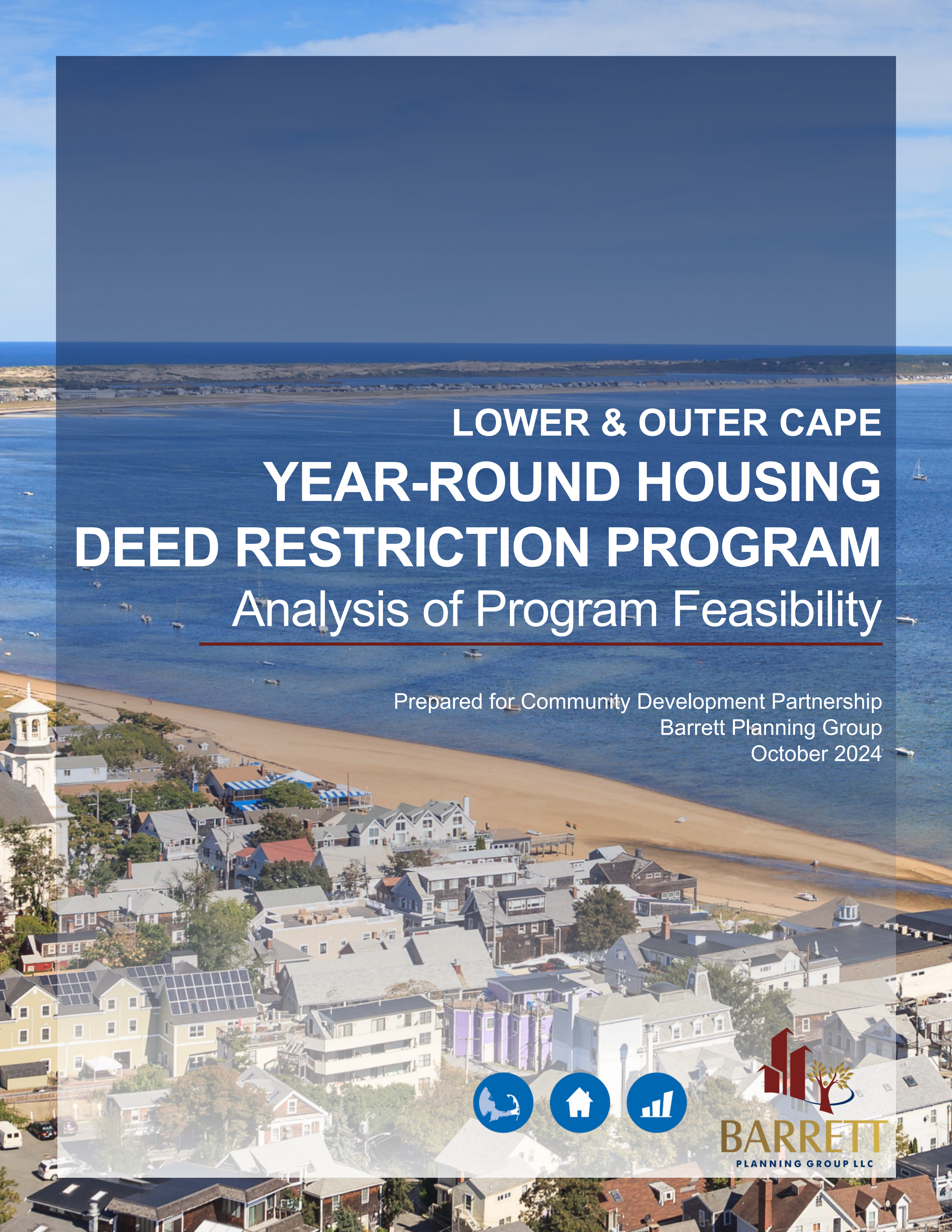


LOWER & OUTER CAPE
YEAR-ROUND HOUSING DEED RESTRICTION PROGRAM
Analysis of Program Feasibility

Prepared for Community Development Partnership
Barrett Planning Group
October 2024

community development partnership

Creating opportunities for people to live, work, and thrive on the Lower Cape

MEMO

TO: Town Partners
FROM: Jay Coburn, President & CEO, Andrea Aldana, Chief Program Officer
DATE: December 18, 2024
RE: Year-Round Deed Restriction Feasibility Study

The Community Development Partnership (CDP) is pleased to share with you the enclosed Year-Round Deed Restriction Feasibility Study to support municipal decision-making in the Lower and Outer Cape towns that we serve. In early 2024, the CDP contracted with Barrett Planning Group through a competitive process to create this report in response to growing interest in implementing similar programs on the Lower & Outer Cape.

The report considers three approaches to adapting the well-known InDEED program from Vail, Colorado, to meet the needs or constraints of our region. However, this report's findings suggest substantial challenges to implementing a year-round deed restriction program on the Lower and Outer Cape. To provide added value, the consultant developed two additional scenarios that couple deed restrictions with zoning incentives to have greater impact and reduce costs.

We encourage communities to dig into the enclosed data to determine how to adapt these tools to their own communities with special attention to the following considerations:

- Cost – implementing a Year–Round Deed Restriction program on the Lower and Outer Cape is inherently costly due to our real estate market. Any allocated funding must be unrestricted to support market-rate units. The most substantial source of unrestricted funds is currently short-term rental revenue. As towns consider this approach, we strongly encourage towns to allocate resources in a way that does not reduce funding for subsidized affordable housing which remains a critical regional need.
- Impact – due to the potential cost of these deed restrictions, the impact of buying down one unit at a time will make a minimal contribution toward increasing attainable housing in our communities. The CDP strongly encourages towns to prioritize the investment of local funds in higher impact initiatives, especially multifamily housing developments and infrastructure.

We understand that housing production is complicated and requires the implementation of a range of strategies. We hope that towns will understand year-round deed restrictions as one singular tool in a much larger toolbox. Our housing crisis is complex and requires creative regional solutions. We applaud the Lower and Outer Cape towns in seeking innovative solutions to address our region's housing needs and we will continue to partner with municipalities to work toward finding new pathways to housing preservation and production.

About the Community Development Partnership
The Community Development Partnership leads the Lower and Outer Cape in building a diverse year-round community of people who can afford to live, work, and thrive here. To accomplish our mission, we promote, develop, and manage affordable housing; nurture the launch and growth of small businesses; and facilitate collaboration with business, non-profit and government partners.

PO Box 2786
Orleans, MA 02653

p 508.240.7873
800.220.6202

contact@capecdp.org
capecdp.org

Table of Contents

Introduction

As the Cape Cod Commission's recently released Regional Housing Strategy boldly states at the outset, **Cape Cod has a housing problem**.[1] These challenges relate to many overlapping factors, including:

- A significant and growing affordability gap between area wages and housing costs
- Little opportunity for mobility within a highly competitive market
- Lack of diversity in housing stock
- Limited availability of land
- Water quality concerns (and a lack of infrastructure to address this)
- The region's identity as a seasonal and retirement destination
- The loss of families with children at a disproportionate rate
- Increasing demand for second homes and investment properties within the region

The seasonality of the Cape and Islands is both an asset and a challenge. For better or for worse, the aspects of Cape Cod that make it such a treasured place also intersect with the region's housing challenges — either as a cause, a result, or both. Thus, the region needs to take purposeful steps to address its housing crisis against the tide of market forces that favor seasonality over sustainable, year-round communities.

With this in mind, in October 2023 Community Development Partnership (CDP) solicited a request for consultant services to research options for implementing a year-round housing occupancy deed restriction program on the Lower and Outer Cape. Barrett Planning Group was selected to develop this feasibility study, which includes a **review of existing programs** as well as a **feasibility analysis** assessing possible scenarios for such a program in the region.

Key Findings

HIGH COST

A year-round housing occupancy deed restriction program — regardless of eligibility criteria, administrative processes, or other considerations — is likely a high-cost program. To wit:

[1] Cape Cod Commission, *Housing Cape Cod: Regional Housing Strategy*, 2024, p.1. Available at https://www.capecodcommission.org/our-work/regional-housing-strategy

- The costs of the deed restrictions themselves are typically based on a percentage of the property's value. Because of the increasingly unattainable housing market in the region, the cost of deed restrictions themselves could be substantial.
- Due to the limited capacity of municipal staff in many communities, the time-intensive responsibilities of launching and administering a new program would likely require more support, either in the form of additional staffing or outside technical assistance.

As a result, a successful year-round deed restriction program would require a major initial investment for implementation, and a significant permanent funding stream to fund deed restriction purchases, support the administrative processes of acquiring the restriction, and monitoring their enforcement over time. Communities can strategize to lower costs by taking measures such as:

- Placing a cap on the total value of eligible properties
- Focusing on units other than single family homes (condominiums, two-family homes, small multi-family, etc.)
- Considering placing restrictions on new units created as part of larger projects rather than just existing units

REGIONAL APPROACH

A regional rather than a town-level approach would likely be most successful on Cape Cod to consolidate the administrative tasks, review a wider number of applications, utilize resources more efficiently, and reduce confusion for potential beneficiaries. For these reasons, many of the existing programs operate on a county scale. Even local programs like Vail InDEED and ¡Mi Casa Avon! both coordinate with a larger county-wide program. While a regional approach would be the most effective, this does not mean that individual towns cannot participate in the process when an application is from their jurisdiction.

EXISTING HOUSING STOCK

The typology of a community's existing housing stock is a critical program component. In many of the existing programs, condominiums represent a disproportionate amount of year-round deed-restricted units, even when single-family detached homes are more common in the general housing stock. Because of their typically lower per-unit cost, condominiums are also typically accessible to a larger percentage of the intended beneficiaries of a year-round deed restriction program. Single-family detached homes are the highest per-unit housing type on average — thus, programs predominantly restricting single-family detached homes can restrict *fewer* homes at a *higher* per-unit cost compared to communities with more multi-family and condominium units available. However, many programs also do not serve properties with an existing right of first refusal, which can pose challenges for condominium units that are part of a condominium association with such a stipulation in place.

MARKET IMPACT

Due to the limited data available from relatively new programs, there are not sufficient data to estimate the *long-term, consistent* impact of year-round deed restrictions on re-sale prices. Generally, a year-round housing deed restriction program will likely not impact overall market conditions, as it cannot subsidize

Creating a significant shift in region's housing market requires far more tools than a year-round housing occupancy deed restriction program.

Recognizing this, other well-known programs such as Vail InDEED and Big Sky Community Housing Trust act as one piece of much broader housing programs aimed at increasing year-round housing for workers.

the number of units required to meaningfully impact housing prices on a regional scale. However, a year-round deed restriction program *may* succeed in creating a segmented housing market that provides opportunities for residents and area workers whose needs are not being met by the general housing market. Creating a broader meaningful shift in the housing market will require far more tools than a year-round housing occupancy program. In fact, well-established programs such as Vail InDEED and Big Sky Community Housing Trust act as one piece within larger housing strategies that include other pieces including "Rent Local" programs and incentives for new construction of deed-restricted rental units.

PROGRAM GOALS

Year-round deed restriction programs are not uniform in their approaches and focuses. Determining the intended target groups for a year-round deed restriction program is critically important. Generally, more specific eligibility criteria will reduce the number of participating households and require more administrative oversight; however, programs are better able to ensure the program meets its intended goals by establishing very clear and specific eligibility criteria. Conversely, less specific eligibility criteria will result in less administrative oversight — but also less ability to benefit households struggling in the existing housing market. The first step in establishing a year-round occupancy deed restriction program must be determining its **intended purpose** and **target beneficiaries**. These stated objectives can guide any program decisions regarding eligibility, target costs, acquisition goals, and other considerations.

Process

RESEARCH ON EXISTING PROGRAMS

As part of the initial phase of research, Barrett identified eight existing programs focused on year-round housing occupancy deed restrictions, beginning with the Vail InDEED program referenced in the Request for Qualifications released by CDP. Barrett reviewed all of the public resources available on the existing programs, including model deed restrictions, program guidelines, and any other documentation available to the public. This preliminary research was supplemented by interviews with program staff from six of the eight programs. CDP town captains provided suggestions for questions to ask during the interviews, which focused on program function, funding sources, and lessons learned from implementation. Several of these interviews also resulted in additional data which was incorporated into the findings on unit production, prices paid, and resale values where available.

Barrett then developed five scenarios tailored to the Lower and Outer Cape using data-informed assumptions for prices paid per restriction, target unit productivity, administrative costs, funding streams, and other key programming aspects. While the programming assumptions detailed in this report are largely based on feedback gained from these interviews and quantitative data from existing programs, input from the engagement process detailed below also informed the development of these scenarios.

TOWN ENGAGEMENT

Barrett and CDP hosted a virtual forum on April 23, 2024 to introduce Lower and Outer Cape towns to the project and solicit their feedback on translating these programs into a Cape-specific context. All towns served by CDP were invited, with invitees including individual town captains, town planners, housing planners, town administrators or managers, chairs of affordable housing trust funds where available, and other individuals suggested by CDP town captains. Outside of CDP staff and BPG, thirteen participants attended.

Following a presentation of initial findings, attendees responded to prompts focused on how a similar program could work on the Cape. Where applicable, this feedback helped shape the Cape-specific scenarios modeled in Section IV of this study.

- Responses tended to favor supporting the **workforce** (as opposed to a simple residency requirement), with a focus on **buy-downs** at resale as opposed to current owners. Two attendees observed that current buy-down programs typically result in households *staying* in the community, thus providing an opportunity for households who otherwise would be unable to become homeowners on Cape Cod while also contributing to longer-term stability of the region.
- Participants identified the local business community as a potential strong partner in such a program, as well as developers willing to deed-restrict new units through a development incentive program (e.g. the model bylaw produced by the Cape Cod Commission).
- Practical concerns and observations included:
    - Lack of capacity to implement and administer such a program, with some attendees noting that it would make sense to think regionally and others suggesting that there are existing entities that could acquire deed restrictions (such as housing trusts)
    - Rights of first refusal with condominium associations
    - Identifying a clear purpose and objective of any such program, particularly when defining eligible participants

In addition to this forum, CDP town captains received multiple status memos throughout the development of this plan and a process update presentation at their June 12, 2024 virtual meeting.

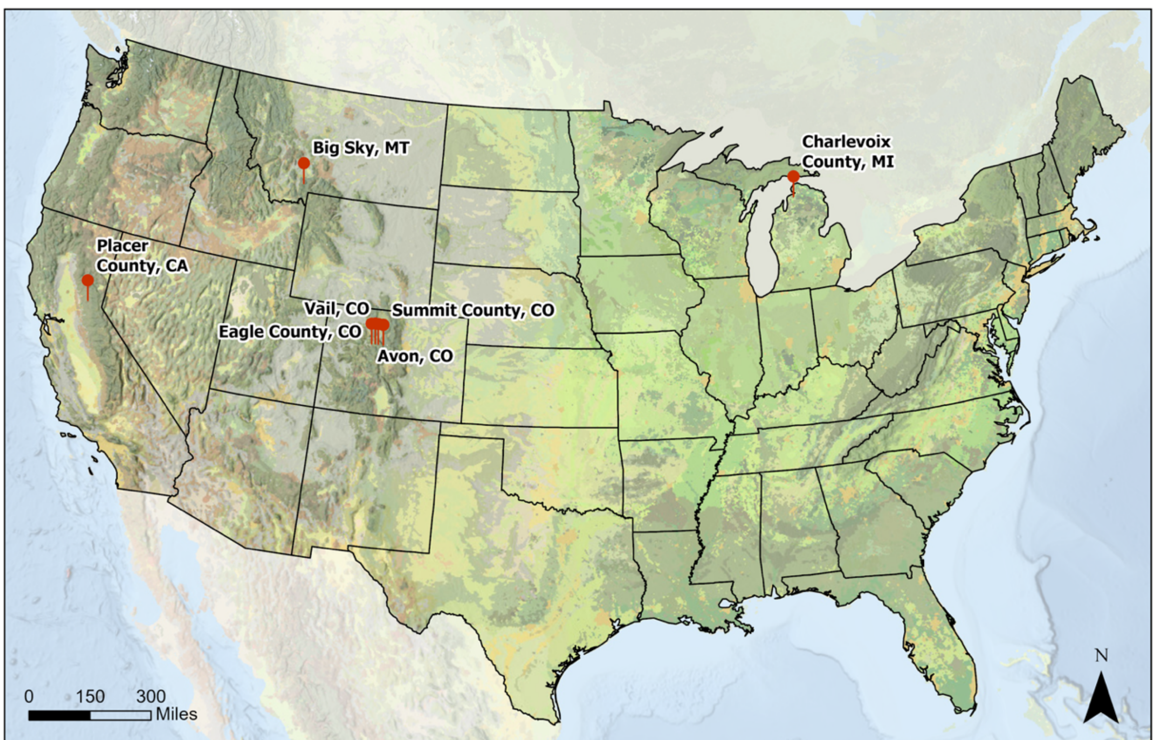
Existing Programs

Overview

This report focuses on eight year-round deed restriction programs operating in seven communities:

- Vail InDEED (Vail, CO)
- Good Deeds Program (Eagle County, CO)
- Housing North Deed Restriction Program (Charlevoix County, MI)
- East Placer County Workforce Housing Preservation Program (Placer County, CA)
- Countywide Workforce Preservation Program (Placer County, CA)
- Housing Helps Program (Summit County, CO in partnership with the town of Frisco, Breckenridge, and Silverthorne, CO)
- Good Deeds Program (Big Sky, MT)
- ¡Mi Casa Avon! (Avon, CO)

As the map in Figure 1 shows, the majority of these programs are located in the western U.S. The largest concentration is in central Colorado, with several adjacent communities along the Interstate 70 Corridor west of Denver operating programs. The only program studied east of the Mississippi River is the Deed Restriction Program based in northwestern Michigan.



Year-Round Deed Restriction Programs: Case Study Communities
Figure 1

Data Sources: Esri, U.S. Dept of Commerce, Census Bureau, National Oceanic and Atmospheric Administration, National Ocean Service, National Geodetic Survey, Montana Dept of Commerce

BARRETT PLANNING GROUP LLC

Regardless of geographic location, all of these communities are **resort communities**, with large amounts of tourism and a higher-than-average shares of seasonal housing. Eagle and Summit Counties in Colorado see significant tourism due to their proximity to skiing and alpine recreation, Placer County sees summer and winter tourism from its location along Lake Tahoe, Big Sky is adjacent to Yellowstone National Park, and Charlevoix County is a resort destination due to its proximity to northern Lake Michigan. Like the Outer and Lower Cape, these communities are concerned about the rising rates of seasonal housing, rising housing prices, and pricing out year-round residents.

Other seasonal communities with year-round deed restriction programs in place have similar concerns to the Cape & Islands — the growing share of seasonal housing and short-term rentals, rising housing prices, inability to attract or retain workers essential to the community, and pricing out current and future residents who wish to call the community their home.

These programs were selected because they offer year-round occupancy restrictions that are **not income-restricted** and generally focus on **existing units**, either at resale or as a payment to current owners in exchange for placing a year-round occupancy deed restriction on the property**.**

Note: Some programs have parallel or related programs that serve other notable functions to achieve the goal of increasing year-round housing. Examples include:

- **Eagle County Housing**'s price-capped deed restriction program prioritizes households with incomes below **140% AMI** for purchasing a price-capped home at resale.[2] (This program is technically part of their Good Deeds, which offers multiple types of restrictions, as described later in this report.)
- The **Truckee Home Access Program** (within Placer County but distinct from the county-wide program) is limited to households with incomes of **245% AMI** and who work within a larger geographic area.[3]
- Big Sky's **Rent Local** program and Eagle County's **Lease to Locals** program pay cash to owners who turn their vacant properties or vacation rentals into homes for locals.[4] [5]
- **Public/private partnerships** have been used to place year-round occupancy restrictions on **new units**, such as Residences at Main Vail and Timber Ridge Village, both partnerships between the Town of Vail and Triump Development.[6]

[2] Housing Eagle County, "Eagle County Affordable Housing Guidelines: Administrative Procedures," August 1, 2023, p. 9. Accessed July 2024 at: https://www.housingeaglecounty.com/gooddeeds

[3] Town of Truckee, "Program Guidelines: Town of Truckee Home Access Program, p.6. Accessed September 2024 at: https://www.townoftruckee.gov/DocumentCenter/View/475/THAP-Guidelines-English-PDF

[4] Big Sky Community Housing Trust, "Rent Local." Accessed August 2024 at: https://bigskyhousingtrust.org/rent-local-program/

[5] Housing Eagle County, "Lease to Locals." Accessed August 2024 at: https://www.housingeaglecounty.com/lease2locals

[6] Town of Vail, "Housing in the Town of Vail." Accessed July 2024 at https://www.vail.gov/government/departments/housing/

While deed restrictions are not new (and in fact are often widely utilized for housing in the case study communities), the year-round programs without income limits reviewed in this report are more novel. The oldest program studied, Vail InDEED, only began deed restricting units in 2017, with most other programs launching after 2020. Many of the programs communicate with each other, and several intentionally modeled their programs after the success of older programs.[7] Despite the recent implementation of these programs, all of them have been iterative processes, with several altering the conditions, guidelines, and prices paid since their initial inception.

Program Structures

While each program studied has a unique set of guidelines and requirements, there are common trends among programs, with most programs following one of two directions. This section establishes these key programmatic choices, outlines how other programs have chosen to address these choices and the impacts these choices have on program outcomes.

ELIGIBILITY CRITERIA

As eligibility determines who may participate in these programs, determining eligibility criteria plays a huge role in the impact of these programs. Among existing programs, eligibility typically comes in one of two forms – a **pure residency eligibility** model and a **workplace eligibility** model. While both eligibility models limit housing to year-round residents, they present distinct differences in target participants and program goals.

- A **pure residency** model creates housing for those who want to live in the community full-time.
  - Eligibility is only concerned with the participant's status as a community resident and not using the housing as a second home or a short-term rental.
  - The goal is purely to reduce the share of seasonal housing in the community.
  - Of the programs studied, only one (Housing North) offers a pure residency model and currently has paused purchasing deed restrictions.
- The **workplace** model creates housing for the year-round workforce who do not qualify for more traditional affordable housing but struggle to find housing on the open market.
  - Eligibility is limited to only those who both work and want to live in the community.
  - The goal is to create housing that is attainable to local full-time workers.
  - Programs may offer various exceptions (e.g., for remote workers, retirees, volunteers, etc.) within their program guidelines.

[7] Interviews with staff from ¡Mi Casa Avon!, Housing North, VailInDEED, Eagle County, Big Sky Community Housing Trust, Town of Breckenridge, April-May 2024.

RESIDENCY ELIGIBILITY

A residency eligibility is simpler to administer but does less to tie the cost of units to local wages or support the economic viability of the region.

At the time of this analysis, of the case study programs, only Housing North (Charlevoix County, MI) uses a pure residency eligibility model. Under Housing North's model, the unit must be the permanent primary residence of a household, and the household must live in the property full-time for at least ten months a year.[8] A pure residency model allows the largest degree of flexibility in who is allowed to participate in the program. There are no price, workplace, or income restrictions for the unit or the occupant. This means the widest range of residents can participate, and the programs are better able to address new models of work, such as telecommuting. A less restrictive requirement means that occupants do not have to worry about losing their eligibility if they change or lose their job. The pure-residency model is also the simplest to administer. Verification in this model only requires the resident to submit an annual statement attesting that the property is their primary residence and that they have lived there full-time for the required number of months in the previous year.

However, because a pure residency program is the least restrictive, the model also does less to tie the costs of units to local wages or to encourage the economic viability of an area. Without requirements for the occupant to work in the community, this model is more likely to attract higher-income individuals who work farther away in higher-wage communities, as well as telecommuters. As these groups will frequently have higher incomes than more local workers, they are likely able to outbid local workers on homes with no resale cap, potentially keeping prices higher and reducing the number of local workers who can participate in the program.

WORKPLACE ELIGIBILITY

Workplace eligibility is the more popular form of eligibility among existing year-round deed restriction programs, with seven of the eight programs studied use a form of workplace eligibility. Workplace eligibility requires that the property be the primary residence of a household, and at least one member of that household must work within specified geographic limits, typically within the same county. In most case study programs, the occupant must work or have been hired for a position within the program's geographic area for at least an average of thirty hours a week across the year or earn seventy-five percent of their total earnings within the program area.[9]

While these rules are intentionally more restrictive than the pure residency model, many programs include exemptions for certain groups, such as retirees who previously worked in the area or disabled individuals who do not meet the work requirements.[10] Several programs also intentionally average out the number of hours worked across a year so that those who move for work seasonally or who hold multiple jobs can still participate. On the other hand, some programs have made the restriction more

---

[8] Housing North. (Undated) *Deed Restriction Program Overview*, p.1. Accessed July 2024.

[9] Town of Avon, CO. (Undated) *¡Mi Casa Avon! Deed Restriction Program*, p. 4. Accessed July 2024; Eagle County, CO. (Undated) *Resident Occupied Deed Restriction*, p.1. Accessed July 2024; Big Sky Community Housing Trust. (Undated) "Down Payments for Local Buyers," Accessed July 2024.

[10] Ibid.

burdensome by requiring that at least one resident must live within twenty driving miles of their place of work to further limit the pool of potential applicants to only local workers. The degree of restriction can also be altered within the programs – and in fact, staff interviewed from several programs reported that they have amended their requirements through experience from case-by-case scenarios as they arose.[11]

While a workforce requirement with no resale price cap does not guarantee lower purchase prices, it may encourage them.

The benefit of the workplace eligibility model is that it directly targets local workers. By limiting the market to those who work within the program area, prices may naturally become tied to local wages even without a resale price cap because the seller can only sell to a household who meets eligibility requirements. While this does not mean that these units will sell at more attainable prices, at the very least, higher-income workers from other areas cannot out-compete local wage workers. Tying the program to the local workforce in this way may create a submarket of homes sold at more attainable prices. However, staff from two existing programs observed that while this effect often held true prior to 2021 and the COVID-19 pandemic's impact on housing prices, now they have seen little difference on resale prices even with a workplace requirement — and have contemplated program changes in response to these market changes but have not yet taken any such action.

While this model is more likely than a pure residence-based model to result in lower prices compared to a regular market unit over time, it has its own drawbacks, as well. The more restrictive nature of the workplace eligibility model reduces the number of potential participants. Although this is intentional to ensure the program benefits the intended recipients, it also is harder to administer due to time-consuming verifications. Staff reported that monitoring a workplace model program requires review of W-2s, pay stubs, and employee verification to ensure that the resident is still eligible for the program. Monitoring of this type can take hours for each household and property every year, potentially more so than for standard income-restricted ownership opportunities that typically require little oversight until resale; a workplace model requires additional annual verification of the location of earnings in unique employment circumstances, often causing program administrators to navigate new situations.[12] More restrictive requirements also make it more likely that the administrator will have to enforce the terms of a deed restriction, involving legal enforcement and potentially court appearances to force a sale if the resident has violated the terms of their deed restriction.

This model also makes it more difficult for participants to change jobs and can lead to uncomfortable situations for both the resident and the program administrator in navigating these challenges. Should a resident lose their job or be offered a higher paying job in another area, they could be forced to leave their home as they no longer meet the eligibility requirements. This can have the unintended consequence of making workers dependent upon their current jobs or forcing unemployed residents to move if they cannot find another job in the community.

---

[11] Interviews with staff from ¡Mi Casa Avon!, Housing North, VailInDEED, Eagle County, Big Sky Community Housing Trust, Town of Breckenridge, April-May 2024.
[12] Ibid.

Any organization seeking to create a year-round deed restriction program must first determine the goal of the program its intended beneficiaries, which will in turn shape the way the program is structured. **Keeping this goal in mind — along with considering potential inadvertent roadblocks — will help to determine many of the other choices that a year-round deed restriction program creates.**

Table 1. Existing Programs by Eligibility Type

Program	Community	Eligibility
Vail InDEED	Vail, CO	Workplace
Housing Helps	Summit County, CO (Administered jointly by County and Towns of Frisco, Silverthorne, and Breckenridge)	Workplace
Good Deeds Program	Eagle County, CO	Workplace
¡Mi Casa Avon!	Avon, CO	Workplace
Good Deeds Program	Big Sky, MT (Administered by Big Sky Community Housing Trust)	Workplace
East Placer County Workforce Housing Preservation Program	Placer County, CA	Workplace
Countywide Workforce Preservation Program	Placer County, CA	Workplace
Housing North Deed Restriction Program	Charlevoix County, MI (Administered by Housing North)	Pure residency

POINT OF INTERVENTION

Another major consideration for program functions is point of intervention, or when an applicant can participate. Existing programs work at two separate points of intervention: the **point of sale** of a property (functioning as a buy-down for the buyer) or as a **payment to an existing owner** in exchange for them placing a deed restriction on the property.

At the **point of sale**, the payment usually functions as downpayment assistance or a buy-down on the purchase price. All programs reviewed currently intervene at the point of sale. This enables households who otherwise might be ineligible or unable to purchase a home by meeting all or part of the downpayment for the property, but it can also serve as a direct payment for any purpose to the purchaser. The price of the deed restriction is typically calculated as a percentage of the purchase price. Some programs also allow **existing homeowners** to place a deed restriction on their property so long as the current resident meets the eligibility requirement, with the price of the deed restriction based on a percentage of the property's assessed value. If there is a current mortgage on the property, the amount of equity is taken into consideration and the mortgager must sign a subordination agreement.

While most programs began at either point of intervention, over time, several programs have pulled back from offering deed restrictions to existing occupants and only intervene at the point of purchase.[13]

[13] Summit County, "Housing Helps." Accessed July 2024 at www.summitcountyco.gov/services/housing/housing_helps.php.

Because the closing process for real estate transactions often involves disclosures and additional title research, it is less likely that conflicting deed restrictions or other riders will come to light at the point of sale. Second, for many programs the number of applicants exceeds the number of deed restrictions that can be purchased in a given year and the programs have chosen to prioritize assisting homebuyers in purchasing a property.[14]

TYPE OF RESTRICTION

■ SIMPLE RESTRICTION – NO RESALE PRICE CAP

The simple deed restriction is often what comes to mind when thinking about year-round housing deed restriction programs. The simple deed restriction limits who may live in the property by requiring that any current or future occupant household must meet the eligibility requirements for the program. This restriction has no other requirements and is the least burdensome option available. Less burdensome programs attract more applicants done at a lower price, likely creating more deed restrictions overall. Because this deed restriction is less burdensome and has no direct impact on resale prices, simple deed restrictions are typically purchased for between 5 and 15 percent of the value of the property up to a certain amount.

■ HEAVY RESTRICTION – RESALE PRICE CAP

A heavy deed restriction imposes an appreciation cap on the re-sale of the property. At the time of this report, the appreciation cap is a maximum of 3 percent per year for all programs offering this restriction type. **While some programs only offer simple deed restrictions, any program that offers a heavy deed restriction with an appreciation cap also offers a simple deed restriction option at a lower price** and participants are free to choose which they prefer. Because of the heavier burden of the deed restriction, programs typically pay between 10 and 25 percent of the sale price or assessed value up to a certain amount.

The benefit of a heavy deed restriction is the ability to control the price of restricted units for the continued benefit of the next purchaser. Staff from some programs that offer heavy-deed restrictions reported that they prefer the heavy-deed restrictions for their guaranteed price impacts and the clearer benefit to subsequent occupants. However, the higher restriction price means that fewer deed restrictions can be purchased with the limited program funds. In addition, price-capped deed-restricted home values will not keep pace with the price growth of the general market, which means that participating households have less ability to build wealth compared to those participating in a simple deed restriction program. As a result, they may have difficulty moving to a new home on the open market should the need arise. These concerns are not unique, as programs for affordable ownership opportunities similarly wrestle with these competing equity concerns when considering methodology for calculating resale price limits.

[14] Interview with ¡Mi Casa Avon! Staff.

PRICING

Pricing varies from program to program, and all programs maintain room for negotiation to account for market changes, the utility of a particular unit, and other criteria that might alter the price a program is willing to pay for a specific unit. However, all programs, within their guidelines provide an estimate of what a household can expect to receive and may specify a range for percentage of the home's value. On average, the cost for a simple deed restriction is between 5 and 15 percent of the home's value, while a heavy deed restriction is between 10 and 25 percent of value. Additionally, many programs impose a cap on total expenditure or on the maximum home value that may participate. While these figures vary program to program, many do not allow restrictions on properties over a specified value (e.g. $1.5M) or allow total payouts of over $150,000. However, as the costs of housing continue to rise and mortgage rates remain high, staff from multiple programs have reported that they have raised or contemplated raising their maximum payments.

OTHER CONDITIONS

A number of programs add additional requirements for participant households meant to further target specific subgroups of the local year-round population.

- Most programs do not allow participating properties to be leased as short-term rentals, or only allow them for a specified duration.
- Some programs allow the owner of the property to rent to a household that meets the eligibility requirements of the deed restriction, while others require that the owner live in the property. ¡Mi Casa Avon! requires that the owner live in the property for at least three years, after which the unit may be rented out to an eligible household. Others, such as Vail InDEED, allow property owners and investors to rent out the deed-restricted units to eligible households.
- Programs also may limit whether property owners can own other properties, typically if they do not allow rentals. Eagle County Good Deed Program and ¡Mi Casa Avon! require that the owner not own another home anywhere in the United States.[15] Vail InDEED and Big Sky Good Deeds, on the other hand, allow investors to acquire deed restrictions on multiple properties for rent -- as long as they are rented to an eligible household.

As discussed with eligibility requirements, generally more burdensome the deed restriction terms mean the higher cost — both in terms of higher cost of the deed restriction itself, as well from additional administration and monitoring. However, these additional restrictions can help further guide the deed restriction purchase process and better align the program with the target beneficiaries of the program.

[15] Interviews with staff from ¡Mi Casa Avon!, Housing North, VailInDEED, Eagle County, Big Sky Community Housing Trust, Town of Breckenridge, April-May 2024.

LENGTH OF RESTRICTION

Five of the eight current programs place a permanent deed restriction on participating properties. There are several benefits to having a permanent restriction placed on a property. The permanent restriction ensures that the property will remain in the inventory of year-round housing, continuing the investment made at the outset of the program. It also eases one aspect of monitoring, as administrators will not need to keep track of when individual restrictions expire and will ensure that the number of deed restricted properties is only even increasing. However, due to state laws, both Placer County and Big Sky Community Housing Trust are unable to place permanent deed restrictions. Under Montana State Law, Big Sky may only place a seventy-year restriction on properties. Placer County uses a fifty-five-year restriction, although this restriction renews with every sale of the property, meaning it can extend considerably beyond this point.[16]

FUNDING STREAMS

The majority of funding for these existing programs comes from general funds of the government entity operating the program. This is the case for Eagle County, Vail, and Avon.[17] These programs also supplement this funding with local recreation and excise taxes where possible, but general funds constitute the principal funding mechanism. Because these programs do not have income restrictions, this limits many of the major traditional funding and subsidy streams that would be available for other forms of housing work, forcing these communities to rely on general funds or flexible local option revenue sources. In cases where a non-governmental entity such as Big Sky Community Housing Trust operates the program, funding derives from recreation taxes or other revenue from the Chamber of Commerce.[18]

ENFORCEMENT

All deed restrictions reviewed include remedy requirements. In most existing deed restrictions, should a property owner be found in violation of any of the conditions of the deed restriction, the administrator maintains the right to inspect the property with notice, and serve the owner with a notice of default. If the default is not cured within a certain period of time, typically between 60 and 65 days, then the deed restriction holder is entitled to damages and, in extreme cases, an injunction to force eviction of non-eligible residents. While most programs are not specific in what damages may be pursued, Eagle Count and Avon specifically seek damages in the form of $300 per day of violations, and interest of 1-1.5 percent per month, in addition to any program and court fees incurred in enforcement.[19]

---

[16] Placer County, "Workforce Housing Preservation Program, Frequently Asked Questions." Accessed July 2024 at https://www.placer.ca.gov/7400/Frequently-Asked-Questions

[17] Interviews with staff from ¡Mi Casa Avon!, Housing North, VailInDEED, Eagle County, Big Sky Community Housing Trust, Town of Breckenridge, April-May 2024.

[18] Interview with Big Sky Community Housing Trust staff

[19] Eagle County, (Undated) *Deed Restriction Agreement for Occupancy and Resale of Resident Occupied For Sale Housing*. Accessed July 2024. ; Town of Avon (Undated) *Resident Occupied Deed Restriction Non-Price Capped*. Accessed July 2024

Program Impacts

NUMBER OF UNITS RESTRICTED

The productivity of existing year-round deed restriction programs varies considerably based on the age of the program and funding. The smallest programs, such as the Deed Restriction Program in Charlevoix County, has seven units under restrictions as of May 2024. The largest program, Vail InDEED had 175 units under deed restriction in 2023.[20] Other large programs, such as Eagle County Good Deed Program and ¡Mi Casa Avon! maintain less than 100 units.[21] However, these programs are often part of larger housing initiatives with many deed restrictions. For example, Vail InDEED is part of a broader housing program within the Town of Vail, which holds over 900 deed-restricted employee housing units and is guided by their Vail Housing 2027 plan, launched in 2016 to achieve a goal of acquiring 1,000 new deed restrictions by 2027.[22]

The rate at which new units are brought in varies considerably as well. Large programs can bring in between fifteen and thirty units per year, while smaller programs bring in one or two. Several programs, including Vail InDEED and ¡Mi Casa Avon! have seen a decline in the number of units brought in year over year since 2021. While this is not a universal projection across programs, with Breckenridge and Eagle County Good Deeds programs both maintaining their annual acquisition rates over the same period, higher interest rates in the home market have necessitated programs raising their deed restriction purchase prices to retain engagement. Some programs have seen lulls followed by periods of more action — Big Sky, for example, only acquired one restriction in 2023 but had already acquired fifteen for the year by April 2024.[23]

HOUSEHOLD AND HOUSING TYPES PARTICIPATING

■ HOUSEHOLD TYPES

As none of these programs use household income as an eligibility criterion for the deed restriction, information on participating household incomes is limited across existing programs. However, most participants are owner-occupants due in part to several programs restricting the rental of deed-restricted properties. While data is limited, anecdotal evidence indicates that many participating households have incomes high enough to purchase a home but would struggle to find a home in their price range without downpayment assistance from the programs, with some program staff estimating that participating households were likely in the 100-160% AMI range.[24]

---

20 Town of Vail, "Vail InDEED Acquisition Summary 2023 Year to Date," November 11, 2023. Accessed June 2024 at https://www.vail.gov/home/showpublisheddocument/4022/638354648189870000

21 Interview with Avon staff; Interview with Big Sky Community Housing Trust staff

22 Town of Vail, "Housing in the Town of Vail." Accessed September 2024 at www.vail.gov/government/departments/housing/

23 Interview with Big Sky Community Housing Trust staff

24 Interview with Big Sky Community Housing Trust staff; Interview with Vail staff; Interview with Breckenridge staff; Interview with Avon staff.

HOUSING TYPES

The types of housing under deed restriction varies based on the housing stock in the individual communities, meaning that many programs have a high percentage of condominium units in their inventory. While this is partly a reflection of the predominant housing types in many program communities, the prevalence of condominiums is an important aspect of these programs because, on average, a condominium is priced lower than a single-family home of comparable size and quality. Having a large number of condominiums under deed restriction helps to ensure more households can benefit. However, programs generally specify that properties bound to a right of first refusal are not eligible to participate, which may pose a challenge for condominiums where an existing condominium association has the right of first refusal.

MARKET IMPACT

The relative novelty of year-round housing deed restriction programs means that data on resale and assessed values are very limited, making it difficult to conclude with certainty whether year-round deed restrictions affect resale prices *consistently* and over the *long-term*. Anecdotal and observational data from program interviews indicate that at the individual re-sale level, homes with a simple deed restriction may sell at a slight discount relative to the overall market, but this has been much less observable since 2021. Staff from one program reported an approximate discount rate of about 6 percent compared to similar homes sold on the open market — less than the percentage of the initial payment to the buyer but still conferring some benefit to the next buyer upon resale even without a resale price cap in place. Program staff also reported that in 2020, a particular neighborhood with many deed-restricted properties saw resales at a discount in line with the initial payment made to the household (about 20 percent), but it is unclear whether this trend still applies in the post-pandemic housing market.[25] Another program noted that, while they used to observe an approximate 10 percent reduction in resale prices compared to the larger market, that has no longer been the case since 2021 and there now is little to no difference. All in all, limited data suggest that year-round deed restricted units may naturally sell at a discount without a resale price cap in place, but not enough to shift the broader housing market.

Nonetheless, a program of this nature creates a submarket within the larger housing market rather than impacting the entire market itself. The housing market already comprises a number of submarkets, such as “luxury,” “starter,” and other types of homes that, while all part of the same overall housing market, are not perfect substitutes for each other and attract buyers of difference household compositions, incomes, and lifestyles. Thus, by limiting who may purchase a specific property, year-round occupancy deed restrictions may help create a new submarket for a limited pool of applicants.

[25] Interview with Breckenridge staff; Interview with ¡Mi Casa Avon! staff

Regional Context

Researching the existing programs described in the previous section highlighted points to consider within the regional context to ensure any future year-round housing occupancy program would meet the needs of the Lower and Outer Cape. This section outlines such considerations, including the legal framework for deed restrictions within Massachusetts, the regional housing market, incomes and area wages, funding sources, and other factors that should inform decision-making.

Statutory Framework

While most current year-round deed restriction programs reviewed make use of permanent restrictions, three programs do not due to state laws in Montana and California. Chapter 184 of the Massachusetts General Laws (GL) details various stipulations relating to deed restrictions placed on real property, including a clause generally limiting the period of enforcement to no more than thirty years.[26] However, GL c. 184 §26 specifies that certain types of restrictions including **conservation**, **preservation**, **agricultural**, and **affordable housing** restrictions (all defined by statute), as well as **"other restrictions held by any governmental body,"** are not bound by the same enforcement measures and limitations as many privately-held deed restrictions, including the limit to a thirty-year period.[27] Specifically, §§31-32:

- Define **conservation**, **preservation**, **agricultural**, **watershed**, and **affordable housing** restrictions;
- Provide for these to be enforceable in perpetuity (except for preservation restrictions);
- Describe the **state's role** in approving, enforcing, and releasing such restrictions — but not for "other restrictions" such as year-round housing occupancy restrictions.

Communities should consult with their legal counsel to determine whether GL c. 184 §§26-32 and other laws apply to any deed restrictions or related programs they wish to pursue.

While "**other restrictions held by any governmental body"** are not included in §§31-32, §26 does exempt them and other restriction types from other provisions within Chapter 184. Thus, several recent legislative bills sought to clarify the ability of municipalities to acquire year-round deed restrictions in perpetuity, either through local action or applied broadly by amending certain sections of GL c.184 §26-32. These bills are described further below.

[26] GL c. 184 §26

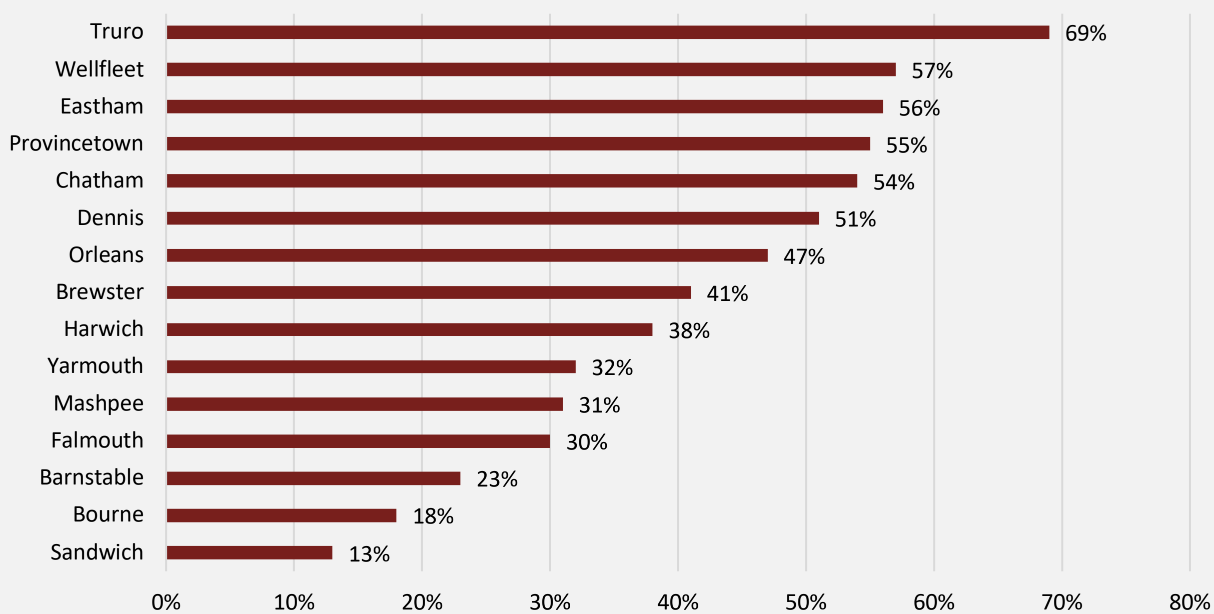
[27] Other restritions exempt are (a) restrictions in leases, mortgages and other security instruments, (b) restrictions in orders of taking by the commonwealth or a political subdivision or public instrumentality thereof made before January first, nineteen hundred and seventy. General enforcement provisions for non-exempt deed restrictions are outlined in GL c. 184 §27-30.

CURRENT EFFORTS

■ AFFORDABLE HOMES ACT

The Affordable Homes Act (Chapter 154, the Acts of 2024) provides for a "seasonal communities" designation, which would allow such municipalities to take certain measures to encourage attainable year-round housing. The Act specifies thresholds for the share of seasonal housing units for Berkshire County (40 percent) and Barnstable County (35 percent), while Nantucket and all towns on Martha's Vineyard automatically receive this designation. The Executive Office of Housing and Livable Communities (EOHLC) may designate other seasonal communities based on data points relating to seasonal housing and economic challenges.

Figure 2. Estimated Percent Seasonal Housing Units
Source: Cape Cod Commission 2024 Housing Profiles



A municipality designated by EOHLC as a "seasonal community" must accept or deny the designation by vote of its legislative body and would be required, subject to specific parameters, to **allow the creation of attainable year-round housing on undersized lots** and **permit the construction of tiny houses for year-round housing**. Current data from the Cape Cod Commission indicate that all communities in the Lower and Outer Cape, as well as Dennis, likely meet this 35 percent threshold for seasonal units (see Figure 2).[28] Among other provisions, a "seasonal community" would be permitted to **acquire year-round housing occupancy restrictions** for rental or other housing under GL c.184 §26 and **establish a Year-Round Housing Trust Fund**, individually or with other seasonal communities, to support the creation and preservation of affordable and attainable housing.

[28] Cape Cod Housing Commission, *Housing Profiles,* 2024. Accessed June 2024 at https://capecodcommission.org/our-work/housing-profiles

■ SB 861 – AN ACT RELATIVE TO YEAR-ROUND HOUSING OCCUPANCY RESTRICTION

The Affordable Homes Act, described above, provides for year-round housing occupancy restrictions as an "other" restriction held by a governmental body under GL c. 184 §26; it does not amend GL c. 184 or charge EOHLC with approving such restrictions, which Senate Bill (SB) No. 861 sought to do.

SB 861, "An Act relative to year-round housing occupancy restriction," petitioned the legislature to amend certain sections of GL c.184 §26-32 by treating **year-round housing occupancy restrictions** similarly to **affordable housing restrictions** – that is, by:

- Including them in the list of deed restrictions exempt from the enforcement measures and limits generally applied to deed restrictions rather than relying on the catch-all "other restrictions held by any governmental body";
- Explicitly defining them along with the definitions for **conservation**, **preservation**, **agricultural**, **watershed**, and **affordable housing restrictions**; and
- Tasking EOHLC with approving year-round housing occupancy restrictions and releases, just as EOHLC currently does for affordable housing restrictions.[29]

While SB 861 was not signed into law during this legislative session, the legislature's Joint Committee on Housing reported favorably on the bill in August 2024.

■ HOME RULE PETITIONS

During the current legislative session, several communities petitioned the legislature to approve special acts that would formally authorize them to acquire year-round housing occupancy restrictions or to establish funds for the purpose of creating housing limited to year-round occupancy. While none of these special acts were signed into law, the Affordable Homes Act described above clarifies that, at the very least, "seasonal communities" may "…acquire year-round housing occupancy restrictions for rental or other housing; provided, however, that any such…restriction held by a city or town shall be construed as a restriction held by a governmental body with the benefit of section 26 of chapter 184."[30] Relevant home rule petitions brought to the Legislature include the following:

- **Wellfleet:** Senate Bill (SB) 2420 would authorize the Wellfleet's Selectboard to acquire year-round housing occupancy restrictions for rental or ownership housing.[31]
- **Provincetown:** House Bill (HB) 4092 would authorize Provincetown's existing Year-Round Rental Housing Trust to acquire year-round housing occupancy restrictions.[32] Also petitioned during this legislative session, SB 2744 would broaden the Trust's focus to include ownership units by

---

[29] SB 861, "An Act Relative to Year-Round Housing Occupancy Restriction," 193rd General Court.

[30] Chapter 154 of the Acts of 2024, Section 5, 193rd General Court.

[31] SB 2420, "An Act Authorizing the Town of Wellfleet to Acquire Year-Round Housing Occupancy Restrictions," 193rd General Court.

[32] HB 4092, "An Act Authorizing the Provincetown Year-Round Market Rate Rental Housing Trust to Acquire Year-Round Housing Occupancy Restrictions," 193rd General Court.

amending the Special Act through which it was established (Chapter 305 of the Acts of 2016) to broaden its focus to include ownership units.[33]

- **Truro:** HB 3723 would establish a Year-Round Market Rate Rental Trust similar to that of Provincetown.[34] While the Bill does not explicitly reference year-round housing occupancy *restrictions*, it would authorize the Town to establish a trust to fund the creation and preservation of rental properties intended for year-round occupancy.
- **Martha's Vineyard:** HB 3804/SB 1782 would establish the Martha's Vineyard Housing Bank, which would be authorized to acquire year-round deed restrictions, among other powers related to its purpose of creating and preserving both year-round housing and community housing.[35]
- **Nantucket:** At its 2024 Annual Town Meeting, the Town of Nantucket authorized the Select Board to petition the legislature to enact special legislation that would allow the Nantucket Affordable Housing Trust to acquire year-round deed restrictions.[36] In the interim, the Town's Affordable Housing Trust is developing a pilot year-round deed restriction program for occupancy by households with incomes up to 240% AMI.

■ CAPE COD COMMISSION MODEL BYLAW AND DEED RESTRICTION

The Cape Cod Commission recently developed a series of model bylaws, including a Year-Round Housing Incentive Model Bylaw, which incentivizes the production of year-round rental or ownership housing through options including:

- A density bonus (suggested at one unrestricted unit for each year-round ownership unit or two 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)

These incentives can be separate or included altogether at the discretion of the municipality. This bylaw functions similarly to bonuses within inclusionary zoning bylaws, although from the developer's perspective, the financial implications are likely lower than affordability requirements where they are required to restrict rent or sale price according to specific income levels.

In addition, the Commission developed a model deed restriction for year-round occupancy to preserve housing on the Cape for people working on the Cape and other year-round residents. While the Commission directs towns to consult with their town legal counsel before using this document, as written, the model deed restriction:

[33] SB 2744, "An Act Amending Chapter 305 of the Acts of 2016 Relative to the Year-Round Market Rate Rental Housing Trust Fund in the Town of Provincetown," 193rd General Court.
[34] HB 3723, "An Act Establishing a Year-Round Market Rate Rental Housing Trust in the Town of Truro," 193rd General Court
[35] SB 1782, "An Act Establishing the Martha's Vineyard Housing Bank," 193rd General Court
[36] Town of Nantucket, 2024 Annual Town Meeting Warrant, Article 80

- Assumes a program set up by individual towns through which the towns pay a property owner a one-time sum in exchange for placing a deed restriction on their property
- Provides eligibility options for workers (including retired or disabled workers, people working full-time jobs, people working multiple part-time jobs equivalent to a full-time job, and part-time public employees) and simple residency
- Is enforceable in perpetuity
- Is not income restricted and has no resale cap
- Survives foreclosure[37]

Both resources are available at https://www.capecodcommission.org/our-work/rhs-model-bylaws

Housing Market

HOUSING COSTS

To calculate potential costs of deed restrictions, this analysis mainly relies on average assessed values rather than median sale prices because of the larger sample size. Table 2 shows the median sale prices and number of sales for single family homes and condominiums for 2023, while Table 3 shows the average assessed values and number of parcels for FY2024. Figures 3 and 4 compare these values and show they are quite similar, with average assessed values generally slightly *higher* than the median sale prices – while Provincetown's single family home sales are the exception, this figure based on just thirteen sales for 2023.

Table 2. Median Sale Prices and Number of Sales, 2023

Town	Single Family	# of Sales	Condominiums	# of Sales
Brewster	$743,950	122	$462,500	60
Chatham	$1,100,000	108	$426,500	30
Eastham	$778,750	106	$289,000	21
Harwich	$670,000	194	$362,000	35
Orleans	$1,000,500	79	$339,000	35
Provincetown	$1,950,000	13	$760,000	128
Truro	$980,000	29	$450,000	24
Wellfleet	$935,875	56	$465,000	10
Barnstable County	$886,809	123,453	$440,000	921

Source: Banker & Tradesman Town Stats

[37] Of the existing programs reviewed, at this time only Eagle County and Summit County restrictions do not survive foreclosure.

Table 3. Average Assessed Values and Number of Parcels, FY2024				
Town	**Single Family**	**# of Properties**	**Condominiums**	**# of Properties**
Brewster	$870,285	5,658	$548,824	1,518
Chatham	$1,580,091	5,881	$634,500	565
Eastham	$809,842	5,164	$417,101	314
Harwich	$904,617	8,660	$493,145	849
Orleans	$1,255,690	3,840	$445,576	762
Provincetown	$1,787,455	875	$764,873	2,748
Truro	$1,306,030	2,137	$485,456	555
Wellfleet	$1,060,512	3,128	$533,116	357
Barnstable County	$886,809	123,453	$509,803	19,328
Source: Massachusetts Municipal Databank, Parcel Valuations and Parcel Counts, FY2024				

Figure 3. Assessed Values and Median Sale Prices for Single Family Homes
Sources: Banker & Tradesmen, MA Municipal Databank

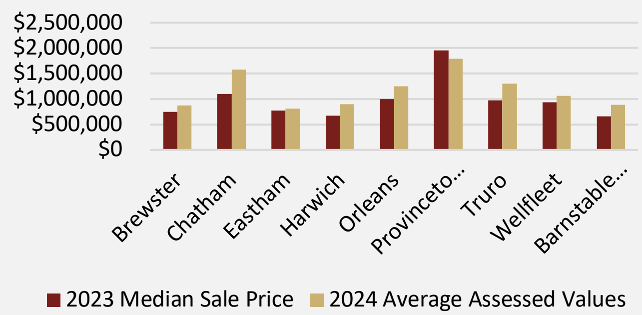
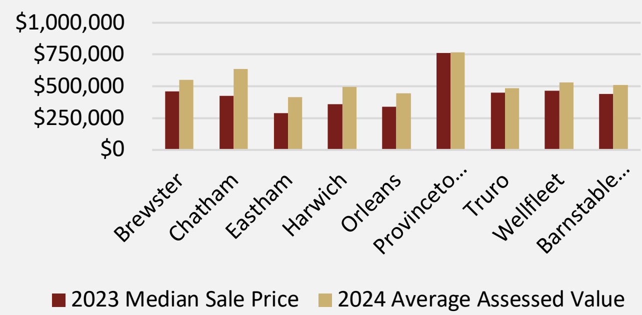


Figure 4. Assessed Values and Median Sale Prices for Condominiums
Sources: Banker & Tradesmen, MA Municipal Databank



HOUSING STOCK

While the composition of deed-restricted units varies with the composition of the general market, across all communities within existing programs, single-family detached homes make up less of the total housing stock than in Barnstable County, which has an estimated 81 percent single family detached units. In Avon, Vail and Eagle County, three of the most productive programs, single-family detached properties make up between 15 and 38 percent of the total housing stock. Charlevoix County, the community with the highest share of single-family detached homes comparable to Barnstable County at 79 percent, has only deed-restricted seven units and has paused the purchase of new deed restrictions at this time. [38,39]

[38] U.S. Census Bureau, American Community Survey 5-Year Estimates, 2018-2022, accessed via Social Explore Table SE:A10032
[39] Interview with Housing North staff

The price implications are important consider within the Lower and Outer Cape, where condominiums are a less common housing type in most communities. However, condominiums have their own challenges, namely:

- Condominiums may be part of a condominium association that has the right of first refusal for the unit.
- Because condominium fees may increase over time, a unit that was initially affordable to a household can gradually become unaffordable, forcing them to sell.

Condominiums typically have a lower purchase than single family homes. However, condominium fee increases can make a unit unaffordable to a household over time.

HOUSEHOLD INCOMES

While existing programs are not income-restricted, having a sense of area incomes is helpful for assessing general affordability gaps between household incomes and housing prices and using that to determine the subsidy needed to make units affordable for households at a range of incomes represented by area wages. Table 4 displays current household income levels in Barnstable County, relative to a percentage of the Area Median Income (AMI) as determined annually by the US Department of Housing and Urban Development (HUD) for the purpose of setting income limits for various federal housing programs. Staff from several programs interviewed reported anecdotally that the households utilizing the simple deed restriction program often fall in the 100-160% AMI range.

Table 4. 2024 Barnstable County Income Limits

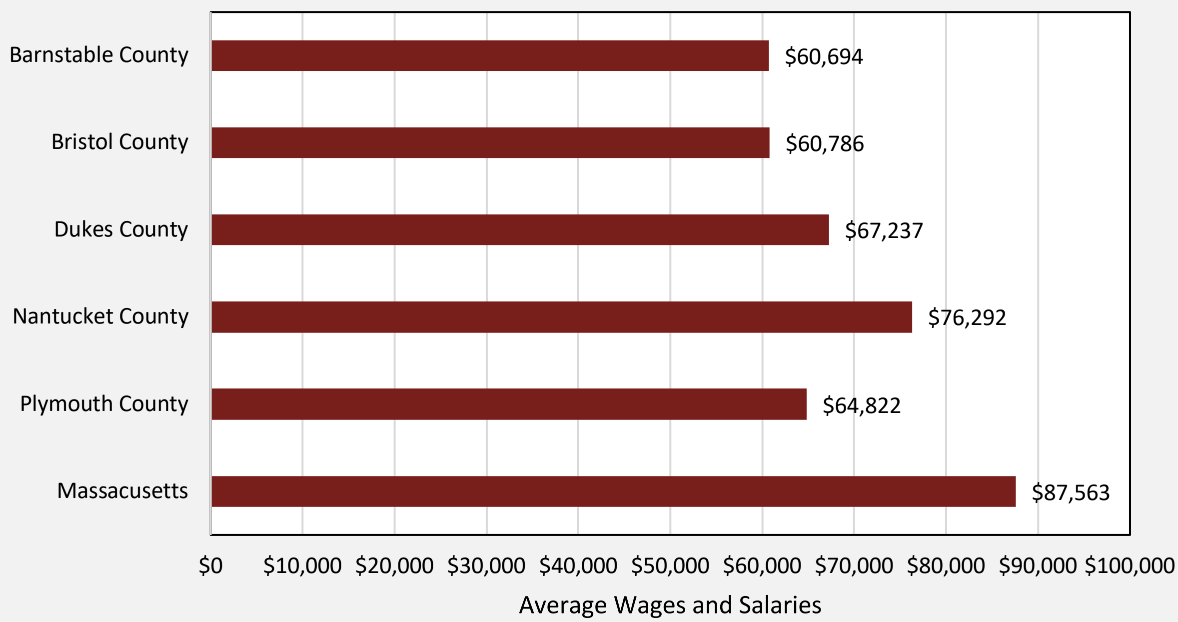
	Household Size							
AMI	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**
30%	$26,600	$30,400	$34,200	$38,000	$41,050	$44,100	$47,340	$52,720
50%	$44,300	$50,650	$56,950	$63,300	$68,400	$73,450	$78,500	$83,600
60%	$53,160	$60,780	$68,340	$75,960	$82,080	$88,140	$94,200	$100,320
80%	$68,500	$78,250	$88,050	$97,800	$106,550	$113,450	$121,300	$129,100
100%	$85,650	$97,800	$110,050	$122,250	$133,200	$141,800	$151,650	$161,400
120%	$102,750	$117,400	$132,100	$146,700	$159,850	$170,200	$181,950	$193,650
150%	$128,500	$146,700	$165,100	$183,400	$199,800	$212,700	$227,500	$242,100
180%	$154,150	$176,050	$198,100	$220,050	$239,750	$255,250	$272,950	$290,500
200%	$171,250	$195,650	$220,150	$244,500	$266,400	$283,650	$303,250	$322,750

Source: HUD 2024 Income Limits and Barrett Planning Group

However, Area Median Income is based on households *living* within a geography and is therefore not necessarily reflective of local wages. This disparity becomes particularly apparent in a community where many local employment options are lower wage service-oriented jobs juxtaposed with the much higher household incomes of wealthier retirees and telecommuting workers with high-paying jobs based outside of the region.

For this reason, looking at area wages is crucial for understanding what the local workforce can afford, although wage data have their own caveats. Namely, standard data sources for wages including the US Bureau of Economic Analysis, US Census Bureau, and the MA Department of Economic Research typically do not account for full- or part-time status and (depending on the data set) may not include those who are self-employed. That said, it still provides a general overview of area wages. Figure 5 displays the average wages and salaries of area jobs for Barnstable County and other neighboring counties within Massachusetts, as well as for the entire state. The most recent data available (2022) indicate that wages for jobs within Barnstable County are the **lowest** among all neighboring counties — including Bristol and Plymouth Counties, which both have significantly lower median sale prices for single family homes than Barnstable County.[40]

Figure 5. Average Wages and Salaries of Area Jobs
Source: US Bureau of Economic Analysis, 2022 Economic Profiles



40 Plymouth County's median single family home price in $560,000 in 2023 while Bristol County's was $455,750. Notably, however, the disparity is substantially higher in Dukes County and Nantucket, with 2023 median single family home median sale prices of $1,043,750 and $2,497,50, respectively. (Source: Banker & Tradesman Town Stats)

AFFORDABILITY GAPS

Ownership: Even without an income limit for a deed restriction program, understanding affordability gaps can help determine the payment amount that would make purchasing a home attainable for different income levels. Potential affordability gaps are particularly apparent looking at differences in assessed values in individual towns across the Lower and Outer Cape, as well as comparing the costs of single-family homes versus condominiums. Figures 6 and 7 juxtapose the average assessed values in individual towns on the Lower and Outer Cape to estimated affordable purchase prices at a range of income levels, showing the significant gaps for single family homes, even at 200% AMI in most communities.[41]

Figure 6. Single-Family Home Average Assessed Values (FY2024) Compared to Estimated Affordable Purchase Prices by Income

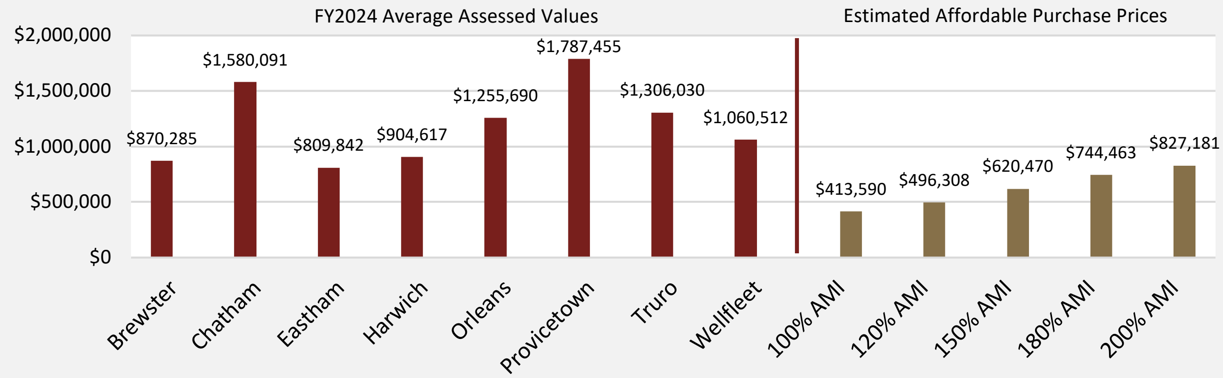
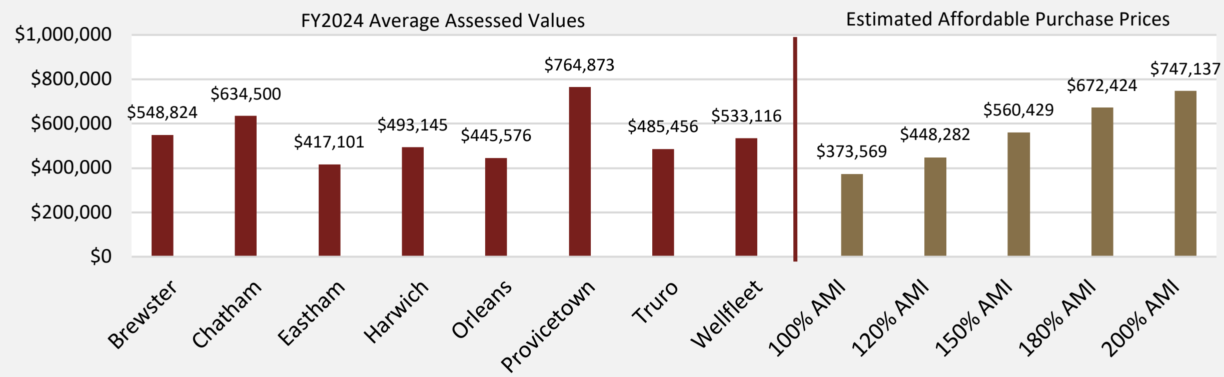


Figure 7. Condominium Average Assessed Values (FY2024) Compared to Estimated Affordable Purchase Prices by Income



[41] AMI based on household size of four using HUD's FY2024 income limits for Barnstable County. Affordability calculations assume 5 percent down payment, current Freddie Mac weekly average mortgage rate of 6.77 percent for a 30-year, fixed rate mortgage (July 18, 2024), insurance of $6 per thousand for non-condos and $4 per thousand for condos, Private Mortgage Insurance (PMI) of $7.6 per thousand, condo fees of $1.2 per thousand, and the purchaser spending 30 percent of income on housing costs. Applies average FY2024 residential tax rate for CDP towns (6.03)

Because household sizes in the region tend to be smaller, Tables 5.A and 5.B show the estimated affordability gap by community at **150% AMI for 4-person** and **2-person households**, respectively (see footnote 41 for methodology). Such households cannot afford a single-family home at either the average assessed value or 2023 median sales price **in any community** in the Lower and Outer Cape, although this gap shrinks for condominiums.

(Note: Because neither the average assessed value nor median sale prices account for number of bedrooms, these tables do not precisely capture the likely affordability gaps that households of varying sizes may experience.)

Table 5.A. Affordability Gap at 150% AMI for Household of FOUR				
	Average Assessed Value		2023 Median Sale Price	
	Single Family	Condominium	Single Family	Condominium
Brewster	-$249,815	$11,605	-$123,480	$97,929
Chatham	-$959,621	-$74,070	-$479,530	$133,929
Eastham	-$189,372	$143,328	-$158,280	$271,429
Harwich	-$284,147	$67,284	-$49,530	$198,429
Orleans	-$635,220	$114,854	-$380,030	$221,429
Provincetown	-$1,166,985	-$204,443	-$1,329,530	-$199,571
Truro	-$685,560	$74,973	-$359,530	$110,429
Wellfleet	-$440,042	$27,314	-$315,405	$95,429
Source: Banker & Tradesman Town Stats; MA Municipal Databank, Parcel Valuations and Parcel Counts, FY2024				

Table 5.B. Affordability Gap at 150% AMI for Household of TWO				
	Average Assessed Value		2023 Median Sale Price	
	Single Family	Condominium	Single Family	Condominium
Brewster	-$373,977	-$100,542	-$247,642	-$14,218
Chatham	-$1,083,782	-$186,217	-$603,692	$21,782
Eastham	-$313,533	$31,181	-$282,442	$159,282
Harwich	-$408,309	-$44,863	-$173,692	$86,282
Orleans	-$759,381	$2,707	-$504,192	$109,282
Provincetown	-$1,291,147	-$316,590	-$1,453,692	-$311,718
Truro	-$809,722	-$37,174	-$483,692	-$1,718
Wellfleet	-$564,203	-$84,833	-$439,567	-$16,718
Source: Banker & Tradesman Town Stats; MA Municipal Databank, Parcel Valuations and Parcel Counts, FY2024				

Rental Affordability Gaps: Households **at or slightly above the median income** can more readily afford regional market rents than sale prices, which generally far exceed what these households could afford. This may indicate that zoning incentives for creating new year-round units (e.g. the Cape Cod Commission's model year-round incentive bylaw) can likely produce attainable units at **market rents** to meet the purpose of encouraging year-round occupancy without the need for substantial subsidy, whereas **market-rate ownership opportunities** require substantial funding to meet these same income levels. Table 6.A displays the maximum amounts households at 100% and 120% AMI can reasonably afford to spend on rent and utilities, while tables 6.B-6.D correlate these household sizes to market rents and utility costs by bedroom.

Table 6.A. Maximum Affordable Monthly Housing Costs (Rent + Utilities) at 100% and 120% AMI					
	Household Size				
Income	1	2	3	4	5
100% AMI	$2,150	$2,450	$2,750	$3,050	$3,325
120% AMI	$2,575	$2,925	$3,300	$3,675	$4,000

Source: FY2024 HUD Income Limits. Assumes no more than 30 percent of income spent on rent and utilities. Rounded to nearest 25.

Table 6. Median Market Rents for Barnstable County (Paired with above household sizes to reflect the Local Initiative Program (LIP) formula of # of persons equal to # of bedrooms +1)					
	Studio/0 BR	1 BR	2 BR	3 BR	4 BR
Median Rents	$1,095	$1,416	$1,800	$2,800	$3,675

Source: Rentometer market analysis of median rents in Barnstable County over the past 24 months (Sept 2022-Aug 2024). This analysis found the following median rents: studio - $1,095 (based on 21 listings), 1 br - $1,416 (275 listings), 2 br - $1,800 (293 listings), 3 br - $2,800 (139 listings), 4 br - $3,675 (35 listings).

Table 6.C. Utility Cost Assumptions					
Building Type	Studio/0 BR	1 BR	2 BR	3 BR	4 BR
Single Family	$350	$400	$500	$600	$750
2-3 Family	$325	$375	$450	$575	$675
Multifamily	$275	$300	$400	$475	$575

Source: FY2024 Section 8 Utility Allowances prepared by Housing Assistance Corporation, based on average of costs for different heat sources by bedroom, rounded to the nearest 25. Available at https://www.mass.gov/info-details/2024-regional-section-8-utility-allowances

Table 6.D. Estimated Market Rents + Utilities for Barnstable County					
Building Type	Studio/0 BR	1 BR	2 BR	3 BR	4 BR
Single Family	$1,450	$1,825	$2,300	$3,400	$4,425
2-3 Family	$1,425	$1,800	$2,250	$3,375	$4,350
Multifamily	$1,375	$1,725	$2,200	$3,275	$4,250

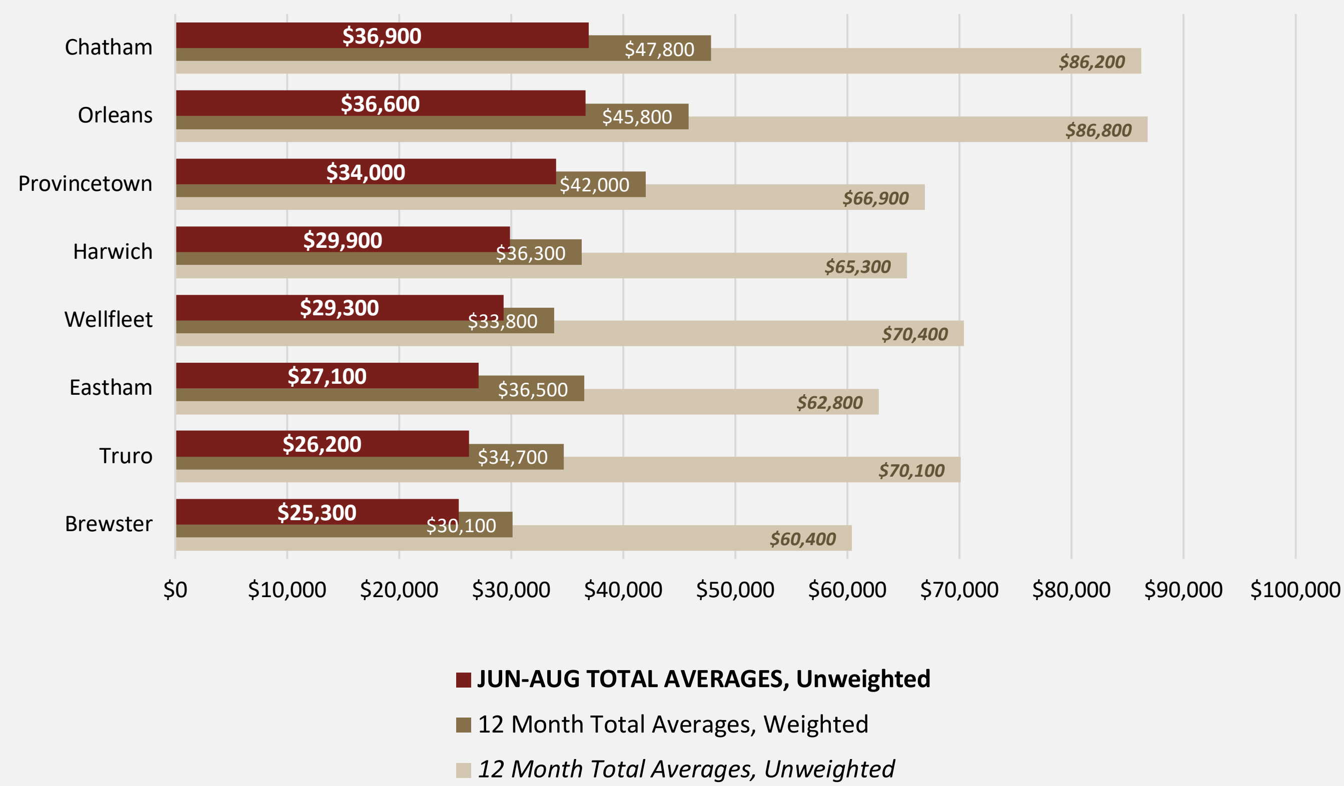
Determined by adding median market rents (Table 6.B) with utility cost assumptions (Table 6.C) and rounded to nearest 25.

SHORT TERM RENTALS

Property owners looking to rent a unit are generally able to capture significantly more revenue leasing short term rentals (STRs) as opposed to year-round rentals, exacerbating the year-round housing shortage. Figure 8 displays average *gross* revenues for STRs across the Lower and Outer Cape for the over a twelve-month period (Oct 2023-Sept 2024), based on data from AirDNA.

Figure 8. Estimated Average Gross Revenue for Short Term Rentals by Town, 10/2023-09/2024
Source: AirDNA, Oct 2024

NOTES: Because most STRs in the region do not operate year-round, this chart emphasizes data for the highest-volume summer months and also in



Programs aimed at encouraging owners to convert their short-term rentals (STRs) or vacant seasonal units typically work toward closing the gap between the revenue they would expect to earn operating their STR compared to what they could take in renting the same unit year-round. Provincetown recently launched a Lease to Locals pilot program that offers an annual payment to property owners who convert their short-term rental or otherwise vacant seasonal unit to a year-round rental, with program payments varying based on number of qualified residents and bedroom count. The program establishes maximum rents (which slightly exceed market rents) and requires that the unit be leased to a year-round resident meeting a specific definition.[42] Table 7 compares what a property owner in Provincetown could expect to earn annually if they (a) rented a year-round unit at market rate, (b) participated in the program, and (c) rented the unit as a short-term rental. The added program payment on top of the year-round rent they charge their tenant helps narrow the gap between what they could potentially earn with an STR and a year-round rental.

(Note: similar programs in other towns would likely establish different cost assumptions; typically the vendor developing such a program conducts preliminary market research to determine realistic rents and program payments based on the local housing market.)

Table 7. Comparison of Provincetown's 2024 Lease to Locals (L2L) Program with Average STR Revenue

	Median Market Rents (See Table 6)	Provincetown Lease to Locals Revenues		Lease to Locals Annual Revenue (Rent + Payment)	*Estimated STR Annual Gross Revenue, Weighted
		Max. Rental Revenue	Program Payment Range		
Room	N/A	$12,000	$4,000-$4,000	$16,000-$16,000	--
Studio	$13,140	$19,200	$6,000-$12,000	$25,200-$31,200	--
1 bedroom	$16,992	$26,400	$8,000-$16,000	$34,400-$42,400	$30,621
2 bedroom	$21,600	$36,000	$8,000-$16,000	$44,000-$52,000	$42,263
3 bedroom	$33,600	$45,600	$8,000-$20,000	$53,600-$65,600	$56,146

* These figures do not represent net income, as they do not account for fees paid to AirBnB, Vrbo, etc., utilities, or room occupancy excise taxes. In addition, the STR figures in this table are calculated from *weighted averages* based on the number of STR listings by month because most STRs in the region do not operate year-round. Sources: Rentometer; Provincetown Lease to Locals Program Polices; AirDNA calculations by Barrett Planning Group using raw October 2024 data from AirDNA with permission.

Across all eight towns, the revenue from 4+ bedroom STRs is so high that it is unlikely a program could come close to buying down those rents. In the Lower and Outer Cape, the weighted total of average *gross* monthly revenue in larger STR units over the past twelve months is as follows: 4-bedroom - $50,700; 5-bedroom - $89,900; 6+bedroom - $167,600.[43] However, it makes sense to focus on smaller units regardless, as units of 3 bedrooms or smaller represent approximately 75 percent of STRs in the region. In Truro and Provincetown in particular, 1- and 2-bedroom units make up the vast majority of STRs.[44]

---

42 Town of Provincetown, Provincetown Lease to Locals Pilot Program: Program Description and Policies April 2024. Available at https://www.provincetown-ma.gov/DocumentCenter/View/18263/Finalized-Provincetown-L2L-Program-Policies.

43 AirDNA Overview, Oct 2023 – Sept 2024. Weighted total of average monthly gross revenue by bedroom for each town in the Lower and Outer Cape. Because most STRs in the region do not operate year-round, the *weighted averages* are based on the number of STR listings by month. Calculated by Barrett Planning Group using raw data from AirDNA with permission. These figures do not represent net income, as they do not account for fees paid to AirBnB, Vrbo, etc., utilities, or room occupancy excise taxes.

44 AirDNA Overview, Oct 2023 – Sept 2024. Number of units by bedroom per town. Calculated by Barrett Planning Group using raw data from AirDNA with permission.

Potential Impact

The scenarios included later in this report assume a target of **twenty-four units per year**, which is approximately equivalent to the initial productivity of Big Sky Good Deed, Vail InDEED, ¡Mi Casa Avon!, and Eagle County Good Deeds program.[45]

Several programs in their initial stages based their target productivity as part of a **larger effort to reduce the share of seasonal properties** over time. For purposes of demonstrating the ability of a year-round deed restriction program to achieve this goal of reducing the share of seasonal properties on the Lower and Outer Cape, Table 8 extrapolates the impact of meeting this annual **twenty-four-unit target** through 2035. These assumptions are based on housing projections produced for the Cape Cod Commission in by the Donahue Institute at UMass Amherst as part of a 2023 Housing Needs Assessment.[46] According to this report, an estimated 57 percent of all housing units on the Lower and Outer Cape were seasonal homes in 2020 (with significant fluctuation across communities as shown previously in Figure 2).[47] These projections predict an increase to nearly 60 percent by 2035. If a year-round housing deed restriction program acquired twenty-four units per year, this would create 240 deed-restricted units between 2025 and 2035, potentially reducing the share of year-round housing by nearly half a point based on 2035 projections.

Table 8. Potential Program Impact on % of Seasonal Units on the Lower and Outer Cape
Based on achieving 24-unit annual target, 2025-2035

	Projected Units on Lower and Outer Cape in 2035		
	Seasonal	**Total**	**Percent Seasonal**
Without Program	31,775	53,027	59.9%
With Program	31,535	53,027	59.5%

Source for projections: UMass Donahue Institute, Cape Cod Housing Needs: Analysis for the Cape Cod Commission, 2023, Appendix A.

Restricting existing units for year-round occupancy alone will do little to reduce the share of seasonal units within the region, showing the importance of **using multiple tools** to curb current trends. For example:

- The **Vail InDEED** program is part of a broader housing plan for the Town, *Vail Housing 2027*, which aims to increase the number of deed restricted housing units by 1,000 over a ten-year period.
- Big Sky Housing Trust's **Rent Local** program is a short-term stop-gap program intended to remain in place until the program can build enough year-round rental inventory to increase the rental vacancy rate from 0 to 2 percent.

45 Interview with Big Sky Community Housing Trust staff; Interview with Avon staff; Interview with Vail staff; Interview with Eagle County staff.

46 Donahue Institute at UMass Amherst, *Cape Cod Housing Needs: An Analysis for the Cape Cod Commission*, March 22, 2023.

47 Ibid., Appendix A. Note that this differs slightly from the 50 percent estimate in Figure 2 from the Cape Cod Commission's 2024 Housing Profiles, which were based on a different methodology.

A program focused on the Lower and Outer Cape should aim to distribute deed restrictions among the various towns to ensure that opportunities for year-round residents across the region. While the market might not support maintenance the goal for each town every year — particularly due to vastly different home values — establishing goals for the number of acquisitions by town can help ensure the program is benefiting all of the target communities.

Funding Resources

A year-round housing deed restriction program is expensive, both at the implementation phase, and annually thereafter. The Eagle County Deed Restriction program was set up with part of a $10 million funding stream from Eagle County — approximately one third of the County's general fund at the time.[48] This provided the funding to set up the program, and to fund the first years of deed restriction purchases. On a smaller scale, Breckenridge's Housing Helps program was launched with $2.5 million and a goal of restricting twenty units. For a new program on the Lower and Outer Cape, costs to consider include:

- **Initial program set-up,** which would require extensive personnel hours for the creation of program guidelines and model deed restriction documents. While part of this cost can be reduced due to the existing work done by the Cape Cod Commission to create model language for year-round housing occupancy deed restrictions, all other components of program set up would require substantial time and funding.
- **Outreach and education** for the general public, local banks, realtors, developers, local businesses, municipal staff, and other potential partners and beneficiaries. Existing programs report that early collaboration with banks in particular is extremely helpful to the long-term viability of the program, as they would be issuing mortgages on deed-restricted properties.[49]
- **Initial deed restriction purchases**. The scenarios modeled in the next section assume deed restriction costs of anywhere from 5 to 25 percent of the property's value based on existing programs.
- **Administration and monitoring**. In addition to the purchasing prices, the program must also fund the processes of placing the deed restriction and the monitoring of the restrictions. This requires not only the staff responsible for administering the program but also hours from legal counsel to review the final documents and deed restrictions and finance department hours to issue payment.

PUBLIC FUNDS

There are no known state and federal funds available to support a year-round restriction program without income restrictions on the Lower and Outer Cape. In terms of municipal funding streams, neither Affordable Housing Trust Funds nor Community Preservation Act funds could likely be used to support a year-round deed restriction program in the absence of income restrictions, even in towns with more flexible housing trusts. This means that public funding likely must come from municipal general funds, and

48 Interview with Eagle County staff; Interview with ¡Mi Casa Avon! staff
49 Interview with ¡Mi Casa Avon! staff; Interview with Vail InDEED staff

potentially from various local option excises taxes authorized in Massachusetts. Outside of general funds, towns could **consult with their municipal counsel** to consider:

- Using a portion of the **Local Option Rooms Excise Tax** for this purpose. To date, all communities on the Lower and Outer Cape have imposed the maximum 6 percent under GL 64G §3A.
- Imposing additional **Community Impact Fees** under GL c. 64G §3D, which currently only Provincetown, Truro, and Wellfleet have done on the Lower and Outer Cape. Municipalities can impose Community Impact Fees of up to 3 percent on short term rental revenue and can distinguish between professionally managed units versus STRs within an owner-occupied two- or three-family home. At least 35 percent of revenue from this fee must go toward local infrastructure projects or "affordable housing," which is not defined in the statute.

Communities should consult with their legal counsel to determine municipal revenue streams and funding tools authorized under GL could support a program for year-round occupancy deed restrictions, particularly if not imposing an income limit.

- Establishing a general "**housing stabilization fund**" under GL c. 40 §5B, as Wellfleet and Truro have recently done.[50] Communities can establish stabilization funds for any specified lawful purpose with local legislative approval. A stabilization fund can be capitalized with general funds, receipts from fees and charges not reserved for a particular purpose, and potentially with local option excise taxes depending on their allowable uses.[51]
- Petitioning the Legislature for a **Special Act** to establish a year-round housing fund. Provincetown established a Year-Round Market Rate Rental Trust in 2016 by Special Act and Town Meeting has appropriated over $11 million to the Trust for acquisition and renovations since its inception. Additionally, the fund is also sustained with revenue from rental of the 28 units created under the trust.[52,53]
- Accepting EOHLC's **"seasonal communities"** designation under the Affordable Homes Act, which would enable towns to **establish a Year-Round Housing Trust Fund**, individually or with other seasonal communities, to support the creation and preservation of affordable and attainable housing.

---

50 Wellfleet and Truro's housing stabilization funds were adopted at their Annual Town Meetings in 2022 and 2021, respectively. Both communities designated their funds for "affordable" or "mixed income" housing, as towns are required to specify the purpose of such a fund.

51 Communities could consult with their municipal counsel to determine if a year-round deed restriction program also constitutes a "lawful purpose" under GL c. 40 §5B and which local receipts could be used to capitalize such a fund.

52 Email with former Provincetown Housing Director Michelle Jarusiewicz, February 2024

53 This year Provincetown sought to amend the Trust through a Special Act to more broadly focus on year-round housing rather than just rental housing. (As noted previously, this petition to amend their trust was not signed into law this legislative session.)

PRIVATE FUNDS

There is also the possibility for local business communities to support year-round housing deed restrictions. During the April 2024 town forum for this study, attendees suggested partnering with local businesses as a possible path to aid in funding for placing year-round restrictions on units. Existing programs have also utilized this strategy; the Big Sky Community Housing Trust was established with the support and authorization of the Big Sky Chamber of Commerce, and their Good Deeds program continues to be funded by fees collected and distributed by the Chamber of Commerce.[54] While education and outreach would be required, the ability of a year-round deed restriction program to help local businesses attract and maintain staff is a powerful incentive that could draw support from local businesses. Should a program on the Lower and Outer Cape be considered, working to incorporate the business sector should be a priority for the administrator. Developers could also be a key partner in such a program, although more likely in the form of creating new deed-restricted units. The Town of Vail has partnered with private developers to deed-restrict hundreds of new rental units, including the recently occupied Residences at Main Vail and Timber Ridge Village in the pipeline.[55] As described previously, these two projects are part of Vail's larger housing initiative **(Vail Housing 2027)** along with the Vail InDEED program.

Capacity

Administration varies within in existing programs. Some programs are administered by a **government entity** — usually at the municipal or county level, or combination of both. Other programs are administered through a **non-profit housing organization**. A regional approach is likely the most feasible option for the Lower and Outer Cape because:

- Individually administered programs can lead to confusion for applicants looking for housing in the region. A regional program means users do not need to visit multiple town websites to research individual programs that possibly have different requirements.
- A regional actor will also allow for a more strategic view of the program, and a single administrator reviewing applications from across the Cape will be better able to determine which applications and units best fit the needs of the program to ensure regional and town goals are met.
- Consolidating the monitoring and administration to one organization will also reduce costs by allowing a single entity and role to conduct the monitoring of all deed restricted units. This will also allow for more consistent and effective monitoring.
- Alternatively, if individual towns choose to pursue their own programs, they could at the very least solicit technical assistance from an existing entity for administration, as many communities do for other housing programs.

---

54 Interview with Big Sky Community Housing Trust staff.

55 Town of Vail, "Housing in the Town of Vail." Accessed August 2024 at https://www.vail.gov/government/departments/housing

Lower & Outer Cape Scenarios

Approaches for Goal Setting

Table 9. Target Distributions by Town – 24 Deed Restrictions			
Town	**Est. Seasonal Units**	**% Regional Share**	**Target # Restrictions**
Brewster	3,373	13.1%	3
Chatham	4,061	15.8%	4
Eastham	3,623	14.1%	3
Harwich	4,024	15.6%	3
Orleans	2,782	10.8%	3
Provincetown	2,725	10.6%	3
Truro	2,367	9.2%	2
Wellfleet	2,800	10.9%	3
Lower & Outer Cape Total	25,755	100.0%	**24**
Source: American Community Survey 5-Year Estimates, 2018-2022, B25002 and B25004			

Establishing a goal for productivity helps monitor program success over time. The scenarios included in this section assume a target of **twenty-four units per year** — a goal similar to the initial productivity of Big Sky Good Deeds, ¡Mi Casa Avon!, and Eagle County Good Deeds programs.[56] Table 9 allocates this target units across the Lower and Outer Cape based on each community's representation among the *region's* seasonal housing units (as opposed to the share within each town). However, there are many metrics a program could establish to monitor progress, and Table 10 is by no means prescriptive. Articulating the primary purpose of a program will help communities determine the best use of available funds to address specific objectives. Other program performance measures could include but are not limited to:

- **Cost efficiency**: creating the most amount of year-round units from total funds available to a program, which may mean imposing lower maximum payments per restriction, purchasing non-perpetual deed restrictions at a lower price, or prioritizing units with lower overall costs (such as condominiums or rental units, as the scenarios in this section will demonstrate)
- **Foreclosure prevention**: prioritizing units at risk of foreclosure to prevent displacement from the region
- **Closing affordability gaps** for households looking to purchase a home and who would be otherwise unable to without downpayment assistance, potentially by tiering purchase prices based on household income even if the program does not impose an income limit

While program metrics would vary depending on the objectives of a program, for ease of determining estimated costs across a consistent basis, the targets in Table 9 are used to calculate most scenarios in this section.

[56] Interview with Big Sky Community Housing Trust staff; Interview with Avon staff; Interview with Eagle County staff.

Other Program Components

ELIGIBILITY

The eligibility criteria for a year-round deed restriction program will strongly influence the program function, particularly in a region with significant disconnect between median household incomes and wages for many area jobs. The two forms of eligibility criteria in existing programs – pure residency or workplace, each capture a different group. Because each of these eligibility forms have merit, this report includes scenarios modeling both types, with slightly different cost implications between the two eligibility requirements. At purchase and resale of a deed-restricted unit, the property must be sold to a purchaser whose household meets the program eligibility criteria (or intends to rent to households who do if the program allows).

- → If the goal of the program is simply **to create a collection of year-round resident housing** for a wider applicant pool with less administrative oversight, then the **pure residency requirement** would meet that objective, likely at a lower cost because there is less potential risk that upon resale the owner will not be able to find a purchaser who can meet or come close to the home's appraised value.
  - A pure residency model allows groups like retirees, seasonal workers, artists, sailors, and others who might struggle to qualify under a more stringent workplace program to participate (although some programs with workplace requirements have adapted their programs to fit these unique employment situations, as well).
  - The pure residency restriction also makes it easier for existing participants to change jobs.
  - However, a pure residency program will likely have less impact on home prices, as pure residency restrictions still enable workers in high-paying jobs from outside of the region to purchase a unit at competitive price.

- → If the goal of a year-round deed restriction program is **to create a submarket for local workers**, then a **workplace requirement** better fits the program's needs.
  - A workplace restriction program is more administratively complex, but this complexity allows more directly benefit the local workforce.
  - Tying households' eligibility to their work location creates a much narrower submarket, resulting in less competition for potential buyers and more potential to reduce the prices of housing within the submarket in the long-term. This will better allow the housing to meet the needs of the Cape's workforce, as they do not have to compete with commuters from Greater Boston with higher average incomes.
  - However, this also means the initial deed restriction payment may need to be slightly higher, as there is more risk to the owner due to the narrower pool of future eligible purchasers.
  - In addition, the higher complexity of this system creates a range of edge cases which could make eligibility determinations and continued monitoring more difficult and time-consuming.

In the scenarios that follow, those with a **pure residency requirement** assume a cost range of **15-20 percent** of the home's value, while those with a **workplace requirement** assume **18-25 percent** depending on resale restrictions discussed below.

Regardless of eligibility criteria, a unit placed under a year-round housing deed restriction may be owner-occupied or rented depending on program guidelines. While many existing programs place limits on renting a deed-restricted unit, this is not universal. Generally, programs that allow deed-restricted units to be rented simply require that the household occupying the unit meets the eligibility requirements. While many think of a year-round housing deed restriction in terms of owner-occupied units, an owner may choose to rent out a unit — a particularly useful strategy for owners of duplexes or small multi-family dwellings.

RESALE CONDITIONS

As with eligibility criteria, resale conditions typically fall into two models — simple restrictions, which do not impose a cap on resale price, and heavy deed restrictions, which place an appreciation cap or other resale multiplier on resale prices to ensure that the next household also benefits from the reduced purchase price. This section includes scenarios where only one or both types are offered, with simple restrictions having a lower purchase price than heavy restrictions because they have less impact on the future resale price.

Simple (non-price capped) deed restrictions generally:

- → Allow more restrictions to be purchased within a program's budget
- → Provide the original purchaser with a cash influx benefit
- → Do not confer a guaranteed price benefit to the next purchaser, who only benefits from having less competition for the unit from corporate and second home buyers, which may naturally drive down the price but not necessarily to the extent of an appreciation cap

Heavy (price-capped) deed restrictions generally:

- → Ensure that each successive buyer benefits from a lower purchase price as determined by an appreciation cap or other method
- → Prevent both the initial and subsequent purchasers from capturing the full equity upon resale, limiting the ability of participating households to build wealth
- → May have the inadvertent effect of forcing households to stay in housing that no longer meets their needs because they cannot sell their home for enough to pay for a down payment on a unit more suited to their changing household needs

LENGTH OF RESTRICTION

This assumes a perpetual deed restriction, although this may require more substantial discussion with municipal counsel and local lenders as a program develops. Theoretically, programs could offer a shorter deed restriction for a lower price, but this adds another monitoring component over time.

Administrative Costs

Determining administrative costs is challenging because it can vary greatly depending on whether there is already in-house capacity and how much groundwork has already been accomplished. Table 10 provides a high-level estimate of program costs, although this may warrant further consultation with individual communities to determine existing capacity.

YEAR ONE ASSUMPTIONS (PROGRAM LAUNCH)

- **One-time cost of $30,000** for procuring services to assist with program development, which would include drafting programming guidelines, as well as refining existing available work such as the model deed restriction and zoning incentive bylaw developed by the Cape Cod Commission.
- **One-time cost per unit** for administrative work related to placing the initial restriction. For context, this analysis uses figures from MassHousing's 2020 Program Guidelines for Third-Party Monitoring Agents.[57] In 2020, MassHousing paid monitoring agents **$1,200** per affordable ownership unit for the initial sale, accounting for many (but not all) of the initial tasks relevant to a new year-round deed restriction program, including counseling potential program participants, certifying eligibility, and reviewing closing documents. However, this fee does not include other potential tasks including the unit itself to ensure it meets program criteria, consulting with existing lenders if applicable, filing documents with the Registry of Deeds, and so forth. As such, this fee has been raised to **$1,875-$2,125 per restriction** for purposes of this calculation.

YEAR TWO+ ASSUMPTIONS (ONGOING ADMINISTRATIVE SUPPORT)

- **Unit turnover/resales**, assuming two units per.
- **Monitoring existing units**, assuming one hour per residency unit and two hours per workplace unit. Staff from most programs interviewed emphasized that monitoring compliance for workplace eligibility is more time-consuming, as reflected in Table 10. In 2020 MassHousing paid monitoring agents $130 per ownership unit for annual monitoring, which has been increased in this analysis to **$140 per residency unit** (assumed as one hour). For typical affordable ownership units, the owner submits an annual affidavit confirming their continued year-round occupancy within the affordable unit. However, in a workplace model, ensuring compliance — whether for ownership or rental — requires more time-consuming review to confirm continued employment that meets the program's requirements. This can be especially challenging when handling complex edge cases related to unique employment situations that are increasingly common with remote work, and likely even more so in a seasonal community.
- **General administrative costs** around $15,000 (or **$1,250 per month**) for related programming tasks, including reporting, marketing, general program review and tracking, etc.

---

[57] MassHousing, *Third-Party Monitoring Handbook for MassHousing 40B Ownership Projects*, November 17, 2022.

Table 10. Potential Program Administrative Costs – *24-Unit Annual Target*					
		Residency Eligibility		Workplace Eligibility	
	Cost	Per Unit	Total	Per Unit	Total
Y1	Program Development	--	$30,000	--	$30,000
	Initial Purchase	$1,875	$45,000	$2,125	$51,000
	Total Y1/Implementation	--	$75,000		$81,000
Y2+	Monitoring	$140	$3,360	$280	$6,720
	2 Units Per Year Turnover	$1,875	$3,750	$2,125	$4,250
	Other Administrative Costs	--	$15,000		$15,000
	Total Y2+/Ongoing		$22,110		$25,970

Scenarios

SCENARIO 1 — BASIC RESIDENCY REQUIREMENT

Scenario 1 assumes a **residence eligibility** model, with both simple (no resale price cap) and heavy (resale price cap) deed restrictions. Pure residence-based eligibility requires that the occupant of the unit must use the subject property as their primary legal residence and reside in the property at least ten months a year. (While this number could be flexible, the Affordable Homes Act refers to a 10-month minimum; for consistency, this scenario applies the same requirement.)

In this scenario, the restriction purchase price for a residence requirement and **simple deed restriction** is set to **15 percent of the value,** determined by **sale price** if the home is being purchased by a new owner, and based upon the **equity and assessed value** if the restriction is being placed by the existing owner. The heavy deed restriction price assumes a higher cost of **20 percent** because it limits the price at which the property can be resold.

■ PROGRAM COSTS

The estimated cost for this scenario is between **$1,967,522 and $5,799,525 per year for twenty-four units,** or about **$2-5.8M** depending on how the target unit acquisition is spread across communities, unit type, and restriction type. On the low average end, condominium deed restrictions at 15 percent average to about **$80,000** while single-family rises to about **$240,000** per 20 percent heavy restriction.

To keep costs down, the program can instead only include simple deed restrictions with no resale price cap, which would remove the additional benefits of heavy deed restrictions but bring the total costs down to between **$2 – 4.3M** in total, depending on unit distribution across communities and unit type. In addition, for both price-capped and non-price-capped restrictions, the program could further consider placing a limit on the total home value for participating properties, perhaps aiming for homes *under* the median value for the town to ensure the program protects existing “naturally affordable” homes).

Because this is a simpler program with only a residency requirement, it assumes the lower administrative costs in Table 10 **($75,000 for start-up and then $22,110 annually)** – see detailed methodology description, which may vary *considerably* from actual costs depending on current capacity and program success.

Table 11A: Cost Estimates for Single-Family Home Deed Restriction Purchases, Residency Requirement						
Town	**Averaged Assessed Value**	**15% Simple Restriction Price**	**20% Heavy Restriction Price**	**Acquisition Target**	**Total Cost - Simple**	**Total Cost - Heavy**
Brewster	$870,285	$130,543	$174,057	3	$391,628	$522,171
Chatham	$1,580,091	$237,014	$316,018	4	$948,054	$1,264,073
Eastham	$809,842	$121,476	$161,968	3	$364,429	$485,905
Harwich	$904,617	$135,693	$180,923	4	$407,078	$542,770
Orleans	$1,255,690	$188,353	$251,138	3	$565,060	$753,414
Provincetown	$1,787,455	$268,118	$357,491	3	$804,355	$1,072,473
Truro	$1,306,030	$195,905	$261,206	2	$391,809	$522,412
Wellfleet	$1,060,512	$159,077	$212,102	3	$477,230	$636,307
Total				**24**	**$4,349,644**	**$5,799,525**
Average Cost per Restriction/Unit					**$181,235**	**$241,647**

Table 11B: Estimated Costs for Condominium Home Deed Restriction Purchases, Residency Requirement						
Town	**Averaged Assessed Value**	**15% Simple Restriction Price**	**20% Heavy Restriction Price**	**Acquisition Target**	**Total Cost - Simple**	**Total Cost - Heavy**
Brewster	$548,824	$82,324	$109,765	3	$246,971	$329,294
Chatham	$634,500	$95,175	$126,900	4	$380,700	$507,600
Eastham	$417,101	$62,565	$83,420	3	$187,696	$250,261
Harwich	$493,145	$73,972	$98,629	4	$221,915	$295,887
Orleans	$445,576	$66,836	$89,115	3	$200,509	$267,345
Provincetown	$764,873	$114,731	$152,975	3	$344,193	$458,924
Truro	$485,456	$72,818	$97,091	2	$145,637	$194,182
Wellfleet	$533,116	$79,967	$106,623	3	$239,902	$319,869
Total				**24**	**$1,967,522**	**$2,623,363**
Average Cost per Restriction/Unit					**$81,980**	**$109,307**

IMPACT

Scenario 1 is estimated to have a lower cost per deed restriction than the workplace model in Scenario 2 due to the lower risk upon resale for participants. In addition, the simpler monitoring required for a pure residency restriction will also keep annual administrative costs lower. That said, in terms of effect on individual unit resale prices, Scenario 1 is likely to have lower positive impact unless heavy restrictions are utilized; due to the high home prices in the Lower and Outer Cape, and the high discrepancy in wages between Barnstable County and surrounding areas, the pure residency model may more likely benefit those who live or desire to move to Barnstable County while maintaining their jobs outside the county either in-person or remotely. As a result, the competition from out-of-county wage earners or wealthy retirees wanting to settle in the region year-round will likely continue to keep prices higher than Barnstable County workers can afford.

The goal of a workplace requirement is to restrict the eligibility pool to local workers, thereby indirectly tying prices to local wages and giving better access to those who might otherwise be outbid on homes for sale.

Should a residence-based program *only* offer simple deed restrictions with no resale price cap, the impacts on long-term affordability will be limited. While the price-capped heavy restriction incurs a higher program cost, it can ensure that a submarket of units that would have otherwise been out-of-reach for many households (including but not limited to the local workforce) will remain at more attainable prices compared to the broader market.

SCENARIO 2 — WORKPLACE REQUIREMENT

Scenario 2 assumes a **workplace eligibility** model, with both a simple and heavy deed restriction option for participants. The requirements for existing programs generally use the address of the *employer*, not the location of the work done. As a result, construction workers, tradespeople, and others in fields that require frequent travel would qualify under these rules — so long as the company's legal address is within the program's defined geography. While the program can establish specific definitions for "workplace" and "workers," to start, this scenario assumes that at least one member of the household must be:

- Working within Barnstable County for at least 30 hours per week on average across the year, or
- Earning at least 70 percent of their net total income from companies with a physical presence in Barnstable County, or
- Retired but would have qualified under these requirements for three years before retirement, or
- Unable to work due to disability

The restriction purchase price in this scenario is set to **18 percent of the property's value** for the simple, **non-price capped** restriction determined by **sale price** if the home is being purchased by a new owner and based upon the **equity and assessed value** if the restriction is being placed by the existing owner. The **heavy deed restriction** is **25 percent** of the property's value.

■ PROGRAM COSTS

Scenario 2 has the potential to cost considerably higher due to the greater risk for the purchaser upon resale because they can only sell to someone who meets more specific requirements. The percentages in this scenario yield estimated costs of **$2,361,027 and $7,249,407 per year for twenty-four units,** or about **$2.3-7.2M** depending on how the target unit acquisition is spread across communities, unit type, and restriction type. On the low average end, condominium deed restrictions at 18 percent average to about **$100,000** while single-family rises to about **$300,000** per heavy restriction. Because of the added complexity with a workplace requirement, this scenario assumes the higher administrative costs in Table 10 **($81,000 for start-up and then $25,970 annually)** – see detailed methodology description, which may vary considerably from actual costs depending on current capacity and program success.

Table 12A: Cost Estimates for Single-Family Home Deed Restriction Purchases, Workplace Requirement						
Town	**Averaged Assessed Value**	**18% Simple Restriction Price**	**25% Heavy Restriction Price**	**Acquisition Target**	**Total Cost - Simple**	**Total Cost - Heavy**
Brewster	$870,285	$156,651	$217,571	3	$469,954	$652,714
Chatham	$1,580,091	$284,416	$395,023	4	$1,137,666	$1,580,091
Eastham	$809,842	$145,772	$202,461	3	$437,315	$607,382
Harwich	$904,617	$162,831	$226,154	4	$488,493	$678,463
Orleans	$1,255,690	$226,024	$313,923	3	$678,073	$941,768
Provincetown	$1,787,455	$321,742	$446,864	3	$965,226	$1,340,591
Truro	$1,306,030	$235,085	$326,508	2	$470,171	$653,015
Wellfleet	$1,060,512	$190,892	$265,128	3	$572,676	$795,384
Total				**24**	**$5,219,573**	**$7,249,407**
Average Cost per Restriction/Unit					**$217,482**	**$302,059**

Table 12B: Cost Estimates for Condominium Deed Restriction Purchases, Workplace Requirement						
Town	**Averaged Assessed Value**	**18% Simple Restriction Price**	**25% Heavy Restriction Price**	**Acquisition Target**	**Total Cost - Simple**	**Total Cost - Heavy**
Brewster	$548,824	$98,788	$137,206	3	$296,365	$411,618
Chatham	$634,500	$114,210	$158,625	4	$456,840	$634,500
Eastham	$417,101	$75,078	$104,275	3	$225,235	$312,826
Harwich	$493,145	$88,766	$123,286	4	$266,298	$369,859
Orleans	$445,576	$80,204	$111,394	3	$240,611	$334,182
Provincetown	$764,873	$137,677	$191,218	3	$413,031	$573,655
Truro	$485,456	$87,382	$121,364	2	$174,764	$242,728
Wellfleet	$533,116	$95,961	$133,279	3	$287,882	$399,837
Total				**24**	**$2,361,027**	**$3,279,204**
Average Cost per Restriction/Unit					**$98,376**	**$136,633**

IMPACT

The workplace eligibility requirement further refines the intended submarket so that at least one household member works a full-time equivalent position based in the program's geographic boundaries. **This means that many participants under Scenario 1 are no longer eligible,** reducing the likelihood that local workers would be outbid on units by retirees or remote workers. As a result, more local workers will be able to obtain housing, and the probable impacts on individual prices will be greater for both owner-occupied and rental units. The caveat is that workplace eligibility can mean that participants are entirely dependent upon their current position, as they must maintain their employment or face enforcement of the restriction, which can mean anything from damages, repayment of the purchase price for the deed restriction, or even eviction. The major economic centers of the greater region are outside of the borders of this program — meaning should someone lose their job, they must limit their search to an area with considerably fewer opportunities. This can also force workers who are in abusive or toxic work environments or who could earn higher wages by changing employers to stay, as they would risk losing their housing if they left. Additionally, a program of this type inherently limits the eligibility for certain groups who might want to participate. Groups such as artists, sailors, or fishermen, who are an integral part of Cape Cod's population and culture, might be unable to participate in this program unless they are specifically addressed in the exemptions. The stricter requirements can also create situations where participants in lower paying but important jobs such as teaching or public safety cannot supplement their incomes with additional freelance work, as it could shift their primary income source outside of the program boundaries. In short, while imposing requirements that target workers can create a set of housing units explicitly for Barnstable County's workforce, the limitations required to create this market can lead to unfortunate edge cases that cause unintentional harm to groups or individual households. This can also place administrators in the uncomfortable position of choosing not to enforce their restrictions or forcing evictions due to circumstances outside of the control of the occupants.

SCENARIO 3 – TWO-FAMILY HOMES

Scenario 3 assumes a lower percentage on both simple and heavy deed restrictions because the restriction would be entered into with the owner of a two-family home who intends to rent to an eligible tenant — therefore earning income from the unit. The scenario gives a wide enough range that it could account for both simple and heavy deed restrictions, as well as resident and workplace eligibility requirements.

PROGRAM COSTS

This scenario has the advantage of producing twice as many year-round units for approximately the same price window of other scenarios. The total acquisition cost could range from **$2,580,354 to $5,160,708 per year for forty-eight units,** or about **$2.6-5.2M** depending on how the target unit acquisition is spread across communities and restriction type. Two-family properties average at 10 percent to about **$110,000 per property ($55,000/unit)** up to **$215,000 per property ($107,500/unit)** at 20 percent.

Because of the added complexity of a potential workplace requirement for tenants in addition to effectively creating two year-round units with one restriction, this scenario assumes higher starting administrative costs **($81,000)**, coupled with heavier costs associated with monitoring because there are twice as many units. Using the assumptions in Table 10, this would work out to ongoing costs of about **$25,470** annually.

Table 13: Cost Estimates for Two-Family Deed Restriction Purchases								
Town	**Averaged Assessed Value**	**10% Simple Restriction**		**20% Heavy Restriction**		**Acquisition Target**	**Total Cost - 10% Simple Residency**	**Total Cost - 20% Heavy Workplace**
		Per Restriction	**Per Unit**	**Per Restriction**	**Per Unit**			
Brewster	$792,802	$79,280	$39,640	158,560	$79,280	3	$237,841	$475,681
Chatham	$1,257,270	$125,727	$62,863	251,454	$125,727	4	$502,908	$1,005,816
Eastham	$753,341	$75,334	$37,667	150,668	$75,334	3	$226,002	$452,005
Harwich	$835,925	$83,592	$41,796	167,185	$83,592	4	$250,777	$501,555
Orleans	$917,371	$91,737	$45,869	183,474	$91,737	3	$275,211	$550,423
Provincetown	$1,836,865	$183,687	$91,843	367,373	$183,687	3	$551,060	$1,102,119
Truro	$987,713	$98,771	$49,386	197,543	$98,771	2	$197,543	$395,085
Wellfleet	$1,130,041	$113,004	$56,502	226,008	$113,004	3	$339,012	$678,025
Total						**24**	**$2,580,354**	**$5,160,708**
Average Cost Per Restriction (24)							**$107,515**	**$215,030**
Average Cost Per Unit (48)							**$53,757**	**$107,515**

■ IMPACT

This scenario yields two year-round units per restricted property — with at least one being a *rental* unit. the property owner could occupy one unit within the two-family home and rent the second unit to an eligible household, *or* rent both units to eligible households if they do not reside at the property. Owners of two-family homes who utilize one or both units for STRs may be encouraged to participate in exchange for the larger lump-sum payment this option would offer, especially if they wish to rehabilitate the property.

Presumably this model could be extended to other smaller multifamily structures as well, but there is insufficient market data for Barnstable County to determine a probable range of costs. While parcel valuation data from the Department of Revenue indicates that there are 705 two-family homes across all eight communities in the Lower and Outer Cape (overall average assessed value of about $1.14M for FY2024), there are only 76 three-family homes with an overall average assessed value of about $1.57M. Thus, the cost per unit could continue to shrink with the use of smaller existing multi-family properties, but it is difficult to make this claim based on fewer than 100 applicable parcels.

SCENARIO 4 – ZONING INCENTIVE

Scenario 4 breaks from the programming of the first four scenarios by focusing on **new development or redevelopment** through **zoning incentives**. Rather than re-organizing the existing housing stock, this scenario encourages new construction or redevelopment, in a similar way to Inclusionary Zoning does for affordable housing. Under this system, a form of zoning or permitting relief (e.g., density bonus, dimensional relief, parking reduction, or expedited permitting) would be offered to builders, allowing them to build additional units in exchange for placing a year-round deed restriction upon some, or all, of the resulting units.

Predicting the ongoing administrative costs is challenging because, unlike placing restrictions on existing units, the restricted units produced from new construction or redevelopment would roll out more unpredictably depending on the development timeline for each project. However, the program cost would be **substantially less**, as the **zoning relief is considered the "payment" to a developer** to make a project feasible. Because market rents are much more in sync with the incomes of households over the median income than single family or condominium sale prices, such a project would likely not require any direct local subsidy as long as the incentives were strong enough.

■ PROGRAM COSTS

Scenario 4 does not rely on cash incentives to place individual deed restrictions, and instead offers non-monetary compensation to builders in the form of zoning relief. This will result in a significant reduction in costs per unit, although the units created would need to be locally monitored.

Most expenses would likely be incurred at the *outset*; even with the Cape Cod Commission's model bylaw, it often takes a lot of effort to get zoning changed — particularly when planning for greater density. For purposes of comparison in the next section, Table 15 uses the same start-up cost of Scenario 1 **($75,000),** but this could vary greatly depending on how much analysis and public engagement communities wish to incorporate into amending the zoning. Such efforts may entail GIS analysis and visualization to demonstrate impact, developer focus groups to determine what would work from a financial standpoint, broader community engagement efforts to solicit public input, educational events leading up to Town Meeting, and more. After getting zoning adopted, this scenario would still heavily fall to the towns, as staff would be tasked with reviewing permit applications for projects developed under the ordinance, as well as monitoring compliance if not outsourced. That said, even with a robust, multi-layered community engagement process, this scenario would by far have the lowest overall program costs of all scenarios.

■ IMPACT

This scenario has true potential to **shift the rental housing market** on Cape Cod, as there are currently very few market-rate options available to households with income levels between 100-150% AMI. Purchasing a home is often only attainable to households with very high incomes and there is a widening gap between market rents and home sale prices. Currently, incomes moderately *over* the median align with market rental prices in the region — but still are not nearly within the range of potential homebuyers.

Depending on the level of incentive and the number of units required to qualify, the productivity of this program could far exceed the other scenarios, with just a few moderately sized projects potentially meeting the 24-unit target at little program cost. However, this scenario has the potential to be more complex and controversial than the other programs because it involves rezoning for greater density. Each town would need to be involved in the process of writing zoning amendments to be brought before Town Meeting, and — unlike a regional deed restriction purchasing program that could adopt consistent guidelines and procedures — the result would likely vary significantly across towns. Because this model encourages new unit production, this strategy could face stronger resistance from those concerned about increasing density, even in areas with infrastructure to support it. Ultimately, the success of this strategy would be heavily dependent on each town's existing infrastructure, availability of areas with development or redevelopment potential, and the willingness to adopt zoning amendments that encourage multifamily development.

In Scenarios 1-3, towns could take equal advantage of a regional program, provided they were willing to fund the potentially higher costs. While home values differ across the region, there are no other impediments to programs that restrict *existing* units in one town versus another. By contrast, some towns are much less able to make use of zoning incentives due to lack of infrastructure (particularly wastewater infrastructure), differences in local regulations and permitting procedures, and general opposition to density. This scenario has the potential to be among the **most successful** in terms of productivity and shifting the broader housing market — and is also likely to be the **most controversial.** That said, there may be broader support for denser housing that provides critically lacking year-round housing at attainable prices.

SCENARIO 5 – USING 40B & LOCAL SUBSIDY

Scenario 5 again focuses on placing year-round housing deed restrictions on *new* units, particularly rental units. However, unlike **Scenario 4**, this model suggests partnering with developers proposing subsidized affordable or mixed income housing projects to incorporate year-round market units.

Under G.L. c. 40B, §§ 20-23 ("**Chapter 40B**"), an applicant can apply to the Zoning Board of Appeals ("Board") for a comprehensive permit to develop an affordable housing project that has been pre-qualified by a state housing program and addresses state policies. As part of the approval process, the Board may grant waivers of local regulations and impose reasonable conditions of approval. Chapter 40B does not give towns any authority over the market-rate units, but the Board and developer often negotiate during the permitting process. While a developer can appeal the Board's conditions, ideally the conditions and waivers will have been negotiated and agreed upon. Among other things, the conditions could include restricting some market-rate units to year-round occupants as long as the condition does not make the project uneconomic. **However, conditions that affect the development pro forma may require consent from the housing agency that pre-qualified the project.** The agency may not make that decision until Final Approval, a process that occurs *after* the comprehensive permit and all other permits and approvals have been granted (and, if applicable, appeals have been settled or adjudicated).

In addition to the permitting process for mixed-income housing projects, providing **local funding** can also allow towns to partner with developers willing to include year-round restrictions on market-rate units. In particular, projects permitted under Chapter 40B and funded through the Low-Income Housing Tax Credit (LIHTC) program may be able to achieve substantial scale — and possibly more dedicated year-round market-rate units. Before developers apply to the state for funds to subsidize an affordable housing project, they often seek local funds to demonstrate municipal support. EOHLC generally requires applicants to obtain a local contribution (if a source is available) to receive tax credits, which are granted through highly competitive annual funding rounds. Towns could provide local funds in exchange for placing year-round restrictions on the market-rate units within a LIHTC project, with some considerations:

- The subsidizing agency and any lenders would need to agree to the placement of year-round occupancy restrictions on market-rate units. This may require planning and coordination about **tenant selection**; aside from any eligibility requirements for the entity holding the **year-round restrictions**, income-restricted units normally must follow an approved Affirmative Fair Housing Marketing Plan (AFHMP) and Tenant Selection Plan (TSP). Communities should confer with their town counsel and all project partners to ensure there is no unintended conflict between tenant selection processes for traditionally subsidized units versus restricted market-rate units. That said, subsidized projects already can include "set aside" units for certain programs that have financially contributed to a project, so a year-round deed restriction program *may* fall under that category; however, because this type of restriction is untested in Massachusetts, communities should confirm with their town attorney and the housing agency that pre-qualified the project.

Communities should confer with their town counsel and EOHLC to ensure that including year-round restrictions for market-rate units in a mixed-income project does not conflict with AFHMP requirements for subsidized units.

- Project-specific analysis would be necessary to determine a reasonable cost per unit, especially in complex developments that layer subsidies or use "income averaging" to meet the LIHTC program's affordability thresholds.
- As with the other scenarios, communities may need to appropriate from the General Fund to support year-round restrictions on newly-created market-rate units. (However, the Affordable Homes Act authorizes designated "seasonal communities" to establish year-round housing trusts, which may offer a future funding vehicle in the near future.)

This scenario proposes offering these incentives as a **standard local policy** for new affordable housing developments, ideally with a designated funding stream that allows for the flexibility necessary to subsidize year-round restrictions without income limits.

PROGRAM COST

The per-unit cost for **Scenario 5** is not as low as provided for in Scenario 4, as towns would likely still contribute funds to secure long-term or permanent year-round deed restrictions. The expense cost per restricted market-rate unit would need to be calculated on case-by-case basis to ensure the specific project can meet requirements of applicable subsidy sources. However, this model would still require significantly lower costs per unit because the restrictions are built into a larger-scale project. For purposes of comparing program costs, Scenario 5 assumes a local subsidy of **$45,000**/**unit restricted for year-round occupancy** within the project, although this could fluctuate substantially based on the uniqueness of each project. That said, this **$45k** figure is aligned with existing examples of town subsidies for local projects:

- **Province Post, Providence:** This 65-unit rental project under construction will include four market-rate units with the remaining income-restricted at a range of levels from 30-80% AMI. Together Provincetown and Truro provided $3.6M in local CPA funds, meaning that locally-sourced subsidies contributed around **$54,000/unit** to make the overall project feasible. (The total project cost at closing was around **$48.2M** or about **$740k/unit,** funded from a variety of sources.)[58]

---

[58] Barnstable County Land Court, doc. #1,508,622 and #1,508,628, recorded August 30, 2024. "MassDocs Affordable Housing Restriction" and "Master Subordination Agreement" for Province Post.

- **Lawrence Hill, Wellfleet:** To date four communities (Wellfleet, Provincetown, Orleans, and Brewster) have contributed nearly $2M in local funds to support the development, which will include thirty-five affordable units restricted up to 60% AMI and eleven "workforce" units restricted up to 120% AMI.[59,60] This works out to about **$43k/unit** from local funds for a project estimated last year to cost around **$32M**, or **$700k** a unit. (This project is still under development and final closing costs may differ.)

The above projects are entirely or almost entirely **income-restricted**; a developer may not require as much local subsidy to close funding gaps and cover the costs of keeping *market-rate* units restricted for year-round occupancy. While situated within a different housing market, **6 West Apartments (Edwards, CO)** provides some context about the cost of covering restrictions for year-round rental units without income restrictions. This project consists of 120 rental units, *all* of which are restricted for year-round occupancy by **local workers** – an accomplishment achieved both as a condition of permitting and through local subsidy. The developer initially agreed to restrict 84 units as part of the permitting process, and then local and county funds covered the cost of restricting the remaining 36 units at about **$27k/unit**.[61]

Based on these examples, this scenario assumes a contribution of **$45,000** per year-round restriction for market-rate units, totaling an estimated cost of **$1,080,000** to restrict **24 market-rate rental units** within larger affordable housing developments for year-round occupancy.

■ IMPACT

Unlike the other scenarios, this model pairs the creation of SHI-eligible affordable rental housing alongside *year-round* market-rate units. Thus, through permitting and funding "trade-offs," towns could help developers successfully create affordable housing on the Cape by closing funding gaps while also providing for year-round housing units within the same development. Again, this scenario would require **advanced coordination between the developer, the town (including its legal counsel), the subsidizing agency, and project lenders and other partners.** However, if successful, this approach could achieve multiple goals including working toward the 10 percent statutory minimum under Chapter 40B, incorporating "workforce" units at higher income levels, and preserving a number of market-rate units for year-round occupancy. Thus, this scenario has the potential to be highly productive while also supporting the creation of housing that meets other existing needs.

Because towns already have experience subsidizing mixed income projects to close funding gaps and because this approach does not require changing zoning, it may be more broadly supported. In fact, towns may find it *easier* to garner public support for individual 40B projects if they meaningfully contribute needed year-round market-rate rental units. In terms of administrative complexity, most affordable housing projects already require designation of a monitoring agent that could potentially be compensated for monitoring the year-round market-rate units, as well.

---

[59] Sam Pollak, "Wellfleet's Lawrence Hill Project Wins State Support," Provincetown Independent, January 24, 2024. https://provincetownindependent.org/featured/2024/01/24/wellfleets-lawrence-hill-project-wins-state-support/

[60] Town of Brewster, "CPA Projects - Detailed Report. Description." Project ID #54512. Accessed September 2024 at https://www.communitypreservation.org/databank/projectsdatabase

[61] Eagle County, CO Registry of Deeds, doc. #202016404, recorded September 21, 2020. "Deed Restriction for the Occupancy of 6 West Apartment Homes."

Conclusions

Feasibility by Scenario

Feasibility is a complex indicator, and cost is just one aspect of what ultimately could make a year-round deed restriction program successful. That said, to focus on the specifics of plausible **direct program expenses**, Table 15 includes a summary of Scenarios 1-5 based on per-unit costs (rounded to the nearest 5,000), while Table 16 shows cost ranges for other program types that take action to encourage a strong, sustainable year-round community. These tables **only** assess **costs** directly relating to each program, such as operational development, costs of deed acquisitions, monitoring, and other administrative costs.

Broadly speaking from a **cost-per-unit** perspective:

- **Scenarios 1** and **2**, which focus on **existing single-family homes and condominiums**, are high-cost and require significant expenditures to maintain a pace of twenty-four units per year. However, they help support year-round ownership opportunities through preservation of existing units and can enable existing homeowners to remain in their homes.
- **Scenario 3**, which focuses on **existing two-family homes**, is considerably less expensive on a per-unit basis as it creates two units per restriction; at least one unit would be rented to an eligible household with the other either owner-occupied or rented to an eligible household. Presumably, this model could be extended to other smaller multifamily structures as well, but there is insufficient market data for Barnstable County to determine a probable range of costs.
- **Scenario 4** uses **zoning incentives** to encourage developers to include year-round rental units in new development. Outside of expenses related to amending the zoning and monitoring units, this has effectively **no direct program cost** and would likely be very productive in creating year-round units that address a significant market deficit. However, this strategy relies upon town staff to carry the weight of bringing forward potentially controversial zoning amendments and would be more challenging in communities with limited water and wastewater infrastructure.
- **Scenario 5** significantly reduces the per unit cost by incorporating year-round restrictions into **40B projects** — with even greater potential for developments using **low-income housing tax credits.** This strategy involves partnering with the developer and other funding partners to determine a an economically feasible number of market units that could be restricted for eligible year-round occupants. This model would require a high level of collaboration among many project partners (subsidizing agency, other lenders, developer, town, etc.).
- Temporary "**stop gap**" programs like **Lease to Locals** help cover the difference between expected rental revenue from an STR versus a year-round unit. Because funds are expended annually per unit and do not result in long-term or perpetual restrictions, these programs should not be relied on as a permanent measure. However, they help can help address a market deficit in a relatively cost-effective way as the other strategies gradually create more year-round housing units.
- Most strikingly, the vast difference between the cost of "**buying down**" single family units to an "attainable" 150% AMI compared to condominiums or even rental units at this price (the latter of which effectively requires no subsidy other than potential costs of monitoring) fully highlight significant and growing gaps within the region's housing market.

Table 15. Estimated Program Costs Per Scenario (Including Administrative Costs)

Scenario	Unit Type	Est. Cost Per Restriction/Unit		Est. Total Cost - 24 Restrictions		Y1 Launch + Admin Costs *Highly Variable*	Est. ROUNDED Cost Range Program Launch & 24 Year-Round Units	
		No Resale Cap	Resale Cap	No Resale Cap	Resale Cap		Low	High
1 Existing SF & Condo **Residency Requirement** 15% Simple/20% Heavy	Single Family	$180,000	$240,000	$4,320,000	$5,760,000	$75,000	$2,000,000	$5,850,000
	Condo	$80,000	$110,000	$1,920,000	$2,640,000			
2 Existing SF & Condo **Workplace Requirement** 18% Simple/25% Heavy	Single Family	$215,000	$300,000	$5,160,000	$7,200,000	$81,000	$2,480,000	$7,300,000
	Condo	$100,000	$135,000	$2,400,000	$3,240,000			
3 Existing 2-Family **Residency or Workplace** 10% Simple/20% Heavy	2-Fam 24 Restrictions, 48 Units	$110,000	$215,000	$2,640,000	$5,160,000	$81,000	$2,720,000	$5,240,000
		$82,500	$135,000					
4 New Development **Zoning Incentive**	Varies - Rental	Zoning/Permitting Incentives		Zoning/Permitting Incentives		$75,000	$75,000	Depends on scope, depth of analysis, and level of public engagement
5 New Development **40B & Local Subsidy**	Varies - Rental	$45,000		$1,080,000		N/A	$1,080,000	

Table 16. Estimated Program Costs for Alternative Programs (Including Administrative Costs)

Scenario	Tenure/Unit	Est. Cost Per Unit		Est. Total Cost - 24 Units		Y1 Launch + Admin Costs *Highly Variable*	Est. ROUNDED Cost Range Program Launch & 24 Year-Round Units	
		Low	High	Low	High		Low	High
STR Conversion Incentive To close gap between earnings from STR versus renting year-round. Existing programs conduct a town-specific market analysis to determine program costs.)	Rental (Studio)	$3,000	$12,000	$72,000	$288,000	$81,000	$150,000	$560,000
	Rental (3-br)	$5,000	$20,000	$120,000	$480,000			
Buy Down to 150% AMI **Ownership** -- based on average assessed value for SF and condos across region; see Footnote 41. **Rental** – see Tables 7A-7.D.	Ownership (SF & Condos)	$45,000	$475,000	$1,080,000	$11,400,000	$75,000	$1,200,000	$11,480,000
	Rental	Nominal	Nominal	Nominal	Nominal	$78,000	$78,000	Depends on shifts in rental market

Next Steps

If any town, group of towns, or regional entity on the Lower and Outer Cape wish to pursue developing a Year-Round Housing Occupancy Deed Restriction Program, program decisions should largely stem from these key pieces:

1. The **housing market,** which greatly influences the cost per restriction, program productivity, and considerations for efficient use of funds

2. **Existing resources** (available funding, administrative capacity, and local partners)

3. Identification of the **target beneficiaries** of the program, which will be rooted in the definition of a **qualified occupant** and desired purpose of the program. This basic but critical decision will shape all other programmatic decisions, from the nature of the deed restriction to the anticipated budget for the program.

Communities can look to existing resources to consider priorities for the program's intended audience. The Cape Cod Commission's year-round deed restriction has two suggested definitions for a qualified resident - workplace eligibility and pure residency. Seeing these side-by-side demonstrates that a workplace requirement requires significantly **more administrative oversight** — and also that it **creates a protective submarket for workers** who are otherwise likely to get outbid by purchasers with more buying power. By comparison, the pure residency model is **easier to administer** but **has little impact** on the housing market.

[Workplace Option] Qualified Resident means any of the following

i. A person who works an annual average of [30] hours or more per week at a business or organization in Barnstable County, Massachusetts, or who works an average [30] hours combined per week at more than one business or organization Barnstable County, Massachusetts. Such businesses or organizations must hold a valid and current business license, or pay sales or payroll taxes, or otherwise be generally recognized as a legitimate business or organization.

ii. A person who works an annual average of 15 hours or more per week for the County of Barnstable, a municipal corporation within Barnstable County, any other local or regional government entity within Barnstable County, such as a school district or local housing authority, or any agency or instrumentality of the Commonwealth where the Qualified Resident's work takes place primarily within Barnstable County.

iii. A retired person 60 years or older or disabled person who, for at least 4 of the 8 years prior to the Effective Date, worked an average of 30 hours or more per week at a business in Barnstable County, Massachusetts that holds a valid and current business license, or pays sales taxes, or is otherwise generally recognized as a legitimate business.

[Pure Residency Option] Qualified Resident means any of the following

i. A person who has their principal residence at the Property on a year-round basis.

Provincetown's Lease to Locals program **adds an income limit** and also options for volunteers, defining a **Qualified Tenant** as:

Qualified Tenant: A Qualified Tenant is a member of the Qualified Household who is not of blood relation to the Property Owner **whose Gross annual income is below $130,515** and who meets at least one of the following criteria:

1. Employed with an employer based on or serving customers on the Outer Cape (Provincetown, Truro, Wellfleet).
2. Already a full-time resident of the Outer Cape and contributing to the Provincetown community by serving on a Town Board/Committee, volunteering with a local organization, participating in the town's art/cultural scene, or providing some similar benefit to the community.
3. A Dependent child of a Qualified Tenant
4. A person unable to work or who does not have a work history due to qualifying for disability as defined by the Americans with Disabilities Act (ADA)

Communities can contemplate these factors and determine the primary objective(s) of a program. From there, communities interested in creating a program, either collectively or independently should:

- Establish the program's decision-making process and designate a **program administrator.**
- Identify funding sources for the program, both one-time sources to support the program launch, as well as consistent revenue streams for the continued implementation.
- Set a realistic goal for a **total pilot program budget** and **projected budget,** factoring in initial and ongoing administrative costs based on current capacity and existing resources, as well as the costs for deed restrictions <u>within the context of the region's housing market.</u>
- Develop a preliminary draft **deed restriction and program guidelines** based on the identified objectives and utilizing existing resources.
- Once funding has been determined, develop a **detailed draft program budget** for the first few years or specific duration of the pilot program. Seek input from knowledgeable actors who can provide expertise about the feasibility of the program's draft documents (budget, deed restriction, and guidelines). At this stage, consultation with lenders, realtors, local employers, and developers about the program structure and goals within the region's market context is critical. **Adjust program documents if needed based on this expert input**.
- Finalize the pilot program guidelines and other documents, recognizing that these may change in accordance with the decision-making process established at the outset.
- Continue to partner with these actors to begin outreach and education with the general public, the business community, local government, and others.
- Amend the program as needed according to identified targets and metrics, feedback from the program's users, and other input as needed.

Finally, an entity seeking to create a year-round deed restriction program should:

! Review any potential eligibility criteria, program guidelines, funding streams, and other resources with town counsel to confirm **compliance with federal and state fair housing laws, GL c.184, GL c.40B§§ 20-23, or any other applicable laws and regulations.**

! Speak with administrators of existing programs for their input. Many of the existing programs were established with guidance and input from existing programs, and every program spoken to during this process was eager to help and willing to share their knowledge and experience.

! Remain up-to-date on any legislative updates, regulations, or guidance relating to the "seasonal communities" designation or year-round deed restrictions as they become available.

Bibliography

AirDNA, LLC. "Submarket Overview." Oct 2023 – Sept 2024. Calculations by Barrett Planning Group using raw data from AirDNA with permission.

Banker & Tradesman. "Town Stats." Accessed September 2024.

Big Sky Community Housing Trust. "Down Payments for Local Buyers." Undated. Accessed July 2024. https://bigskyhousingtrust.org/wp-content/uploads/2024/01/2023-Good-Deeds-Buyer-Flyer-1.pdf

Big Sky Community Housing Trust. "Rent Local." Accessed August 2024. https://bigskyhousingtrust.org/rent-local-program/

Big Sky Community Housing Trust Staff. Interview with William Downie and Alexis Lanzillotta. April 10, 2024.

Cape Cod Commission. *Housing Cape Cod: Regional Housing Strategy.* 2024. https://www.capecodcommission.org/our-work/regional-housing-strategy

Cape Cod Commission. "Housing Profiles, 2024." Accessed June 2024. https://capecodcommission.org/our-work/housing-profiles

Eagle County Housing and Development Authority. "Deed Restriction Agreement for Occupancy and Resale of Resident Occupied For Sale Housing." Undated. Accessed July 2024.

Eagle County Housing and Development Authority. "Deed Restriction for the Occupancy of 6 West Apartment Homes." Registry of Deeds Coc. #202016404. Recorded September 21, 2020.

Eagle County Housing and Development Authority. "Eagle County Affordable Housing Guidelines: Administrative Procedures." August 1, 2023. https://www.housingeaglecounty.com/gooddeeds

Eagle County Housing and Development Authority. "Resident Occupied Deed Restriction." Undated. Accessed July 2024.

Eagle County Housing and Development Authority. "Lease to Locals," Accessed August 2024. https://www.housingeaglecounty.com/lease2locals

Eagle County Housing and Development Authority Staff. Interview with William Downie and Alexis Lanzillotta. May 11, 2024.

Massachusetts Housing Finance Agency, *Third-Party Monitoring Handbook for MassHousing 40B Ownership Projects.* November 17, 2022.

Northwest Michigan Rural Housing Partnership ("Housing North"). Deed Restriction Program Overview. Undated. Accessed July 2024.

Northwest Michigan Rural Housing Partnership ("Housing North"). Interview with William Downie. April 16, 2024.

Placer County, CA. "Workforce Housing Preservation Program, Frequently Asked Questions." Accessed July 2024. https://www.placer.ca.gov/7400/Frequently-Asked-Questions

Pollak, Sam. "Wellfleet's Lawrence Hill Project Wins State Support." *Provincetown Independent.* January 24, 2024.

Summit County, CO. "Housing Helps." Accessed July 2024. www.summitcountyco.gov/services/housing/housing_helps.php

Town of Avon, CO. ¡Mi Casa Avon! Deed Restriction Program. Undated. Accessed July 2024

Town of Avon, CO. Resident Occupied Deed Restriction Non-Price Capped. Undated. Accessed July 2024.

Town of Avon Staff. Interview with William Downie. April 19, 2025.

Town of Breckenridge, CO Staff. Interview with William Downie. April 25, 2024.

Town of Brewster, "CPA Projects - Detailed Report. Description." Project ID #54512. May 1, 2023.

Town of Nantucket. Warrant for 2024 Annual Town Meeting and Annual Town Election. Accessed August 2024. https://nantucket-ma.gov/2751/2024-Annual-Town-Meeting

Town of Provincetown, MA. "Provincetown Lease to Locals Pilot Program: Program Description and Policies." April 2024. https://www.provincetown-ma.gov/DocumentCenter/View/18263/Finalized-Provincetown-L2L-Program-Policies

Town of Truckee, CO. "Program Guidelines: Town of Truckee Home Access Program." October 10, 2023. https://www.townoftruckee.gov/DocumentCenter/View/475/THAP-Guidelines-English-PDF

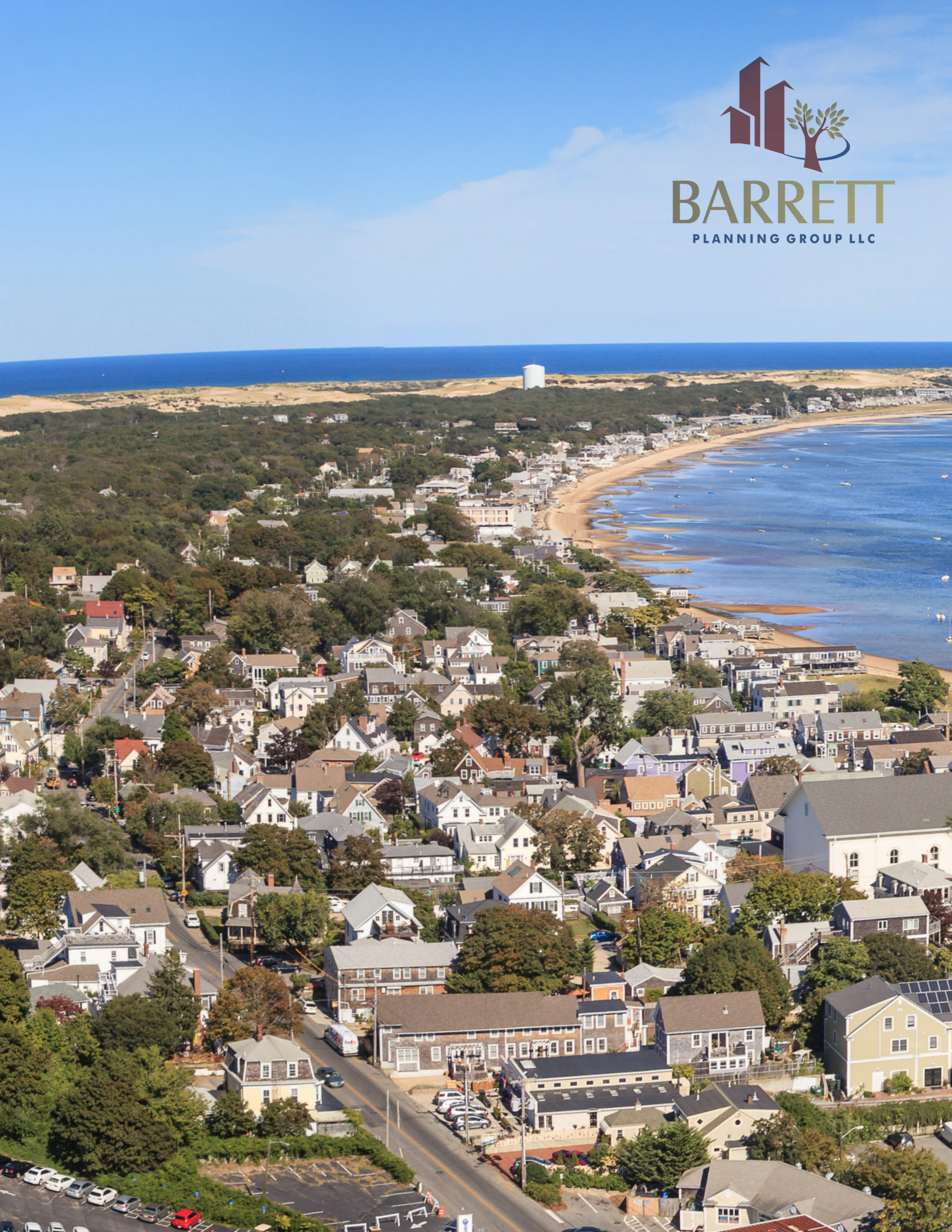
Town of Vail, CO. "Housing in the Town of Vail." Accessed July 2024. https://www.vail.gov/government/departments/housing/

Town of Vail, CO. "Vail InDEED Acquisition Summary 2023 Year to Date." November 11, 2023. Accessed June 2024. https://www.vail.gov/home/showpublisheddocument/4022/638354648189870000

Town of Vail, CO Staff. Interview with William Downie. May 17, 2024.

United States Department of Housing and Urban Development. "FY 2024 Income Limits Summary Barnstable Town, MA MSA." Effective April 01, 2024. Accessed September 2024.

University of Massachusetts Amherst, Donahue Institute. *Cape Cod Housing Needs: Analysis for the Cape Cod Commission.* March 22, 2023.



BARRETT
PLANNING GROUP LLC