

Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of OSSINING

Local Law No. _____ of the year 2011

A local law entitled "Local Law # of 2011, for the Purpose of Amending Article VI, Affordable Housing, of the Zoning Law."

Be it enacted by the TOWN BOARD
of the

Town of OSSINING as follows:

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW # ___ OF THE YEAR 2011

BE IT ENACTED by the Town Board of the Town of Ossining as follows:

Section 1: Title

This Local Law shall be known and cited as “Local Law #__ of 2011, for the Purpose of Amending Article VI, Affordable Housing, of the Zoning Law.”

Section 2: Legislative Intent

The Ossining Town Board has a desire to bring the Town’s affordable housing regulations into conformance with the Westchester County Fair and Affordable Housing policies. The purpose of this local law is to achieve that end.

Section 3: Zoning Law Amendments

- 1. The following definitions in Section 200-53A of the Zoning Law shall be amended to read as follows:**

BELOW-MARKET-RATE (BMR) UNIT

A for-purchase housing unit that is affordable to a household whose income does not exceed 80% of the area median income (AMI) for Westchester as defined annually by the U.S. Department of Housing and Urban Development (HUD) and for which the annual housing cost of a unit including common charges, principal, interest, taxes and insurance (PITI) does not exceed 33% of 80% of the AMI, adjusted for family size, and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

A rental unit that is affordable to a household whose income does not exceed 60% of the AMI and for which the annual housing cost of the unit, defined as rent plus any tenant paid utilities, does not exceed 30% of 60% of the AMI adjusted for family size, and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

~~A new or rehabilitated housing unit which is restricted as to sale or rent to remain affordable to a BMR unit eligible household by generally not exceeding 30% of the aggregate gross income of the household. Said housing unit must be the primary residence of the household and shall not be sublet without the consent of the Town Board or its designee.~~

BMR UNIT-ELIGIBLE HOUSEHOLD

A household whose aggregate gross annual income, including the total of all current annual income of members residing in the household from any source whatsoever at the time of application (excluding the earnings of working household members of 21 years of age or younger who are full-time students), does not exceed the income criteria in the definition herein of “Below-Market-Rate Unit.”~~80% of the Westchester County median annual income for its household size [based on the U.S. Census and as updated by the Department of Housing and Urban Development (HUD)].~~ In addition, the net assets of the household at the time prior to purchase or lease may not exceed 50% of the purchase price of the unit, except where such households rely, due to age or disability, on the assets in lieu of income. ~~For example, for the year 2006, limitations are as follows:~~

Persons in Household	1	2	3	4	5	6+
Maximum eligible income (80% of median)	\$54,050	\$61,750	\$69,500	\$77,200	\$83,400	\$89,550
Maximum housing cost (30% of gross income)						
Annually	\$16,215	\$18,525	\$20,850	\$23,160	\$25,020	\$26,865
Monthly	\$1,351	\$1,544	\$1,738	\$1,930	\$2,085	\$2,239
Maximum sale price (at 5.8% interest with thirty-year mortgage)	\$157,920	\$192,500	\$227,235	\$260,900	\$298,550	\$317,120
Eligible unit types	Studio or 1-bedroom	Studio, 1, or 2-bedroom	2 or 3-bedroom	2, 3 or 4-bedroom	3 or 4-bedroom	3 or 4-bedroom

2. **Article IV, Affordable Housing, of the Zoning Law shall be amended to read as follows:**

ARTICLE VI. Affordable Housing

§ 200-32. Findings.

The Town Board of the Town of Ossining acknowledges the high cost of housing compared to average earnings in the County, and this trend has grown more noticeable as land and housing values have increased in recent years. Maintaining and ensuring a balanced mix of housing types and sizes that are affordable to a range of incomes is essential to ensuring the long-term health of the community. Such balanced housing stock enables a variety of residents to live and work in the Town, maintain family ties, and participate in community services, such as emergency services. Balanced housing is also essential to attracting and maintaining an adequate workforce, a healthy business environment, and a balanced tax base that supports local services and the quality of life. It is therefore important to maintain a mix of housing choices and to encourage and/or require the construction of below-market-rate (BMR) units in future development.

§ 200-33. Required Below-Market-Rate Unit Component.

Within all residential developments of 10 or more units created by subdivision or site plan approval, no less than 10% of the total number of units shall be created as BMR units. In residential developments of five to nine units, at least one BMR unit shall be created.

§ 200-~~34~~33. Multifamily, ~~and~~ General Business ~~and~~ One-Family Residence Districts.

- A. To achieve the purposes above, the approval authority shall grant~~may require that~~ a residential density bonus ~~be granted~~ for multiple, row or attached dwellings constructed or rehabilitated in the MF District with one-half of said density bonus consisting of below-market-rate units as defined and regulated in this article. The maximum permitted density bonus shall be in accordance with the following schedule:

Size of Property (acres)	Maximum Permitted Density Bonus
10 or more	20%
More than 5 but less than 10	30%
Less than or equal to 5	40%

- B. To achieve the purposes above, the approval authority ~~shall grant~~~~may require~~ that a residential density bonus ~~be granted~~ for multiple, row or attached dwellings constructed or rehabilitated in the GB District with one-half of said density bonus consisting of below-market-rate units as defined and regulated in this article. The maximum permitted density bonus shall be in accordance with the following schedule:

Size of Property (acres)	Maximum Permitted Density Bonus
10 or more	20%
More than 5 but less than 10	30%
More than 2 but less than 5	40%
Less than 2	100%

~~§ 200-34. Cluster developments in one-family residence districts.~~

- C. To achieve the purposes above, for dwelling units constructed or rehabilitated in the one-family residence districts, in cluster developments pursuant to § 200-31 of this chapter, the approval authority ~~shall grant~~~~may require~~ that a residential density bonus ~~be granted~~ with one-half of said density bonus consisting of below-market-rate units as defined and regulated in this article. The maximum permitted density bonus shall be in accordance with the schedule in § 200-33-~~34A~~ above. To assist in achieving the density permitted, the applicant may apply to the Planning Board for a cluster development pursuant to § 200-31 of this chapter.

§ 200-35. Below-market-rate units.

- A. Finishes, amenities, size, distribution and mix. To the maximum extent possible, the BMR units shall have the same exterior finishes, siting and exterior design and general amenities as comparable to the market rate units within the development, and said BMR units shall have access to the same amenities as the market rate units. The BMR units shall be no less than 80% of the size of said market rate units, and shall be reasonably distributed throughout the project. Further, the BMR units shall be provided in a mix of unit types 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 Town of Ossining.
- B. Minimum gross floor area. Notwithstanding §§ 200-21 and 200-22 of this chapter, the minimum gross floor area per dwelling unit shall not be less than the following:

- (1) Studio/efficiency unit: ~~350~~450 square feet.
- (2) One-bedroom unit: ~~600~~675 square feet.
- (3) Two-bedroom unit: ~~800~~750 square feet.
- (4) Three-bedroom unit: 1,000 square feet (including at least 1.5 baths).
- (5) Four-bedroom unit: 1,200 square feet (including at least 1.5 baths).

C. Occupancy standards. The minimum and maximum occupancy of a BMR unit shall be as follows:

Number of Bedrooms	Minimum Number of Persons	Maximum Number of Persons
Studio/efficiency	1	2
1	1	2
2	2	4
3	3	6
4	4	8

D. BMR unit-eligible household. Households must meet the criteria established in § 200-53A, under "BMR Unit-Eligible Household."

E. Maximum rent and sales price. The maximum monthly rent for a BMR unit and the maximum gross sales price for a BMR unit shall be established in accordance with U.S. Department of Housing and Urban Development guidelines as published in the current edition of the "Westchester County Area Median Income (AMI) Sales & Rent Limits" available from the County of Westchester. ~~The monthly rent, including utilities, for BMR units shall not exceed 30% of the aggregate gross monthly income of an eligible household as defined in § 200-53A, under "BMR unit eligible household," for the maximum size household that may occupy such unit as set forth in Subsection C above. The maximum gross sales price for a BMR unit shall not exceed a figure based on a maximum household expense of 30% of the aggregate gross monthly income of an eligible household as defined in § 200-53A for the maximum size household that may occupy such unit as set forth in Subsection C above, relating to the sum of principal, interest, taxes, and insurance, based on industry standard mortgage underwriting guidelines, prevailing interest rates, and a down payment of 5%.~~

F. ~~Priority of BMR unit applicants.~~

- (1) ~~Households applying for BMR units shall be selected on the basis of the following categories of priority:~~
- ~~(a) Town of Ossining municipal employees.~~
 - ~~(b) Persons serving as emergency responders for the Town of Ossining.~~
 - ~~(c) All other residents of the Town of Ossining.~~
 - ~~(d) Employees of the Ossining School District.~~
 - ~~(e) Other persons employed in the Town of Ossining.~~
 - ~~(f) Relatives of residents of the Town of Ossining.~~
 - ~~(g) Other residents of Westchester County.~~
 - ~~(h) Other persons employed in Westchester County.~~
 - ~~(i) All others.~~
- (2) ~~Within each of the above categories, the following special groups shall receive priority in the following order:~~
- ~~(a) Households whose head of household or spouse is 62 years of age or older.~~
 - ~~(b) First time homebuyers.~~
 - ~~(c) Households whose head of household or spouse is 30 years of age or younger.~~

F. Time period of affordability. Units designated as BMR units must remain affordable for a minimum of 50 years from the date of the initial Certificate of Occupancy for rental properties and from the date of the original sale for ownership units.

G. Affirmative marketing. The BMR units created under the provisions of this article shall be sold or rented, and resold and re-rented during the required period of affordability to only qualifying income-eligible households. Such income-eligible households shall be solicited in accordance with the requirements, policies and protocols established in the Westchester County Fair & Affordable Housing Affirmative Marketing Plan so as to ensure outreach to racially and ethnically diverse households.

GH. Property restriction. A property containing any BMR units must be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to the Town Attorney which shall ensure that the BMR unit shall remain subject to affordable regulations of this article for the minimum 50-year period of affordability. Among other provisions, the covenants shall require that the unit be the primary residence of the resident household selected to occupy the unit. Upon approval, such declaration shall be recorded against the property containing the BMR unit prior to the issuance of a Certificate of Occupancy for the development. The following statement shall be included in the covenants, deed, Certificate of Occupancy and/or rental agreement, as appropriate, for each BMR dwelling unit:

"This is a below-market-rate unit as defined in § 200-53A of the Code of the Town of Ossining, New York, and is subject to all restrictions and limitations as set forth therein."

HI. Resale requirements. In the case of owner-occupied BMR 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, as determined in this article, or the sum of:

(1) the net purchase price (i.e., gross sales prices minus subsidies) paid for the unit by the selling 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 (the "Index") on any date between (a) the month that was two months earlier than the date on which the seller acquired the unit, and (b) the month that is two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing this index, and fails to designate a successor index, the Town of Ossining will designate a substitute index; and

(2) the cost of major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts depreciated on a straight line basis over a 15-year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the unit desires to include it in the resale price.

Notwithstanding the foregoing, in no event shall the resale price exceed an amount

~~affordable to a household at 80% of the AMI at the time of the resale. In the case of owner-occupied BMR units, the title to said property shall be restricted so that in the event of any resale by the homeowner or any successor, the resale price shall not exceed the maximum sales price for said unit, as determined in Subsection E, plus the depreciated value of capital improvements based on their estimated life for up to 5% of the price of the unit.~~

J. Lease renewal requirements. Applicants for rental BMR units shall, if eligible and if selected for occupancy, sign leases for a term of no more than two years. As long as a household remains eligible and has complied with the terms of the lease, said household shall be offered renewal leases for a term of no more than two years each. Renewal of a lease shall be subject to the conditions of Federal, State or County provisions that may be imposed by the terms of the original development funding agreements for the development or to the provisions of other applicable local law.

If no such provisions are applicable and if a household's annual gross income should subsequently exceed the maximum then allowable as defined in this article, then said household may complete their current lease term and shall be offered a market rate rental unit, if available, in the development at the termination of such lease term. If no such dwelling unit shall be available at said time, or if the household does not choose to occupy a market rate rental unit, said household shall be offered the opportunity to pay the greater of (1) the rent amount payable under the provisions of this article, or (2) 30% of the household's monthly adjusted income provided that the increased rent may not exceed the market rate rent in the development for units with the same number of bedrooms, for a term of not more than one (1) year.¹

~~J.K.~~ Administration. The Town Board shall be responsible for administering these regulations and may designate a board, commission or other organization to monitor compliance.

Section 4. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

¹ Or, as an alternative for Town Board consideration, for ongoing two-year terms.

Section 5: Inclusion in Code

It is the intention of the Ossining Town Board and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; that the sections and subsections of this Local Law may be renumbered or relettered to accomplish such intention; and that the words “local law” shall be changed to “chapter,” “section” or other appropriate word, as required for codification.

Section 6: Renumbering

The location and numerical designation of this Local Law and the sections included herein shall be delegated to the discretion of the codifier, General Code, which may renumber this Local Law and sections as are necessary to accommodate these amendments.

Section 7: Codification

This Local Law shall be incorporated into the Code of the Town of Ossining and shall be assigned a chapter number and appropriate section numbers by the codifier, General Code, in accordance with the numbering system of the Code.

Section 8: Codifier’s Changes

This Local Law shall be included in the Code of the Town of Ossining. The codifier shall make no substantive changes to this Local Law, but may renumber, rearrange and edit it without first submitting it to the Ossining Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 9: Separability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 10: Effective Date

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

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