

# **Village of Ossining**

## **Affordable Housing Rules and Regulations**

### **(as revised 1/15/13)**

---

#### **Purpose:**

The Village Board of Trustees adopted an *Affordable Housing Policy* on April 14, 2006 and *Chapter 62 of the Village Code entitled Affordable Housing* on October 6, 2009. This Policy is expected to produce affordable units pursuant to a set-aside and/or funds pursuant to approved developers' buy-outs. The Village's administration plan for the Affordable Housing Program (units and funds) is the subject of these guidelines.

#### **I. Delegation of Administrative Responsibility for the Affordable Housing Program:**

The Village will contract with a qualified third party to review the affordability component of proposed developments, administer the affordable units produced, and administer an Affordable Housing Fund.

The benefits of the independent contractor approach include: (a) expertise in (i) evaluating proposed affordable housing components of development; (ii) initial offerings, and resales and re-leasing of units; (b) further insurance of the privacy of applicants' personal information; (c) lottery selections and waiting lists handled by an independent contractor insulate the Village from potential issue of "inappropriate favoritism" as part of the initial or resale/re-leasing process; and (d) an independent third party can be better prepared to handle large as well as small offerings.

The contractor will submit regular written reports on its activities and results to the Planning Department.

#### **Affordable Housing Administrative Activities by the Village Boards and Village Departments**

- If the applicant is proposing to include the required on-site affordable units, the approving authority will be the Planning Board. If the applicant is proposing not to include the required on-site affordable units, the Village Board will be the approving authority and the Planning Board will make a recommendation to the Village Board.
- To accept and administer the financial contributions made for affordable housing, the Village will create an Affordable Housing Fund. If the applicant is proposing to use money from the affordable housing fund the Village Board will be the approving authority and the Planning Board will make a recommendation to the

Village Board concerning the use of funds for projects that will require site plan approval from the Planning Board. The Village Board, by majority vote, will approval or deny all disbursements and apply broad discretionary review to carry out the intent and purposes of the Affordable Housing Policy.

- The Planning Department would be the designated entity to receive applications associated with the program or use of funds. The Planning Department will work as a liaison between the applicant, third party, and the approving authority on all necessary aspects of the administration and application of the affordable housing regulations and program.

#### Affordable Housing Administrative Activities by the Independent Contractor

Below is a list of the activities and tasks that could be undertaken by the independent contractor(s) to administer the Affordable Housing Program and Fund (this list is not all inclusive):

##### *Affordable Housing Program Services*

- Review the affordable housing component of proposed developments to determine compliance with the Village's Affordable Housing Policy and Affordable Housing Program, including location of units, sale prices, and rental rates, and make recommendations to the Planning Department.
- Evaluate proposals and make recommendations to the Village Board from developers to create affordable housing units at alternative locations in the Village or contribute to the Affordable Housing Fund as to whether they have sufficiently demonstrated an undue burden of financial hardship to the project and make recommendations to the Planning Department.
- Evaluate proposals and make recommendations to the Village Board on proposals to provide development review expertise, and impartial/independent review of all applications for funds.

##### *Affordable Housing Applicant/Occupant Services:*

- Screen applicant household eligibility;
- Conduct lottery;
- Maintain waiting lists, and conduct annual notification to, and review of owners and managers to evaluate compliance that current rental prices or sales prices of affordable units comply with Chapter 3 of the Village Code of the Village of Ossining;
- Qualify households;
- Maintain records of qualifying households;
- Recertify rental tenants every year. (Note: If household incomes exceed 80% of median income, the difference between the affordable rent and

30% of their household income will be deposited into the Affordable Housing Fund);

- Notify occupants of sales or rental prices;
- Manage resale process and resale compliance;
- Respond to questions that applicants and occupants of the units may have; and
- Develop marketing materials and prepare applications with assistance as necessary from the Planning Department;

## **II. Sale Prices and/or Rental Rates:**

The assumptions on occupancy levels are 1 person for a studio; 1.5 persons for a one bedroom; 3 persons for a two bedroom; and 4.5 persons for a three bedroom. A unit that is more than three bedrooms occupancy assumption is 1.5 persons per bedroom. All bedrooms, unit sizes, and occupant levels must meet New York State Building Code requirements.

*(a) Initial Sale Prices:* The maximum sale price must take into consideration the following: principal and interest based on a 30-year fixed rate one point above prevailing interest rates for first time homebuyer mortgage loan products from prime lenders, homeowners insurance, private mortgage insurance, real estate taxes, condominium fee and coop maintenance fee as applicable and a 3% down payment. Sales prices (after taking these factors into account) shall be based on no more than 30% of the gross household annual income for a household at 80% of Westchester County AMI, or lower as may be agreed to between the Village and the property owner.

*(b) Initial Rents:* Initial rents shall be based on no more than 30% of the gross household income for a household at 80% of Westchester County AMI or lower as may be agreed to between the Village and the property owner. In the case of affordable housing units self-administered and self-managed by the developer/owner of the inclusionary residential development of which they are a part of, but not administered by the Village and/or its contractor, initial rents shall not exceed 30% of the gross household income for a household at 80% of Westchester County AMI. Notwithstanding the foregoing, if any self-administered/managed affordable housing unit is unrented for a continuous period of one calendar year, then the rent for such unit shall be reduced so that it does not exceed 30% of gross household income for a household at 70% of the County AMI. A deduction for utility allowance for any tenant paid utility must be factored into the calculation of 30% of household earnings to determine eligibility and affordability levels. The utility allowance schedule is based on the yearly utility allowance created and distributed by Westchester County. The assumptions on occupancy are the same as for homeownership.

***(c) Resale of Affordable Units:***

In order to keep the premises affordable, the premises may not be sold within 99 years for a price higher than the “maximum resale price”. The maximum resale price will equal the sum of the following:

- a. The net purchase price (i.e.: gross sales prices minus subsidies if any) paid for the premises by the homeowner, increased by the percentage increase, if any, in the consumer price index for urban wage earners and clerical workers in New York -northern New Jersey area, as published by the United States Bureau of Labor Statistics (the “index”), between (a) the month that was two months earlier than the date on which the seller acquired the premises; and, (b) the month that is two months earlier than the month in which the seller contracts to sell the premises. If the bureau stops publishing this index, and fails to designate a successor index, the Village of Ossining will designate a substitute index; and
- b. The cost of pre-approved (or reasonable) major capital improvements made by the borrower while he owned the premises as evidenced by paid receipts depreciated on a straight line basis over a 15 year period from the date of completion.

***(c) Rent Increases of Affordable Units:*** Annual rent increases shall be based on increases if any in Westchester County AMI.

**III. Disbursement of Funds from the Village’s Affordable Housing Fund:**

The Village’s Housing Policy provides a framework to address the affordable housing deficit and foster the creation of new affordable units and preserve existing affordable units to meet the needs of the community. The Policy provides for discretionary Village Board approval permitting developers to pay a fee into a Village Affordable Housing Fund in lieu of constructing affordable units on site-- only when established to the Village Board’s satisfaction that it is not feasible to construct affordable units on site.

The use of fund can be broadly applied to include but not limited to:

- Affordable housing projects:
  - Infrastructure improvements;
  - Streetscape improvements;
  - Recreational fees;
  - Possible demolition costs; and
  - Other legal means of helping to advance the Village’s affordable housing program or the new construction or rehabilitation of affordable housing units in the Village.

#### **IV. Deed Restrictions**

Deed restrictions for all units must be included as part of every ownership transaction. The restrictions will include but not limited to information on the terms of affordability, range of affordability, resale values, affordable housing and property descriptions. All restrictions will be based in accordance with the requirements outlined in this document. Affordable units must be flagged “in perpetuity” at the time that the building permit is issued and re-stated in the transfer of title. All bedrooms, unit sizes, and occupant levels must meet New York State Building Code requirements.

A deed restriction shall run with the land for rental or home-ownership projects which are to be filed prior to the issuance of a building permit. The units subject to the restriction would be identified in the restrictive covenant as would the Village’s Affordable Housing Rules and Regulations. New building owners purchasing an affordable building would take the building subject to affordability requirements regarding leasing and re-leasing criteria, eligibility requirements, or resale.

#### **V. Fee Schedule**

Fee schedule for payments in-lieu of on-site or off site affordable housing will be amounts as set forth in the fee schedule established from time to time by resolution of the Village Board of Trustees.