

LOCAL LAW 10-2014

A Local Law to Amend Chapter 342, Zoning, Article XV, Below-Market Rate Housing, of the Code of the Village of Mamaroneck, to amend the definition of Below-Market-Rate Family and to update references to the Housing Authority

Be it enacted by the Board of Trustees of the Village of Mamaroneck, as follows:

SECTION 1. Article XV, Below-Market-Rate Housing, of Chapter 342 Zoning, is amended to read as follows:

Article XV. Below-Market-Rate Housing

§ 342-103. Bonus provisions enumerated; definitions.

A. In order to provide a choice of housing opportunities for a variety of income groups within the Village, in accordance with the purposes of this Article and the policies as set forth in the Village Comprehensive Plan, bonus provisions for increasing the number of units or floor space devoted to housing shall be allowed, upon a vote of the Planning Board for each specific application, in accordance with the following schedule:

[Amended 5-12-2008 by L.L. No. 5-2008, effective 5-15-2008]

| Zoning District | Maximum Coverage | Bonus |
|------------------------|--------------------------------|----------------|
| C-1 | FAR 0.60 | 0.2 FAR bonus |
| C-2 | FAR 2.0 | 0.5 FAR bonus |
| RM-1 | 2,500 square feet of land/unit | 20% unit bonus |
| RM-2 | 1,500 square feet of land/unit | 20% unit bonus |
| RM-3 | 1,000 square feet of land/unit | 20% unit bonus |

B. For each additional market-rate unit produced as a result of the bonus provision, one comparable below-market-rate unit must be provided. In all cases, 50% of the total number of additional units provided by these bonus provisions must be reserved for below-market-rate families as herein defined.

C. As used in this Article, the following terms shall have the meanings indicated:

BELOW-MARKET-RATE DWELLING UNITS

A dwelling unit, the rental or sales price of which does not exceed the maximum allowable level established by this Article for below-market-rate families.

BELOW-MARKET-RATE FAMILIES

Families whose aggregate annual income, including the total of all current annual income of all family members from any source whatsoever at the time of application, but excluding the earnings of those under 21 years of age attending school full time, shall not exceed 80% of the actual Westchester County median income (not capped), as defined and periodically updated by the United States Department of Housing and Urban Development ("HUD"). At renewal, continuing eligibility will be based upon 120% of the Westchester County, NY AMI.

§ 342-104. Development standards.

A. Distribution. Such units shall be available for sale, resale or continuing rental only to below-market-rate families, as defined in this Article. Such units shall be physically integrated into the design of the development in a manner satisfactory to the Planning Board and shall be distributed among efficiency, one-, two- and three-bedroom units in the same proportion as all other units in the development, unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the Village of Mamaroneck.

B. Minimum floor area. Minimum gross floor area per dwelling unit shall not be less than the comparable market-rate unit in the building, or the following minimums, whichever are less:

- (1) Efficiency: 450 square feet.
- (2) One bedroom: 650 square feet.
- (3) Two bedrooms: 850 square feet.
- (4) Three bedrooms: 1,100 square feet, including at least one and one-half (1 1/2) baths.

C. Occupancy guidelines. In renting or selling, the following schedule shall provide guidelines in approving the rental or sale of below-market-rate dwelling units:

| Number of Bedrooms | Number of Persons | |
|---------------------------|--------------------------|----------------|
| | Minimum | Maximum |
| Efficiency | 1 | 1 |
| 1 | 1 [±] | 2 |
| 2 | 2 | 4 |
| 3 | 3 | 6 |

§ 342-105. Maximum rent and sale prices; mortgages.

A. Rent and sales levels. The maximum yearly rent, excluding utilities, for a below-market-rate dwelling unit shall not exceed 30%, and the maximum gross sales price shall not exceed 2.5 times the aggregate family income for a below-market-rate family, as defined in this Article, for the maximum size of family eligible for such unit as listed above.

B. Mortgages. The applicant shall, if possible, obtain from the lending institution chosen for the development a commitment to provide for all middle-income units mortgages for up to 90% of unit cost or for the maximum amount for which the mortgagor qualifies, whichever is less.

§ 342-106. Eligibility standards.

A. Eligibility priorities. Below-market-rate families applying for below-market-rate dwelling units shall be selected on the basis of a lottery drawing conducted on an as needed basis by the Town of Mamaroneck Public Housing Agency. The Town of Mamaroneck Public Housing Agency will establish the list of lottery winners based on bedroom count and provide the list to the owner or manager. The owner or manager will then notify the selected Below-Market-Rate Families.

B. Continued eligibility.

(1) Rental. Applicants for below-market-rate rental units referred to in this section shall, if eligible and if selected for occupancy by the owner or manager of the development, sign leases for terms of no more than two years. As long as a resident remains eligible and has complied with the terms of the lease, said resident shall be offered a two-year renewal of the lease. If a resident's annual gross income at the time of renewal should exceed 120% of the Westchester County, NY AMI as defined and periodically updated by HUD, and if there is at that time an otherwise eligible applicant within one of the categories above, said resident may complete his current lease term and shall be offered a market-rate-income rental unit available in the development at the termination of the lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the below-market-rate dwelling unit he occupies but shall not be offered a renewal of the lease beyond the expiration of said term.

(2) Sales. In the case of owner-occupied below-market dwelling units, the title to said 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, plus an allowable appreciation of equity invested of 5% annually as determined in accordance with this Article or the sum of the following, whichever is greater:

- (a) The amount of any principal payment made by the home buyer.
- (b) The remaining principal on any mortgage(s).
- (c) The value of any fixed improvements made by the home buyer and not included above.
- (d) Reasonable and necessary expenses incidental to the resale.

§ 342-107. Administration.

A. The Town of Mamaroneck Public Housing Agency shall be responsible for the administration of the below-market-rate housing requirements of this Article as well as for the promulgation of such rules and regulations as may be necessary to implement such requirements. The owner or manager of the Below-Market-Rate Dwelling Units shall be responsible initially for determining and certifying eligibility and must provide certification of same and documentation to the Town of Mamaroneck Public Housing Authority in accordance with its rules and regulations prior to Below-Market-Rate Families being placed on the list for the lottery drawing.

B. At the time of the issuance of a certificate of occupancy, the Building Inspector shall send a copy of such certificate to the Town of Mamaroneck Public Housing Agency, including a description of the Below-Market-Rate Dwelling Units and applicable limitations. The Town of Mamaroneck Public Housing Agency shall then inform the Owner of the maximum rental or sales charge which may be established for the below-market-rate dwelling units in such development and the maximum annual gross family income for eligibility for occupancy of said units.

C. Based upon the information provided by the owner or manager of the below-market-rate dwelling units, the Town of Mamaroneck Public Housing Agency shall certify as eligible all applicants for rental or sales of below-market-rate dwelling units and shall annually reexamine or cause to be reexamined each occupant family's income.

D. On or before April 1 of each year thereafter, the Town of Mamaroneck Public Housing Agency shall notify the owner or manager of each multifamily development containing below-market-rate dwelling units as to the rent, sales and income eligibility requirements for such units as set forth above.

E. The owner or manager of such multifamily development containing below-market-rate dwelling units shall certify to the Town of Mamaroneck Public Housing Agency on or before June 1 of each year that the current rental or sales prices of all below-market-rate dwelling units comply with the terms of this Article.

F. The limited rental income and/or sales value of below-market-rate units shall be taken into consideration by the Village Assessor in determining the full-value basis for assessments on such units.

§ 342-107.1. Additional provisions for the C-2 District.

[Added 2-14-1994 by L.L. No. 1-1994, effective 3-3-1994]

In order to provide flexibility to the Village in encouraging below-market-rate housing, these additional provisions are provided for in the C-2 District:

A. Eligibility.

(1) The proposed housing development is undertaken in cooperation with the Village of Mamaroneck through the Village Economic Development Program, a state or local affordable housing program or in conjunction with a not-for-profit corporation whose purpose is the creation of below-market-rate housing.

(2) The proposed development is located within the C-2 District and will enhance the vitality of the area both by the provision of housing and the provision of ground floor retail and/or office uses.

B. Special permit procedure. The Village Board of Trustees shall certify that the eligibility standards listed in Subsection A above have been met by the applicant. The applicant may then apply for a special permit for below-market-rate housing to the Planning Board. The Planning

Board shall consider the special permit in accordance with the standards of § 342-50B of the Zoning Code and the additional standards listed below in Subsection C.

C. Development standards.

(1) The development standards of the C-2 District shall apply with the exception of building height, which may be increased from 45 feet to 60 feet, and floor area ratio (FAR), which may be increased from 2.0 to 2.5.

[Amended 5-12-2008 by L.L. No. 5-2008, effective 5-15-2008]

(2) In order to achieve the above-listed area and bulk exceptions, the development must provide 100% of the units at below-market-rate levels. The applicant shall demonstrate the affordability of the units to the satisfaction of the Planning Board. The applicant shall compare the rental or sales levels with existing federal, state or county affordable housing programs that might be utilized and/or with the median income for Westchester County as defined and periodically updated by HUD. In no case, however, shall sales prices or rent levels exceed a level affordable by 150% of the median income of county residents.

(3) The applicant must establish a mechanism, such as a covenant or deed restriction, controlling resale of the individual units that assumes the housing will remain affordable in perpetuity. This mechanism must be acceptable to the Village Attorney, and the cap on resale prices must not exceed an appreciation on equity of more than 10% annually.

(4) The proposed development shall be administered in accordance with § 342-107 or by a separate program acceptable to the Village Manager. Village employees and residents shall be given first preference in the rent-up or sales program established for the development.

SECTION 2. SEVERABILITY

If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

SECTION 3. 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.