

TOWN OF YORKTOWN

Local Law No. _ for the Year 2019

Adopted _____, 2019

A LOCAL LAW to enact Chapter 102 of the Code of the Town of Yorktown entitled “AFFORDABLE HOUSING,” establishing a new affordable housing program

Be it enacted by the Town Board of the Town of Yorktown as follows:

Section I. Part II of the code of the Town of Yorktown is hereby amended by the addition of a new Chapter 102 to read as follows.

Chapter 102. AFFORDABLE HOUSING

§ 102-1. Findings; policy. The Town Board of the Town of Yorktown finds that:

- A. The Town faces a shortage of affordable housing due to the high cost of housing in the Town which impacts the general welfare of the municipality;
- B. The social and economic diversity of the Town is dependent upon a reasonable supply of affordable housing;
- C. Certain development projects attract new residents to the Town, placing pressure on the supply and availability of affordable housing;
- D. The Town’s Comprehensive Plan supports the creation of affordable housing within the Town;
- E. The Yorktown Community Housing Board administers the Town’s affordable housing program and establishes affordability guidelines;
- F. It is the policy of the Town to require builders of new housing to incorporate affordable housing within their developments.

§ 102-2. Applicability.

- A. This chapter applies to all zones allowing residential uses, and also applies to developments with residential units which will require zoning changes, variances, special exceptions, site plan approval, or other discretionary approvals from the Town.
- B. This chapter shall not apply to any new development:
 - (1) Comprised of less than ten (10) units
 - (2) Which has obtained all Town approvals including site plan approval prior to the effective date of this chapter.
 - (3) Which already contains ten (10%) percent or more affordable housing units mandated by deed restrictions or regulatory agreements from County, State or Federal agencies.

C. Affordable housing units created prior to the effective date of this chapter are subject solely to Section 300-39 of the Town Code and the deed restrictions associated with the units, or, if applicable, regulatory agreements from County, State or Federal agencies.

§ **102-3. Purpose.** The purpose of this chapter is to ensure that new residential development in the Town includes a reasonable supply of affordable housing to address housing needs. This chapter sets forth standards for affordable housing to be provided in conjunction with new residential developments. The provision of such housing may be achieved through the conveyance of land and the construction of fair and affordable housing units in the residential developments.

§ **102-4. Definitions**

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

Fair and Affordable Housing Unit (AHU): a for-sale housing unit or a rental housing unit as further described below.

(A) A for-sale 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 30% of 70% AMI, adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

(B) A rental housing unit that is affordable to a household whose income does not exceed 65% AMI and for which the annual housing cost of the unit, defined as rent, does not exceed 30% of 50% AMI adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

HUD – U.S. Department of Housing and Urban Development

Index - Consumer Price Index (CPI) 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

Low HOME Rent – A rent limit updated annually by HUD and published by Westchester County for use in affordable housing programs that calculate maximum rent based on 50% of area median income]

Special Population - a group of individuals who have a physical or mental impairment which substantially limits one or more major life activities such as, but not necessarily limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working. Examples of special populations include medically vulnerable children, homeless individuals, those with severe mental disturbances, individuals who are blind, deaf, hard-of-hearing, individuals

with cognitive disorders, individuals with mobility limitations, medically or chemically dependent individuals, and frail elderly individuals.

Tenant –individual or individuals named as tenant in a lease of a rental AHU.

YCHB - Yorktown Community Housing Board

§ 102-5. New Residential Development Requirements.

A. Single-family home construction. At least 10% of the units in any residential development of land in any single-family zoning district shall be established as Fair and Affordable Housing Units (AHUs) according to Subsection A(2) below. Satisfaction of the requirements shall be according to the methods provided for in Subsection A(1) below:

- (1) Construction of AHUs on the site of the proposed development;
- (2) The actual number of units to be set aside is as follows: Within all new single-family residential developments of 10 or more units created by rezoning, subdivision or site plan approval, no less than 10% of the total number of units shall be created as AHUs. The number of required AHUs shall be calculated as follows:

Development Size	Required AHUs
1 to 9 units	0
10 to 19 units	1
20 to 29 units	2
30 to 39 units	3
40 to 49 units	4

Continuing in like increments (each additional 10 new units or part thereof shall require 1 additional AHU).

B. Multifamily residential development. Within all new multi-family residential developments of 10 or more units, no less than 10% of the units shall be established as AHUs according to Subsection B(2) below. Satisfaction of the requirements shall be according to the methods provided for in Subsection B(1) below:

- (1) Construction of AHUs on the site of the proposed development;
- (2) The actual number of units to be set aside is as follows: Within all new multi-family residential developments of 10 or more units created by rezoning, subdivision or site plan approval, no less than 10% of the total number of units shall be created as AHUs. The number of required AHUs shall be calculated as follows:

Development Size	Required AHUs
1 to 9 units	0
10 to 15 units	1

16 to 25 units	2
26 to 35 units	3
36 to 45 units	4
46 to 55 units	5
56 to 65 units	6
66 to 75 units	7
76 to 85 units	8
86 to 95 units	9
96 to 105 units	10
106 to 115 units	11

Continuing in like increments (number of units times 0.10, rounding .5 or less down to the nearest whole number: 0.6 or greater rounds up to next largest whole number)

C. All such AHUs, whether for purchase or for rent, shall be marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan. Applicants shall be selected in accordance with the procedures specified in Subsection D below.

D. Applicants shall be obtained in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan. To establish the initial waiting list for a development, a lottery shall be used to establish the list order of all applicants. Thereafter, additional applicants will be ranked based upon the date and time of their application until a subsequent lottery is held.

Applicants will be screened for income eligibility. Applicant households must fall within the Occupancy Standards as specified in Subsection § 102-6 (D) below. Nothing herein shall preclude Owners or Managers from screening applicants in accordance with standard industry practices, as specified in Subsection § 102-6 (J) (7) below.

§ 102-6. Provisions Applicable to Fair and Affordable Housing Units (AHUs).

- A. Siting of AHUs. All AHUs constructed under this section shall be situated within the proposed development and be no less accessible to public amenities, such as open space, than the market-rate units.
- B. Minimum design and construction standards for AHUs. AHUs within single-family market-rate developments shall be integrated with the rest of the development, shall be similar in appearance, siting, and exterior design to the furthest extent practical, and shall be distributed among various unit sizes consistent with the other units in the development. AHUs within multi-family developments shall be physically integrated into the design of the development and shall be distributed among various sizes (efficiency, one-, two-, three-, and four-bedroom units) consistent with the other units in the development. From the outside or building exteriors, the AHUs shall be similar in appearance to the market rate units.
- C. Minimum Floor Area. The minimum gross floor area per AHU shall be no less than the following:

<u>Dwelling Unit Size</u>	<u>Minimum Gross Floor Area (square feet)</u>	
	<u>Rental Unit</u>	<u>Homeownership</u>
Unit		
Efficiency	450	N/A
1 bedroom	675	700
2 bedroom	800	950
3 bedroom	1,000	1,200
4 bedroom (including at least 1.5 baths)	1,200	1,400

D. Occupancy Standards. For the initial sale or rental of AHUs, the following occupancy schedule shall apply:

<u>Dwelling Unit Size</u>	<u>Number of Persons</u>
Efficiency	Minimum: 1, Maximum: 1
1 Bedroom	Minimum: 1, Maximum: 3
2 Bedroom	Minimum: 2, Maximum: 4
3 Bedroom	Minimum: 3, Maximum: 6
4 Bedroom	Minimum: 4, Maximum: 8

E. Affirmative Marketing. The AHUs created under the provisions of this section 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.

F. Initial Sale or Rental Price. The Yorktown Community Housing Board (YCHB) shall establish the initial maximum monthly rent for a for-rent AHU or the maximum gross sales price for a for-sale AHU unit. It shall be guided by the definitions of rental AHU's and for-sale AHU's as indicated in Section 102-4A(1) and (2) above, as well as by the guidelines of the U.S. Department of Housing and Urban Development in the most recent edition of the "Westchester County Area Median Income (AMI) Sales & Rent Limits" published by Westchester County. In calculating affordability, the YCHB shall utilize the standard of 1.5 persons per bedroom (the standard currently used by HUD, New York State and Westchester County) to determine the applicable median income limits based on unit size.

(1) To calculate housing costs for establishment of affordability of for-sale AHUs, the YCHB shall include the estimated principal and interest on the mortgage loan, estimated property taxes and homeowners insurance (otherwise known as PITI), as well as any estimated common charges, homeowners' association fees, and/or common maintenance fees. The maximum initial for-sale price shall be determined such that monthly housing costs shall not exceed 30% of 70% AMI, as adjusted based on unit size using 1.5 persons per bedroom, and calculating the mortgage based on 95% of the sales price utilizing an average of prevailing mortgage rates for

30-year, fixed rate mortgages.

- (2) To calculate initial rent for the for-rent AHUs, the YCHB will use the HOME rents based on unit size, as set forth in the most recent edition of the “Westchester County Area Median Income (AMI) Sales & Rent Limits.” The maximum rents shall be the Low HOME rent.
- (3) Where development funding agreements from Westchester County, New York State, or United States Government agencies specify another methodology for determining rent or sales price, the provisions of such agreements shall supersede the methodology provisions of this local law.

G. Time Period of Affordability and Property Restriction. Homeownership units designated as AHUs shall remain permanently affordable. Rental units designated as AHUs shall remain affordable for a minimum of 50 years from date of initial certificate of occupancy for the rental property. A property containing any AHUs shall be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to Municipal Counsel and to the YCHB which shall ensure that the AHUs shall remain subject to affordable regulations for the period of affordability as set forth above. 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 AHUs prior to the issuance of a Certificate of Occupancy for the development.

H. Timing of construction or provision of AHUs. The construction of AHUs shall occur proportionately with the construction of the market rate units in the development

. No building permits may be issued for the last 10% of the market rate units within a development until all of the AHUs have been issued building permits, and no certificates of occupancy for the last 10% of the market rate units shall be issued until all of the AHUs have received certificates of occupancy.

I. Deed Restrictions of For-Sale AHUs.

- (1) In the case of owner-occupied affordable AHUs, the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the maximum resale price shall be the lower of the maximum sales price for said unit as determined in Subsection I (a) and (b) below:

(a) 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 (CPI) 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 the dates between the month the seller acquired the unit

and the month that the unit is offered for resale, plus the cost of approved major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts and written approval for said major capital improvements received from the YCHB no later than the time the seller of the unit has placed it for sale. Approval for, and addition to the potential resale price of, any major capital improvements shall be at the sole discretion of the YCHB. In reviewing such requests, the primary consideration shall be maintenance of the affordability of the AHU. If the Index referenced above ceases to be published by the Bureau of Labor Statistics, and a successor index has not been designated, the YCHB shall recommend to the Town Board a comparable substitute index or methodology for proposed adoption by amendment of this chapter by local law. The last published edition of the Index shall continue to be used until enactment of a successor index.

(b) the price affordable to a household at 80% of AMI at the time the unit is offered for resale. This price shall be determined such that monthly housing costs shall not exceed 30% of 80% AMI, as adjusted based on unit size using 1.5 persons per bedroom, and calculating the mortgage based on 95% of the sales price utilizing an average of prevailing mortgage rates for 30-year, fixed rate mortgages. Monthly housing costs shall include the estimated principal and interest on the mortgage loan, estimated property taxes and homeowners insurance (otherwise known as PITI), as well as any estimated common charges, homeowners' association fees, and/or common maintenance fees.

- (2) The price established by the YCHB in accordance with the foregoing shall be the maximum resale price. Should no buyer eligible under the terms herein contract for and close on the purchase of the AHU at this maximum price, the homeowner may, at his sole discretion, reduce the price or withdraw the unit from the market. The Town shall not be deemed to guarantee the resale price of the unit, which may be affected by factors such as the housing market and condition of the unit. A buyer of an AHU shall be deemed to have fully assumed the risks associated with the future value of the unit.
- (3) The deed restrictions are for the sole purpose of ensuring that the unit is sold to an income eligible buyer at no more than the maximum resale price as determined above, and marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.
- (4) A for-sale AHU must be occupied by the eligible purchaser as his/her primary residence. Under extenuating circumstances (e.g., the need to care for an ill family member out of town), the owner of an AHU may seek the approval of the YCHB to sublet the unit for up to a maximum of six months. Upon application to the YCHB, an extension to sublet the AHU for an additional six months may be granted. No additional extensions may be granted.

J. Rents, Leases and Lease Renewals of Rental AHUs.

1. Initial leases and renewal leases offered under the provisions of this chapter shall contain the following provision in 12-point or larger typefont:

“This unit is an Affordable Housing Unit governed by Chapter 102 of the Code of the Town of Yorktown. Initial and continuing eligibility for leasing the unit requires submission of names of, and income documentation for, all occupants of the unit, and use of the unit as the primary residence of the Tenant. Such income and residency documentation will be requested, and must be submitted, prior to each renewal of the lease. Failure to submit income documentation and proof of residency will result in non-renewal and/or termination of the lease. If upon lease renewal Tenant’s annual gross income exceeds by more than 40% the maximum income for eligibility then allowable, then Tenant may complete Tenant’s current lease term. If a non-restricted rental unit is available in the development at the termination of such lease term, and if the resident meets the credit and/or financial qualifications that Owner or Manager requires of other applicants for non-restricted rental units, Owner or Manager shall offer Tenant a lease for such non-restricted rental unit. If no such dwelling unit shall be available at said time and accepted by the Tenant, the Owner shall offer Tenant a one-year lease for the AHU Tenant occupies, but shall not offer Tenant a renewal of the lease beyond the expiration of said term.”

2. A Tenant of a rental AHU shall be required to submit the names of, and income documentation for, all occupants of the AHU to the Owner or Manager of the AHU within 30 days after receipt of written request by the Owner or Manager as requested under subsection J(3) below, for the purpose of verifying the Tenant’s continued eligibility to lease the unit. Intentional submission of misleading or inaccurate income information shall be grounds for denial of a renewal lease, and may cause Tenant to be subject to criminal prosecution.
3. One hundred and fifty days prior to the expiration of the lease, the Owner or Manager shall request income documentation from Tenant. The Owner or Manager shall review eligibility based on the rent and income guidelines provided by the YCHB and in effect at that time. If Tenant remains eligible, the Owner or Manager shall offer Tenant a renewal lease at a rent no greater than the Low HOME Rent for the unit size occupied. If the Tenant fails to submit income documentation for all occupants of a rental AHU as provided in Subsection J(1) above, Owner shall not offer Tenant a renewal lease and shall terminate Tenant’s lease.
4. Applicants for rental AHUs shall, if income eligible and if selected for occupancy in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan, sign leases for a term 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 renewal leases for a term of no more than two years each.

5. Renewal of a lease shall be subject to the provisions that may be imposed by Westchester County, New York State, or United States agencies in accordance with the terms of the original development funding agreements for the development or the provisions of other applicable law.
6. If Tenant's income documentation establishes that Tenant's annual gross income exceeds by more than 40% the maximum income for eligibility then allowable, as defined herein, then the Tenant may complete the Tenant's current lease term. If a non-restricted rental unit is available in the development at the termination of such lease term, and if the resident meets the credit and/or financial qualifications that the Owner or Manager requires of other applicants for non-restricted rental units, the Owner or Manager shall offer the Tenant a lease for such non-restricted rental unit. If no such dwelling unit shall be available at said time and accepted by the Tenant, the Owner shall offer the Tenant a one-year lease for the AHU the Tenant occupies, but shall not offer Tenant a renewal of the lease beyond the expiration of said term.
7. Nothing herein shall preclude the Owner or Manager from following standard industry practices in evaluating the background and credit history of prospective tenants, and making reasonable business judgements regarding the acceptability of applicants. If an applicant is rejected for good cause, another applicant shall be selected in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan, and the procedures specified in Subsection § 102-5 (D) above.
8. Nothing herein shall preclude the Owner or Manager from enforcing the terms of the lease and rules and regulations, including initiating an action in a court having jurisdiction over landlord-tenant matters for non-payment of rent or for holdover in an AHU after lease termination for cause or ineligibility hereunder.
9. Security deposit requirements of eligible rental AHUs shall be limited to one month rent deposit.

K. Waiver for Projects for Special Populations. Affordable housing requirements for a development project targeted at a special population may be waived or modified by the Planning Board upon a showing of good cause after full consideration of the characteristics and needs of such special population.

§ 102-7. Administration.

- A. The YCHB shall be responsible for establishing policies regarding the AHUs and promulgating regulations to implement the terms of this chapter. At the request of the YCHB, the Yorktown Town Board may engage other government or not-for-profit agencies to carry out the administrative duties specified herein, and may authorize

expenditures from the Affordable Housing Trust Fund to pay for the performance of those administrative duties.

- B. At the time of the issuance of a building permit, the Building Inspector shall send a copy of such permit to the YCHB, which shall establish the maximum rental or sales price for affordable housing units in such development and the maximum annual gross family income for eligibility for occupancy of said units, unless such price and eligibility is determined by another government agency or its designee in accordance with the terms of original development funding agreements for the development or the provisions of other applicable law.
- C. With respect to rental units, on or before May 31 of each year thereafter the YCHB shall notify the owner or manager of each AHU of the rent and income eligibility requirements for such unit based upon the provisions herein. With respect to ownership units, the YCHB shall provide sales criteria for the sale of an AHU at the time of offering the unit for sale. The Owner or Manager of each multi-family rental development with AHUs shall annually certify to the satisfaction of the YCHB that the requisite number of AHUs have been assigned to income-eligible individuals in accordance with the guidelines herein. The annual certification shall include unit designations and tenant names and shall be signed by the Owner or his or her designated representative. The YCHB shall have the right to review the underlying documentation for each AHU.
- D. AHUs shall not be resold for more than the amount that, at the then- prevailing interest rates, will result in the unit cost meeting the affordable standards set by the YCHB as per the guidelines herein. All resales shall be made to income-eligible and qualified buyers who meet the requirements established by the YCHB according to the guidelines set forth herein.
- E. Notwithstanding the above, where development funding agreements from Westchester County, New York State, or United States Government agencies specify another methodology for determining eligibility, rent and/or sales price, or for administration of the fair and affordable housing units created in accordance with this chapter, the provisions of such agreements shall supersede the methodology provisions of this Chapter.

§ 102-8. Expedited Project Review Process

- A. **Pre-application meeting:** Upon written request to the Planning Department, the applicant for a development including AHUs shall be afforded a pre-application meeting with representatives from each municipal department likely to have a role in the review and approval of the development application and construction to discuss the early identification of issues, concerns, code compliance and coordination matters that may arise during the review and approval process, with respect to development approvals, in accordance with § 195-21 of the Town Code. For purposes of the review of residential site plans under this chapter, the procedures set forth in § 195-21 shall apply.

B. Meetings and timeline: Municipal departments shall work with the applicant to extend submission deadlines when circumstances warrant. This subsection shall not be construed to limit the number of multi-agency meetings with the applicant throughout the approval process. Additional such meetings may be requested by the applicant and held on an as-needed basis.

C. Calendar/agenda priority: Municipal departments, agencies, authorities, boards, commissions, councils or committees with review or approval authority over applications for developments including AHUs shall place such applications first on meeting and work session calendars and agenda when feasible based on the ability to conduct required reviews and public notice, with the intent of shortening minimum advance submission deadlines to the extent practicable.

Section II. Supersession of conflicting law.

Where the requirements of this Local Law impose a different restriction or requirement than imposed by other sections of the Code of the Town of Yorktown, the Town Law of the State of New York or other applicable rules or regulations, the requirements of this Local Law shall prevail.

Section III. Severability.

The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any other part of this local law that can be given effect without such invalid part or parts.

Section IV. Effective Date.

This Local Law shall take effect upon filing with the Secretary of State.