

**Building on Properties Restricted Under
the Yard Sale Program
July, 2021**

Background

In 1997 the Public Facilities Department, now known as the Mayor's Office of Housing, initiated the *Yard Sale* program, through which lots considered to be non-buildable were sold to adjacent property owners. Lots sold through this program were deed restricted for use only as open space, parking or for addition(s) to existing structures. The program's objective was to provide additional ownership opportunities to neighborhood residents while efficiently and equitably removing these lots from public ownership. To date, MOH has sold roughly 598 parcels as part of the *Yard Sale* program.

Policy Objective: Enable Development of Yard Sale Parcels

The rising demand for housing has led many constituents to reevaluate the development potential of *Yard Sale* sites, and several owners have requested that the deed restriction on lots they purchased under the program be waived or amended to allow new development. This policy outlines the process and requirements by which MOH will amend deed restrictions on *Yard Sale* sites.

Policy and Procedures

The intent of this policy is to assure that there is community support for the change in use, to ensure that any development meets MOH affordable housing standards, and that the City secures a public benefit from the change.

Application Process

MOH may amend deed restrictions on parcels purchased under the *Yard Sale* program to further the City's goal of creating affordable housing. Parcel owners must submit a written request to MOH to amend the existing *Yard Sale* restrictions. The conditions under which MOH may approve a request are outlined below:

1. Homeownership developments of 1-3 units must restrict one unit to households earning 80% AMI or below. Those larger than three units must restrict one third of units to households earning between 80% and 100% AMI, with at least half restricted to 80% AMI or below. The affordability restriction for ownership units will have a term of 30 years with 20-year extension option to the City.

2. Rental development shall restrict one third of units to households earning 60% of AMI or below. The affordability restriction for rental units will be in perpetuity.
3. Affordable unit(s) must be provided on-site. The number of restricted units and any additional payment to MOH shall be determined according to the following formula, in which A= number of affordable units and T= total number of units: $A = 0.33 \times T$. If this calculation results in a remainder of 0.5 or above, an additional unit must be restricted. If the remainder is less than 0.5, additional payment to MOH shall be calculated based on the City of Boston Inclusionary Development Policy Zones ([d4e05875-9c82-4d23-adbb-417a12da4ceb \(bostonplans.org\)](https://content.boston.gov/sites/default/files/file/2020/09/DND%20Design%20Standards.pdf)).

Example: For a proposed project with 7 units

$$A = 0.33 \times 7$$

$$A = 2.31$$

Two units are required, and additional payment is calculated as follows:

$$\text{If in Zone A: } 0.31 \times \$380,000 = \$117,800$$

$$\text{If in Zone B: } 0.31 \times \$300,000 = \$93,000$$

$$\text{If in Zone C: } 0.31 \times \$200,000 = \$62,000$$

4. Affordable units must be comparable to market-rate units.
 - a. Affordable units cannot be stacked or concentrated on the same floors;
 - b. Affordable units must be consistent in bedroom count with the market rate units and have comparable square footage to market rate units in the rest of the project.
 - c. Affordable units must meet MOH design guidelines (<https://content.boston.gov/sites/default/files/file/2020/09/DND%20Design%20Standards.pdf>)
5. MOH does not support demolition of any existing homes in order to enable new housing development on any *Yard Sale* sites. If demolition is proposed, MOH may consider such proposals on a case by case basis, with deference to preservation of existing homes and the existing streetscape.
6. Developer must present letters of support from abutters and appropriate community groups. If the parcel is located in a neighborhood that has a working neighborhood association, then a letter of support from the neighborhood must be presented.
7. Developer must hold at least one public meeting to present plans to abutters and present evidence of notice period and recipients.

8. Condominium developments must structure condominium fees based on fair value of the units rather than square footage, and must adhere to MOH policy for affordable condominium fee structure (<https://www.boston.gov/departments/neighborhood-development/neighborhood-development-housing-policies>).

Plans that meet these conditions may be submitted to the Inspectional Services Department (ISD) for review, at which time they shall also be submitted to MOH.

Additional Requirements

- Affordable units shall be marketed in accordance with MOH Fair Marketing Program guidelines, and cannot be rented, sold or occupied by the owner of the *Yard Sale* parcel.
- The owner of the *Yard Sale* parcel must have abided by the terms of the original sale and maintained the parcel as originally proposed.
- The owner of the *Yard Sale* parcel must be current on property taxes on the subject parcel and all other property owned in the City of Boston, have no outstanding property violations with Inspectional Services, have no outstanding water and sewer bills, and be current in all obligations with the City.
- The owner of the *Yard Sale* parcel must not have any properties that are on the city's Problem Properties list.

MOH Review

The appointed MOH staff will review project plans when submitted concurrently with submission to ISD. MOH will also review documentation of the **Application** items listed above to ensure all conditions have been met. The Deputy Director for Real Estate Management & Sales shall make a recommendation to the Director of MOH for approval.

The following should be considered:

Programmatic and Community Considerations

- Do the developer and the proposal meet the conditions and requirements described above?
- Does the project have support from abutters and community groups?

Design Considerations

- Is the *Yard Sale* parcel large enough to be/have been buildable by itself? If so, an RFP of the lot may be required.

Income Restriction

For rental projects, the income restricted is for perpetuity. For ownership projects, the income restriction will be for a period of thirty years with a 20 year extension option to the City according to MOH's long-term affordability policy

(<https://drive.google.com/file/d/13lRbWKVL00y9VsVmTZ3rD4uUvZOIregv/view>).

Specific AMI levels for restricted units will be determined based on the **Application** Criteria outlined above.

This income restriction must be signed in order to secure a building permit, and will be monitored by the Mayor's Office of Housing. As part of this agreement, the owner is required to market in accordance with guidelines as established by the Affirmative Fair Marketing Program and the Boston Fair Housing Commission

(https://drive.google.com/file/d/0B_VQ5qYtwLheOGZlUkhsOXA1c3l5dkYyNF8wOFA5MGZtOUVr/view). For properties with less than five income restricted units, this entails advertising through the City of Boston Metrolist.