

PROPOSED LOCAL LAW - FOR ADOPTION AFTER PUBLIC HEARING AS AN
AMENDMENT TO THE ZONING CODE

Section 1. Section 331-152 **Affordable Housing.**

A. Purpose.

The City Council of the City of New Rochelle is deeply concerned that there are insufficient opportunities for individuals and families of Low Income, Moderate Income, and Median Income to purchase or rent dwelling units in the City. In order to enhance the public welfare and to promote the well-being of the City's current and future residents, the Council believes that new residential and mixed-use developments involving the construction of more than ten (10) new dwelling units in the Downtown Area and more than two (2) new dwelling units in other areas of the City should be required to include dwelling units for individuals and families of Moderate Income in Rental Housing and dwelling units for individuals and families of Median Income in Purchase Housing or, in the alternative, should be required to make payments to an Affordable Housing Fund to assist in the development of housing opportunities for individuals and families of Low Income and Moderate Income in the City. In addition, this Council believes that dwelling units for individuals and families of Low Income and Moderate Income which are scheduled for demolition should be replaced with new affordable housing or, in the alternative, payments should be made to an Affordable Housing Fund to assist in the development of housing opportunities for individuals and families of Low Income and Moderate Income in the City.

B. Definitions.

Bonus Floor Area - That square footage of extra floor area permitted in a Residential Development equal to the floor area of Low Income Housing Units, Moderate Income Housing Units, and/or Median Income Housing Units, as the case may be, constructed in such Development.

Low Income - Annual household income which does not exceed sixty (60%) percent of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

Low Income Housing Units - Dwelling units constructed for individuals and families whose annual household income does not exceed sixty (60%) percent of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD), and the annual rental cost does not exceed thirty (30%) percent of said income, or for homeowners (single family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, and common charges does not exceed thirty (30%) percent of said household income.

Market-Rate Purchase Housing - Dwelling units in single-family, residential condominium, and residential cooperative apartment buildings which are purchased for residency by the owner thereof at market-rate purchase prices, without subsidy governmental or otherwise.

Market-Rate 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 at market-rate rental rates, without subsidy governmental or otherwise.

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

Median Income Housing Units - Dwelling units constructed for individuals and families whose annual household income does not exceed one hundred (100%) percent of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD), and the annual rental cost does not exceed thirty-five (35%) percent of said income, or for homeowners (single family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, and common charges does not exceed thirty-five (35%) percent of said household income.

Moderate Income - Annual household income which does not exceed eighty (80%) percent of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

Moderate Income Housing Units - Dwelling units constructed for individuals and families whose annual household income does not exceed eighty (80%) percent of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD), and the annual rental cost does not exceed thirty (30%) percent of said income, or for homeowners (single family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, and common charges does not exceed thirty (30%) percent of said household income.

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 eleven (11) or more new dwelling units in the Downtown Business (DB), Downtown Mixed Use (DMU), or Downtown Mixed Use Urban Renewal (DMUR) zoning district, or the construction of three (3) or more new dwelling units in any other zoning district in the City, on one (1) tax lot or on one (1) or more new tax lots for dwelling units in a subdivision.

Residential Development Application - an application for subdivision, site plan, or special permit approval which proposes the construction of eleven (11) or more new dwelling units in the Downtown Business (DB), Downtown Mixed Use (DMU), or Downtown Mixed Use Urban Renewal (DMUR) zoning district, or which proposes the construction of three (3) or more new dwelling units in any other zoning district in the City, on one (1) tax lot or on one (1) or more new tax lots for dwelling units in a subdivision.

C. Inclusion of Affordable Dwelling Units in Rental Housing.

1. Each Residential Development Application which proposes the construction of Rental Housing shall provide floor area in such Residential Development set aside for Moderate Income Housing Units. The floor area devoted to Moderate Income Housing Units shall equal at least ten (10%) percent of the floor area devoted to Market-Rate Rental Housing in the Residential Development. The floor area square footage of any Replacement Housing Units or Partial Replacement Housing Units proposed under Subsections E(1)(a) and E(1)(b) below shall be credited against this requirement.
2. Moderate Income Housing Units shall be generally distributed throughout the Rental Housing; shall not be distinguished as a class from the Market-Rate Rental Housing; shall be distributed among one (1), two (2), and three (3) bedroom units in the same proportion as the dwelling units in the Market-Rate Rental Housing; and shall each have a floor area of not less than ninety (90%) percent of the average floor area of the dwelling units in the Market-Rate Rental Housing.
3. Moderate Income Housing Units shall only be re-rented to individuals or families who are of Moderate Income at the time of such re-rental.
4. Each Residential Development Application for Rental Housing containing Moderate Income Housing Units shall include a draft Declaration of Restrictive Covenants, which Declaration shall set forth and particularize the requirements set forth in Sections 1 through 3 above, and which shall be recorded against the property containing the Moderate Income Housing Units prior to issuance of the first certificate of occupancy for the Residential Development. Such Restrictive Covenants shall run for the life of the building in which such Moderate Income Housing Units are located. The Declaration shall include rules and regulations for insuring compliance with the Restrictive Covenants. The City's Department of Development shall administer and enforce such compliance program. The form and substance of such Declaration shall be subject to approval of the City's Corporation Counsel and Commissioner of Development.

5. In lieu of providing all or a part of such Moderate Income Housing Units in the Rental Housing, the Residential Development Application shall provide for payment to the City's Affordable Housing Fund, in accordance with the payment schedule set forth in the Fee Code. Such fee shall be based on the differential between a) the typical construction cost, including land and improvements, of a new three (3) bedroom Moderate Income Housing Unit in the City, and b) the typical sales price for a new three (3) bedroom Moderate Income Housing Unit in the City. Such payment shall be made prior to issuance of the first building permit for construction of the Rental Housing. Any Partial Replacement Housing Units Demolition Payments or Residential Development Demolition Payments paid in connection with Subsections E(1)(b) or E(1)(c) below shall be credited against the payment due hereunder.

[THE SCHEDULE BELOW WILL GO IN THE FEE CODE]

<u>Percentage of Moderate Income Housing Obligation Unmet</u>	<u>Affordable Housing Fund Payment For Each Square Foot of Moderate Income Housing Obligation Unmet</u>
That Portion of Square Footage Which is Less than 50% of the Required Square Footage	\$33.33
That Portion of Square Footage Which is 50% or More of the Required Square Footage	\$66.67

6. In the event any floor area in the Rental Housing is set aside as Moderate Income Housing Units pursuant to this Section C, the Residential Development shall qualify for a density bonus permitting the maximum floor area of the Rental Housing in the Residential Development, as permitted under this Zoning Code, to be increased by that floor area square footage which equals the floor area square footage of Moderate Income Housing Units of Rental Housing. If the addition of such Bonus Floor Area to the Residential Development results in a percentage increase of Height and/or Floor Area Ratio which results in Height and/or a Floor Area Ratio in excess of that permitted in this Zoning Code, but which percentage increase does not exceed the percentage of the total Rental Housing floor area devoted to Moderate Income Housing Units, such Height and/or Floor Area Ratio shall be deemed automatically increased by such excess rounded up to the nearest Story, such increase shall not be deemed to be in violation of this Zoning Code, and such increase shall not require area variance therefor.

D. Inclusion of Affordable Dwelling Units in Purchase Housing.

1. Each Residential Development Application which proposes the construction of Purchase Housing shall provide floor area in such Residential Development set aside for Median Income Housing Units. The floor area devoted to Median Income Housing Units shall equal at least ten (10%) percent of the floor area devoted to Market-Rate Purchase Housing in the Residential Development. The floor area square footage of any Replacement Housing Units or Partial Replacement Housing Units proposed under Subsections E(1)(a) and E(1)(b) below shall be credited against this requirement.
2. Median Income Housing Units shall be generally distributed throughout the Purchase Housing; shall not be distinguished as a class from the Market-Rate Purchase Housing; shall be distributed among one (1), two (2), three (3), and four (4) bedroom units in the same proportion as the dwelling units in the Market-Rate Purchase Housing; and shall each have a floor area of not less than ninety (90%) percent of the average floor area of the dwelling units in the Market-Rate Purchase Housing.
3. Median Income Housing Units shall only be re-sold to individuals or families who are of Median Income at the time of such resale.
4. The resale price of a Median Income Housing Unit shall not exceed the aggregate of the purchase price paid by the seller as adjusted by CPI increases from the date of such purchase until the date of such resale, the depreciated value of any capital improvements made by the seller, the transfer taxes paid by the seller on resale, and the real estate broker fees paid by the seller on resale.
5. Each Residential Development Application for Purchase Housing containing Median Income Housing Units shall include a draft Declaration of Restrictive Covenants, which Declaration shall set forth and particularize the requirements set forth in Sections 1 through 4 above, and which shall be recorded against the Median Income Housing Units in the Purchase Housing prior to issuance of the first certificate of occupancy for the Residential Development. Such Restrictive Covenants shall run for the life of the building in which such Median Income Housing Units are located. The Declaration shall include rules and regulations for insuring compliance with the Restrictive Covenants. The City's Department of Development shall administer and enforce such compliance program. The form and substance of such Declaration shall be subject to approval of the City's Corporation Counsel and Commissioner of Development.
6. In lieu of providing all or a part of such Median Income Housing Units in the Purchase Housing, the Residential Development Application may provide for payment to the City's Affordable Housing Fund, in accordance with the payment schedule set forth in the Fee Code. Such fee shall be based on the differential between a) the typical construction cost, including land and improvements, of a new three (3) bedroom Moderate Income Housing Unit in the City, and b) the typical sales price for a new Moderate Income Housing Unit in the City. Such payment shall be made prior to issuance of the first building permit for construction of the Purchase Housing. Any

Partial Replacement Housing Units Demolition Payments or Residential Development Demolition Payments paid in connection with Subsections E(1)(b) or E(1)(c) below shall be credited against the payment due hereunder.

[THE SCHEDULE BELOW WILL GO IN THE FEE CODE]

<u>Percentage of Median Income Housing Obligation Unmet</u>	<u>Affordable Housing Fund Payment For Each Square Foot of Median Income Housing Obligation Unmet</u>
That Portion of Square Footage Which is Less than 50% of the Required Square Footage	\$33.33
That Portion of Square Footage Which is 50% or More of the Required Square Footage	\$66.67

7. In the event any floor area in the Purchase Housing is set aside as Median Income Housing Units pursuant to this Section D, the Residential Development shall qualify for a density bonus permitting the maximum floor area of the Purchase Housing in the Residential Development, as permitted under this Zoning Code, to be increased by that floor area square footage which equals the floor area square footage of Median Income Housing Units of Purchase Housing. If the addition of such Bonus Floor Area to the Residential Development results in a percentage increase of Height and/or Floor Area Ratio which results in Height and/or a Floor Area Ratio in excess of that permitted in this Zoning Code, but which percentage increase does not exceed the percentage of the total Purchase Housing floor area devoted to Median Income Housing Units, such Height and/or Floor Area Ratio shall be deemed automatically increased by such excess rounded up to the nearest Story, such increase shall not be deemed to be in violation of this Zoning Code, and such increase shall not require area variance therefor.

E. Payment for Demolition of Building Containing Low Income Housing Units and/or Moderate Income Housing Units.

1. Each application to the Building Bureau for demolition of a building which contains Low Income Housing Units and/or Moderate Income Housing Units shall be accompanied by one of the following:

a) a Residential Development Application which proposes construction, within two (2) years of the date of issuance of the demolition permit for such building ("Demolition Permit"), of new Moderate Income Housing Units of Rental Housing and/or new Median Income Housing Units of Purchase Housing on the property subject to such Residential Development Application, which new Units shall contain aggregate floor area square footage at least equal to the aggregate floor area square footage of the Low Income

Housing Units and/or Moderate Income Housing Units proposed to be demolished ("Replacement Housing Units");

b) a Residential Development Application which proposes construction of a portion of the Replacement Housing Units within two (2) years of the date of issuance of the Demolition Permit ("Partial Replacement Housing Units"), together with a payment equal to the square footage of the balance of the Replacement Housing Units, were they to be constructed, multiplied by the fee set forth in the Fee Code, ("Partial Replacement Housing Units Demolition Payment");

c) a Residential Development Application which does not propose construction of any Replacement Housing Units, together with a payment equal to the aggregate floor area square footage of the Low Income Housing Units and/or Moderate Income Housing Units proposed to be demolished, multiplied by the fee set forth in the Fee Code ("Residential Development Demolition Payment"); or

d) In the event no Residential Development Application is submitted, a payment equal to the floor area square footage of the Low Income Housing and/or Moderate Income Housing Units proposed to be demolished multiplied by the fee set forth in the Fee Code ("Demolition Payment").

In the event the applicant for the Demolition Permit proposes to construct Replacement Housing Units or Partial Replacement Housing Units, the applicant therefor shall post an irrevocable, unconditional letter of credit naming the City of New Rochelle as sole payee thereof, in an amount equal to the Replacement Housing Units Payment that would be payable were no Replacement Housing Units proposed to be constructed less any Partial Replacement Housing Units Payment paid hereunder ("Replacement Housing Units Letter of Credit"). In the event certificates of occupancy for all the Replacement Housing Units or Partial Replacement Housing Units, as the case may be, are not obtained within two (2) years of the date of issuance of the Demolition Permit, the Replacement Housing Units Letter of Credit shall be drawn down in full by the City and the proceeds thereof shall be paid into the Affordable Housing Fund.

Nothing in this Section E shall be construed to diminish the obligations set forth in Sections C and D above in the event they exceed the obligations set forth in this Section E.

[THE SCHEDULE BELOW WILL GO IN THE FEE CODE]

<u>Percentage of Replacement Housing Units Not Constructed</u>	<u>Payment For Each Square Foot of Replacement Housing Units Not Constructed</u>
That Portion of Square Footage Which is Less than 50% of the Required Square Footage	\$33.33
That Portion of Square Footage Which is 50% or More of the Required Square Footage	\$66.67

G. Affordable Housing Fund.

1. In-lieu payments and demolition payments made pursuant to Sections C(5), D(6), and E(1) above shall be deposited in the City's Affordable Housing Fund which shall be invested by the City's Commissioner of Finance. The monies in such Affordable Housing Fund may be appropriated by the City Council, and if so appropriated, shall be administered by the City's Commissioner of Development, to facilitate the following Affordable Housing Programs:

- a. Acquisition of land in the City which is suitable for the construction of Low Income Housing Units and Moderate Income Housing Units;
- b. Construction of Low Income Housing Units and Moderate Income Housing Units in the City;
- c. Renovation or rehabilitation of existing dwelling units in the City for Low Income Housing Units and Moderate Income Housing Units; and/or
- d. Direct assistance to persons purchasing Moderate Income Housing Units in the City.

2. The rules and regulations for each of such Affordable Housing Programs shall be approved by the City Council prior to allocation of monies from the Affordable Housing Fund for such Programs.

3. The monies appropriated from the Affordable Housing Fund for such Affordable Housing Programs shall be allocated so that the aggregate floor area square footage of new Low Income Housing Units and Moderate Income Housing Units created through the assistance of such Fund shall not, in any given City Council District over any given ten (10) year period, exceed fifty (50%) percent of the total floor area square footage of

such Low Income Housing Units and Moderate Income Housing Units so created in the entire City during such period of time.

Section 2. This Local Law shall apply to:

1. Residential Developments which have not obtained building permits prior to the effective date of this Local Law; and
2. Buildings containing Low Income Housing Units and/or Moderate Income Housing Units which have not obtained demolition permits prior to the effective date of this Local Law,

except that Residential Developments which have already agreed to provide a set aside for affordable housing under Memorandum of Understanding and/or Land Disposition and Development Agreement with the City of New Rochelle, and Residential Developments whose Residential Development Applications have already been approved, shall all not be subject to this Local Law.