

# Special Town Meeting Warrant 11/26/07

## TOWN OF SAUGUS

Essex, ss.

To the Constable of the Town of Saugus

Greetings:

In the name of the Commonwealth of Massachusetts you are hereby required to notify and warn the inhabitants of the Town of Saugus, qualified to vote in Town affairs for the Special Town Meeting at the Saugus Town Hall located at 298 Central Street on November 26, 2007 at 7:30 PM to hear and act on the following articles: viz;

**Article 1.** To hear and act on reports of Committees.

**Article 2.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the purpose of maintaining, repairing, improving and constructing Town ways. Said sum will be reimbursed by the Commonwealth under the provisions of Massachusetts General Laws Chapter 90, Section 34. (Town Manager)

**Article 3.** To see if the Town will vote to transfer a sum of money from the Fiscal Year 2008 Group Health Insurance appropriation to be added to School Department's Salary appropriation. (Town Manager)

**Article 4.** To see if the Town will vote to transfer a sum of money from the Fiscal Year 2008 appropriation for rubbish disposal to be added to the Police Department Capital Equipment appropriation. (Town Manager)

**Article 5.** To see if the Town will vote to appropriate a sum of money for the purchase of street lights currently leased to the Town pursuant to schedule of property No. 1 dated as of January 20, 2006 to the Master Lease Agreement dated as of January 20, 2006 between the Town and Systems Finance corporation; to determine whether this appropriation shall be raised by borrowing or otherwise; or to take any other action relative thereto. (Town Manager)

**Article 6.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be used exclusively to pay debt services on previously approved drainage construction borrowings. (Town Manager)

**Article 7.** To see if the Town will vote to raise and appropriate or transfer from available funds (FY08 Cherry Sheet State Assessments) a sum of money to fund premium payments for retired teachers health insurance to the FY08 group health appropriation. (Town Manager)

**Article 8.** To see if the Town will vote to accept the provisions of Chapter 51; Section 42C of the Massachusetts General Laws, allowing registration sessions in high schools and vocational schools. (Town Clerk)

**Article 9.** To see if the Town will vote to set policies and procedures for naming public buildings. Said committee should set policy, procedures, and criteria as to how and why public buildings should be named after individuals who performed services to the town or who gave their lives in the line of duty for the town. This committee should be made up of 5 Town Meeting Members, 1 Selectman, and the Town Moderator. Time is of the essence; this committee should report back to the Town Meeting Body by the next Annual Town Meeting. This committee shall recommend if this should be a bylaw. (Robert D. Hoffman)

**Article 10.** To see if the Town will vote to amend the Zoning Bylaw of the Town of Saugus by adding a new Article 15, entitled Inclusionary Housing Requirements or to take any other action relative thereto. (Affordable Housing Committee)

## ARTICLE XV

### INCLUSIONARY HOUSING REQUIREMENTS

## Section 15.1 – Purpose

The purposes of this By-law are:

- a. To increase the supply of housing in the Town of Saugus that is permanently available and affordable to low and moderate income households;
- b. To encourage greater housing diversity to meet the needs of our workforce; and
- c. To develop and maintain a proportion of the Town's housing stock as affordable housing units.

## Section 15.2 – Definitions

**a. Affordable Housing Trust Fund** (the "Fund"): An account established and operated for the exclusive purpose of creating and preserving affordable housing in the Town of Saugus. The Fund may be used for the following purposes, including but not limited to, to purchase and improve land for affordable housing, to purchase housing units or develop new and/or rehabilitated housing units for purchase or rental by Qualified Affordable Housing Purchasers or Tenants or to preserve existing affordable housing. Expenditures from the Fund shall be authorized by a majority vote of the Board of Trustees of the Fund as outlined in Section 515 of the General By-laws of the Town of Saugus.

**b. Affordable Housing Unit:** a housing unit that by Deed Restriction is and will remain:

1. available for sale and sold at a selling price that will result in an Annual Housing Cost of not more than thirty percent (30%) of the annual income of a Qualified Affordable Housing Unit Purchaser; or
2. available for rental and rented at an annual rent, including mandatory or unavoidable fees, that will result in an Annual Housing cost of not more than thirty percent (30%) of the annual income of a Qualified Affordable Housing Unit Tenant, or rented to a tenant receiving rental assistance pursuant to a state or federal rental assistance program; and, in either case;
3. affordable to and occupied by a low or moderate income household, meet the definition of a low or moderate income housing at 760 CMR 30.02, and eligible for inclusion in the Chapter 40B Subsidized Housing Inventory through the Local Initiative Program (LIP) under G.L. c 40B sec. 20-23.

**c. Annual Housing Cost**

1. For owners, the aggregate of annual charges for debt service on a mortgage, real estate taxes, homeowner's insurance, and condominium fees, if applicable.
2. For tenants, the aggregate of annual charges for rent, utilities (except telephone and other telecommunications) and renter's insurance.

**d. Deed Restriction:** A provision, acceptable in form and substance to the Town Counsel of the Town of Saugus, in a deed of real property that runs with the land in perpetuity or for the longest period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property. The Deed Restriction shall limit the resale price of any ownership units, and shall bind all subsequent purchasers in perpetuity, consistent with Massachusetts Department of Housing and community Development's ("DHCD") regulations and guidelines under Chapter 40B of the Massachusetts General Laws. Subsequent resale prices shall be determined based on a percentage of the area median income at the time of resale as determined by the United States Department of Housing and Urban Development ("HUD") and adopted by DHCD. The resale price will be determined in accordance with the Deed Restriction and will be established based on the same percentage of the area median income that was used to set the price for which the unit was originally sold. Notwithstanding the foregoing sentence, the resale price of an Affordable Housing Unit shall not exceed that amount which will require a household earning 80% of the most recent area median income number, as published by HUD and adjusted for the household size that corresponds with the number of bedrooms in the Affordable Housing Unit to spend a maximum of 30% of the household's annual income on Annual Housing Cost. The method of resale price calculation shall be included as part of the Deed Restriction. The Town of Saugus shall not be held responsible for any future fluctuations in market price or median income that may affect the resale price of any unit subject to a Deed Restriction. Any restriction created under the By-law shall survive any bankruptcy or insolvency or other actions and shall not be subject to nullification for any reason.

**e. Qualified Affordable Housing Unit Purchaser or Tenant:** An individual or family with household income that does not exceed 80% of the local metropolitan statistical area median income, with adjustments for household size, as reported by the most recent information from HUD and/or DHCD.

**f. Saugus Resident:** for purposes of this By-law only a Saugus Resident is an individual or family maintaining a primary

residence in the Town of Saugus.

### **Section 15.3 – Applicability**

The Requirements of this section apply to

- a. Any proposed multifamily residential development that would create five or more attached or detached housing units on a single parcel of land;
- b. Any proposed subdivision of land for residential development that would permit construction of five or more attached or detached housing units, including land divisions under G.L. c. 40A, sec. 9 (Special Permits), as well as conventional subdivisions allowed by G.L. c. 41, sec. 8K-81GG (Subdivision Control Law).
- c. Any planned multi-density residential or cluster residential development under Section 12.4 Paragraph C and 12.4 Paragraph D respectively of this By-law that would permit construction of five or more attached or detached housing units; and
- d. Any application to the Zoning Board of Appeals for a variance or a finding that would permit construction of five or more attached or detached housing units.
- e. New housing units created by renovation or reconstruction of an existing building that increases the number of residential units from the number of units in the original structure to five or more; or conversion of an existing building or other structure where five new housing units are created once a change of use has been granted.

No affordable housing construction or payment is required for any new housing unit that replaces a pre-existing, legal housing unit as part of a residential development or redevelopment project. Motel or hotel units shall not be considered as housing units under this Bylaw. If requested by the Planning Board or the Zoning board of Appeals, the Building Inspector with advice from the assessor shall determine in writing the number of pre-existing, legal housing units on a development site under this Bylaw.

### **Section 15.4 - Segmentation**

Developments may not be segmented or phased to avoid compliance with this By-law. Parcels held in common ownership as of the passage of this By-law cannot later defeat the requirements of this regulation by segmenting the development.

### **Section 15.5 – Requirements**

#### **a. Multi-Density Residential Developments**

Ten percent (10%) of the housing units in any multi-density residential development shall be Affordable Housing Units.

#### **b. Cluster Residential Developments**

Ten percent (10%) of the housing units in any cluster residential development shall be Affordable Housing Units.

#### **c. Subdivisions, Residential Developments with a Finding or Variance, Renovations, Reconstruction, or Conversion**

Ten percent (10%) of the housing units in any subdivision or other residential development described in subsection 15.3.b, d, or e, shall be Affordable Housing Units.

**d. Fractions:** In determining the total number of affordable units required, a fractional unit of 0.5 or more shall be regarded as a whole unit.

### **Section 15.6 – General Provisions**

#### **a. Consultation with Affordable Housing Trust**

Developers whose projects are subject to this By-law are encouraged to consult with the Saugus Affordable Housing Trust or any other future Town committee dedicated to the creation of affordable housing early in the development process concerning the Town's affordable housing needs and the optimum manner in which the Town's needs and the developer's affordable housing requirements can be met by the proposed development consistent with any affordable housing planned production plan then in effect in the Town. The Saugus Affordable Housing Trust may consult with and give advice to the Planning Board and the Zoning Board of Appeals during the development process and, as a part of the process, may submit written reports to the board reviewing any proposed development subject to the By-law.

**b. Comparability**

Unless otherwise approved by (a) the Planning Board or (b) the Zoning Board of Appeals in the case of residential developments requiring a finding or variance, all on-site Affordable Housing Units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in interior finish, fixtures and appliances. For both on-site and off-site units that are part of any development proposal, the number of bedrooms in Affordable Housing Units shall be comparable to the bedroom mix in market-rate units in the development.

**c. Selection Process**

The selection of Qualified Affordable Housing Unit Purchasers or Tenants shall be conducted as follows:

1. The selection process shall include a plan for marketing the Affordable Housing Units created under this By-law, which describes how the Affordable Housing Units will be marketed to potential homebuyers. This plan shall include a description of the lottery or other process to be used for selecting buyers and/or renters. The marketing plan must describe how the applicant will accommodate local preference requirements of this By-law in a manner that complies with the nondiscrimination in tenant or buyer selection guidelines of the Local Initiative Program.
2. Saugus Residents shall be given local preference of the maximum number of the Affordable Housing Units created in any development subject to this by-law that is permitted under DHCD guidelines (currently, up to seventy percent (70%).
3. Developers may sell affordable for-sale units to the Saugus Affordable Housing Trust or to a private nonprofit entity serving Saugus for the purpose of providing affordable housing opportunities and to permit such entity to market the Affordable Housing Units and manage the choice of buyers.

**Section 15.7 – Alternative Methods of Affordability (Off-site locations and in lieu of payments shall not apply to any rental unit developments.)**

**a. Off-site Location:**

1. The Planning Board or the Zoning Board of Appeals in accordance with the provisions of 15.3 may approve at a public hearing upon formal written request of the applicant some or all of the required affordable housing units on an alternative site or sites suitable for housing use.
2. In granting such approval, the Planning board or Zoning Board of Appeals shall consider the location of the development, access to transportation, the type and character of the units proposed, and (if applicable) the number, quality and type of off-site affordable units proposed. The alternate site must be suitable for residential development and must be within the Town of Saugus; the project must add to the Town's stock of affordable housing units, and must be in the best interests of the Town of Saugus.
3. To have such a request considered the burden of proof shall be on the applicant, who must make full disclosure of all relevant information. In order to assist in their review, the Planning Board or the Board of Appeals may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Board. All results and reports shall be made part of the record before the Board.

4. Affordable off-site units shall either be newly created or located in an existing structure. If located in an existing structure, the units shall be lead-free and in marketable condition. In determining compliance with this By-law, affordable off-site units that are newly created and are not replacing existing legal housing shall be counted in the total number of housing units created by a proposed development. Unless otherwise approved, Affordable Housing Units provided under this subsection shall comply in all respects other than on-site location with the requirements of this By-law.

#### **b. Housing Contribution Payments in lieu of On-Site Units**

##### **1. Approval**

a. The Planning Board or the Zoning Board of Appeals in accordance with the provisions of Section 15.3 may approve at a public hearing upon formal written request of the applicant housing contribution payments to the Saugus Affordable Housing Trust in lieu of building Affordable Housing Units provided that the applicant makes a binding, written agreement with the Town of Saugus (with appropriate payment security arrangements).

b. To have such a request considered, the burden of proof shall be on the applicant who must make full disclosure of all relevant information. In order to assist in their review, the Planning Board or the Board of Appeals may, by majority vote, require that the applicant pay a reasonable review fee for the employment of outside consultants chosen by the Board. All written results and reports shall be made part of the record before the board.

##### **2. Amount**

For ownership developments, the financial contribution for each affordable unit shall be equal to the difference between the median single-family home sales price in Saugus as determined by the Board of Assessors or the Warren Group and the selling price of an affordable housing unit. The maximum per unit Housing Contribution Payment amount shall be adjusted annually by the Saugus Affordable Housing Trust as set forth herein.

##### **3. Adjustment**

The Saugus Affordable Housing Trust shall adjust the maximum Housing Contribution Payment Annually.

The annual adjustment shall be equal to the percentage change in the median sale price of single family homes in the Town of Saugus during the previous calendar year, as reported by The Warren Group (or the Town of Saugus Assessors Office provided the information is current or another independent reporting agency selected by the Saugus Affordable Housing Trust), and rounded to the nearest tenth of a percent. The adjusted maximum payment amount shall apply to all Housing Contribution Payments made on or after July 1<sup>st</sup> of any year until the last day of June of the following year.

#### **Section 15.8 – Regulations**

Affordable housing production, Housing Contribution Payments and rental and resale restrictions required by this section shall be governed by regulations recommended by the Saugus Affordable Housing Trust for purposes of carrying out this By-law and shall not be inconsistent with the Massachusetts Department of Housing and Community Development's ("DHCD") regulations and guidelines under Chapter 40B of the Massachusetts General Laws.

#### **Section 15.9 – Compliance**

##### **a. Building Permit Conditions**

All contractual agreements with the Town of Saugus and other documents necessary to ensure compliance with this Section 15 shall be executed and delivered to the Planning Board, the Saugus Affordable Housing Trust, and the Town Counsel prior to and as a condition of the issuance of any approval to commence construction. The Building Inspector shall not issue a building

permit with respect to any project or development subject to this Section 15 unless and until the Planning Board and the Saugus Affordable Housing Trust have certified in writing to the Building Inspector that all conditions of this Section 15, including any conditions that may be established by the Planning Board or Zoning Board of Appeals in any decision or approval, have been met.

#### **b. Occupancy Conditions**

##### **1. Compliance**

No certificate of occupancy shall be issued for any market-rate units in a development subject to this Section 15 until all Deed Restrictions, agreements with the Town of Saugus and/or other documents necessary to ensure compliance by the applicant (and any purchasers of the Affordable Housing Units) with the requirements of this By-law have been executed and recorded.

##### **2. Housing Contribution Payments**

Prior to the issuance of a final occupancy permit for any unit in the project, the required housing contribution shall be payable in full.

##### **3. Timing of Construction**

Where feasible, Affordable Housing Units shall be provided coincident with the development of market-rate units, but in no event shall the development of affordable on-site or off-site housing units be delayed beyond the following schedule:

Market-rate Unit %	Affordable Housing Unit %
up to 30%	none required
30% to 50%	at least 10%
over 50% to 75%	at least 40%
over 75% to 90%	at least 70%
Over 90%	100%

Fractions of units shall not be counted.

#### **Section 15.10 – Severability**

In the event that one or more of the provisions of this By-law are found or determined to be illegal or unenforceable by the Massachusetts Attorney General or any Massachusetts Court of competent Jurisdiction then the illegality or unenforceability of any such provision shall not affect the validity of any other provision of this By-law which provisions will remain in full force and effect.