Planning Commission
MEETING AGENDA

Wednesday, April 17, 2024 - 11:00 AM
Council Chambers, Easton Town Office
14 S Harrison Street

1. **Call to Order**
   a. Introduction.
2. **the Town of Easton Draft Inclusionary Zoning Ordinance**
   a. Overview of the Draft.
3. **Q & A**
4. **Adjournment**

INCLUSIONARY ZONING ORDINANCE

DRAFT – February 7, 2024

Section 1601 Purpose.

The purpose of this Article is to promote the public health, safety, and general welfare by promoting housing of high quality, located in neighborhoods throughout the community, for households of all incomes, ages, and sizes, in order to promote a culturally and economically diverse population in the Town. Based upon the review and consideration of the Town's officially adopted Comprehensive Plan (2010) as well as subsequent reports and analyses of the housing situation in the Town of Easton, it is apparent that the diversity of the Town's housing stock has declined as a result of rapidly increasing property values and housing costs and a reduction in the availability of housing choices. In light of this situation, the Easton Town Council makes the following findings:

1. It is a legitimate public purpose of the Town to achieve a diverse and balanced community with housing available for households of all income levels. Economic diversity fosters social and environmental conditions that protect and enhance the social fabric of the Town and are beneficial to the health, safety, and general welfare of its residents.

2. The Town is experiencing an increasing shortage of Attainable Housing due in part to the high cost of newly constructed housing. As a result, much of the workforce is excluded from many new neighborhoods, live in overcrowded or substandard housing, and devote an inordinately large percentage of their incomes to pay for housing.

3. In the legitimate pursuit of other worthy and valid goals relative to growth management, redevelopment, and resource protection, the amount of land available for residential development in the Town of Easton is limited, thereby exacerbating the housing supply and affordability problem.

4. The Town recognizes the need to provide Attainable Housing in order to maintain a diverse population and provide housing for those who live or work in the Town and Talbot County.

5. Without intervention, the increasing housing prices is resulting in an inadequate supply of affordable housing for residents and employees, which will have a negative impact upon the ability of the Town to attract new employers; to maintain an adequate work force to retain and expand existing employers; to guarantee the public health, safety, and general welfare of the Town and its residents.

6. The remaining land available and appropriate for new residential development within the Town is limited. It is essential that a reasonable proportion of such land be developed into housing units attainable to households and working families.

7. While this Article provides specific alternatives to the production of on-site inclusionary units, the intent and preference of this Article is for the provision of inclusionary units constructed on-site and privately produced, owned, and managed.

Section 1602 Definitions.

1. Adaptive Reuse: Repurposing of an existing building(s) or structures, often obsolete or historic, for any use(s) other than the present use(s).

2. Affordable Housing Fund: The fund established in Article I of Chapter 13 of the Code of the Town of Easton.

3. Affordable Rental Rates: Based on household income limits that do not exceed the following:

   (a) Very low-income households: one-twelfth of 30 percent of 50 percent of Median Family Income, adjusted for household size, appropriate for the unit or market rent, whichever is less.

   (b) Low-income households: one-twelfth of 30 percent of 60 percent of Median Family Income, adjusted for household size, appropriate for the unit or market rent, whichever is less.

4. Affordable Sales Price: The maximum amount of a mortgage loan that could be obtained based on the monthly affordable mortgage payment, interest rate, and a fully amortized 30-year fixed rate mortgage. The affordable sales price is adjusted based on a reasonable down payment.

5. Applicant or Developer: A person, persons or entity that applies for a residential development and also includes the owner or owners of the property if the applicant does not own the property on which residential development is proposed.

6. Attainable Housing: Housing types, through ownership or rental, that are attainable to those households making 100% or less of the MFI and generally do not spend more than 30% of their income on housing costs.

7. Charges: Expenses the owner of a home pays over the course of owning it. These costs usually include utilities, debt service payments, property taxes, insurance, deferred water and sewer fees, and home owner association fees, among other items.

8. Cash In Lieu Fee: A per-unit fee for for-sale and rental Inclusionary Units as an alternative compliance option when the number of dwelling units proposed through adaptive reuse or conversion of a nonresidential use to residential results in the creation of 30 or more new

dwelling units. The fee is mandatory for new construction or substantial rehabilitation that results in 15 to 24 new residential dwelling units, or for adaptive reuse, or conversion of a nonresidential use to residential that results in 15 to 29 new residential dwelling units.

Cash In lieu Fees as an alternative compliance option are initially established by the Town Council, upon recommendation by the Easton Affordable Housing Board. Mandatory Cash In Lieu Fees are initially established in this Chapter. The Cash In Lieu Fees shall be updated by the Easton Affordable Housing Board on an annual basis and may also include estimated costs of administration.

9. Continued Affordability: The time during which an inclusionary unit is subject to rental price controls and owner occupancy and resale requirements.

10. Covered Project: Any project meeting the criteria of this section shall be deemed a covered project. A covered project is subject to a Town of Easton Housing Inclusionary Housing Plan and Inclusionary Housing Agreement.

11. Density Bonus: Dwelling units approved in a residential development that are in excess of the maximum allowable residential density otherwise permitted by the Town of Easton.

12. Inclusionary Housing Agreement: An agreement between the Town of Easton and an applicant governing how the applicant shall comply with this Chapter.

13. Inclusionary Housing Guidelines: Any requirements for implementation and administration of this Chapter, recommended by the Easton Affordable Housing Board and adopted by the Town Council. Adopted Inclusionary Housing Guidelines may include, but not be limited to, standards for determining household composition; income eligibility and prices for sale and rental of Inclusionary Units; income limit schedules; inclusionary housing costs or Carrying Charges; design guidelines; provisions of continued monitoring of tenant eligibility; and document templates. Guidelines may also specify the contents of the Inclusionary Housing Plan and are updated on a regular basis.

14. Inclusionary Housing Plan: A plan containing all of the information specified in this Chapter, and includes the manner in which Inclusionary Units will be provided in conformance with this Chapter and any adopted Inclusionary Housing Guidelines.

15. Inclusionary Unit: A dwelling unit required by this Chapter to be affordable to very low, low, median, or moderate-income households and subject to recorded affordability restrictions.

16. Low-Income Households: Those households whose income does not exceed 60% of the MFI, adjusted for household size.

17. Market Rate Housing: Housing that already exists or is part of a proposed development that is based on existing area market values and demand and is not an Inclusionary Unit. Families making above 100% of the Median Family Income qualify for Market Rate Housing.

18. Median Family Income (MFI): An annual estimate calculated by HUD as a function of the area's MFI. The basis for HUD's MFI is data from the American Community Survey. The MFI is adjusted each year by the Easton Affordable Housing Board based on Easton's median income.

19. Median-Income Households: Those households whose income does not exceed 80% of the MFI, adjusted for household size appropriate for the unit.

20. Moderate-Income Households: Those households whose income does not exceed 100% of the MFI, adjusted for household size appropriate for the unit.

21. Monthly Affordable Mortgage Payment: The cost that will be affordable to the specified household at the specified income level as follows:

    (a) Median-income households: one-twelfth of 30 percent times 80 percent of Median Family Income adjusted for household size appropriate for the unit.

    (b) Moderate-income households: One-twelfth of 30 percent times 100 percent of Median Family Income adjusted for household size appropriate for the unit.

    The monthly affordable mortgage payment is adjusted based on property taxes, homeowner association fees, mortgage insurance and property insurance premiums, utility costs, and a reasonable allowance for property maintenance and repairs.

22. Ownership Residential Development: Any development that includes the creation of one or more residential dwelling units that may be sold individually.

23. Priority Preference: Priority preference for the sale or rental of units is given to persons who live or work in the Town of Easton or as otherwise determined by the Town Council.

24. Qualified Housing Organization: A public housing authority, a for-profit company, or a non-profit organization whose mission includes the purpose of providing Attainable Housing.

25. Rental Residential Development: Any development that creates one or more residential dwelling units that are not lawfully sold.

26. Residential Development: Any development that includes residential units for which a development site plan, preliminary plat subdivision, or building permit is required that includes:

(a) The creation of one or more dwelling units;

(b) The substantial rehabilitation of one or more dwelling units;

(c) The creation of dwelling units through adaptive reuse; or

(d) The conversion of non-residential uses to dwelling units.

27. Substantial Rehabilitation: Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the structure's market value before the improvement's start of construction.

28. Very Low-Income Household: Those households whose income does not exceed 50% of the MFI, adjusted for household size.

Section 1603 Intent.

The intent of these regulations is:

1. To provide Attainable Housing opportunities and choices for all of Easton's citizens;

2. To mitigate the impact of market rate housing construction on the limited supply of available land suitable for Attainable Housing, thus excluding housing that meets the needs of all economic groups within the Town; and

3. To prevent overcrowding and deterioration of the limited supply of Attainable Housing, and thereby promoting the public health, safety and general welfare of the Town and its residents.

4. To promote the integration of Attainable Housing with Market Rate Housing.

Section 1604 Authority.

These regulations are enacted under the authority of Section 7-401 of the Land Use Article of the Annotated Code of Maryland.

Section 1605 Applicability.

1. Except as otherwise provided in this Chapter, these regulations shall apply to all residential development on a site, or portion thereof, at one location which is the subject of an

application for a development site plan, preliminary plat subdivision, or building permit, whichever comes first.

2. Any revision or modification to an approved Final Site Plan, Final Plat, or Building Permit that would increase the number of residential units are subject to the requirements of this Chapter.

Section 1606 Exemptions.

1. Residential developments proposing less than 15 new dwelling units.

2. This Chapter does not apply to a development that sets aside affordable dwelling units in accordance with Section 42 of the Federal Internal Revenue Code, pursuant to which a restricted covenant is to be recorded in the land records of Talbot County setting forth income limitations of tenants in accordance with the Federal Low Income Housing Tax Credit Program in favor of the Maryland Department of Housing and Community Development or a subsidiary thereof or other governmental entity responsible for administration of the Federal Low-Income Housing Tax Credit Program.

3. A development is exempt from the requirements of this Chapter if, before [insert date], the project has received approval of a development site plan, preliminary plat, or building permit.

4. Projects undertaken by a Qualified Housing Organization, or a continuing care retirement community if at least 10% of the persons renting or purchasing units within the retirement community would be considered eligible to buy or rent an Inclusionary Unit.

5. Accessory Dwelling Units are exempt from the provisions of this Chapter.

6. Any development project undertaken by the Town of Easton is exempt from the requirements of this Chapter.

Section 1607 Inclusionary Housing Requirements.

1. Residential developments proposing between 15 and 24 dwelling units through new construction and/or substantial rehabilitation of existing structures, or the creation of 15 to 29 dwelling units through adaptive reuse or conversion of all or a portion of a nonresidential use to residential use, shall provide a Cash In Lieu Fee for each unit prior to issuance of the first building permit. The initial fees are established in this Chapter and are as follows:

   (a) Average market rate unit price within the development is under $300,000 = $3,000 per permit

(b) Average market rate unit price within the development is $300,000-$500,000 = $5,000 per permit

(c) Average market rate unit price within the development is over $500,000 = $7,500 per permit

2. Residential developments proposing 25 or more new dwelling units through new construction and/or substantial rehabilitation of existing structures or the creation of 30 or more new dwelling units through adaptive reuse or conversion of all or a portion of a nonresidential use to residential use shall provide 10% of the dwelling units in the residential development as Inclusionary Units upon the same site as the residential development as follows:

(a) Ownership residential development. The applicant shall provide:

1) 50% of the Inclusionary Units in the residential development available at an affordable sales price to Median-Income Households

2) 50% of the Inclusionary Units in the residential development available at an affordable sales price to Moderate-Income Households

(b) Rental Residential Development. The applicant shall provide:

1) 50% off the Inclusionary Units in the residential development available at an affordable rent to Very Low-Income Households

2) 50% of the Inclusionary Units in the residential development available at an affordable rent to Low-Income Households

3. In the event only one Inclusionary Unit is required, the Inclusionary Unit shall be provided at the lower required affordability level. In the event the required Inclusionary Units result in a fraction that does not evenly divide by the percentages required above, the required fractional portion shall be rounded up to one Inclusionary Unit.

4. Calculations of the number of Inclusionary Units required by this section shall be based on the number of dwelling units in the residential development, excluding any Density Bonuses.

5. When a residential development includes both ownership and rental dwelling units, the provisions of this Chapter that apply to Ownership Residential Development shall apply to that portion of the development that consists of ownership dwelling units, while the provisions of this Chapter that apply to Rental Residential Development shall apply to that portion of the development that consists of rental dwelling units.

6. Multiple developments or projects by the same applicant or responsible party within any consecutive twenty-four (24) month period that in the aggregate equal or exceed the above criteria shall be subject to these regulations.

7. An applicant for a development site plan, preliminary plat subdivision, or building permit shall not avoid the requirements of this chapter by submitting piecemeal applications. At the time of the application for first approval for the residential development, the applicant shall identify all contiguous property under common ownership and control. The applicant shall not be required to construct dwelling units upon the contiguous property at the time of the application for first approval; however, the applicant shall be required to include the contiguous property under common ownership or control in its Inclusionary Housing Plan. The Inclusionary Housing Agreement shall be recorded against the residential development and all contiguous property under common ownership or control. The agreement shall require compliance with this Chapter upon development of each contiguous property at such time as there are applications that would authorize a total of 25 or more residential units through new construction and/or substantial rehabilitation of existing structures, or 30 or more residential units through adaptive reuse or conversion of a nonresidential use to residential use, for both the residential development and the contiguous property under common ownership or control.

8. An applicant shall not be exempt from the requirements by submitting phased applications for the residential development. Occupancy permits for no more than fifty percent (50%) of the market rate units shall be issued prior to the issuance of occupancy permits for fifty percent (50%) of the Inclusionary Units. Occupancy permits for no more than seventy-five percent (75%) of the market rate dwelling units shall be issued until occupancy permits have been issued for seventy-five percent (75%) of the Inclusionary Units for the residential development. Occupancy permits for no more than ninety percent (90%) of the market rate dwelling units shall be issued until occupancy permits have been issued for one hundred percent (100%) of the Inclusionary Units for the development.

9. The following information shall be submitted with each building permit application for a market rate dwelling unit within the residential development:

   (a) The total number of dwelling units, market rate units, and Inclusionary Units proposed for the development;

   (b) The number of occupancy permits already issued for market rate units within the development;

   (c) The number of occupancy permits already issued for Inclusionary Units within the development; and

   (d) The lot number or unit number of each Inclusionary Unit for which an occupancy permit has been issued.

Section 1608 Inclusionary Housing Incentives.

1. The developer of a residential development on a base residential zoning district providing all required Inclusionary Units upon the same site as the market-rate units may, at the developer's sole option and concurrently with the submittal of the Inclusionary Housing Plan, may receive a Density Bonus of 20% from the base zoning district.

2. The developer of a residential development providing all required Inclusionary Units upon the same site as the market rate units may receive up to a 20% variance in development standards, including lot size, lot frontage, lot coverage, height, and setbacks, as well as a 20% modification from the required parking standards.

3. New developments proposing 25 or more dwelling units through new construction and/or substantial rehabilitation of existing structures, or the creation of 30 or more dwelling units through adaptive reuse or conversion of a nonresidential use to residential use shall receive:

   (a) A cash subsidy from the Affordable Housing Fund for the deferral of the payment of Impact Fees in accordance with Section 29.5 of the Code of the Town of Easton provided that the Town Council has allocated affordable housing reserves in the general fund as part of the Town's budget process.

   (b) Residential developments that provide at least 20% of the dwelling units as Inclusionary Units shall be eligible for real property tax abatement or a payment in lieu of taxes as established by the Town Council.

Section 1609 Alternative Compliance Options.

1. In the case where Inclusionary Units are provided on-site pursuant to Section 1607 above, the developer shall provide Inclusionary Units at a price or rent approved by the Affordable Housing Board. Nothing in this Chapter precludes the developer from partnering with a Qualified Housing Organization to build the on-site Inclusionary Units provided at least 10% of the units within the development project would be considered eligible to buy or rent by persons at or below the income limitations specified in Section 1607 of this Chapter.

2. Alternatively, the developer may:

   (a) Build at least one and one-half times the required number of the Inclusionary Units of the residential development off-site within the Town limits of Easton on property either owned by the Town or by partnering with a Qualified Housing Organization to build Inclusionary Units.

(b) A developer may also fulfill their off-site requirement by purchasing land within the Town of Easton or the Town's Municipal Growth Areas and donating it to a Qualified Housing Organization or the Town of Easton to build at a minimum one and one-half times the required number of Inclusionary Units.

(c) The developer's proposal for off-site construction of Inclusionary Units is subject to Town Council review and approval. The Town may grant off-site construction approval if the proposal meets all of the following conditions:

1) Off-site Inclusionary Units shall comply with the general requirements defined in Section 1610 and with any adopted Inclusionary Housing Guidelines;

2) Financing or a viable financing plan, which may include public funding, shall be in place for the off-site Inclusionary Units;

3) The off-site location, based on location, size, and existing conditions, is suitable for the proposed inclusionary housing and is consistent with any adopted Inclusionary Housing Guidelines;

4) All entitlements and land development permits have been obtained; and

5) Construction of the off-site Inclusionary Units may not have commenced prior to the first approval of the residential development.

(d) The Town Council may approve a combination of on—site and off-site Inclusionary Units equivalent to providing at a minimum one and one-half times the required number of Inclusionary Units and subject to subsection (c) above.

3. Residential developments proposing the creation of 30 or more dwelling units through adaptive reuse or conversion of all or a portion of a nonresidential use to residential use may provide a Cash in Lieu Fee. A request for a Cash In Lieu Fee shall be made concurrently with the development site plan, preliminary subdivision or building permit application, whichever comes first.

(a) The Town shall not issue a building permit for any market rate housing units until all Cash In Lieu Fees have been paid to the Town of Easton.

(b) Cash In Lieu Fees are to be paid prior to issuance of the first building permit and shall be calculated in terms of current dollars, adjusted by the CPI, at the time the actual contribution is officially transferred to the Town.

(c) Cash In Lieu Fees collected shall be placed in the Affordable Housing Fund to be used by the Easton Affordable Housing Board for their programs.

(d) The density bonus described in Section 1608 of this Chapter may not be used for a project that fulfills the requirement of this Chapter by making a Cash In Lieu Fee payment in lieu of building the Inclusionary Units.

4. When the number of dwelling units proposed through adaptive reuse, or conversion of a nonresidential use to residential use, results in 30 or more units, a developer may propose an alternative compliance method to provide Inclusionary Units through other means consistent with this Chapter and any adopted Inclusionary Housing Guidelines. The Town Council, following a Planning Commission and Affordable Housing Board recommendation, may approve or conditionally approve such an alternative only if the Council determines, based on substantial evidence, that such alternative compliance will provide as many or more Inclusionary Units at the same or lower income levels or will otherwise provide greater public benefit than would the provision of the on-site Inclusionary Units.

Section 1610 Inclusionary Housing Plan and Agreement.

1. An application for the first approval of a residential development shall include an Inclusionary Housing Plan describing how the development will comply with the provisions of this Chapter and the Inclusionary Housing Guidelines. As an alternative to compliance with the basic provisions included in this Chapter, an applicant may propose one of the alternatives listed in Section 1609 of this Chapter as part of the Inclusionary Housing Plan.

2. Any proposed density bonus, variances, modification of parking standards, or other incentives shall be included in the inclusionary housing plan.

3. No application may be deemed complete unless an Inclusionary Housing Plan is submitted. The Inclusionary Housing Plan shall be processed concurrently with the development site plan, preliminary plat, or building permit, whichever occurs first. Before the Town of Easton approves the Inclusionary Housing Plan, the Town must affirmatively find that the Inclusionary Housing Plan conforms to the requirements set forth in this Chapter. The inclusion agreement, described below, shall be recorded prior to the approval of any final site plan, final record plat, or building permit for the residential development, whichever occurs first.

4. The approved Inclusionary Housing Plan for a residential development, or for a building phase in a residential development, where phasing has been approved as part of planning permit approvals, may be amended prior to issuance of any building permit for the residential development or building phase, if applicable. A request for a minor modification of an approved Inclusionary Housing Plan may be granted by the Town Manager or their designee if the modification is substantially in compliance with the original Inclusionary Housing Plan and conditions of approval. Other modifications to the Inclusionary Housing Plan shall be processed in the same manner as the original plan.

5. The Inclusionary Housing Plan shall describe the applicant's marketing plan in conformance with Section 1613 below, which shall comply with all applicable fair housing and discrimination laws and shall not discriminate in the sale or rental of inclusionary units on the basis of race, color, religion, sex, familial status, national origin, marital status, sexual orientation, gender identity, disability, or source of income, with the exception of residential developments that comply with the Housing for Older Persons Act.

6. The applicant shall enter into an Inclusionary Housing Agreement with the Town of Easton, in a form approved by the Town Attorney, to be executed by the Mayor or their designee, to ensure that all the requirements of this chapter are satisfied.

   (a) The Inclusionary Housing Agreement shall be recorded against the residential development prior to approval of any final site plan or final record plat, or issuance of any building permit, whichever occurs first. The agreement shall run with the property for the entire continued affordability period.

   (b) The Inclusionary Housing Agreement shall specify the number, type, location, size, and phasing of all Inclusionary Units, provisions for income certification and screening of potential purchasers or renters of units, maintenance obligations, and the financing of ongoing administrative and monitoring costs, consistent with the approved Inclusionary Housing Plan and any adopted Inclusionary Housing Guidelines, as determined by the Town Manager or designee.

   (c) The Inclusionary Housing Agreement shall define rent and sale price increase procedures, and provide formulas for how resale prices for ownership Inclusionary Units are calculated, including the ability for homeowners to capture some or all of the depreciated value of capital improvements they made to the Inclusionary Unit, and for sharing of excess profits after the control period ends.

   (d) In selecting households for the Inclusionary Units in accordance with this Chapter, the Inclusionary Housing Agreement shall specify preferences that shall be given as described in the Inclusionary Housing Guidelines, if any.

Section 1611 Percentage of Affordable Units.

All covered projects shall meet the percentage requirements for Inclusionary Units as specified in Section 1607. The percentage of Inclusionary units shall be calculated with a base number that excludes any bonus units added to the covered project under Section 1608.

Section 1612 General Requirements for Inclusionary Units.

1. In addition to design requirements that may be specified in the Inclusionary Housing Guidelines, all covered projects must comply with the requirements set forth in subparagraphs (a) through (g) below:

(a) On-site Inclusionary Units shall be interspersed among market rate units.

(b) In order to assure an adequate distribution of on-site Inclusionary Units by household size, the bedroom mix of Inclusionary Units in any project shall be in approximately the same ratio as the bedroom mix of the market rate units of the project, unless otherwise approved by the Easton Planning Commission.

(c) On-site Inclusionary Units may differ from the market units in a covered project with regard to interior amenities and gross floor area; provided, that:

1) These differences, excluding differences related to size differentials, are not apparent in the general exterior appearance of the project's units; and

2) These differences do not include insulation, windows, heating systems, and other improvements related to the energy efficiency of the project's units;

3) Inclusionary Units shall have at a minimum builder grade finishes on the interior, including appliances, and a basic landscaping package similar to the package included with market-rate units; and

4) The gross floor area of the Inclusionary Units is not less than the following minimum requirements, unless otherwise recommended in the Inclusionary Housing Guidelines approved by the Easton Town Council.

NUMBER OF BEDROOMS	Minimum SIZE
Studios	**600 square feet**
One bedroom	**850 square feet**
Two bedrooms	**1,100 square feet**
Three bedrooms	**1,300 square feet**
Four bedrooms	**1,500 square feet**

(d) The Inclusionary Units shall have the same amenities as the market rate units included within the development, such as access to and enjoyment of common open space, parking, storage, and other facilities in the residential development.

(e) Priority in the sale of on-site Inclusionary Units may be established by criteria specified in the Inclusionary Housing Guidelines;

(f) Except for household income limitations as set forth herein, occupancy of any on-site Inclusionary Unit shall not be limited by any conditions that are not otherwise applicable to all units within the covered project; and

(g) The final calculations for the number of on-site Inclusionary Units and the initial sales or rental price for these units shall be made prior to the issuance of building permits for the covered project.

Section 1613 For-Sale of Inclusionary Units.

1. The Developer (or designee) is responsible for the screening and qualification of the initial purchaser of a for-sale Inclusionary Unit. The Developer must provide 90 days advance written notice to the Town of Easton and the Easton Affordable Housing Board prior to the initial marketing of the Inclusionary Units for the calculation of the affordable housing cost, as adjusted to an Affordable Sales Price, pursuant to this Chapter and the Inclusionary Housing Guidelines. Final approval of qualified applicants is contingent on approval by the Easton Affordable Housing Board.

2. Every unit shall be first marketed to priority persons, as established by the Easton Affordable Housing Board, for 90 days from the initial marketing period. Following the priority marketing period, a unit may be offered for sale to the general public.

3. The Easton Affordable Housing Board shall establish guidelines for the calculation of the Affordable Sales Price for an Inclusionary Unit within a residential development and the calculation shall be updated yearly thereafter.

4. The purchaser of a for-sale Inclusionary Unit shall execute and consent to the affordability restrictions and other conditions at the settlement of the property. The property shall be sold subject to Covenants in a form approved by the Town Attorney.

5. The Inclusionary Unit shall be the purchaser’s primary place of residence.

Section 1614 Rental of Inclusionary Units.

1. The developer, property owner, or property manager is responsible for verifying household income eligibility and for incorporating any applicable priority preference requirements for the selection of households into the screening process.

2. Every unit will be first marketed to priority persons, as established by the Easton Affordable Housing Board, for 90 days from the initial marketing period. Following the priority marketing period, a unit may be offered for sale to the general public.

3. The Easton Affordable Housing Board shall establish guidelines for the calculation of the Affordable Rental Rate for an Inclusionary Unit within a residential development and the calculation shall be updated yearly thereafter.

4. In situations where there are multiple affordability restrictions/income or rent limits set by different funding requirements, the residential development shall adhere to the strictest requirement so it can meet all of the layering restrictions.

5. The maximum Affordable Rental Rates shall be adjusted annually based on the most recently published Household Income Limits by the Easton Housing Affordability Board. The Board shall notify the property owner or property manager of the new rental rates. If the owner chooses to raise rents, the tenant must be given at least a sixty (60) day notice before any rent increase and the opportunity to terminate the lease if the rental amount is unacceptable. This provision does not give the landlord the right to increase the rental amount if the lease provides otherwise.

6. Each residential development containing rental Inclusionary Units shall be subject to an annual compliance process, which shall be specified in the Inclusionary Housing Agreement.

7. Rental Inclusionary Unit tenants will be subject to the same conditions of tenancy as other tenants occupying the same property, except for the requirements provided by this Chapter and terms related to occupancy, income eligibility, annual recertification, limits on rents, and other terms that may be included in the Inclusionary Housing Guidelines.

8. The initial lease term for the rental Inclusionary Unit shall be for one year.

Section 1615 Marketing of Inclusionary Units.

Any applicant developing a covered project shall adhere to the following provisions with respect to the initial offering of Inclusionary Units for sale or rent:

1. The developer and owner shall be responsible for marketing, renting, and selling of all Inclusionary Units.

2. The developer and owner shall notify the Easton Affordable Housing Board and the Town of Easton of the prospective availability of any Inclusionary Units at the time that the building permit is issued for such units in a covered project.

3. The property owner or property manager shall post each vacant rental Inclusionary Unit as soon as possible but not later than ten (10) days after notice of an impending vacancy and provide advanced notice of the opening to the Easton Affordable Housing Board and the Town of Easton.

4. The developer and owner may assign its options under this section to a Qualified Housing Organization dedicated to the provision of Attainable Housing, in which event it shall notify the Easton Affordable Housing Board and the Town of Easton of the organization to which it has assigned the option. The Qualified Housing Organization shall deal directly with the developer and owner. The Qualified Housing Organization and the organization's plan for the property shall be subject to approval by the Easton Affordable Housing Board.

Section 1616 Continued Affordability Requirements.

All covered projects shall comply with the following provisions to ensure continued affordability of Inclusionary Units provided under this Chapter and required to be continually affordable under Section 1606.

1. Continued Affordability Requirement. All inclusionary rental units shall remain affordable for a period of no less than thirty (30) years commencing from the date of initial occupancy of the units. Ownership residential Inclusionary Units shall remain affordable for a period of no less than twenty (20) years commencing from the date of initial occupancy of the units. The first sale of an Ownership residential Inclusionary Unit after the control period shall pay Fifty Percent (50%) of the net profits over the maximum resale price calculation and after permitted allowances to the Easton Affordable Housing Fund.

2. Deed Restrictions. Provisions to ensure continued affordability of Inclusionary Units shall be embodied in legally binding agreements, covenants, and/or deed restrictions, which shall be prepared by the developer, but which shall not be recorded or filed until reviewed and approved by the Town Attorney with such modifications as it may deem necessary to carry out the purpose of this article. Any adopted Inclusionary Housing Guidelines may include standard documents.

3. Purchase Option. Provisions for continued affordability of Inclusionary Units shall provide that the Easton Affordable Housing Board or its designee shall have an exclusive option to purchase any Inclusionary Unit when it is offered for resale. The purchase option shall be for a period of ninety (30) days from the date on which the Board is notified of the availability of the unit. The purchase price shall be calculated as per the appreciation allowances specified in the deed restrictions and the Inclusionary Housing Agreement.

4. Leasing/Subletting Restrictions. Provisions for continued affordability of Inclusionary Units shall prohibit subletting or leasing of the property. This provision may be waived by the Easton Affordable Housing Board in writing to allow a temporary rental of the Inclusionary Unit for good and sufficient cause under terms that may be specified in the Inclusionary Housing Guidelines.

Section 1617 Transfer of Development.

For all approved covered projects that transfer ownership of the approved development, the new owner or developer shall be subject to all sections of this Chapter.

Section 1618 Enforcement.

Violations of this article shall be punishable as provided by Article X of this Chapter.

Section 1619 Administration.

1. Approved site plans and/or record final subdivision plats shall identify the specific number and location of each type of unit, by bedroom count, which are to be regulated as Inclusionary Units and a tabulation that demonstrates that the number of units provided satisfies the number of required units.

2. Written documentation and/or plans demonstrating that the affordable housing units are in conformance with Section 1609.1(d) shall be provided to the Office of Permits and Inspections prior to building permit issuance for the Inclusionary Units.

3. The Easton Affordable Housing Board shall monitor activity under this article and shall provide a report no less than every two (2) years to the Town Council, setting forth its findings, conclusions and recommendations for changes that will render the program more effective. The report described above shall be presented to the Town Council at a public meeting.

National Association of REALTORS®

Talbot County, MD
Smart Growth
July 2022

American Strategies designed and administered this telephone survey conducted by professional interviewers. The survey reached 325 adults, age 18 or older, who indicated they were registered to vote in Talbot County, Maryland. The survey was conducted July 18-21, 2022.

Sixty-eight percent of respondents were reached on wireless phones, six percent on VOIP phones, and twenty-seven percent on landlines. Quotas were assigned to reflect the demographic distribution of Talbot County, Maryland. The sample was drawn from a third-party vendor file. The overall margin of error is +/- 5.4%. The margin of error for subgroups is larger and varies.
Percentage totals may not add up precisely due to rounding.

AMERICAN STRATEGIES

Executive Summary

Residents of Talbot County are overall very satisfied with their quality of life. They value both the historic nature of Talbot's towns and villages and its natural resources, but also understand the need for additional housing – and in particular for more affordable housing for young people and those with lower incomes. Residents are supportive of efforts to develop underused land, so long as this does not impact the natural or historic attractiveness of the county.

- **Residents rank the quality of life in Talbot very highly (86 percent excellent/good).** Nearly four-in-ten (38 percent) say the quality of life is excellent while another 48 percent call it "good." These numbers vary based on location and income, with lower-income households less likely to rank it as "excellent."
- **Affordable housing, the cost of living, and homelessness account for 24 percent of voters' top concerns.** When asked to name in their own words the biggest issue facing Talbot County decisionmakers, residents most often cite housing or cost of living issues like affordable housing (13 percent), homelessness (4 percent) or inflation. Many are also concerned about overcrowding and development (16 percent).

Executive Summary

- **Protecting Talbot's quality of life is a major policy priority for residents, but residents are also concerned about affordable housing.** Protecting the county's coast, rural areas and historic character top the list of resident's priorities for local elected officials, but fifty-one percent also say "creating more housing that is affordable to low and middle-income people" is a top priority.
  - Younger residents, Easton residents, and women are more likely to see housing affordability as a top priority.

- **A majority of Talbot residents consider the county's stock of available housing to be a "fairly big" or "very big" problem (60 percent total), and that housing affordability is a problem (66 percent total)**. This was especially pronounced among Easton residents and non-homeowners.

- **Sizeable majorities of residents believe that there is too little housing for people with low incomes and people just starting their careers.** Non-owners and Easton residents also report that there is too little housing available to rent full-time.

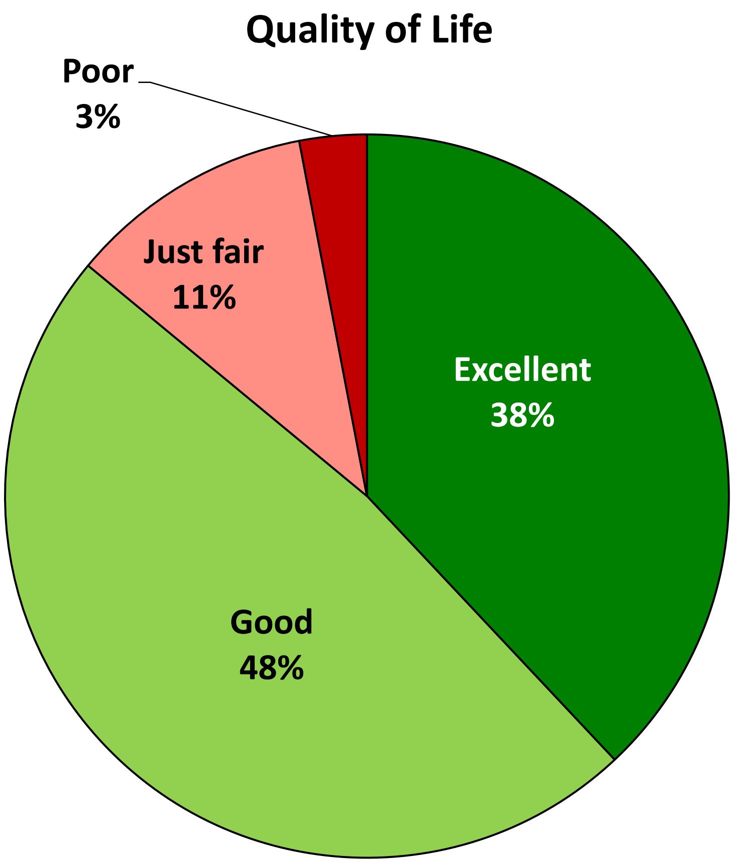
Executive Summary

- **Talbot County residents support a range of government-led proposals to increase housing opportunities for the county.** Sixty-seven percent of residents favor (36 percent strongly) a proposal that requires developers to set aside sub-market rate housing for new projects, and 62 percent favor (22 percent strongly) providing tax breaks to developers who do so.
  - Younger women and non-owners are most supportive of these proposals; older residents are least supportive.
  - Support for most of these proposals lack intensity.

- **Residents support utilizing under-developed land for housing**. A majority of residents (61 percent) support Easton annexing unincorporated land from Talbot County as a means to increase housing opportunities and 74 percent support the practice of infill development.
  - While there is some intensity to support for annexation and infill development, most are only "somewhat" supportive of these two measures. It is unclear how existing support would hold up under opposition.

Mood and Priorities in Talbot County

Almost Nine-in-Ten View Quality of Life in Talbot County as Excellent or Good

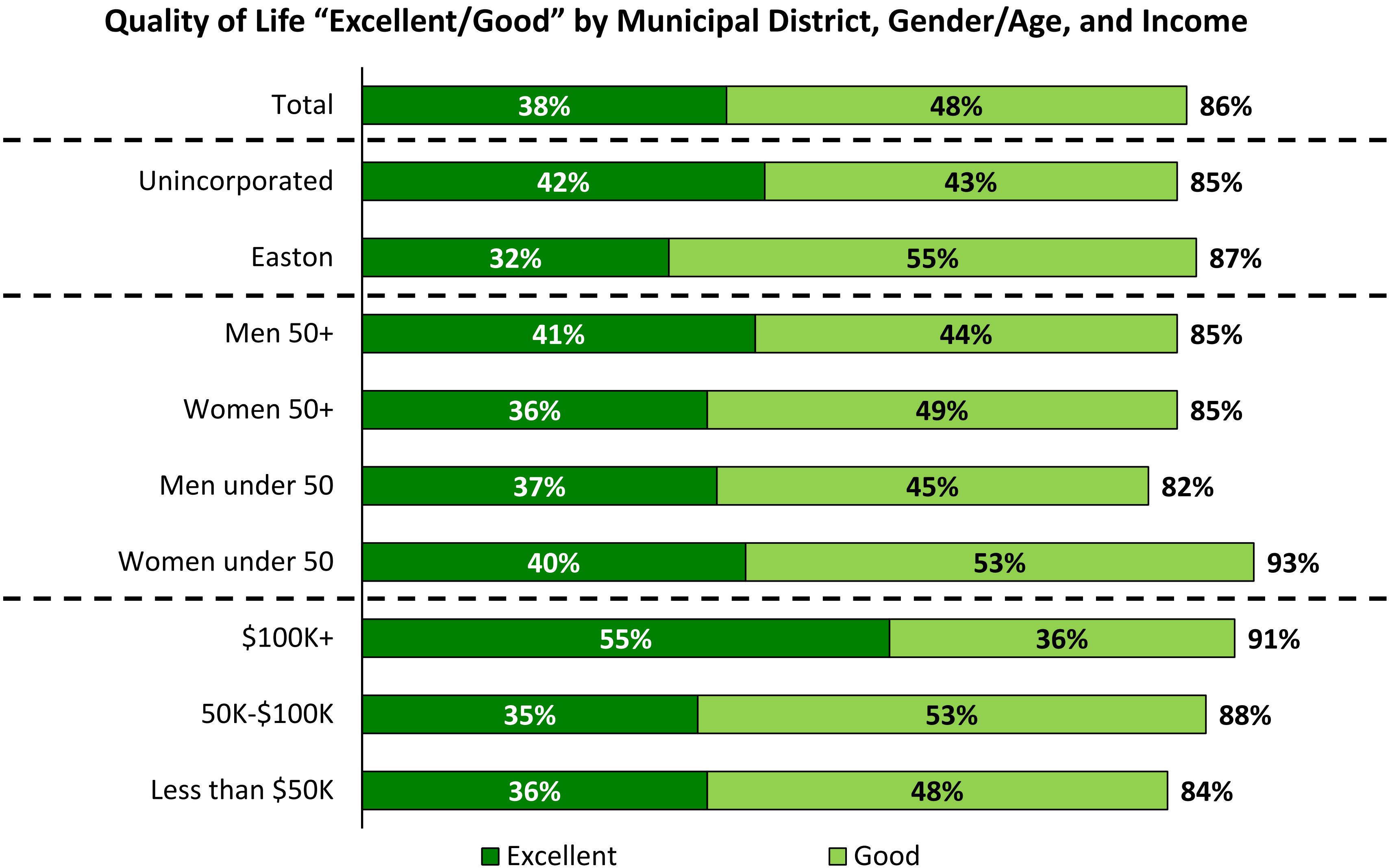


Just Fair/Poor
13%

Excellent/Good
86%

Q.3 Overall, how would you describe the quality of life in Talbot County - (ROTATE FIRST TO LAST, LAST TO FIRST) excellent, good, just fair, or poor?

Quality of Life is High Across Demographic Groups; Intensity Varies



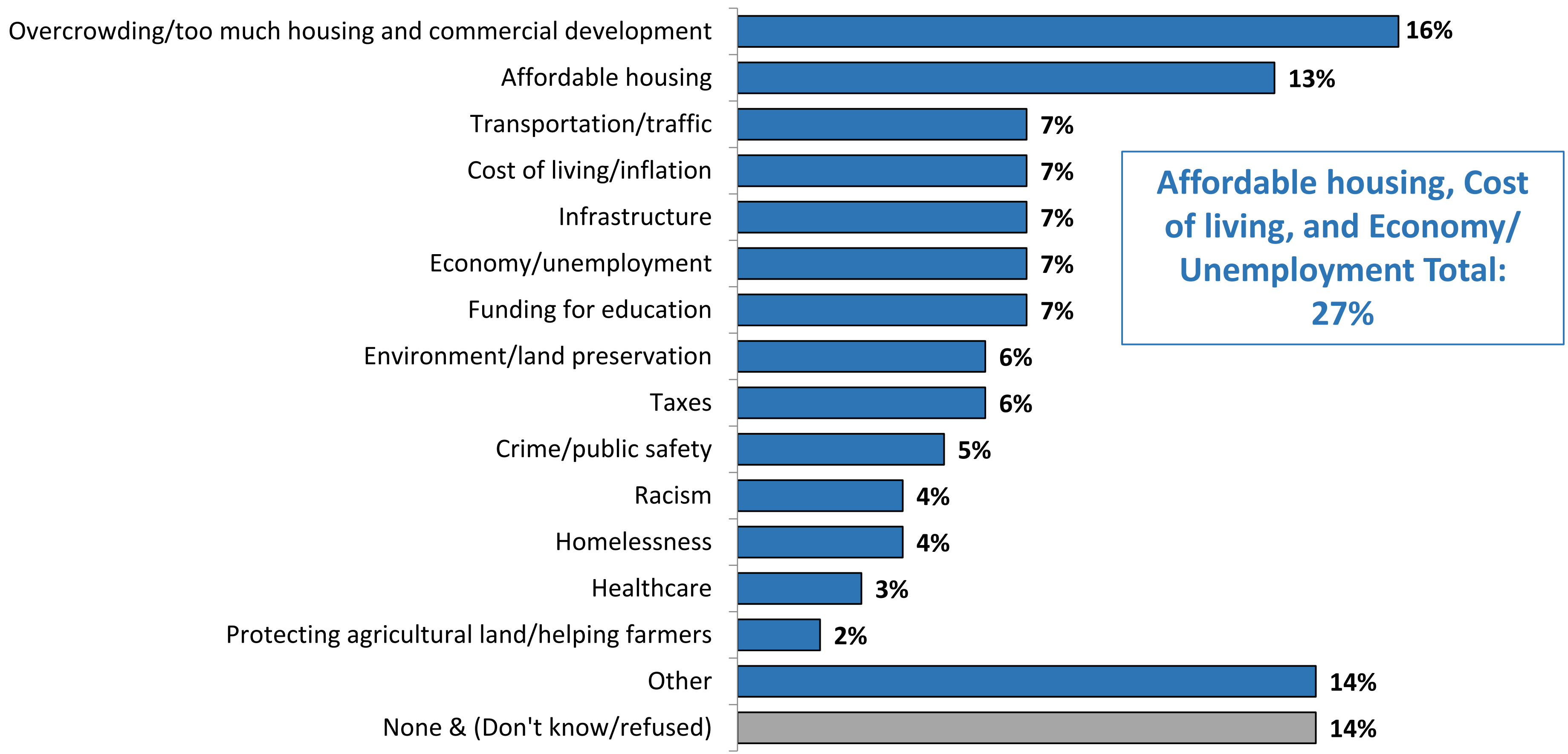
Q.3 Overall, how would you describe the quality of life in Talbot County - (ROTATE FIRST TO LAST, LAST TO FIRST) excellent, good, just fair, or poor?

AMERICAN STRATEGIES

Voters Most Often Cite Overcrowding as Their Top Issue

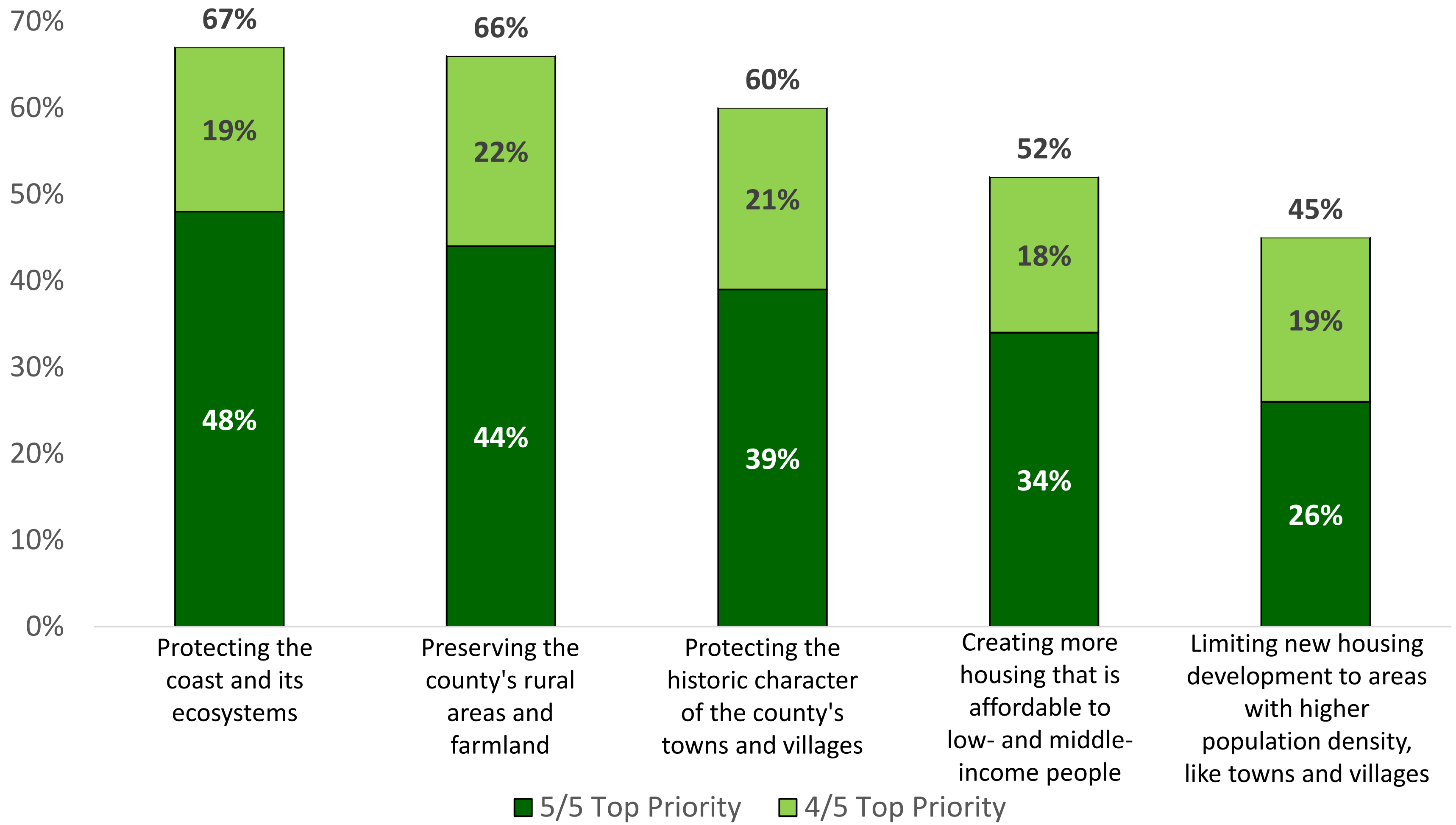
Affordable housing and cost-of-living considerations rank higher in total

Biggest Issues in Talbot, 2022



Q.4 And in your own words, what would you say is the biggest issue in Talbot County that you would like the county government to focus on?

Residents Place a High Priority on Protecting the County's Environment, Rural Areas, and Historic Character



Q.5 Next, I am going to read some issues that people say should be a priority for county and town governments in Talbot County. Please rate each of the following using a scale of one to five, where one means that issue is not a priority for you at this time, and five means that issue is a top priority for you at this time.

AMERICAN STRATEGIES

Protecting the Countryside and Historic Character of Towns More Important to Homeowners, Older Female Residents

Affordable housing more important to non-homeowners

4-5 Scores by Region, Gender/Age, and Homeownership Status	Total	Younger Men	Older Men	Younger Women	Older Women	Own	Total Non - owner
Protecting the coast and its ecosystems	**67**	63	63	67	75	71	61
Preserving the county's rural areas and farmland	**66**	60	59	68	72	71	55
Protecting the historic character of the county's towns and villages	**59**	52	57	45	71	64	45
Creating more housing that is affordable to low- and middle-income people	**51**	48	39	55	64	44	61
Limiting new housing development to areas with higher population density, like towns and villages	**44**	45	41	35	51	47	33

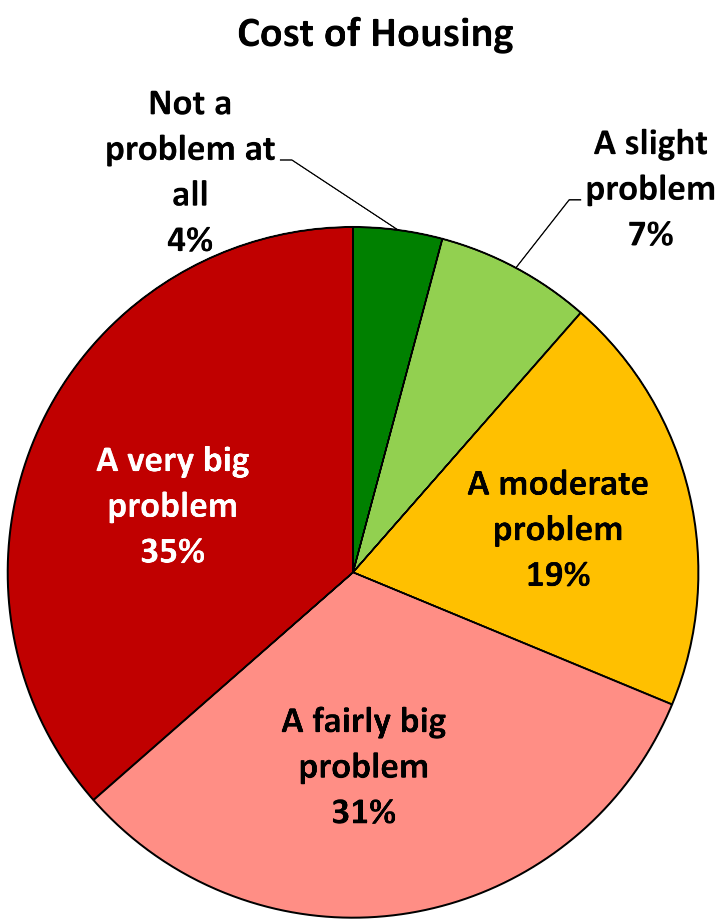
Q.5 Next, I am going to read some issues that people say should be a priority for county and town governments in Talbot County. Please rate each of the following using a scale of one to five, where one means that issue is not a priority for you at this time, and five means that issue is a top priority for you at this time. Of course, you can use any number between one and five, the higher the number the higher the priority you place on that issue.

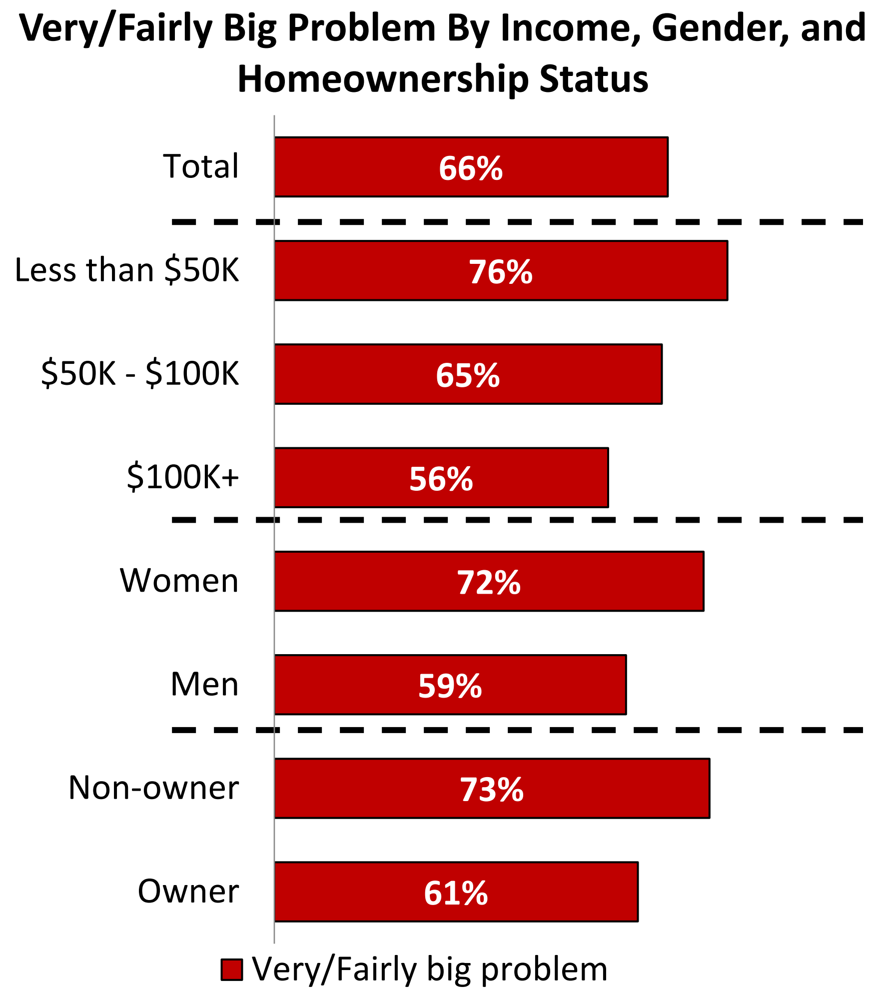
AMERICAN STRATEGIES

Housing Costs & Development

Nearly Seven-in-Ten Say Housing Affordability is a Big Problem

Women, non-homeowners, and lower-income residents most likely to see it as a major issue

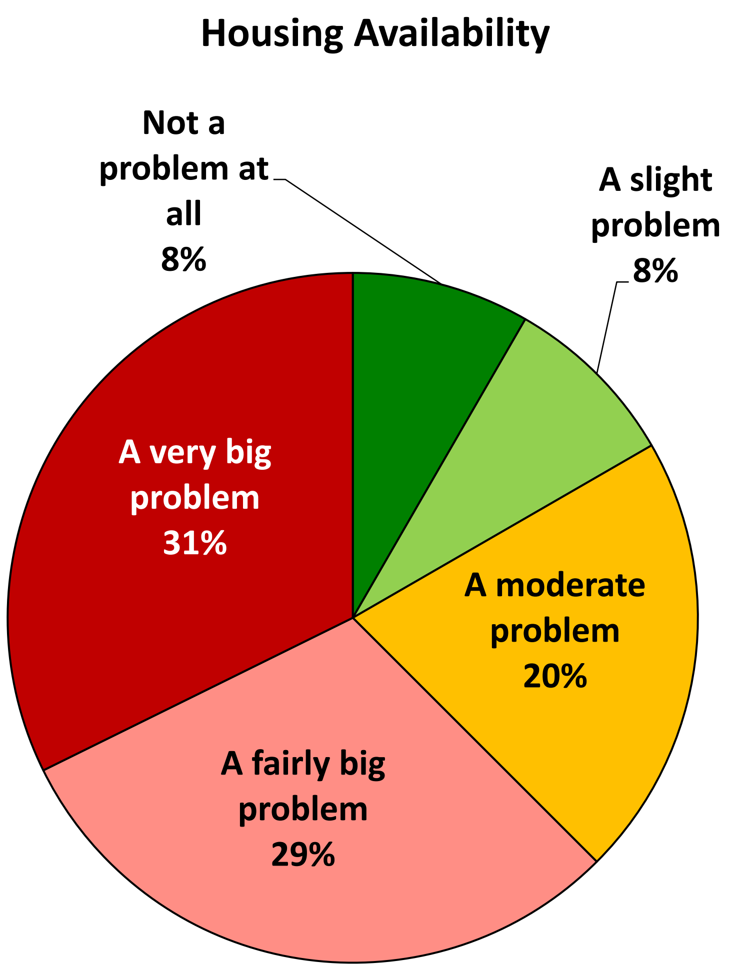


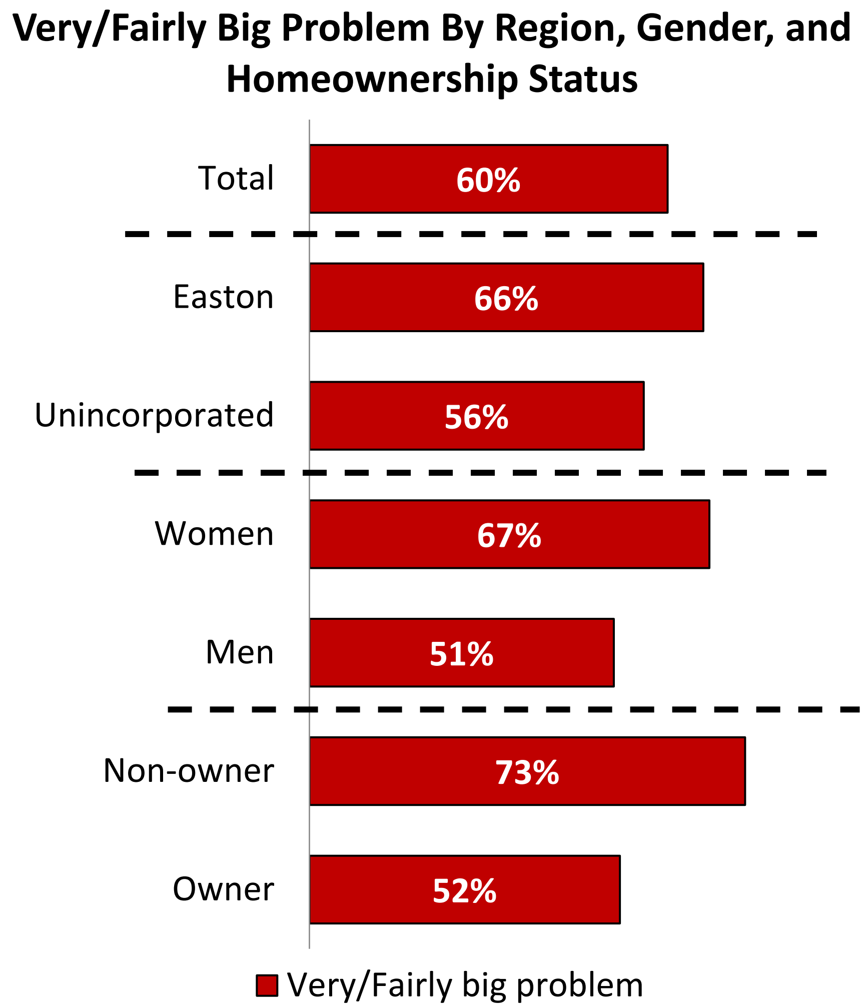


Q.7 (ROTATE Q.6 AND Q.7) In general, how much of a problem is housing affordability in Talbot County, including its towns and villages? That is to say, how much it costs to buy or rent a home?

Six-in-Ten Say Housing Availability is a Big Problem

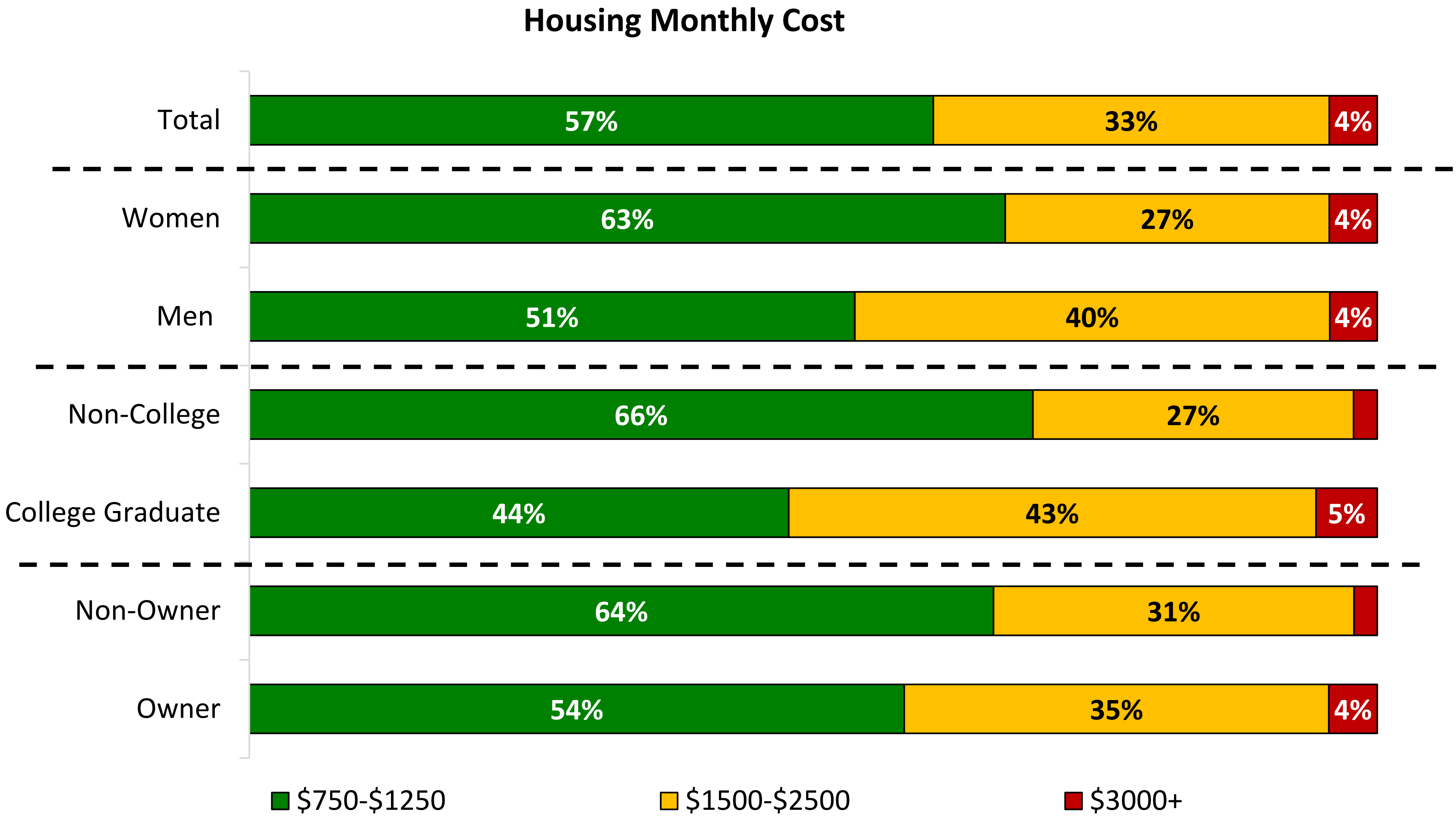
Easton residents, women, and non-homeowners most likely to see it as a major issue





Q.6 Next, I am going to ask you some questions about housing in Talbot County. (ROTATE Q.6 AND Q.7) In general, how much of a problem is the availability of housing in Talbot County, including its towns and villages? That is to say, the number of homes, condominiums, or apartments that are available to buy or rent?

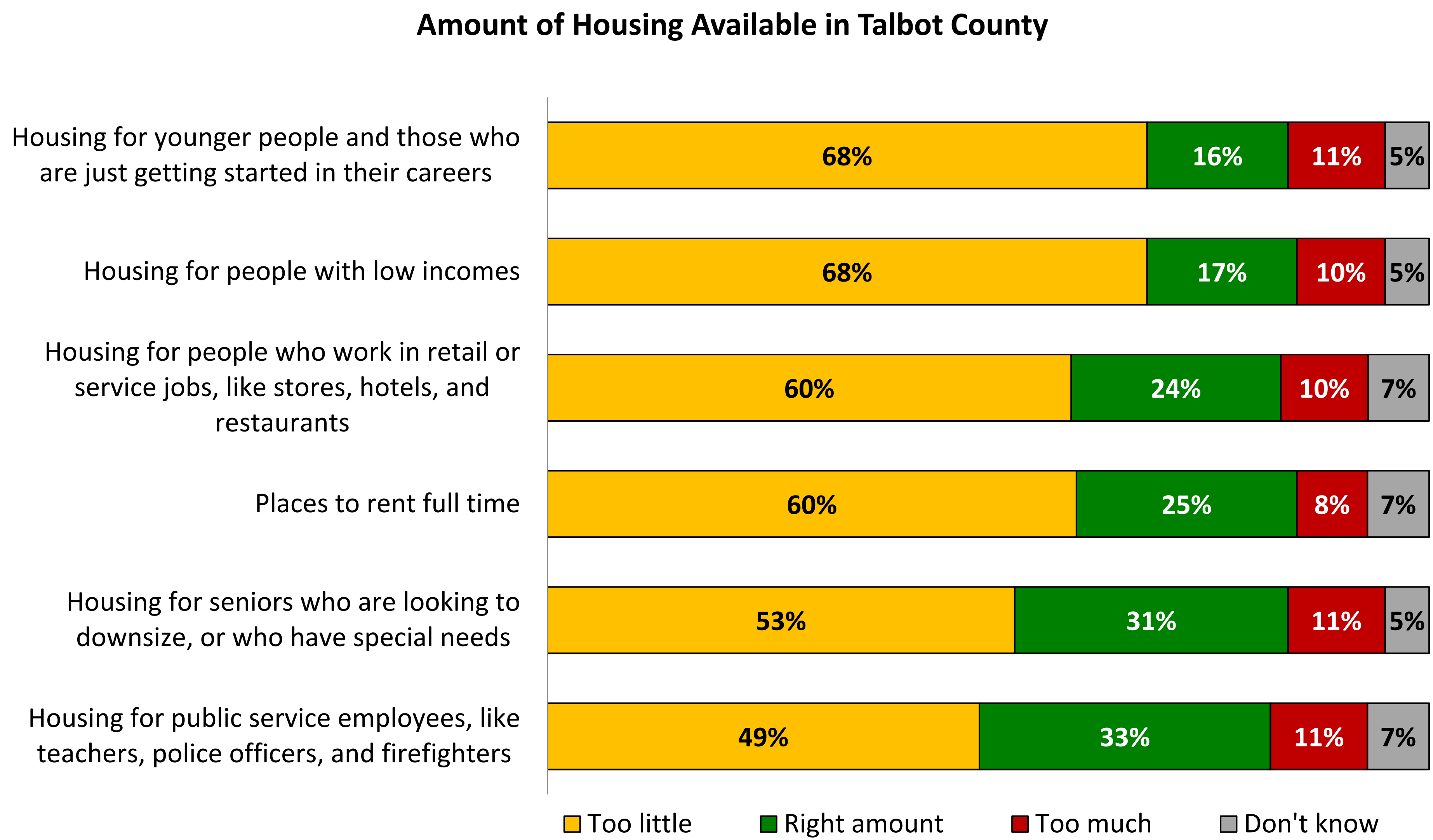
Most Residents Define "Affordable" Rent/Mortgage As Below $1250 per Month



Q.8 In general, what would you say is the monthly cost for housing that is affordable for most families in Talbot County? In other words, what do you think most families in your community can afford to pay for their rent or mortgage each month? Just stop me when I get to the right amount. (READ OPTIONS TOP TO BOTTOM)

AMERICAN STRATEGIES

Most Agree: Too Little Housing in Talbot County



Q.9 Still thinking about housing, please tell me if you think there is (ROTATE TOO MUCH/TOO LITTLE) too much, too little, or the right amount of each of the following in Talbot County, including its towns and villages.

AMERICAN STRATEGIES

Most Say Too Little Housing for Low Income, Younger People

Non-owners, Easton residents concerned with full-time rentals

Too Little Housing by Region, Gender/Age, and Homeownership Status	Total	Easton	Unincorp / Other	Own	Total Non - owner
Housing for people with low incomes	***68***	74	65	64	76
Housing for younger people...	***68***	71	66	61	78
Housing for people in the services industry	***60***	59	61	56	67
Places to rent full time	***60***	66	57	54	72
Housing for seniors...	***53***	53	54	47	63
Housing for public service employees...	***49***	57	44	44	58

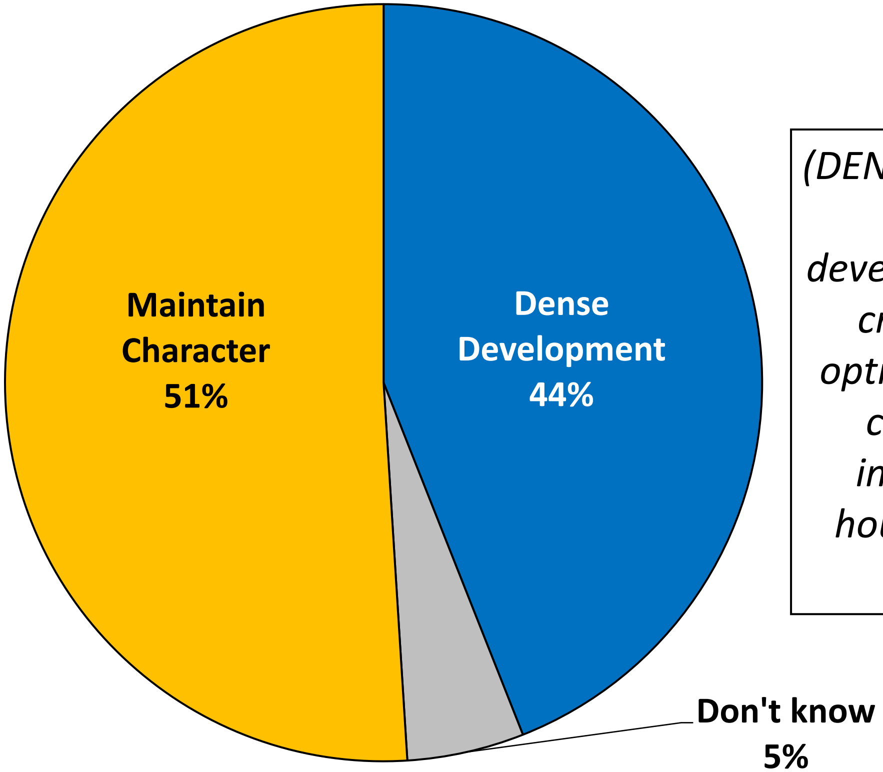
Q.9 Still thinking about housing, please tell me if you think there is (ROTATE TOO MUCH/TOO LITTLE) too much, too little, or the right amount of each of the following in Talbot County, including its towns and villages.

AMERICAN STRATEGIES

Policy Proposals

Voters Split on Maintaining Character vs. More Dense Development

(MAINTAIN CHARACTER) We need to maintain the character and quality of life in Easton by limiting the construction of new housing and protecting existing neighborhoods.



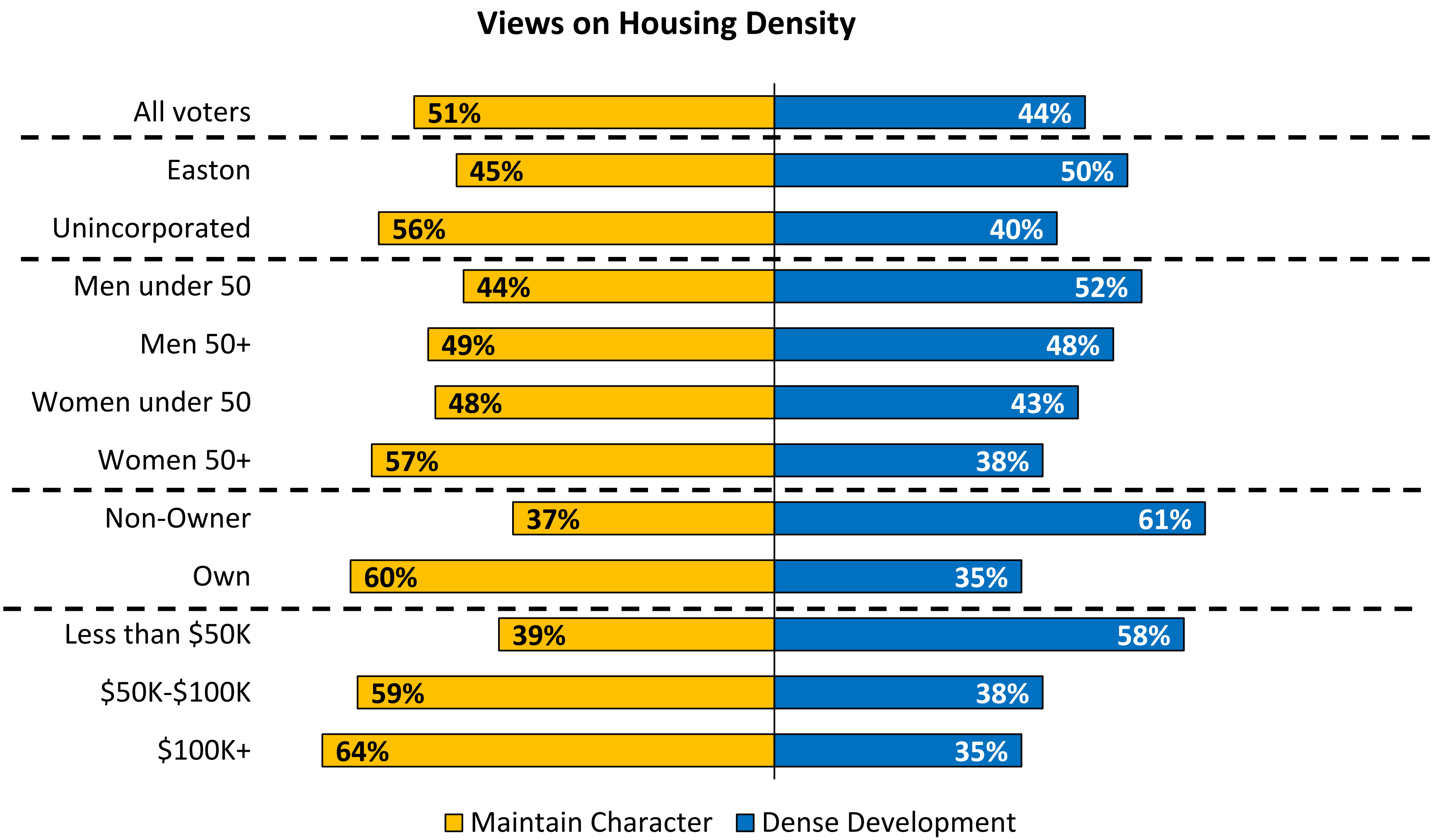
(DENSE DEVELOPMENT) We need more dense development in Easton that creates more housing options that fit the town's character in order to increase the supply of housing and bring down costs.

Q.13 As you may know, housing density refers to the number of homes or apartments that are allowed in a neighborhood, city, or county area. I am going to read two statements about housing density IN THE TOWN OF EASTON. Please tell me which one comes closer to your way of thinking, even if neither one is exactly right.

AMERICAN STRATEGIES

Voters Split on Character vs. Density

Easton residents, younger men, non-property owners, and lower-income residents most attracted to density



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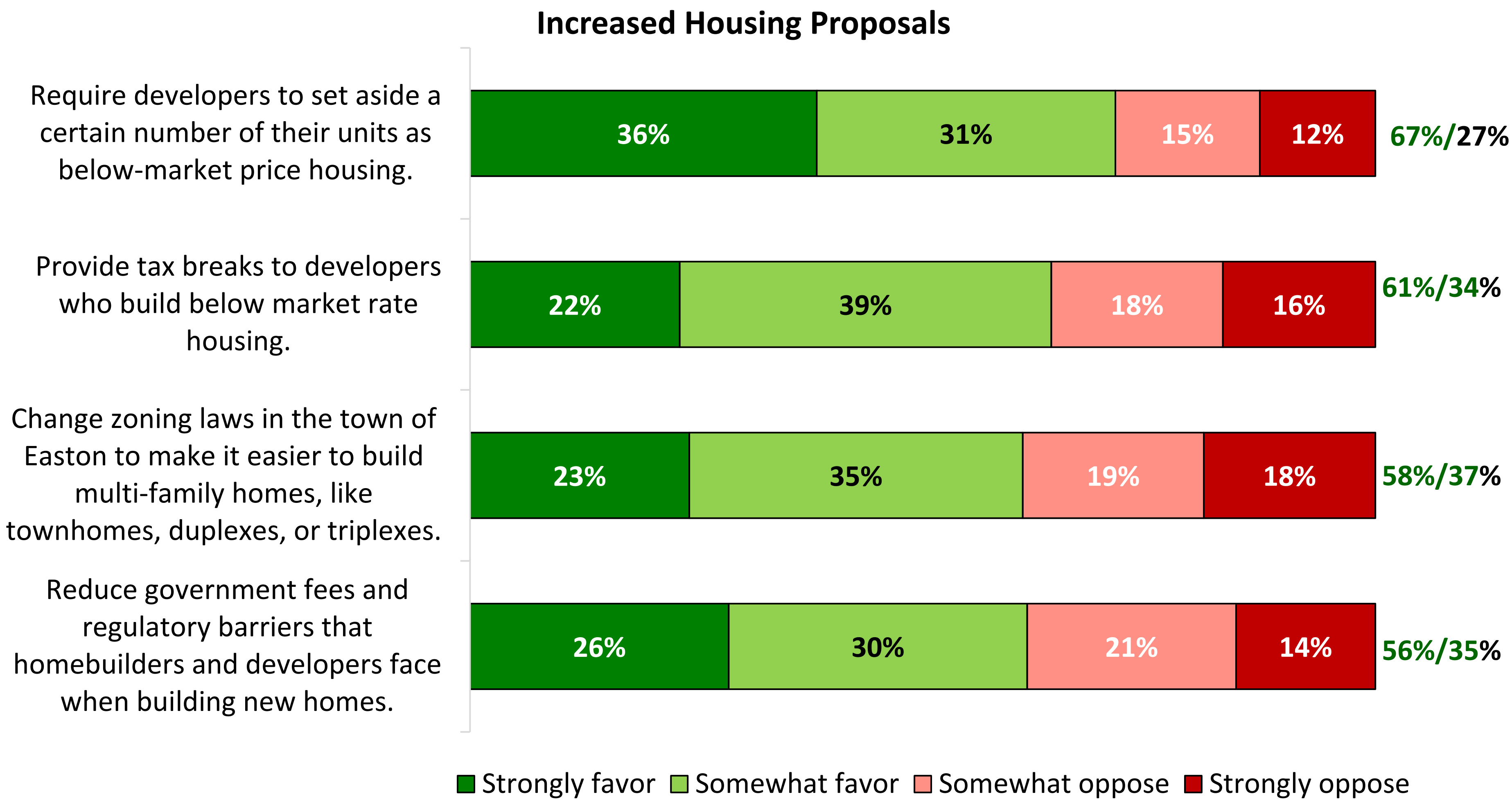
AMERICAN STRATEGIES

Residents Broadly Approve of Housing Proposals

Affordable housing requirements for new developments and tax breaks for affordable housing most popular



Q.10 Next, I am going to read to you some proposals intended to increase housing opportunities for Talbot County residents. For each one, please tell me whether you (ROTATE) favor or oppose that proposal.

Easton Residents, Younger Residents, Non-Owners More Supportive of Policies Overall

Older women and owners are least supportive of changing zoning laws and reducing government barriers for developers

Total Favor Housing Proposals by Region, Gender/Age, and Homeownership Status	Total	Easton	Unincorp / Other	Younger Men	Older Men	Younger Women	Older Women	Own	Total Non - owner
Require developers to set aside a certain number of their units as below-market price housing.	***67***	66	67	65	60	78	67	63	74
Provide tax breaks to developers who build below market rate housing.	***62***	67	58	69	57	70	58	56	72
Change zoning laws in the town of Easton to make it easier to build multi-family homes, like townhomes, duplexes, or triplexes.	***57***	67	51	61	58	65	51	52	64
Reduce government fees and regulatory barriers that homebuilders and developers face when building new homes.	***56***	55	57	66	61	60	45	53	61

Q.10 Next, I am going to read to you some proposals intended to increase housing opportunities for Talbot County residents. For each one, please tell me whether you (ROTATE) favor or oppose that proposal.

AMERICAN STRATEGIES

Non-Owners, Younger Women, and Easton Residents Strongly Favor Requiring Developers to Plan for Affordability

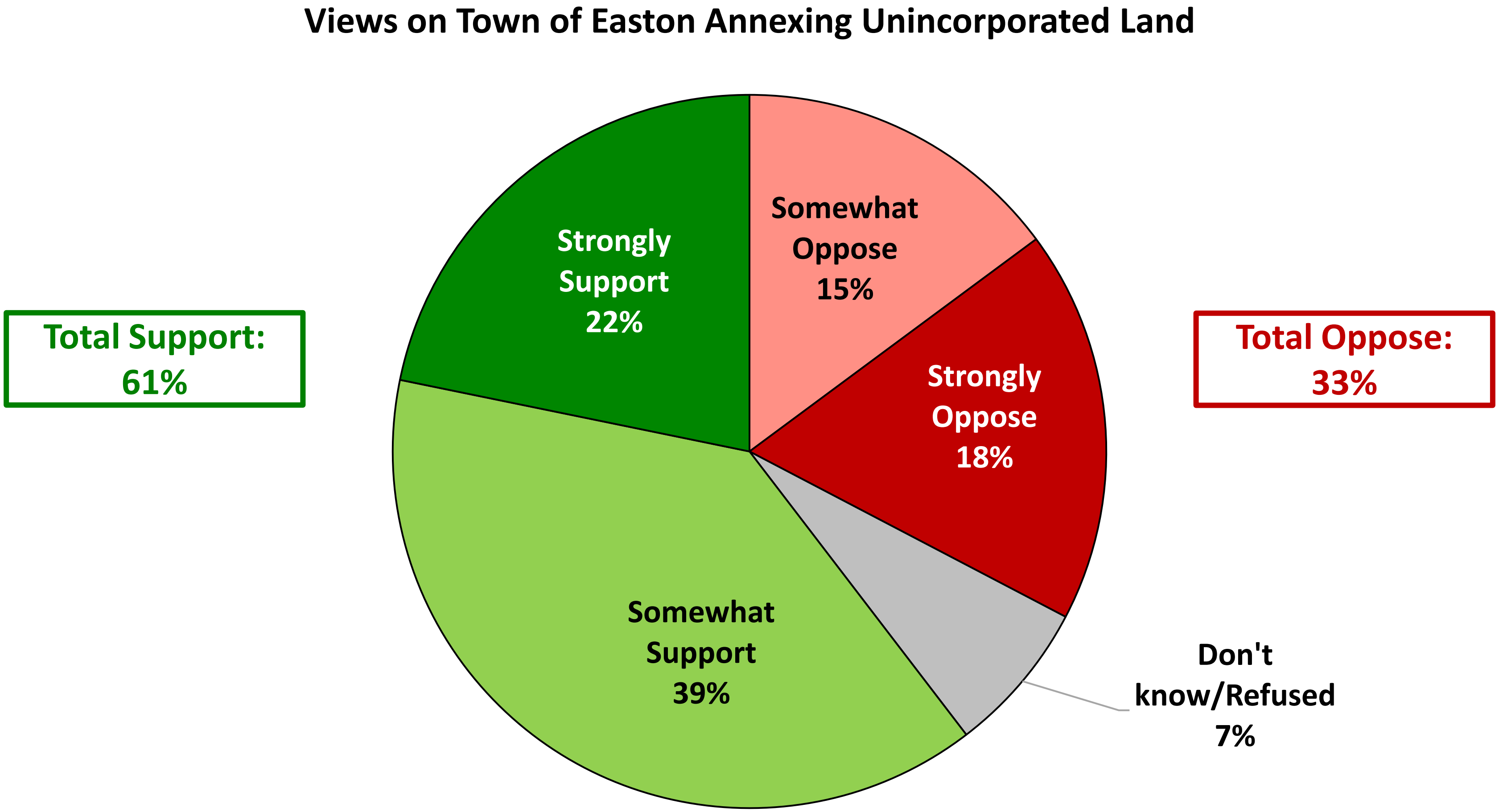
Strongly Favor Housing Proposals by Region, Gender/Age, and Homeownership Status	Total	Easton	Unincorp / Other	Younger Men	Older Men	Younger Women	Older Women	Own	Total Non - owner
Require developers to set aside a certain number of their units as below-market price housing.	***36***	40	33	27	36	43	36	33	43
Reduce government fees and regulatory barriers that homebuilders and developers face when building new homes.	***26***	29	25	31	34	27	17	25	29
Change zoning laws in the town of Easton to make it easier to build multi-family homes, like townhomes, duplexes, or triplexes.	***23***	27	20	19	30	23	19	20	28
Provide tax breaks to developers who build below market rate housing.	***22***	26	19	27	22	22	22	21	26

Q.10 Next, I am going to read to you some proposals intended to increase housing opportunities for Talbot County residents. For each one, please tell me whether you (ROTATE) favor or oppose that proposal.

AMERICAN STRATEGIES

Majority of Residents Support Annexation

Though most do not feel strongly one way or another



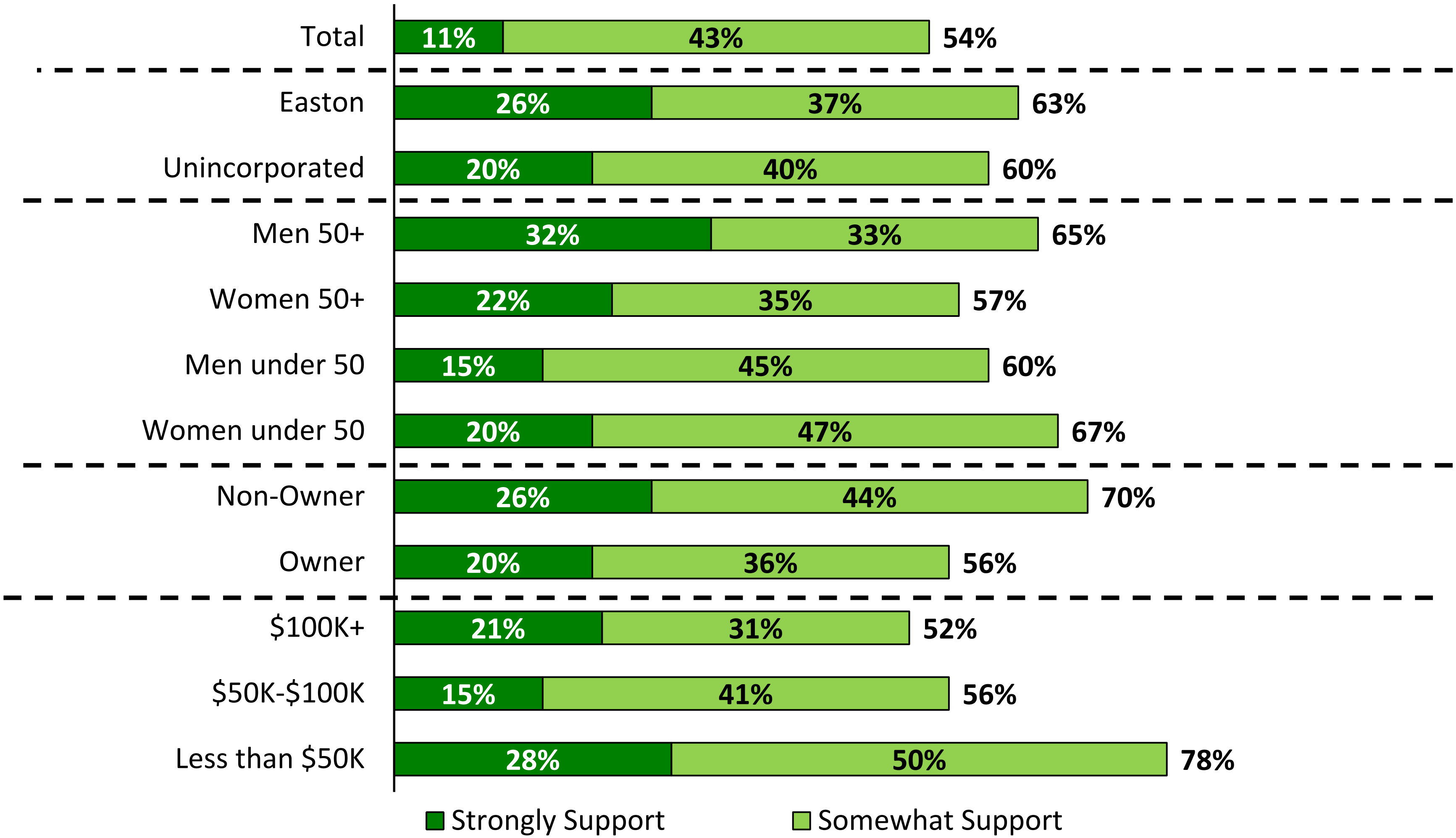
Q.11 Another way to deal with the housing issue in Talbot County is to expand the Easton town limits to include vacant county land near existing town boundaries. This would increase the amount of land available for housing opportunities. Do you generally (ROTATE) support or oppose allowing the Town of Easton to annex unincorporated land from Talbot County?

AMERICAN STRATEGIES

Majority of Residents Support Annexation

Highest among younger women, non-property owners, lower income, Easton residents

Town of Easton Annexation By Region, Gender/Age, Homeownership Status, and Income

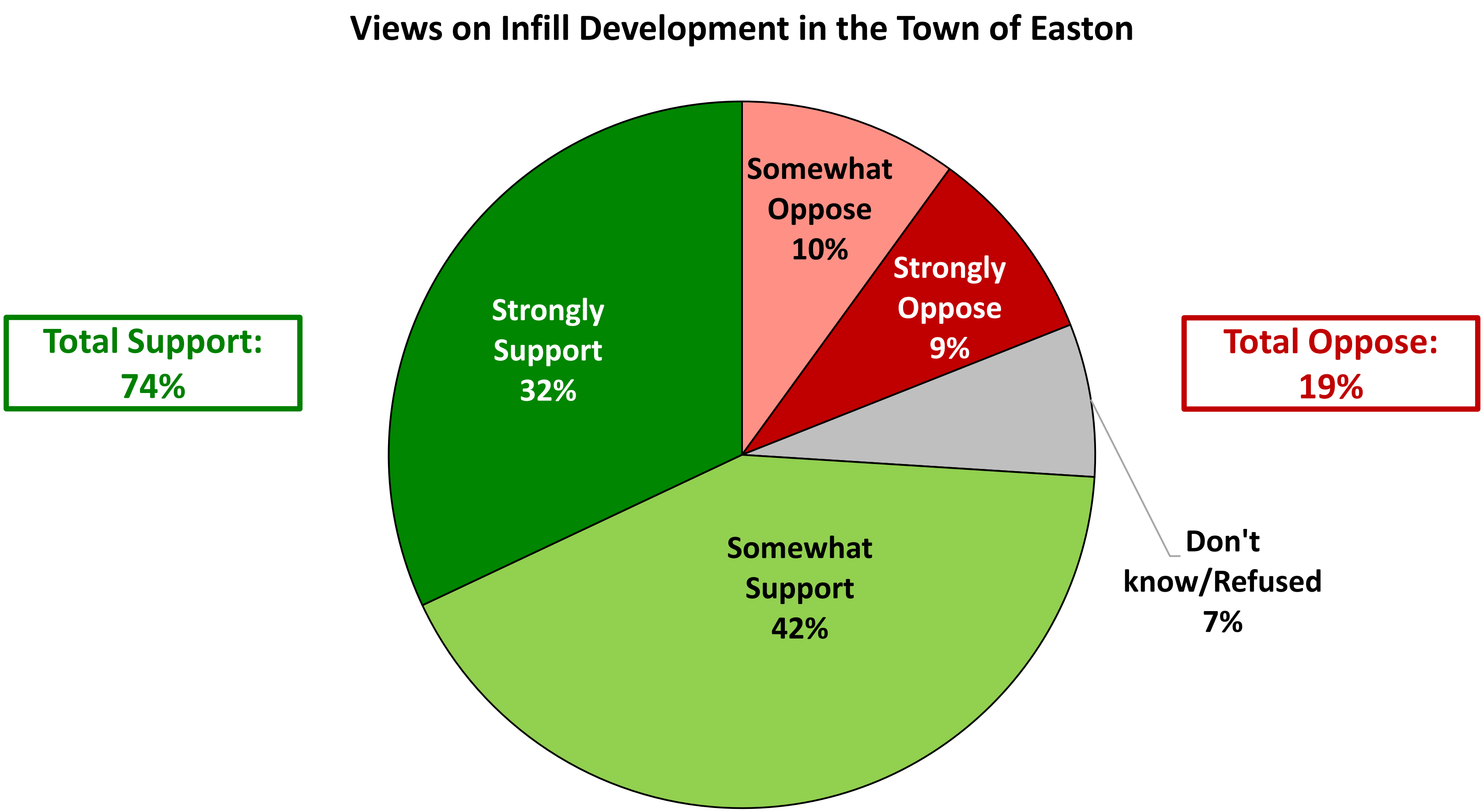


Q.11 Another way to deal with the housing issue in Talbot County is to expand the Easton town limits to include vacant county land near existing town boundaries. This would increase the amount of land available for housing opportunities. Do you generally (ROTATE) support or oppose allowing the Town of Easton to annex unincorporated land from Talbot County?

AMERICAN STRATEGIES

Vast Majority Support Infill Development

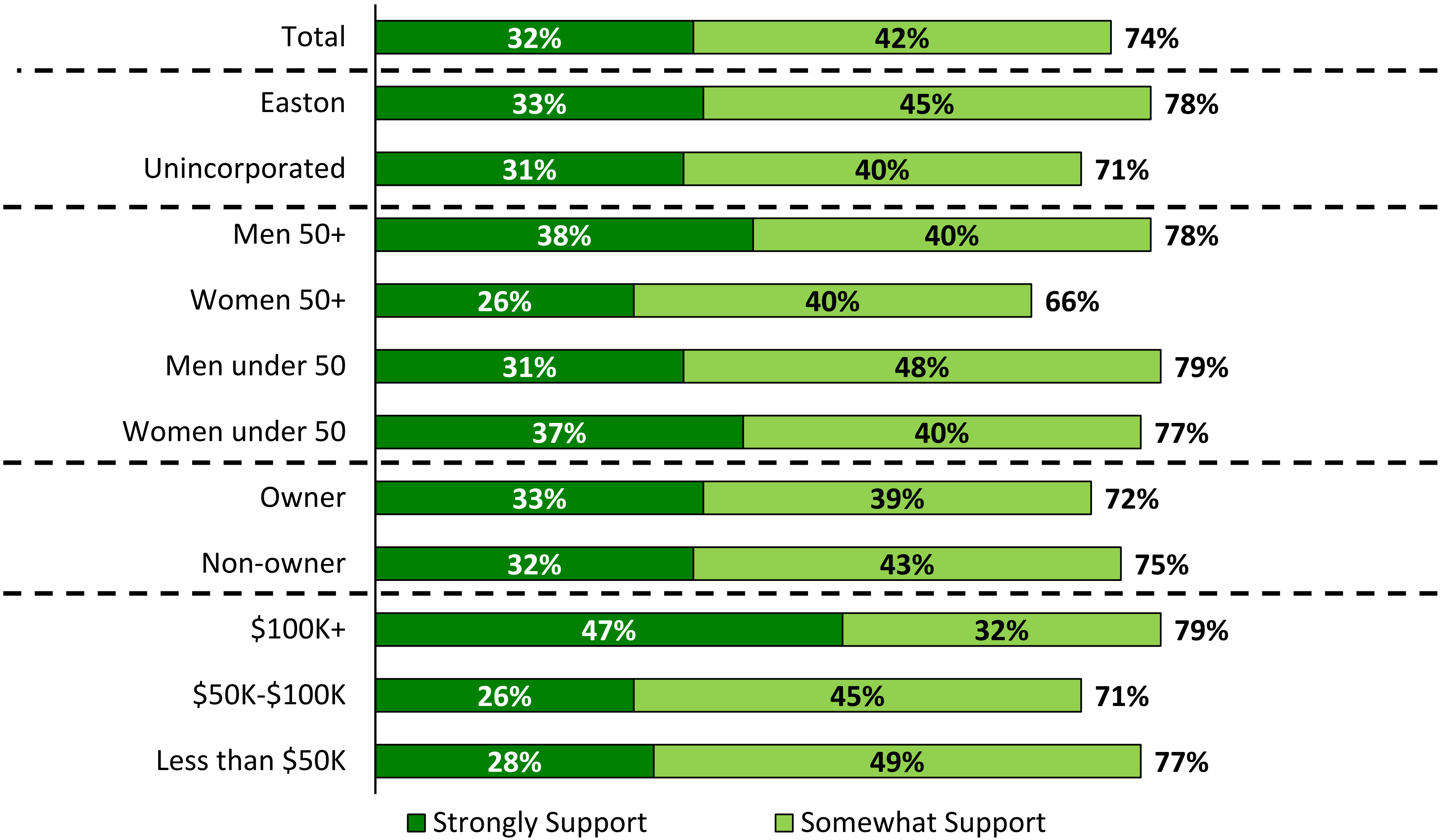
A plurality approve while lacking intensity



Q.12 Another way to deal with the housing issue in towns and villages is to make use of something called infill development, which converts vacant lots and decaying properties into homes and businesses. (PROMPT) In general, do you (ROTATE) SUPPORT or OPPOSE the use of infill development in the Town of Easton?

Easton Residents, Men, Higher-Income Households Most Supportive of Infill Development

Support for Infill Development
By Region, Gender/Age, Homeownership, and Income



Q.12 Another way to deal with the housing issue in towns and villages is to make use of something called infill development, which converts vacant lots and decaying properties into homes and businesses. (PROMPT) In general, do you (ROTATE) SUPPORT or OPPOSE the use of infill development in the Town of Easton?

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Comparison of the Town of Easton's Draft Inclusionary Housing Ordinance with other jurisdictions

	EASTON	QUEEN ANNE'S COUNTY	ANNAPOLIS	MONTGOMERY COUNTY	FREDERICK	LOUDOUN COUNTY, VA
Name	Inclusionary Housing Ordinance (Draft)	Moderately Priced Dwelling Unit Program	Moderately Priced Dwelling Unit Program	Moderately Priced Dwelling Unit Program	Moderately Priced Dwelling Unit Program	Affordable Dwelling Unit Program
Applicability	1. New construction or substantial rehabilitation: 5 or more units. 2. Adaptive reuse or nonresidential to residential conversion: 10 or more units.	1. Inside of growth areas: 20 or more lots or units. 2. Outside of growth areas: 60 or more lots or units.	Development or redevelopment of 10 or more dwelling units.	Residential developments of 20 or more units at one location.	1. Residential development projects of 25 or more units. 2. Mixed-use projects with a residential component of 25 or more units.	Sites that are served by public water and sewer and which yield 24 or more units at an equivalent density greater than one unit per forty thousand square feet.
Exemptions (Excluding Grandfathered Applications)	Accessory Dwelling Units are exempt from the provisions.	Not included in the legislation.	1. The conversion of a residential rental property to a condominium property if the condominium was registered with the Secretary of State prior to March 13, 2006.	Not specified in the legislation.	1. Development projects undertaken by the City. 2. Projects undertaken by a nonprofit housing development organization or a continuing care retirement community if at least 12.5% of the persons renting or purchasing units would be considered eligible to buy or rent an MPDU.	1. Multi-family dwellings of four stories or more with an elevator. 2. Applications which deal exclusively with issues of: building relocation, site access, stormwater drainage, or other engineering or public facility issues; the preservation of historic structures; wetlands; child care facilities; or changes in the size of units, a reduction in the number of units, or which request the addition of a non-residential special exception use.
Required Minimum Percentage of Inclusionary Units	10%	10%	Proportionate to the approved development density and is a variable percentage that is not less than 15%.	1. 15% where at least 45% of the census tracts in the planning area have a median household income of at least 150%. 2. 12.5% for any other planning area. 3. The percentage is inclusive of the increased units from the optional density provisions (bonus density).	1. 12.5% 2. The Council may establish a higher base requirement, up to 15%, as part of a master plan approval.	1. SFD & SFA: 12.5%, inclusive of the density bonus units. 2. MF: 6.25%. 3. The percentage is inclusive of the increased units from the density bonus.
Eligibility	100% of the Talbot County MFI, adjusted based on Easton's MFI. For-Sale units: 50% units required for median income households (up to 80% MFI) and the remainder to moderate-income households (up to 100% MFI). Rental Units: 50% units required for very low-income households (up to 50% MFI) and the remainder to low-income households (up to 60% MFI).	1. 80% of MHI. 2. Must not have owned any residential property during the previous five years.	1. 100% or less than the Baltimore MSA MFI, adjusted for family size. 2. City resident or employed by the City within the past 12 mos.; employee of the City; City public school teacher or staff member; employee of the Naval Academy; resident of the County and is under a disability.	1. Garden Apartment or High-Rise Rental: 65% of the AMI. 2. Purchase or High-Rise Rental: 70% of the AMI. 1. Members of a household must not have owed any residential property during the previous 5 years (may be waived for good cause).	1. 30% to 80% of the Washington MSA median household income. 2. Priority given to persons who first live within the City, then second, work within the City.	1. For-sale units: 30%-70% of Washington MSA median income. 2. Rental units: 30%-50% of Washington MSA median income.

	EASTON	QUEEN ANNE'S COUNTY	ANNAPOLIS	MONTGOMERY COUNTY	FREDERICK	LOUDOUN COUNTY, VA
Control Period	1. For-sale units: 20 years. 2. Rental Units: 30 years.	1. For-sale units: 15 years. 2. Rental units: 25 years. 3. Covenants recorded in the County land records. 4. Units sold during the control period reverts to a new control period.	1. For-sale units: 30 years. 2. Rental units: 99 years. 3. Units sold during the control period reverts to a new control period.	1. For-sale units: 30 years. 2. Rental units: 99 years. 3. If a for-sale unit is sold within 30 years after its original sale, the unit must be treated as a new sale and a new control period must begin on the date of the sale. 4. MPDU Agreement recorded in the land records is required.	1. 30 years. 2. MPDU Agreement is recorded in the land records of Frederick County with assurance that the City may create a lien to collect a portion of the sale price or the foreclosure sale price that exceeds the approved resale price.	
Cash-In-Lieu	Permitted, with approval by the Town Council and based on specific considerations, for the adaptive reuse or nonresidential to residential conversion of 10 or more units.	Permitted based on specific PC findings (dedication is impractical based on site physical characteristics, public benefits outweigh the benefits of constructing on site, etc.).	Not permitted.	1. Developments between 11 and 19 units require a payment to the Housing Initiative Fund. 2. An alternative payment agreement may be approved by the Director instead of building some or all of the required for-sale units with the funds placed in the Housing Initiative Fund and upon specific findings.	1. Permitted for all or a portion of the required units. 2. The density bonus cannot be applied if payment is made in lieu of building the units.	Permitted for developments which contain only SFD units.
Cash-In-Lieu Fees	Initially established by ordinance as flat fees based on the average market rate unit price (range = $3,000 to $7,500), as amended by the Council. The draft ordinance gives the Town Council the ability to establish fees through alternative calculation methods.	Difference between median price of same size units sold in the prior year and maximum allowable price of an MPDU unit.	Not permitted.	The payment in lieu of satisfying all the required units is 3% of the sale price of each market rate unit in the development. A payment made in partial satisfaction of the required units is adjusted based on the percentage of required units provided.	$16,100 per unit.	100% of the construction cost of a prototypical SFD affordable dwelling unit based on the number of bedrooms provided within the predominate market rate units in the development. The cash in lieu fee is adjusted by the CPI at the time the actual contribution is transferred to the County.
Other Alternatives	1. Build off-site and sell one and one-half the required number of units. 2. Purchasing land in the County and donating to a qualified housing organization to build one and one-half the required number of units. 3. Consideration given for other unique or innovative proposals.	1. Off-site option approved by PC based on access to public amenities and surrounding density and land use compatibility. 2. Donations of on-site or off-site land if the land is suitable for construction. The value of the land must be equal to or greater than the value of the fee-in-lieu payment.	The design, construction, pricing or amenity package may be eliminated or modified by the Department of P&Z if it lessens the eligibility of eligible persons to qualify.	1. Allows an applicant to build high-rise units at another location. 2. Allows an applicant to transfer land to the County if the value transferred is at least equal to the value of the units not constructed by the applicant. The land must be used to produce or preserve moderately-priced units or can be sold with the funds allocated to the Affordable Housing Acquisition and Preservation CIP portion of the Housing Initiative Fund. 3. If a waiver of impact fees is granted, the applicant cannot propose an alternative compliance.	Government or non-profit agencies may buy or lease up to 20% of the units as they become available.	1. The percentage of affordable units, density bonuses, and phasing requirements can be modified upon approval by the Board of Supervisors based on specific criteria but the affordable units can be no less than 5%. However, the ratio of affordable units proposed to the total density increase is no less than 12.5:20% for SFD and SFA and 6.25%/10% for MF. 2. The Board of Supervisors may approve a combination of affordable dwelling units, land, or contributions equivalent to providing the required number of affordable units.

	EASTON	QUEEN ANNE'S COUNTY	ANNAPOLIS	MONTGOMERY COUNTY	FREDERICK	LOUDOUN COUNTY, VA
Incentives (Including Density Bonuses)	1. Density bonus of 20% from the base zoning district density limits. 2. The developer can receive up to a 20% relief from bulk requirements and parking standards. 3. For adaptive reuse and nonresidential to residential conversion: a) Impact fee subsidies from the Housing Fund b) Reduction in capital charges. c) Real property tax abatement for developers that provide at least 20% inclusionary units.	1. Density bonus of 10%. 2. County Commissioners may subsidize, adjust, or exempt impact fees.	1. For-sale units: 15% density bonus. 2. Rental units: 10% density bonus. 3. The P&Z Director can provide up to 20% relief from bulk, parking, and loading development standards.	1. Optional density bonus provisions are allowed in certain zoning districts. The optional density provisions permit additional building types and more flexibility in dimensional standards other than those allowed under the standard method of development when units are provided above the minimum required. Ex: In a residential detached zone, an applicant who voluntarily provides at least 12.5% units in a development with 20 or fewer dwelling units may use the optional method development standards Ex: In Commercial/Residential zones (mixed-use), the Floor Area Ratio (FAR)\ for residential density can be increased for increases in units above 12.5%. If 100% of the units are inclusionary, the total FAR (nonresidential and residential) is exempt from limits provided the maximum residential density does not exceed 2.5 FAR	1. A sliding scale density bonus is allowed if the developer constructs more than the minimum required of units, but no more than 22% over the maximum density.	1. SFD & SFA - 20% density bonus. 2. MF - 10% density bonus. 3. Maximum 90-day review time for final site plans, preliminary subdivisions or record plats. 4. Application fee waivers for developments where the applicant proposes a Concept Development Plan Amendment only in order to provide affordable dwelling units which are otherwise exempt. 5. Review of final site plans, preliminary subdivisions, or record subdivision plats processed within 90 days provided that such plans and plats substantially comply with all ordinance requirements when submitted (time does not include the applicant's time for revisions or modifications).
Maximum Sales Price	See examples included in the Council's packet.		Set annually and assumes market rate interest with no more than 30% of the annual gross household income applied towards the cost of housing.	The sale price, including closing costs and brokerage fees, must not exceed an applicable maximum sale price established from time to time by the County Executive.	Established by the Board of Alderman and adjusted periodically based on the CPI percentage change.	The sales prices for affordable housing units provided shall be in accordance with the rules and regulations governing such programs.
Maximum Rent	See examples included in the Council's packet.		Rental rates are recalculated yearly and capped at 100% of HUD's fair market rents if the property owner pays all utilities, and at 80% of fair market rents if the property owner does not pay all utilities.	1. The rent for any unit, including surface parking but excluding utilities when they are paid by the tenant, must not exceed a maximum rent for the unit set by regulations. 2. Different rents must be set for units when utility costs are paid by the owner and included in the rent. 3. Different rents may be set for age-restricted units. 4. Different rents also may be set for high-rise rental units.	Established by the Board of Alderman. Two different rates based on whether the renter pays utility costs. Rates include parking.	The rents for affordable housing units provided shall be in accordance with the rules and regulations governing such programs.
Resale Restrictions	A subordinate shared appreciation loan agreement is required at the time of closing in favor of the Town	Cannot be resold for a price greater than the original selling price plus a percentage of the selling price based	The initial difference in value between the purchase price and the real market value is paid to the City unless the	A purchase and sale agreement and any deed or instrument conveying title must acknowledge that the owner	Sales during the control period: Cannot be resold for a price greater than the original sales price plus a	Not specified in the legislation.

	EASTON	QUEEN ANNE'S COUNTY	ANNAPOLIS	MONTGOMERY COUNTY	FREDERICK	LOUDOUN COUNTY, VA
	of Easton. Net proceed rules will need to be established.	on the CPI, value of improvements, and allowance for closing costs. Sales after the control period: If the resale price exceeds the sum of the above, the seller contributes to the County Housing Fund 50% of the difference, which can be adjusted so the seller retains at a minimum $10,000.	purchaser owns and occupies the unit for at least 30 years; the seller keeps the net proceeds.	cannot sell the property until they have notified the Department that the unit is for sale, the Department has notified the owner they do not intend to buy the unit, and the Department has notified the owner of the maximum resale price. When a deed or other instrument conveying title to an MPDU is recorded in the land records, the grantor must cause to be filed in the land records a notice of sale for the benefit of the County in the form provided by state law. Resale requirements during the control period and first sale requirements after the control period are similar to Frederick's provisions.	percentage of the unit's price based on the CPI, fair market value of improvements, allowance for closing costs, and a reasonable sales.commission Sales after the control period: If the resale price exceeds the sum of the above, the seller contributes to the City Housing Fund 50% of the difference, which can be adjusted so the seller retains at a minimum $10,000.	
Eligible Housing Fund Expenditures	Not included in the draft legislation.	Not Specified in the legislation. The Housing Department provides grants or loan funding for housing rehabilitation and emergency home repair and manages the Critical Workforce Mortgage Program.	Housing trust funds are used for the following: 1. Purchase land or buildings for other affordable housing to persons that meet the eligibility criteria 2. Contribute to settlement expense, down payment, and mortgage write-down assistance to eligible persons or households 3. Construct for-sale units 4. Purchase and/or rehabilitate rental housing for conversion to home ownership 5. Rehabilitate residential units 6. Match other state or federal housing programs 7. Pay for administrative costs 8. Contract with nonprofit developers for development of housing units for sale 9. Grant rental assistance to eligible persons or households.	Housing Initiative Fund payments cannot be used to reduce the annual county payment to the fund, must be deposited in the Affordable Housing Acquisition and Preservation CIP, and must be used only to buy, build, or preserve more units in the same planning area as the development for which the payment was made (unless the payment is used in a Planning Area where at least 45% of the census tracts have a median household income of at least 150% of the County-wide median household income or the Director provides the Council with a notice of intent to use the payment in a different planning area).	Used for the following: 1. Offset the costs of operating the program. 2. To purchase and resell or rent the unit. 3. Address the affordable housing needs of low-income and special populations that don't qualify or may require supportive or service-enriched housing. 4. Provide homebuyer education, delinquency, and default counseling 5. Provide grants for the modification of units to promote accessibility. 6. Provide grants for the modification of units to promote energy efficiency and conservation. 7. Provide emergency loans to buyers to prevent mortgage defaults. 8. Address health and life safety hazards in owner-occupied housing.	Cash in lieu fees are placed in the Loudoun County Housing Trust Fund.
Management	TBD	Housing Department. The department maintains an eligibility list and certifies eligibility, including a	Department of Planning and Zoning, Division of Community and Economic Development. Staff grant and monitor	Department of Housing and Community Affairs. The Department maintains a list of eligible households.	Frederick Community Action Agency. The CAA maintains a list of eligible persons.	1. Department of Family Services. 2. Affordable Dwelling Unit Advisory

	EASTON	QUEEN ANNE'S COUNTY	ANNAPOLIS	MONTGOMERY COUNTY	FREDERICK	LOUDOUN COUNTY, VA
		completion of home ownership counseling. Points are awarded based on waiting time on the eligibility list, county residency, employment in the county, and qualification as a Critical Workforce Employee (emergency responders, law enforcement, and teachers). Department annually monitors the occupants of rental units.	certificates of eligibility.	The Executive by regulation establishes a buyer and renter selection system which considers household size, County residency, employment in the County, and length of time since the household was certified for the program. Eligible households will be notified when units are available for sale or rent and will be given an opportunity to buy or rent a unit during a 90-day priority marketing (60-day for resale price or renter vacancy) period in the order of their selection priority ranking.		Board.

Source: Department of Planning and Zoning, Town of Easton, MD

Date of Meeting: February 5, 2024

TOWN COUNCIL
INFORMATION ITEM

SUBJECT: **Attainable Housing Task Force**

WARD DISTRICTS: Townwide

STAFF CONTACTS: Lynn Thomas, Town Planner
Miguel Salinas, Director

PURPOSE: To establish a sixteen-member Attainable Housing Task Force (Task Force) to provide prioritized recommendations to the Town Council (Council) for the implementation of policies, regulations, and incentives to further attainable housing in Easton.

BACKGROUND: A joint workshop between the Town Council and Planning Commission was held on January 16, 2024 to discuss proposed zoning code amendments, several of which related to missing middle housing. At the conclusion of the discussion, the Council agreed to staff's suggestion to develop a Scope of Work for the development of a comprehensive strategy that furthers attainable housing in Easton. Outlined below is the proposed Scope of Work that is expected to be completed within a four-month timeframe.

A. Attainable Housing Task Force

Staff proposes establishing a sixteen (16)-member Attainable Housing Task Force to achieve the above-stated objective. The Task Force, with members nominated by the Mayor and appointed by the Council, would include:

- Two members of the Town Council
- Two members of the Planning Commission
- One member of the County Council
- One member of Easton Utilities
- One member of the Easton Affordable Housing Board
- One member of the Easton Economic Development Corporation
- One member of the Talbot County Housing Authority
- One member of the Mid-Shore Board of Realtors
- One member of a non-profit or for-profit housing organization
- One member of the architecture profession
- One member of an HOA Board
- One member of the business community
- Two at-large members

The Task Force will appoint two Co-Chairs. The Department of Planning and Zoning will provide staff support to the Task Force. The first five meetings will be open to the public with the opportunity for public comments at the end of every meeting. The final three meetings are breakout discussions involving task force members for the purpose of developing the objectives and strategies that will be forwarded to the Council.

Table 1: Tentative Meeting Schedule, Agenda & Participants

Meeting	Topic	Agenda
Meeting One	**Task Force Kick-Off**	**Introductions and Purpose of the Task Force** **Presentations:** Overview of the Affordable Housing Board and current housing programs; Town policies; the draft Inclusionary Zoning Ordinance; County recommendations from the 2015 Affordable/Workforce Housing Commission **Discussion:** Individual perspectives and concerns **Public Comment**
Meeting Two	**Understanding the Challenges**	**Presentation:** Demographic, workforce, and market overview, American Strategies survey **Discussion:** Zoning and Missing Middle Housing **Public Comment**
Meeting Three	**Balancing the Need Versus Housing Market Realities**	**Panel:** Housing organizations and real estate development **Discussion:** Attainable Housing Incentives **Public Comment**
Meeting Four	**Impact of Housing on Business Development and Retention**	**Panel:** Talbot County Economic Development Commission, Easton Economic Development Corporation, Talbot County Chamber of Commerce, Mid-Shore Regional Council, University of Maryland Shore Medical Center **Discussion:** Growth Areas **Public Comment**
Meeting Five	**Attainable Housing Best Practices**	**Presentation:** Salisbury Housing and Community Development, Queen Anne's Community Services, Anne Arundel County **Discussion:** Short- and Long-term housing policies **Public Comment**
Meeting Six	**Draft Task Force Recommendations**	Break-out session Report-outs
Meeting Seven	**Draft Task Force Recommendations**	Break-out session Proposed objectives and strategies
Meeting Eight	**Draft Task Force Recommendations**	Finalized proposed objectives and strategies

B. Workforce and Housing Market Assessment

Staff will conduct and analyze workforce and housing market intelligence prior to the second meeting of the Task Force. Workforce and housing intelligence will include, but not be limited to, the number of employees in the workforce earning less than 80%, 50%, and 30% of Easton's Median Family Income (MFI); census commuting patterns; a comparison of housing prices and rents versus MFI over a period of time; a comparison of new housing prices versus existing housing supply on the market; current availability of housing at various price points; and the current inventory of housing by typology. Staff is also considering administering a public sector employee survey that will include the Town of Easton, Talbot County Public Schools and the volunteer fire department.

C. Define the attainability issues

Staff will summarize the publics' perceptions of attainable housing, or the lack thereof, from the community input received from the housing-related questions from the comprehensive plan update and the 2022 American Strategies phone survey. Staff will also produce a gap analysis that determines the difference between prototypical housing construction costs by housing type and size in the Easton market versus affordable sales and rental prices. Additional data will include the calculation of affordable sales prices for new homes in the Easton market versus the median house sales price; the percentage of homes sold under calculated affordable sales prices; and the percentage of cost-burdened or severely cost-burdened households. Using this information, staff will define the top contributing factors to a lack of attainable housing.

D. Implement a community education and awareness program

Staff will develop a landing page to inform citizens of Easton and Talbot County on the issues of attainable housing, the Town's ongoing efforts to address housing issues and policies, and the Task Force activities. Staff will also host a community-wide event on the relationship between attainable housing and zoning. Through these outreach efforts, a diverse network of citizens will stay informed on the Town's efforts related to housing.

E. Develop Recommendations

The Task Force will develop policy, regulatory, and incentive recommendations to the Town Council to further attainable housing in Easton. The recommendations will be prioritized with an actionable plan for implementation.

ISSUES: The Scope of Work is expected to be completed within a four-month timeframe, or the end of May where the Task Force will submit its recommendations to the Town Council. The Task Force will be scheduled to meet every other week. If the Task Force agrees that additional meetings are needed to complete their Scope of Work, staff and the Task Force Co-Chairs will provide the Council an update on the progress of their work to date and the new timeframe for completion.

FISCAL IMPACT: There are no fiscal impacts with the exception of the gap analysis, which is a complex formula that determines the difference between prototypical housing construction costs by housing type and size in the Easton market versus affordable sales and rental prices. Staff is exploring assistance from an experienced housing, development, and finance advisory firm to conduct the gap analysis. Assistance will be selected if costs can be absorbed in the Department of Planning and Zoning's current budget FY 24 budget. Further, the data summaries, gap analysis, Task Force recommendations, survey results and other products derived from the Scope of Work will benefit other ongoing planning efforts, including the update to the Comprehensive Plan, the East End Small Area Plan, and the ongoing inclusionary zoning effort.

Date of Meeting: February 6, 2023

PLANNING COMMISSION
INFORMATION ITEM

SUBJECT: **Draft Inclusionary Zoning Ordinance**

WARD DISTRICT: Townwide

STAFF CONTACT: Miguel Salinas, Director, P&Z

PURPOSE: To discuss the components of a draft Inclusionary Zoning Ordinance (Attachment 1).

BACKGROUND:
According to the annual Income Limits Summary published by the United States Department of Housing and Urban Development (HUD), the FY 2023 Median Family Income (MFI) for Talbot County is $107,900.[1] The County's MFI is 16% higher than the average MFI for the eastern shore of Maryland (excluding Cecil County) and second only to Queen Anne's County.

HUD sets income limits that determine eligibility for assisted housing programs including the Public Housing, Section 8 project-based, Section 8 Housing Choice Voucher, Section 202 housing for the elderly, and Section 811 housing for persons with disabilities programs. HUD's Income Limits Summary Table for Talbot County (Table 1 below) includes income limit categories based on the MFI for Low Income, Very Low Income, and Extremely Low Income categories adjusted for family size.

Table 1: Talbot County Median Family Income and Income Limits Summary[2]

FY 2023 Income Limit Area	Median Family Income Click for More Detail	FY 2023 Income Limit Category	Persons in Family							
			1	2	3	4	5	6	7	8
Talbot County, MD	$107,900	Very Low (50%) Income Limits ($) Click for More Detail	36,200	41,400	46,550	**51,700**	55,850	60,000	64,150	68,250
		Extremely Low Income Limits ($)* Click for More Detail	21,700	24,800	27,900	**31,000**	35,140	40,280	45,420	50,560
		Low (80%) Income Limits ($) Click for More Detail	57,900	66,200	74,450	**82,700**	89,350	95,950	102,550	109,200

[1] This number is calculated using the 5-year 2017-2021 American Community Survey MFY estimate ($96,226) with an inflation factor adjustment based on the cumulative change in the national Consumer Price Index.
[2] Source: Department of Housing and Urban Development, Office of Policy Development and Research

Based on a brief analysis, staff concludes that the limited supply of market-rate homes for sale and apartments for rent in and around Easton are not attainable to a large percentage of our workforce. Below are two examples.

Example 1: A family of four making 80% of the MFI should spend no more than 30% of their monthly income on housing.[3] The current median price of a new or existing home for sale in the Town of Easton and its immediate area is $474,000.[4] Assuming a 3% down payment at an interest rate of 6.67% on a thirty (30) year, fully amortizing fixed rate mortgage, the total monthly mortgage payment (Principal and Interest only) is $2,957[5]. In comparison, a family of four in Talbot County making 80% of the Easton MFI ($79,164) can have a monthly affordable mortgage payment of $978 without being cost-burdened;[6] or a home at an affordable sales price of $181,500.

Example 2: A physical therapy assistant with an associate degree making approximately $54,000 per year can have a monthly affordable rental rate of $1,310[7]. However, available apartments at that rate are severely limited. A recent search on the real estate website zillow.com does not list any home for rent under that price. The website apartments.com lists only Chatham Village Apartments offering a 1-bedroom starting at $1,200 per month. For a graphic designer making $45,000 per year or a restaurant cook making $32,000 per year (less than 50% of the MFI, defined by HUD as very-low income), there are virtually no attainable market-rate apartments or homes on the market available for rent.[8]

There are also no opportunities for attainable housing in the unincorporated areas of Talbot County. The County's comprehensive plan places high value on the protection of the shoreline, waterway, and agricultural lands, equally important goals as attainable housing. The County's plan to accomplish this is twofold: restrict the extension of sewer outside of development and growth areas that surround the towns and to take a restrictive approach toward the use of land over which it has zoning authority.[9] To implement these objectives, the County's zoning regulations prohibit all housing types except single-family; the zoning districts are characterized as very low density; and the bulk requirements for each lot include large minimum lot sizes and low maximum lot coverage requirements. The end effect is housing segregation due to the cost of land and development supporting only higher-end housing in the unincorporated areas of

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[3] The 30% is adjusted for property taxes, HOA fees, mortgage insurance premiums, utility costs, and an allowance for typical maintenance and repairs.
[4] The median was based on a recent search by staff on the real estate market website zillow.com.
[5] The interest rate is based on the Freddie Mac Weekly Mortgage Survey. A more typical 10% down payment results in a monthly mortgage payment of $2,744.
[6] The monthly affordable mortgage payment is based on 30% of a family of four making 80% of the MFI, after subtracting utility costs, real property taxes, mortgage insurance premium and a maintenance and repair allowance. Utility costs are derived from the Talbot County Housing Commission's average monthly utility allowance of housing choice voucher recipients; the property tax is based on a standard factor of 1.243 of the market price of the unit; and the maintenance and repair allowance is based on a 3-bedroom home at $25 per bedroom.
[7] The monthly affordable rental rate is based on 30% of a family of one making 80% of the MFI.
[8] Wages are based on the 2021 Maryland Occupational Employment and Wage Estimates.
[9] This policy is overridden for failing septic systems.

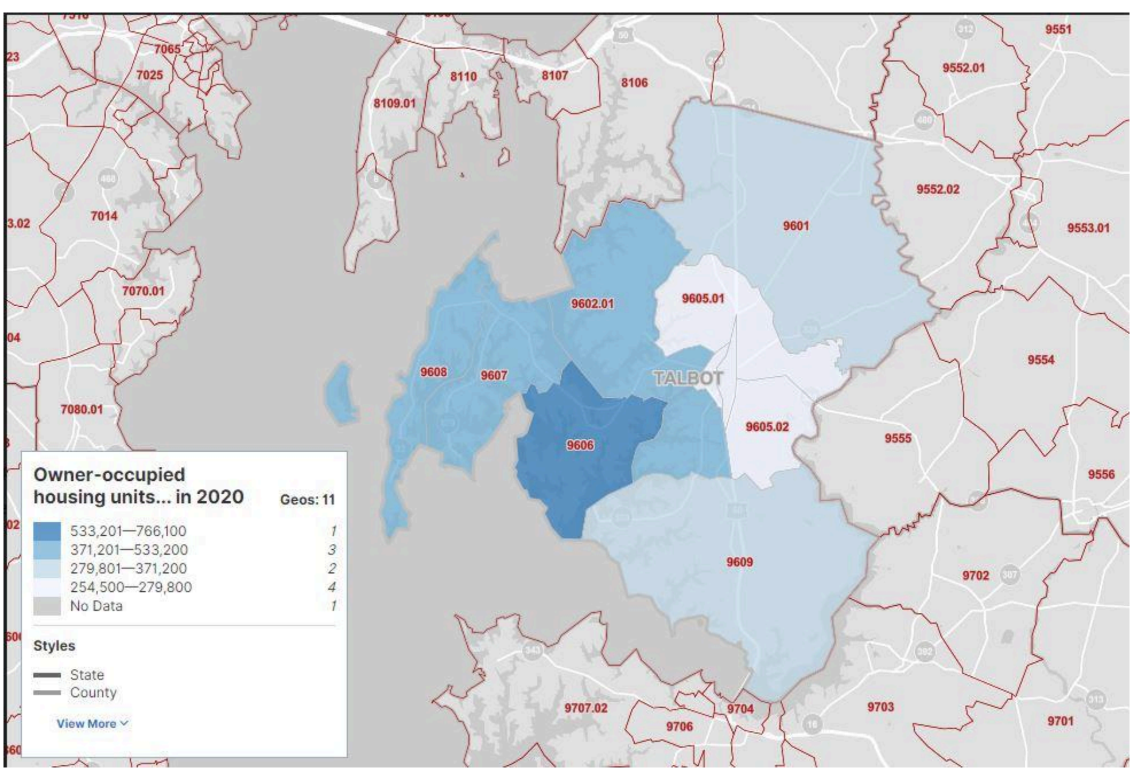
Talbot County. And as the graphics show below, housing segregation is the door to other types of segregation (see Graphics 1, 2, and 3 below).

As for the remaining towns outside of Easton, there are extremely limited areas for future growth and development adjacent to Oxford and St. Michaels. While Lakeside at Trappe, the new development in the Town of Trappe, will eventually provide approximately 2,500 homes, the approval of the Planned Unit Development by the Town of Trappe did not require any proffers for affordable or workforce housing.

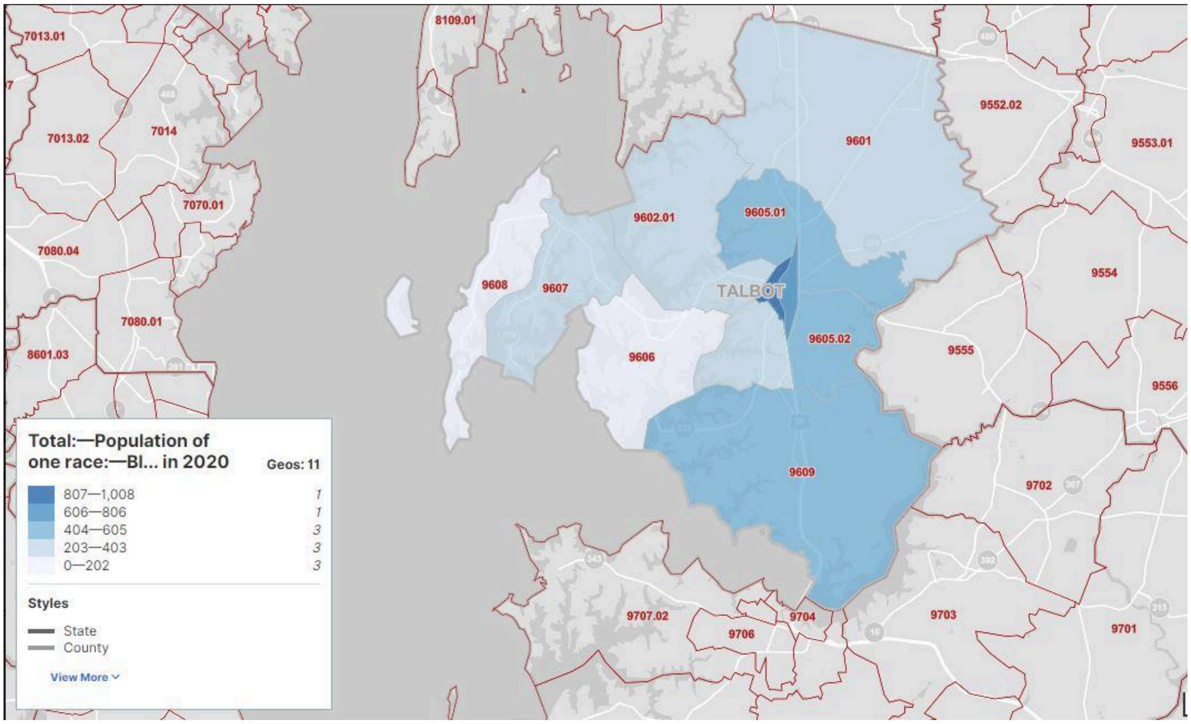
The Town of Easton is in the forefront of the current zoning reformation movement by adopting options and incentives for middle housing, such as triplexes, fourplexes, courtyard homes, cottage courts, and mansion apartments. However, infill options are currently limited. Habitat for Humanity Choptank has indicated that in 2024, the housing organization will run out of land to develop in Easton; the lots are too expensive to fit their model, with this occurring even though they receive 65 to 70 calls per month from people inquiring about eligibility. Where there is potential for infill development, private developers have to provide market rate housing to cover their costs due to limited density potential stemming from regulatory, infrastructure and site constraints (for example: historic district guidelines, limited space for off-street parking) and neighborhood opposition. Attainable housing opportunities in Easton from new greenfield developments are limited; the Town Code does not require attainable housing commitments from new development unless it's proffered from the developer.

The cumulative result of market forces, limited supply, and exclusionary zoning is that much of Easton's workforce has no choice but to live outside of Talbot County and commute into the Town of Easton for their jobs, primarily from Caroline and Dorchester Counties where housing is more affordable.

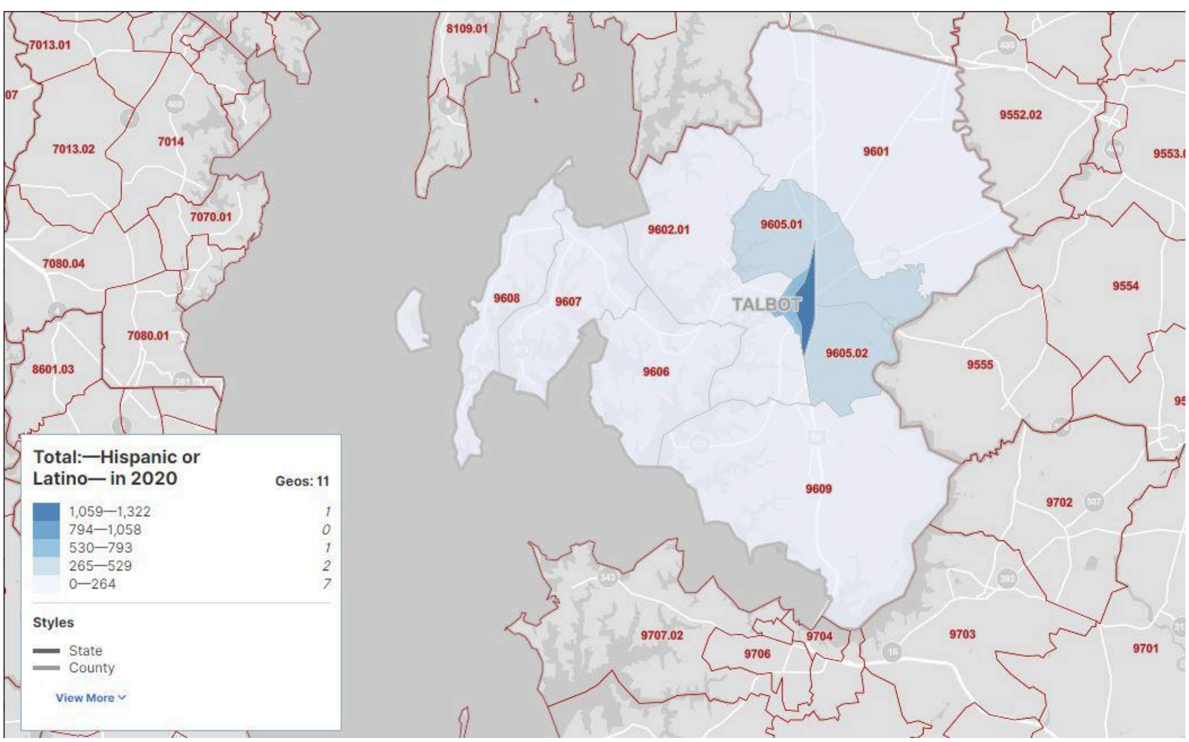
Graphic 1: Talbot County Median Value of Owner-Occupied Housing Units in 2020 by Census Tract



Graphic 2: Talbot County Black Population by Census Tract



Graphic 3: Talbot County Hispanic Population by Census Tract



Talbot County Smart Growth Survey

The lack of attainable housing is a concern to County residents. American Strategies, sponsored by the National Association of Realtors with support provided by the Mid-Shore Board of Realtors, designed and administered a telephone survey in June of 2022. The survey reached 325 adults, age 18 or older, who indicated they were registered to vote in Talbot County, Maryland (see Attachment 2 for a summary of their survey results).

The results of the survey indicated that residents are satisfied with their quality of life and they value the historic nature of Talbot's towns and villages and its natural resources, but they understand the need for additional housing – and in particular for more affordable housing for young people and those with lower incomes. Specific highlights are below:

- Residents are concerned about the County's affordable housing, where 51% say "creating more housing that is affordable to low and middle-income people" is a top priority
- A majority of Talbot residents consider the county's stock of available housing to be a "fairly big" or "very big" problem (60%)." Similarly, 66% consider housing affordability to be a problem in the county
- Looking at specific sectors of Talbot's housing market, 68% of residents believe there is too little housing for people with low incomes and for younger people who are just starting their careers. 60% also believe there to be too little housing for people who work in retail and service jobs, with the same number saying there are too few units available to rent full-time
- Talbot County residents are broadly supportive of government-led proposals to increase housing opportunities for the county
    - 67% percent of residents favor a proposal that requires developers to set aside sub-market rate housing for new projects and 62% favor providing tax breaks to developers who do so
    - Slightly smaller majorities are favorable toward proposals that change zoning laws to ease the process of building multi-family units (57%), and proposals that reduce government fees and regulatory barriers for builders (56%)

Draft Inclusionary Housing Ordinance

§ 3-114 of the Annotated Code of Maryland requires a housing element in comprehensive plans that addresses the need for affordable housing within a local jurisdiction, including for workforce and low-income housing. The law further states that local jurisdictions have a duty to affirmatively further fair housing through their housing and other programs and that the housing element of a comprehensive plan enacted or amended on or after January 1, 2023 include an assessment of fair housing to ensure that the local jurisdiction is furthering fair housing.[10]

[10] "Affirmatively further fair housing" means to take meaningful actions, in addition to actions aimed at combating discrimination, to overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to housing and opportunity based on protected characteristics. It also includes to take meaningful actions that, taken together: (i) address significant disparities in housing needs and access to opportunity; (ii) replace segregated living patterns with truly integrated and balanced living patterns; (iii) transform racially and ethnically concentrated areas of poverty into areas of opportunity; and (iv) foster and maintain compliance with civil rights and fair housing laws.

In addition to any other zoning and planning powers granted by the State of Maryland, § 7-401 of the Annotated Code of Maryland expressly gives a local legislative body the authority to enact local laws that:

1) impose inclusionary zoning, and award density bonuses, to create affordable housing units; and
2) restrict the use, cost, and resale of housing that is created under this authority to ensure that the purposes of affordable housing are carried out.

Thus inclusionary zoning is one land use regulatory tool that can be used to further fair and attainable housing policies in local jurisdictions. Inclusionary zoning refers to zoning ordinance requirements that new residential development must include a percentage of its units to be built to accommodate affordably priced dwelling units, either for rental or home ownership. The control period, or time in which the units must remain available to households below a certain income level, typically varies from 20-99 years depending on ownership versus rental unit type.[11] Several Maryland jurisdictions have passed inclusionary zoning ordinances, including the counties of Montgomery and Queen Anne's, and the cities of Annapolis, Frederick and Baltimore.

Given the many challenges that the Town of Easton and Talbot County face in the provision of attainable housing, the adoption of an Inclusionary Zoning Ordinance for the Town of Easton is one way to respond to the crisis and add another tool in the toolbox of fair, equitable and affordable housing efforts currently undertaken by the Town.

The Inclusionary Zoning Ordinance for Council consideration was drafted after a review of existing ordinances in the Maryland jurisdictions of Annapolis, Queen Anne's County, and Montgomery County and in Loudoun County, Virginia and East Palo Alto, California.[12] Staff also consulted with Maryland Affordable Housing Coalition, the Virginia Housing Alliance, and the National Low Income Housing Coalition during the drafting of the ordinance. The Chair of the Easton Affordable Housing Board also reviewed the draft ordinance prior to Council distribution. The draft was discussed at three Town Council workshops in 2023[13]. Subsequent to the July workshop, the Council agreed to staff coordination of a Housing Work Group to review the draft Inclusionary Zoning Ordinance discussed at the three Council work sessions last year.

The work group included Council Members Maureen Curry and Rev. Elmer Davis, Mayor Megan Cook, Town Manager Don Richardson, Town Attorney Sharon VanEmburgh, Miguel

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[11] Maryland Department of Planning, Common Practices and Examples:
https://planning.maryland.gov/Pages/OurWork/housing-element-mg/common-practices.aspx

[12] Loudoun County was chosen for its location outside of Maryland and its similarity to Fairfax County, Virginia's and Montgomery County, Maryland's inclusionary housing ordinances. East Palo Alto, California was chosen because of its unique approach the provisions and management of their program; an example of a response to California's Housing Element Law, enacted in 1969, that required that all local governments adequately plan to meet the housing needs of everyone in the community; and as a response to exclusionary zoning and severe shortages of affordable housing combined with a reduction of federal housing subsidies. Over 170 California jurisdictions have inclusionary housing ordinances on the books.

[13] The workshops were held on February 6, February 20, and July 17.

Salinas and Lynn Thomas from Planning and Zoning, Holly Dekarske from the Easton Economic Development Corporation, and Jim Bent from the Affordable Housing Board. The Housing Work Group met five times since July of last year and their work resulted in changes to the initial draft.

The updated draft is now ready for Planning Commission review and a recommendation to be forwarded to the Council prior to any introduction of legislation.

Below are brief descriptions of each section of the draft ordinance:

Section 1601: Purpose
Section 1601 acknowledges the housing problem in Easton due to rapidly increasing property values and the reduction in the availability of housing choices. The section also affirms the Town's commitment to addressing the issue, its commitment to a diverse and balanced community and the impact of an inadequate supply of attainable housing to attract and retain employers and maintain an adequate workforce.

Section 1602: Definitions
Section 1602 contains definitions of terms used in the draft ordinance. The Section establishes definitions for affordable rental rates and monthly affordable mortgage payments and establishes definitions for Very Low-Income (0-50% MFI), Low-Income (up to 60% MFI), Median-Income (up to 80% MFI), and Moderate-Income Households (up to 100% MFI). Note that the definition of Median Family Income states that the annual County MFI published by HUD will be adjusted each year by the Affordable Housing Board based on the Town of Easton's median income.

Section 1603: Intent
Section 1603 establishes the intent of the ordinance; namely to provide attainable housing, mitigate the impact of market rate housing on attainable housing due to limited supply, and promote the integration of attainable housing with market rate housing.

Section 1604: Authority
Section 1604 cites the section of the Annotated Code of Maryland that gives the authority to local jurisdictions to enact inclusionary housing regulations and award density bonuses to further attainable housing.

Section 1605: Applicability
Section 1605 establishes that the regulations apply to all residential developments which are the subject of a development site plan, preliminary plat, or building permit, whichever comes first.

Section 1606: Exemptions
Section 1606 exempts from the regulations any housing that is developed with less than 15 dwelling units, accessory dwelling units, cartian projects undertaken by housing organizations or a continuing care retirement community, projects undertaken by the Town of Easton, and projects developed under the Low-Income Housing Tax Credit Program.

Section 1607: Inclusionary Zoning Requirements

Section 1607 establishes when a 10% inclusionary zoning requirement is required: when residential development is proposed of 25 or more units for ***new construction* or *substantial rehabilitation*** of existing structures and when residential development is proposed of 30 or more units for ***adaptive reuse*** or the ***conversion of a nonresidential use to a residential use***. This difference is to recognize the potential increased costs for adaptive reuse, infill development, and redevelopment.

Below are additional elements of Section 1607:

A. When inclusionary zoning is required for residential developments that include for-sale units, the for-sale Inclusionary Units are targeted towards median-income and moderate-income households. When Inclusionary Units are required for residential developments that include rental units, the rental Inclusionary Units are targeted towards very low-income and low-income households. The reason for the different target incomes is the assumption that households in the low and very-low income range have more limited resources for down payments and housing costs associated with home ownership besides mortgage payments, including housing repair and maintenance.
B. If only one Inclusionary Unit is required, then the homes shall be targeted towards the lower range of household incomes.
C. Fractional units are required to be rounded up to one full unit.
D. Calculations of the required number of units are based on the number of units exclusive of any additional units proposed by the developer under the density bonus provisions of the ordinance.
E. Developers cannot circumvent or avoid the Inclusionary Zoning Ordinance requirements by piecemealing or phasing developments.
F. Provisions are outlined for the tracking of the required Inclusionary Units for each building permit application submitted.
G. Developments that propose between 15 and 24 new dwelling units for new construction or substantial rehabilitation, or between 15 and 29 new dwelling units for redevelopment, are not required to build Inclusionary Units; they are required to pay a Cash In Lieu Fee.

Section 1608: Inclusionary Zoning Incentives

Section 1608 establishes incentives for the developer. These incentives include:

A. For residential developments that require Inclusionary Units on the same site, the developer may receive up to a 20% density bonus above the maximum density allowed in the residential base zoning district (A-1, R-7A, R-10A, R-10M, CB, MXW).[14]
B. If all required Inclusionary Units are provided on the same site, the developer may receive a variance of up to 20% from the dimensional requirements (lot size, lot frontage, lot coverage, height, and setbacks) without having to receive approval from the Board of Zoning Appeals. The developer may also receive a 20% modification from the parking requirements. The flexibility is provided to accommodate more units on the site when the developer chooses to utilize the density bonus.

[14] Planned Unit Development, which is a discretionary floating district, may already allow for higher densities: 16 dwelling units per acre for PUD-General, 60 dwelling units per acre for PUD-Infill, and 30 dwelling units per acre for PUD-Redevelopment. The Planned Redevelopment Overlay District permits a density of up to 40 dwelling units per acre.

C. Projects shall receive: 1) a cash subsidy from the Affordable Housing Fund for the deferral of impact fees, provided the funds exist, and 3) a real property tax abatement if the developer provides at least double the number of Inclusionary Units than what is required in the Inclusionary Zoning ordinance.[15]
D.

Section 1609: Alternative Compliance Options
Section 1609 provides alternative compliance options, including:

A. Partnering with a qualified housing organization to build on-site Inclusionary Units or to partner with such organization to build off-site units within the Town limits provided the number of units provided is one and one-half times the required number of units. The preference is for the developer to provide the Inclusionary Units onsite so housing segregation is minimized, thus the one and one-half times the required number of units.
B. Purchasing land within the Town or the growth area and donating it to a qualified housing organization to build the aforementioned one and one-half number of required units.
C. For adaptive reuse or conversion of nonresidential to residential, when 30 or more dwelling units are proposed, the developer may provide a Cash In Lieu Fee, which would be based on the fees initially established by the Town Council.

Proposed off-site construction or Cash In Lieu Fees would be subject to certain conditions. The in lieu fees will be updated by the Affordable Housing Board on an annual basis, after the revised fees are approved by Town Council Resolution. Projects that choose this option are not eligible for the density bonus.

Section 1610: Inclusionary Housing Plan and Agreement
Section 1610 requires the developer to submit an Inclusionary Housing Plan with their residential development application (site plan, preliminary plat, building permit) for staff review. The plan describes how the development complies with the inclusionary zoning regulations, the Inclusionary Housing Guidelines (see Section 1612 below), and their marketing plan. The plan also describes how they will comply with all applicable fair housing and discrimination laws.

The Inclusionary Housing Agreement is a recorded legal document that ensures that all the requirements of the ordinance are satisfied. The specifics of the agreement are outlined in this section.

Section 1611: Percentage of Affordable Units
Section 1611 reaffirms the calculation of Inclusionary Housing units.

Section 1612: General Requirements for Inclusionary Units
Inclusionary Housing Guidelines are any requirements for implementation and administration of the Inclusionary Housing ordinance, as recommended by the Easton Affordable Housing Board and adopted by the Town Council. Adopted Inclusionary Housing Guidelines may include, but not be limited to, standards for determining household composition; income eligibility and prices

[15] The incentive for real property tax abatement is only available if the Town Council establishes such an abatement program.

for sale and rental of Inclusionary Units; income limit schedules; inclusionary housing costs or carrying charges; design guidelines; provisions of continued monitoring of tenant eligibility; and document templates. Guidelines may also specify the contents of the Inclusionary Housing Plan. The Guidelines are reviewed and updated on a regular basis.

Section 1612 establishes what minimum requirements must be included in the Inclusionary Housing Guidelines adopted by the Town Council..

Section 1613: For-Sale of Inclusionary Units
Section 1613 establishes that guidelines will be established by the Affordable Housing Board for the method of calculation of the selling price of for-sale Inclusionary Units. The section also establishes that: 1) the developer is responsible for the screening and qualification of the initial purchaser of a for-sale Inclusionary Unit, 2) the for-sale Inclusionary Unit must be the primary residence of the purchaser, and 3) the purchaser of a for-sale Inclusionary Unit is required to execute and consent to the affordability restrictions at the settlement of the property.

Section 1614: Rental of Inclusionary Units
Section 1614 establishes that guidelines will be established by the Affordable Housing Board for the method of calculation of the affordable rental rate for the rental Inclusionary Units. The section also establishes that: 1) the developer, property owner, or property manager is responsible for verifying household income eligibility, 2) the Easton Affordable Housing Board is the entity that establishes and updates the Affordable Rental Rate and notifies the property owner or manager of the new rental rates, 3) each residential development containing rental Inclusionary Units is subject to an annual compliance process which is specified in the Inclusionary Housing Agreement, 4) rental Inclusionary Unit tenants are subject to the same conditions of tenancy as other market-rate tenants occupying the same property, and 5) the initial lease term for the rental Inclusionary Unit is for one year.

Section 1615: Marketing of Inclusionary Units
Section 1615 requires the developer to market, rent and sell all Inclusionary Units and must notify the Affordable Housing Board and the Town when the Inclusionary Unit is available at the time the building permit is issued. For rentals, the property owner or manager must provide advance notice to the Affordable Housing Board and Town when there is an impending vacancy. The section also allows the developer to assign these responsibilities to a qualified housing organization.

Section 1616: Continued Affordability Requirements
Section 1616 establishes that all rental Inclusionary Units shall remain affordable for a period of no less than 30 years and that for-sale units shall remain affordable for a period of no less than 20 years. The continued affordability requirement would be embodied in a legally binding agreement, covenants, and/or a deed restriction. The section also gives the Affordable Housing Board an exclusive 30-day option to purchase any Inclusionary Unit when it’s offered for resale. Lastly, the section prohibits subletting or leasing of Inclusionary Units except to allow a

temporary rental of the Inclusionary Unit for good and sufficient cause. Leasing of Inclusionary Units must be approved by the Easton Affordable Housing Board under terms that may be specified in the Inclusionary Housing Guidelines.

Section 1617: Transfer of Development
Section 1617 establishes that all approved covered projects “run with the property” and are subject to the Inclusionary Zoning Ordinance.

Section 1618: Enforcement
Section 1618 refers to an unspecified area of the Town Code for enforcement of the ordinance.

Section 1619: Administration
Section 1619 establishes how Inclusionary Units are tracked on site plans, record final plats, and building permits. The section also requires the Affordable Housing Board to monitor activity under the ordinance and provide a report at least every 2 years to the Town Council.

ISSUES: Developer incentives, including property tax abatement and fee waivers or deferrals fees have definite revenue implications and a cost-benefit analysis is prudent.

Staff will need to identify where the final drafted language is inconsistent with the Town Code and propose revisions as necessary.

FISCAL IMPACT: The draft ordinance requires a significant expansion of time and responsibilities from the Affordable Housing Board, including but not limited to:

- Managing the Affordable Housing Fund
- Establishing the Cash In Lieu Fees and updating the fees on an annual basis
- Developing and updating the Inclusionary Housing Guidelines and document templates
- Developing and updating the design standards for Inclusionary Units
- Updating and annually posting the income eligibility requirements
- Calculating and updating the pricing and rents of for-sale and rental Inclusionary Units
- Monitoring tenant eligibility for rental Inclusionary Units
- Monitoring activity and providing regular reports to the Town Council

The administration of the program will also need dedicated housing staff to assist the Board with their responsibilities, develop and update the program’s website, and provide day-to-day management of the program. Maryland jurisdictions that have inclusionary zoning ordinances include Queen Anne’s County, which is managed by staff from the Division of Housing and Community Services as part of the Department of Community Services along with other housing programs including homeless assistance and prevention, rental code enforcement, workforce loans, and other special projects. The City of Annapolis inclusionary zoning ordinance is administered by the Office of Community Development under the Community and Economic Development Division. The Office includes a full-time Housing Affordability Specialist. The City of Frederick’s inclusionary housing program is administered by their Community Action Agency.

ATTACHMENTS:

1. Draft Inclusionary Zoning Ordinance, February 7, 2024
2. AMSTRAT - MD Talbot County Smart Growth Presentation
3. Inclusionary Housing Comparison table