

## AFFORDABILITY COVENANT

This Affordability Covenant (the "Covenant") is made by **MILOT REAL ESTATE, LLC**, a Vermont limited liability company with a place of business in Williston, County of Chittenden and State of Vermont ("MRELLC").

### Background

1. MRELLC is the developer of a planned 52-unit multi-family residential building with two commercial units on the ground floor located at 17 Park Street in the City of Essex Junction, Vermont (the "Project").

2. Under the terms of the City of Essex Junction Development Review Board approval for the Project, twenty percent (20)% of the planned units in the Project (i.e., eleven (11) of the fifty-two (52) planned residential units) must meet the definition of affordable housing set forth in 24 V.S.A. § 4303, and must remain affordable for a minimum of 15 years.

3. The purpose of this Covenant is to set forth the conditions for the leasing of eleven (11) units in the Project as affordable units.

### N O W, T H E R E F O R E,

In consideration of the approval for the new units in the Project and other good and valuable consideration, MRELLC hereby agrees as follows:

Section 1. **Affordability Covenant**. For a period of fifteen (15) years from and after the date ~~of this Covenant~~ that the Project receives a Certificate of Occupancy ("CO"), MRELLC hereby covenants and agrees for itself and its successors and assigns that eleven (11) of the housing units in the Project, as are more particularly described in Exhibit A attached hereto, shall be ~~rented-maintained~~ as affordable units in accordance with 24 V.S.A. § 4303(1). As used herein, "affordable housing" shall be defined as follows:

(A) Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(B) Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

- (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or
- (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

**Commented [c1]:** It seems that MILOT intends for this to be kept in their portfolio as rental housing, but I do think we need to have a covenant that covers the housing IF they decide at some point to condominiumize this project (for example). This does not address that scenario.

Section 2. **Annual Reporting.** On or before December 31<sup>st</sup> of each year during the 15-year term of this Covenant described above in Section 1, MRELLC and its successors and assigns shall submit the following documents to the City of Essex Junction:

- (a) Submit a completed Affordable Housing Rent Reporting Form, a sample of which is attached hereto as Exhibit B; and-
- (b) Submit copies of the lease documents for all affordable housing units in the Project, or by random sampling as requested by the City of Essex Junction Community Development Department; or
- (c) In the event of the sale of a unit, documents evidencing compliance with Section 1(A) above.

Section 3. **Covenant Running With The Land.** The Covenants set forth herein shall run with the title to the Project, and shall be binding on MRELLC and its successors and assigns until the expiration of the 15-year term of this Covenant. Compliance with this Covenant shall may be included by the Development Review Board as a condition of approval and shall be a critical permit condition.

IN WITNESS WHEREOF, MILOT REAL ESTATE, LLC, by its Duly Authorized Agent has hereunto set its hand this \_\_\_\_ day of \_\_\_\_\_, 2024.

MILOT REAL ESTATE, LLC

By: \_\_\_\_\_  
Duly Authorized Agent

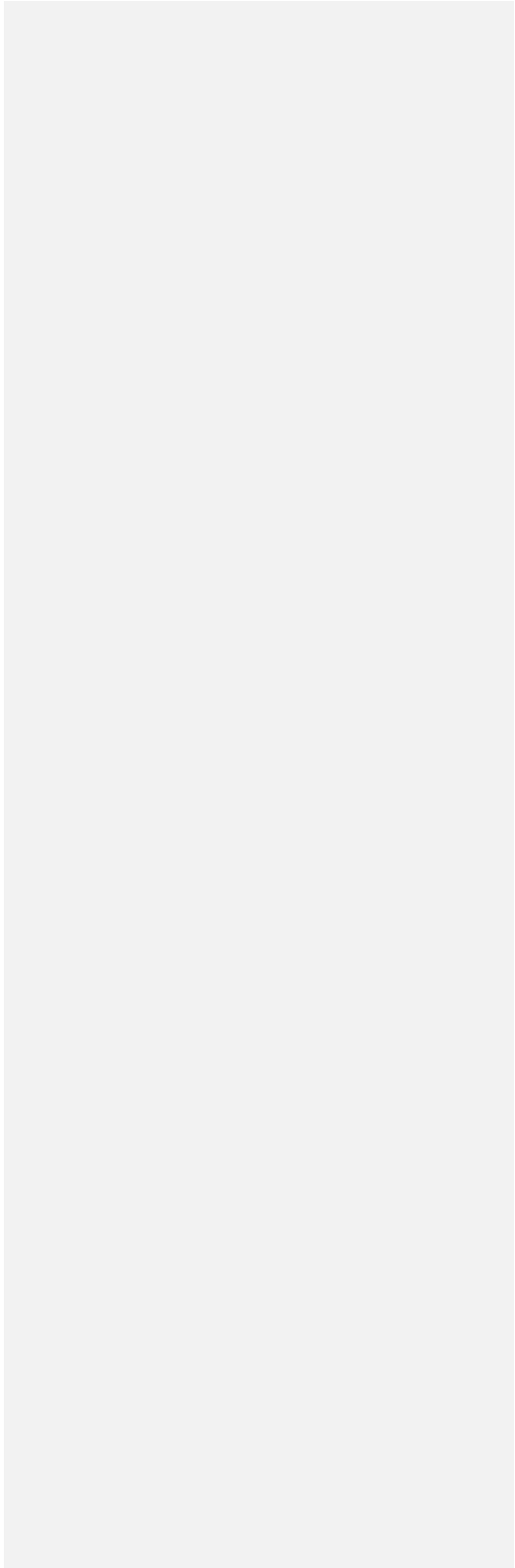
STATE OF VERMONT  
COUNTY OF CHITTENDEN, SS.

Before me, on this \_\_\_\_ day of \_\_\_\_\_, 2024, personally appeared \_\_\_\_\_, Duly Authorized Agent of MILOT REAL ESTATE, LLC, known to me to be the person who executed the foregoing instrument, and he/she acknowledged this instrument, by him/her signed, to be his/her free act and deed and the free act and deed of MILOT REAL ESTATE, LLC.

\_\_\_\_\_  
Notary Public – State of Vermont

Printed Name: \_\_\_\_\_

Commission No.: \_\_\_\_\_  
Commission Expires: 1/31/25



**Exhibit A**

**LEGAL DESCRIPTION OF AFFORDABLE UNITS**

Being eleven (11) apartment/condominium units within the building constructed at 17 Park Street in Essex Junction, Vermont, and being more particularly described as follows:

Being apartment units \_\_\_\_ - \_\_\_\_.

Being a portion of the lands and premises conveyed to \_\_\_\_\_ by \_\_\_\_\_ by Warranty Deed dated \_\_\_\_\_, 2024 and recorded in Volume \_\_\_\_ at Page \_\_\_\_ of the City of Essex Junction Land Records.

Reference is hereby made to the above-mentioned instruments, and the records thereof and the references therein contained in further aid of this description.

**Exhibit B**

**SAMPLE AFFORDABLE HOUSING RENT REPORTING FORM**

*[See Attached]*

4874-9453-9939, v. 1

<777013v1/RHR>

**City of Essex Junction, VT  
Affordable Housing  
Rent Reporting Form**

<b>Reporting Period</b> <b>11/2023 - 1/2024</b>
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**INSTRUCTIONS:**

See City of Essex Junction, VT Affordable Housing Height Bonus Criteria and Reporting Requirements prior to completing this form. The report must include all Affordable Housing Units on the property.

Property description (address) for application: \_\_\_\_\_

**General information**

Applicant \_\_\_\_\_ Day Phone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Email Address \_\_\_\_\_

**Property Owner of Record (attach affidavit if not applicant)**

Applicant \_\_\_\_\_ Day Phone \_\_\_\_\_  
 Address \_\_\_\_\_  
 Email Address \_\_\_\_\_

**Property Management**

Name of Company \_\_\_\_\_ Day Phone \_\_\_\_\_  
 Email Address \_\_\_\_\_

Date of Report: \_\_\_\_\_ Total Units: \_\_\_\_\_ Total Affordable Units: \_\_\_\_\_

Minimum number of affordable units: 20% of Total number of units **OR** 5 units, whichever is greater= \_\_\_\_\_

Affordability Requirement Dates (minimum 15 years)

Date of original approval, if renewing (yyyy-mm): \_\_\_\_\_ Valid until (yyyy-mm): \_\_\_\_\_

<b>What utilities are included in the rent? Circle all that apply, specify type if applicable:</b>					
<b>Utility</b>	<b>Not Included</b>	<b>-OR-</b>	<b>Type of Included Utility</b>		
HEAT:	Not Included	Natural Gas	Bottle Gas	Oil/Electric	Kerosene
WATER HEATING:	Not Included	Natural Gas	Bottle Gas	Oil	Electric
COOKING:	Not Included	Natural Gas	Bottle Gas	Electric	Kerosene
ELECTRIC:	Not Included	other electric lights, appliances etc.)			
WATER	Not Included	Included			
TRASH COLLECTION	Not Included	Included			
OTHER					



Unit Number	Number of Bedrooms	Initial Lease Date	Monthly Rent

I certify that the information on this application is true and correct. I agree to abide by all the requirements specified in the Land Development Code and any conditions placed upon approval of this application.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Land Owner (if different)

\_\_\_\_\_  
Date

**Staff Action**

Date received \_\_\_\_\_ Approved \_\_\_\_\_ Denied \_\_\_\_\_

In compliance with affordable housing requirements? Yes \_\_\_\_\_ No \_\_\_\_\_

Explain (if denied) \_\_\_\_\_

Other approvals/conditions (note type/attach other signed approvals): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Staff Signature

\_\_\_\_\_  
Date



# City of Essex Junction, VT

## Affordable Housing Height Bonus Criteria and Reporting Requirements

The Vermont HOME Act of 2023, Act 47 (S.100) adds the allowance for an additional floor<sup>1</sup> for qualifying "affordable housing developments", defined in 24 V.S.A. § 4303 as:

*a housing development of which at least 20 percent of the units or a minimum of five units, whichever is greater, are **affordable housing** units. Affordable units shall be subject to covenants or restrictions that preserve their affordability for a minimum of 15 years or longer as provided in municipal bylaws.*

For rental units, 24 V.S.A. § 4303 defines Affordable Housing as:

*housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:*

- (i) the county median income, as defined by the U.S. Department of Housing and Urban Development;*
- (ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or*
- (iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.*

### Does your property qualify as an affordable housing development?

To qualify, the overall rent of the required "affordable units", inclusive of utilities and fees, must be no more than the maximum rent thresholds based on the criteria above. These limits are summarized on the Vermont Housing Finance Agency's monthly summary here:

<https://www.housingdata.org/documents/purchase-price-and-rent-affordability.pdf>

As of November 2023, the applicable maximum gross rent for affordable units, inclusive of utilities and fees are as follows:

<b>Maximum Affordable Rent by unit type 2023, inclusive of utilities and fees<sup>2</sup></b>			
Studio / Efficiency	1 Bedroom	2 Bedroom	3 Bedroom
<b>\$1,590</b>	<b>\$1,704</b>	<b>\$2,045</b>	<b>\$2,363</b>

### What if some utilities and fees are paid by the tenant?

If some or all utilities are excluded from the rent, refer to the Vermont State Housing Authority's current schedule of "Allowances for Tenant Furnished Utilities and Other Services". These utility allowances are subtracted from the maximum affordable rent.

<sup>1</sup> additional floor beyond what is otherwise allowed in a zoning district, in areas served by municipal water and sewer.

<sup>2</sup> Maximum gross rent are based on HUD guidance stipulating that homes have at least 1 bedroom for every 1.5 people in the household. This means that the affordable rent and purchase price of a 1-bedroom home are based on the average of the median incomes of 1 person household and of a 2-person household as a proxy for the median income of a "1.5-person household". The affordable rent and purchase price for a 2-bedroom home are based on the median income of a 3-person household (i.e., 2 bedrooms x 1.5 people/bedroom = 3-person household). For a 3-bedroom home, the rent and price are based on the average of the median incomes of a 4- and 5-person household.





As of November 2023, the following is a sample of the typical Allowances for Tenant Furnished Utilities and Other Services:

<b>Utility or Service</b>	<b>0 BR</b>	<b>1 BR</b>	<b>2 BR</b>	<b>3 BR</b>
Natural Gas Heating	\$ 93	\$ 105	\$ 111	\$ 118
Natural Gas Cooking	\$ 4	\$ 4	\$ 6	\$ 8
Other Electric	\$ 38	\$ 44	\$ 62	\$ 79
Electric Water Heating	\$ 28	\$ 33	\$ 42	\$ 51
Water and Sewer	\$ 55	\$ 58	\$ 77	\$ 105
Trash Collection	\$ 78	\$ 78	\$ 78	\$ 78

**Reporting Requirements**

For applicants who wish to utilize the Act 47 height bonus, these requirements may be included by the Development Review Board as a condition of approval. Upon site plan approval, applicants must:

1. Provide the Community Development Department with copies of any covenants or restrictions in place to preserve affordability for at least 15 years.
2. Fulfil annual reporting requirements by December 31 of each year during the 15-year period:
  - a. Submit a completed Affordable Housing Rent Reporting Form,
  - b. Submit copies of the lease documents for all affordable housing units on the property, or by random sampling as requested by the Community Development Department.

