



# Town of Barnstable

## Planning & Development Department

[www.townofbarnstable.us/planninganddevelopment](http://www.townofbarnstable.us/planninganddevelopment)



### **Proposed Process for Local Initiative Program Comprehensive Permits under Chapter 40B**

This memorandum describes the Commonwealth's Local Initiative Program, as well as a draft process for how the program may be administered locally.

The Local Initiative Program (LIP) is a state housing program, established by Massachusetts General Law Chapter 40B, sections 20-23 (also known as the Comprehensive Permit Law) and administered by the Department of Housing and Community Development (DHCD). The program was established to give cities and towns greater flexibility in their efforts to provide low and moderate-income housing.

The establishment of M.G.L. Chapter 40B, sections 20-23 created a process for granting "comprehensive permits" for the construction of subsidized low or moderate income housing through a streamlined, consolidated development permitting process. A comprehensive permit may supersede various local requirements and regulations, including zoning, and is granted by the Zoning Board of Appeals following a public hearing process. The first step of a comprehensive permit is for a developer to seek project eligibility from DHCD. A developer may seek eligibility on their own or with the endorsement of the municipality. The municipal endorsement directs the applicant to the LIP. The Local Initiative Program allows the Town to sign and endorse the LIP application prior to permitting, demonstrating to the State their support for the project as proposed. With that endorsement, it is understood by DHCD that the municipality and a developer are working in concert on a project that meets the community's housing needs.

Prior to issuing a LIP endorsement for a comprehensive permit, communities typically require the developer to submit a copy of their preliminary comprehensive permit application to the Town Manager for review. The Town Manager may request comments and recommendations from staff and the local Housing Committee relative to whether the affordable housing proposed meets the community's need. The Town Manager may then grant endorsement, grant endorsement with conditions, or deny endorsement of any LIP under consideration. A denial of an endorsement does not prohibit the applicant from proceeding with the comprehensive permit application. The application may proceed to DHCD on its own merits in order to seek eligibility.

Following local endorsement, DHCD will evaluate each LIP comprehensive permit project application for consistency with the State's 10 sustainable development principles as well as local housing needs. If the proposed project meets the requirements of LIP, DHCD will issue a Determination of Project Eligibility, which is a prerequisite to an application to the Zoning Board of Appeals for a comprehensive permit. The project will then receive a public hearing before the ZBA. The ZBA will be the sole permit granting authority for the municipality.

In towns where less than 10% of the housing units are low or moderate income housing as measured by the Subsidized Housing Inventory (SHI), the denial of a comprehensive permit application or the imposition of conditions that render a proposed development uneconomic may generally be appealed to the state Housing Appeals Committee.

At this time, the Town of Barnstable does not have a policy in place that shall guide both the Applicant and the Town through the LIP endorsement process. To be proactive on the matter, town staff has begun to develop a procedure for evaluating LIP proposals.

Attached please find draft process procedures for partnering on a local initiative program project for consideration.



TOWN OF BARNSTABLE  
PROCEDURE FOR  
PARTNERING ON A LOCAL INITIATIVE PROGRAM PROJECT

1. A property owner and/or applicant may bring forward to the Town Manager, through Planning and Development, a Local Initiative Program (LIP) project proposal, to seek a determination of site suitability under Massachusetts General Laws Chapter 40B ("Chapter 40B"), Sections 20-23, 760 CMR 56.00 and DHCD Local Initiative Program (LIP).
2. Upon receipt of a LIP proposal, the Town Manager and applicable department heads shall meet with the applicant to review the information presented in the project proposal. Based upon the materials presented and information provided, the Town Manager shall determine whether the proposal is potentially site suitable and subsequently determine whether the proposal is a major or minor LIP project proposal application.
  - A. Minor LIP proposal definition: 4 dwelling units or less and Town Manager determination of limited impact, which determination shall be based on consideration of relevant factors, which may include without limitation impacts on the environment, infrastructure, and neighborhood character.
  - B. Major LIP proposal definition: greater than 4 dwelling units

Minor: If the Town Manager deems a project a minor application, the Town Manager may request additional information for review and/or decide that the project is suitable for endorsement as LIP and sign a community letter of support and the LIP application. However;

3. Major: If the Town Manager deems the LIP proposal a major application, the Town Manager shall refer the property owner/applicant to the Planning Board and Housing Committee for review and recommendation.
4. The Planning Board and Housing Committee shall each hold a public meeting allowing for public comment within 45 days of receipt of referral from the Town Manager. A joint meeting of the Board and Committee may be held at the discretion of the Chairs of such bodies.
5. The public meeting shall be properly noticed on an agenda of a regularly scheduled meeting. The property owner/applicant shall notify abutters within 300 feet of the property by U.S.P.S. mail with a general description of the proposal at least 14 days prior to the meeting.
6. Upon receipt of referral the Planning Board and Housing Committee shall request that the Applicant provide qualifications and past projects of the Applicant, particularly those built under Chapter 40B and/or as a LIP, any past or current litigation involving 40B or LIP projects as well as

3 references that include contact name, address and telephone number. All qualifications, past projects, references and results of reference checks shall be documented and made available as a matter of public record.

7. An Applicant seeking consideration of a project as a LIP shall submit to the Planning Board and Housing Committee sufficient copies of materials as determined at the time of application, of the following information for distribution to the Planning Board and Housing Committee:
  - A. The name and address of the Developer;
  - B. The address of the proposed site and site description (to include wetlands, waterways, easements and land holding any conservation, recreation or other restrictions. It should also include a description of any existing buildings and their uses;
  - C. A locus map identifying the site within a plan of the neighborhood, accompanied by photographs of the surrounding buildings and features that provide an understanding of the physical context of the site to include wetland boundaries;
  - D. A tabulation of proposed buildings with the number, size (number of bedrooms, floor area), and type (ownership or rental) of housing units proposed;
  - E. Conceptual design drawings of the site plan and exterior elevations of the proposed buildings, along with a summary showing the percentage of the land to be occupied buildings, parking and other paved areas, and by open areas. Also included in the summary shall be the number of parking spaces, and the ratio of parking spaces to housing units;
  - F. A narrative description of the approach to building massing, the relationships to adjacent properties, and the proposed exterior building materials;
  - G. A tabular analysis comparing existing zoning requirements to the Waivers requested for the Project;
  - H. Preliminary soil testing results and locations, as applicable; as well as estimated or determined wetlands locations to support the viability of the proposed development; and.
  - I. Traffic impact/study statements.
  
8. The project should demonstrate benefits to the community above a conventional (or “unfriendly”) Chapter 40B development and should reflect community need in order to be considered as a LIP project.
  - A. Preference criteria an applicant should consider:
    - i. mixed-income year-round rental and homeownership opportunities for residents earning from 30% and up to 80% of the Area Median Income (AMI)
    - ii. mixed-use development pattern
    - iii. a percentage of affordable units (in excess of the mandatory 25%)
    - iv. site design that provides open space and recreational amenities
    - v. architecture that is compatible with the neighborhood
    - vi. enhancements to site and surrounding neighborhood (landscaping, drainage, connectivity, etc.)
    - vii. ability to meet identified housing needs (senior, workforce, rental)
    - viii. availability of sewer and or on-site wastewater disposal technologies that reduce nitrogen output
    - ix. energy efficient design and construction
    - x. a financial contribution from the sale of “market rate units” to the Municipal Affordable Housing Trust Fund.

All benefits shall be clearly identified before a preliminary agreement is entered into between the Town of Barnstable and the Applicant and made available as a matter of public record.

9. The Planning Board and Housing Committee may request additional information to help render a recommendation to the Town Manager. The Planning Board and Housing Committee shall render a recommendation, by a simple majority vote, within sixty (60) days following the first public meeting, unless extended mutually by the Board/Committee and property owner/applicant. Failure to render a decision within 60 days shall not result in a constructive recommendation of the proposed application.
10. The Planning Board and Housing Committee shall report whether or not to recommend a LIP endorsement and submit their recommendation and supporting information to the Town Manager.
11. The Town Manager shall endeavor to inform the Applicant of his decision within 45 days of receipt of recommendation by the last recommendation from either the Planning Board and Housing Committee and should the Town Manager decide to proceed with a LIP Application, the Town Manager shall sign the LIP application and provide a written letter of support and include all of the information, documents, results of reviews and comments made by the Planning Board and Housing Committee. This information may be included in the Comprehensive Permit Application to the Zoning Board of Appeals.