

LOCAL LAW 3-2018

A Local Law amending Chapter 62 (Affordable Housing) of the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 62, section 62-1 (Purpose) is amended as follows with deleted matter in [brackets] and new matter underlined.

§ 62-1 Purpose

The Village of Ossining is deeply concerned that there are insufficient opportunities for individuals and families of modest income to purchase or rent dwelling units in the Village. In order to enhance the public welfare and to promote the well-being of the Village's current and future residents, the Board believes that it is essential that new or substantially rehabilitated residential and mixed-use developments involving the construction or substantial rehabilitation of six or more new dwelling units be required to include [10%] 20% of the dwelling units aimed at individuals and families of [80%] 60% or less of the Westchester County median income as determined by Housing and Urban Development (HUD) annually in rental [or purchase] housing and 20% of the dwelling units aimed at individuals and families of 70% or less of the Westchester County median income as determined by the Department of Housing and Urban Development (HUD) annually in purchase housing or, in the alternative, be required to make payments to an affordable housing fund to assist in the development of housing opportunities for individuals and families of those economic means.

Section 2. Chapter 62, section 62-2 (Definitions) is amended as follows with deleted matter in [brackets] and new matter underlined.

§ 62-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ADDITIONAL DENSITY BONUS

The unit count of additional density permitted in a residential development which shall equal 5% of the maximum market rate unit count in such residential development deemed appropriate by the Planning Board that proposes to include [10%] 50% very low-income housing units of the total affordable housing units, for a total of 15% additional density.

AFFORDABLE HOUSING RULES AND REGULATIONS

Document promulgated, adopted and as amended from time to time by the Village Board that outlines the procedures of the Village of Ossining affordable housing program.

AFFORDABLE HOUSING UNITS

[Affordable units created pursuant to the set-aside requirement of 10% shall be marketed to households which meet the criteria of 80% or less of the Westchester County median income as determined by HUD annually and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium or residential cooperative apartment), the annual total of the sum of secured loan principal and interest, private mortgage insurance, property taxes, home insurance, common charges and homeowner-paid utilities does not exceed 30% of said household income.]

- A) **A rental unit that is affordable to a household whose income does not exceed 60% of the Area Median Income (AMI) for Westchester as defined annually by the United States Department of Housing and Urban Development (HUD) and for which the annual housing cost of the unit, defined as rent plus any tenant-paid utilities, does not exceed 30% of 60% AMI adjusted for family size.**
- B) **A for purchase housing unit that is affordable to a household whose income does not exceed 70% of the AMI for Westchester and for which the annual housing cost of a unit, including common charges, principal, interest, taxes and insurance (PITI), does not exceed 30% of 70% AMI adjusted for family size.**

AREA MEDIAN INCOME (AMI)

The most recently updated annual median household income figures, adjusted for family size, calculated and published by the United States Department of Housing and Urban Development for Westchester County, New York State.

DENSITY BONUS

The unit count of additional density permitted in a residential development, which shall equal [10%] **20%** of the maximum market rate unit count in such residential development which proposes to include [10%] **20%** affordable housing units.

LARGE MULTIFAMILY HOUSING DEVELOPMENT

A multifamily development containing 100 or more dwelling units.

LOW INCOME

Annual household income which does not exceed 60% of the Westchester County median income as determined by HUD annually and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium or residential cooperative apartment), the annual total of the sum of secured loan principal and interest, private mortgage insurance, property taxes, home

insurance, common charges and homeowner-paid utilities does not exceed 30% of said household income.

MARKET RATE

Dwelling units in single-family, residential condominium and residential cooperative apartment buildings which are purchased or rented for residency by the owner thereof at market rate purchase prices, without governmental or other subsidy to such owner.

[MEDIAN INCOME

Annual household income which does not exceed 100% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).]

PURCHASE HOUSING

Dwelling units in single-family, residential condominium and residential cooperative apartment buildings which are purchased for residency by the owner thereof.

RENTAL HOUSING

Dwelling units in single-family, two-family, multifamily, residential condominium and residential cooperative apartment buildings which are rented for residency by the tenant thereof.

RESIDENTIAL DEVELOPMENT

A residential or mixed-use development involving the construction of six or more new dwelling units, including subdivisions.

RESIDENTIAL DEVELOPMENT APPLICATION

An application for final subdivision, site plan or special permit approval which proposes the construction of six or more new dwelling units in the Village.

SUBSTANTIAL REHABILITATION

Any building that is reconstructed or restored or structurally altered, the cost of same equals or exceeds 50% of its assessed value.

VERY LOW INCOME

Annual household income which does not exceed 50% of the Westchester County median income as determined by HUD annually and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium or residential cooperative apartment), the annual total of the sum of secured loan principal and interest, private mortgage insurance, property taxes, homeowners' insurance, common charges and homeowner-paid utilities does not exceed 30% of said household income.

Section 3. Chapter 62, section 62-3 (Inclusion of affordable dwelling units in rental housing required) is amended as follows with deleted matter in [brackets] and new matter underlined.

- A. Each residential development application which proposes the construction or substantial rehabilitation of six or more dwelling units of rental housing shall provide a set-aside of [10%] 20% affordable housing units, rounded up to the nearest whole number.
- B. All large multifamily housing developments shall contain a minimum number of affordable housing units equal to 20% of the maximum aggregate number of units authorized for construction in such development. The affordable housing units shall be made available to families with an annual household income in the following proportion and income-eligibility ranges:
 - a. Fifty percent of the units shall be provided to households earning 60% of AMI.
 - b. Thirty percent of the units shall be provided to households earning between 50% and 59% of AMI.
 - c. Ten percent of the units shall be provided to households earning between 40% and 49% of AMI.
 - d. Ten percent of the units shall be provided to households earning between 30% and 39% of AMI.

[B] C. Affordable housing units shall:

- (1) Be generally distributed throughout the rental housing;
- (2) Not be distinguished as a class from the Market-Rate rental housing;
- (3) Be distributed among one-, two- and three-bedroom units, etc., in the same proportion as the dwelling units in the market-rate rental housing; and
- (4) Each have a floor area of not less than 80% of the average floor area of the dwelling units in the market-rate rental housing.

[C] D. Affordable housing units shall only be rerented to individuals or families who qualify for such affordable housing at the time of such rerental, and the rent for such rerental shall not exceed the rent as described in the restrictive covenant.

[D] E. In lieu of providing all or a part of on-site affordable housing units in the rental housing as provided herein, the residential development application may request and, upon a showing of an undue burden of financial hardship to the project satisfactory to the Village, the Village Board may permit a developer to create affordable housing units at another

location in the Village or contribute to the affordable housing fund buyout fee. Amounts of such buyout fee and uses for same will be as determined by the Village Board and shall be set forth in the affordable housing rules and [regulations] **regulations**.

[E] **F**. Density bonus, [and additional] density bonus **and other development benefits**.

- (1) Those residential developments that will contain affordable housing units in the rental housing pursuant to this section shall qualify for increased density, permitting the maximum unit count of the rental housing in the residential development, as permitted under its zoning district, to be adjusted as follows:
 - (a) For rental housing in which at least [10%] **20%** of the market-rate unit count, rounded up to the nearest whole number, is devoted to affordable housing units, applicants may have a density bonus of a unit count which equals the number of units of affordable housing being proposed and agreed upon by the Planning Board.
 - (b) For rental housing in which at least [10%] **50%** of the **affordable housing** unit count, rounded up to the nearest whole number, is devoted to **very** low-income housing units, applicants may have an additional density bonus of a unit count which equals 5% of the market-rate residential units being proposed and agreed upon by the Planning Board, rounded up to the nearest whole number. If the applicant is proposing the inclusion of **very** low-income housing units, those units shall follow the general requirements as set forth in this section for affordable housing units.
 - (c) **For rental housing in which at least 20% of the affordable housing unit count, rounded up to the nearest whole number, are units that are compliant with the Americans With Disabilities Act (ADA), applicants may have an additional density bonus of a unit count which equals 5% of the market-rate residential units being proposed and agreed upon by the Planning Board rounded up to the nearest whole number. If the applicant is proposing the inclusion of such ADA compliant units, those units shall follow the general requirements as set forth in this chapter for affordable housing units.**
 - (d) **Applicants are eligible for a reduction in parking to one parking space per unit for each Affordable Housing Unit made available to those units provided to households between 40% and 60% of AML, in lieu of other Village of Ossining parking requirements.**
- (2) The addition of density bonus or additional density bonus unit count to a residential development involved in a subdivision of single- or two-family dwellings shall not be permitted to increase the height or lot coverage as defined in Appendix B of Chapter 270, Zoning, beyond that permitted in such district.

[F] **G**. Each residential development application for rental housing containing affordable housing units and low-income housing units shall include a draft declaration of restrictive covenants in recordable form acceptable to the Corporation Counsel of the Village which shall set forth and particularize the requirements set forth in this section and, upon approval, shall be recorded against the property containing the affordable housing units prior to the

issuance of [the building permit] **a Certificate of Occupancy** for the residential development. **Among other provisions, the covenants shall require that the unit be the primary residence of the resident household selected to occupy the unit.** Such restrictive covenants shall run in perpetuity against the property in which such units are located. The declaration shall include rules and regulations for insuring compliance with the restrictive covenants, and all rules and regulations in the declaration must follow the affordable housing rules and [regulations]**regulations of the Village of Ossining, which rules and regulations shall be made a part of the covenant.**

Section 4. Section 62-4 (Inclusion of affordable dwelling units in purchase housing required) is amended as follows with deleted matter in [brackets] and new matter underlined.

- A. Each residential development application which proposes the construction or substantial rehabilitation of six or more dwelling units of purchase housing shall provide a set aside of [10%] **20%** affordable housing units rounded up to the nearest whole number.
- B. Affordable housing units shall:
- (1) Be generally distributed throughout the purchase housing;
 - (2) Not be distinguished as a class from the market-rate purchase housing;
 - (3) Be distributed among one-, two- and three-bedroom units, etc., in the same proportion as the dwelling units in the market-rate purchase housing; [and]
 - (4) Each have a floor area of not less than 80% of the average floor area of the dwelling units in the market-rate purchase housing[.]; **and**
 - (5) **Notwithstanding Chapter 270 of the Village Code, a single-family Affordable Housing Unit may be located on a lot meeting 75% of the minimum lot area for the single-family homes in the development; and**
 - (6) **Certificates of Occupancy shall be issued to market rate units when the required percentage of Affordable Housing Units has been completed.**
- C. Affordable housing units shall only be resold to individuals or families who qualify for such affordable housing at the time of such resale, and the purchase price for such resale shall not exceed the purchase price as described **herein and** in the restrictive covenant. **The maximum gross sale price for an Affordable Housing Unit shall be based upon an annual housing cost, including common charges, principal, interest, taxes and insurance that does not exceed 30% of 70% of the AMI adjusted for the median household size for the unit. In the case of owner-occupied Affordable Housing Units, the title to such property shall be restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then maximum sales price for said unit as determined herein or the sum of: 1) the net purchase price (i.e., gross sale price minus any subsidies) paid for the unit by the owner increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey area as published by the**

United States Bureau of Labor Statistics on any date between the month in which the seller contracts to sell the unit and the month that was two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing the index and fails to designate a successor index, the Village will designate a substitute index and the cost of major capital improvements made by the seller of the unit while said seller owned the unit, as evidenced by paid receipts depreciated on a straight-line basis over a fifteen-year period from the date of completion; provided that the improvements were approved by the Village's Affordable Housing Fund. Notwithstanding the above, in no event shall the resale price exceed the maximum sales price of 30% of 70% of the AMI.

- D. In lieu of providing all or a part of on-site affordable housing units in the purchase housing as provided herein, the residential development application may request and, upon a showing of an undue burden of financial hardship to the project satisfactory to the Village, the Village Board may permit a developer to create affordable housing units at another location in the Village or contribute to the affordable housing fund buyout fee. Amounts of such buyout fee, and uses for same, will be as determined by the Village and shall be set forth in the affordable housing rules and [regulations] **regulations**.
- E. Density bonus, [and] additional density bonus **and other developments**.
- (1) Those residential developments that will contain affordable housing units in the purchase housing pursuant to this section shall qualify for increased density, permitting the maximum unit count of the purchase housing in the residential development, as permitted under its zoning district, to be adjusted as follows:
- (a) For purchase housing in which at least [10%] **20%** of the unit count, rounded up to the nearest whole number, is devoted to affordable housing units, applicants may have a density bonus of a unit count which equals the number of units of affordable housing being proposed.
- (b) For purchase housing in which at least [10%] **50%** of the **affordable housing** unit count, rounded up to the nearest whole number, is devoted to low-income housing units, applicants may have an additional density bonus of a unit count which equals 5% of the market-rate residential units being proposed, rounded up to the nearest whole number. If the applicant is proposing the inclusion of low-income units, those units must follow the general requirements as set forth in this section for affordable housing units.
- (c) **For purchase housing in which at least 20% of the affordable housing unit count, rounded up to the nearest whole number are units that are compliant with the Americans With Disabilities act (ADA), applicants may have an additional density bonus of a unit count which equals 5% of the market rate units being proposed and agreed upon by the Planning Board rounded up to the nearest whole number. If the applicant is proposing the including of such ADA compliant units, those units shall follow the general requirements as set forth in this chapter for affordable housing**

units.

(d) Applicants are eligible for a reduction in parking to one parking space per unit for each affordable housing unit made available to those units provided to households between 40% and 60% of AMI in lieu of other Village of Ossining parking requirements.

- (2) The addition of density bonus or additional density bonus unit count to a residential development involved in a subdivision of single- or two-family dwellings shall not be permitted to increase the height or lot coverage as defined in Appendix B of Chapter 270, Zoning, beyond that permitted in such district. However, in the case of a subdivision which as a result of the applied density bonus or additional density bonus which results in lot configurations less than the minimum square footage or required setbacks, variances for some shall not be required, provided that the Planning Board deems the proposed subdivision not to adversely affect the character of the surrounding neighborhood.
- F. Each residential development application for purchase housing containing affordable housing units and low-income housing units shall include a draft declaration of restrictive covenants in recordable form, acceptable to the Corporation Counsel of the Village of Ossining which shall set forth and particularize the requirements set forth in this section and, upon approval, shall be recorded against the property containing the affordable housing units prior to the issuance [of the building permit] **of a Certificate of Occupancy. Among other provisions, the covenant shall require that the unit be the primary residence of the household selected to occupy that unit** for the residential development. Such restrictive covenants shall run in perpetuity against the property in which such units are located. The declaration shall include rules and regulations for insuring compliance with the restrictive covenants, and all rules and regulations in the Declaration must follow the affordable housing rules and [regulations] **regulations of the Village of Ossining, which rules and regulations will be made a part of the covenant.**

Section 5. Effective Date

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.