

Ordinance 2020-49

An Ordinance Amending the Northbrook Zoning Code (1988) Regarding Affordable Housing

Passed by the Board of Trustees, 12/8/2020
Printed and Published 12/9/2020

Printed and Published in Pamphlet Form
by Authority of the
President and Board of Trustees
VILLAGE OF NORTHBROOK
COOK COUNTY, ILLINOIS

I hereby certify that this document
was properly published on the date
stated above.

/s/ Debra J. Ford
Village Clerk

Ordinance 2020-49

BE IT ORDAINED by the President and Board of Trustees of the Village of Northbrook, County of Cook and State of Illinois THAT:

An Ordinance Amending the Northbrook Zoning Code (1988) Regarding Affordable Housing

shall be, and is hereby, adopted as follows:

SECTION 1. BACKGROUND.

The Village of Northbrook recognizes the need to provide affordable housing to low-to-middle income households in order to increase housing opportunities for a diverse population and to provide housing for those who live or work in the Village. Without intervention, the trend toward increased housing prices will result in an inadequate supply of affordable housing, which will have a negative impact upon the ability of local employers within the Village to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the Village and its residents. Since the remaining land appropriate for new residential development within the Village is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable for low-to-middle income households and working families.

On March 22, 2005, the Village Board of Trustees adopted Resolution 05-R-21, approving the Village of Northbrook Affordable Housing Plan (“*Affordable Housing Plan*”). Since that time, the Village has taken many steps to actively promote an increase in the supply of affordable housing in the community in accordance with the Affordable Housing Plan.

The President and the Village Board of Trustees have determined that it is in the best interest of the Village and its residents to adopt updates and amendments to its Municipal Code, Comprehensive Plan, the Affordable Housing Plan, and well as the Northbrook Zoning Code (1988), as amended (“*Zoning Code*”) to actively support the development and preservation of affordable housing in the Village. Village staff has determined that amending the Zoning Code to establish requirements and standards for the inclusion of affordable housing units in the new residential developments (collectively, “*Amendments*”) would further these efforts.

The President and Board of Trustees have determined that it will be in the best interest of the Village and its residents to adopt the Amendments in the form set forth in this Ordinance:

SECTION 2. PUBLIC HEARING

A public hearing to consider the Amendments was duly published on August 28, 2020 in the *Daily Herald*, and a public hearing was held before the Plan Commission on September 15, 2020 and subsequently continued to Plan Commission meeting on October 20, 2020. On November 17, 2020 the Plan Commission adopted a resolution making a formal recommendation for the approval of the Amendments (Plan Commission Resolution No. 20-PC-12).

SECTION 3. AMENDMENTS TO ZONING CODE.

The Zoning Code shall be amended by adding a new Part III, entitled “Affordable Housing in New Developments,” to Article IX, entitled “District Regulations of General Applicability,” of the Zoning Code, which Part shall be as set forth in *Exhibit A*, attached to, and by this reference, made a part of this Ordinance.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall be in full force and effect following its passage, approval, and publication in pamphlet form in the manner required by law.

Adopted: 12/8/2020

RESULT:	ADOPTED [UNANIMOUS]
MOVED:	Heather Ross, Trustee
SECONDER:	Muriel Collison, Trustee
AYES:	Frum, Ciesla, Israel, Collison, Ross, Hebl, Pepoon

ATTEST:

/s/ Sandra E. Frum
Village President

/s/ Debra J. Ford
Village Clerk

EXHIBIT A
ZONING CODE AMENDMENT
ARTICLE IX; PART III
AFFORDABLE HOUSING IN NEW DEVELOPMENTS

9-301 PURPOSE AND INTENT

The Affordable Housing standards in this Part are established for the purposes of implementing the goals, objectives and policies of the Northbrook Comprehensive Plan and the Village's Affordable Housing Plan. These standards are intended to promote the public health, safety, and welfare of the existing and future residents of Northbrook by requiring certain residential developments or mixed-use developments which contain a residential component to incorporate a specified percentage of dwelling units to be priced affordably for households with incomes at or below 120% of the Area Median Income (AMI), or to utilize other mechanisms that will promote affordable housing opportunities in the Village.

The Village recognizes the need to provide affordable housing to low-to-middle income households in order to increase housing opportunities for a diverse population and to provide housing for those who live or work in the Village. Without intervention, the trend toward increased housing prices will result in an inadequate supply of affordable housing, which will have a negative impact upon the ability of employers within the Village to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the Village and its residents. Since the remaining land appropriate for new residential development within the Village is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable for low-to-middle income households and working families.

While this Part provides specific alternatives to the production of on-site affordable housing units, the intent and preference of this Part is for the provision of permanently affordable housing units constructed on-site and privately produced, owned, and managed.

9-302: DEFINITIONS

- A. The words and phrases used in this Part shall be interpreted to have the meanings ascribed to them in this Section 9-302. To the extent that words or phrases used in this Part are not defined in this section, but such words or phrases are defined in the Zoning Code, such words or phrases shall be deemed to have the meanings set forth in the Zoning Code.
- B. Definitions.

AFFORDABLE HOUSING. Any housing that qualifies as affordable for the targeted households identified in this Part. For the purpose of this Part, "Affordable Housing" is divided into tiers based on availability to households at distinct income levels.

AFFORDABLE HOUSING PLAN: That certain affordable housing plan prepared by the Village of Northbrook and adopted by the Village's Board of Trustees.

AFFORDABLE HOUSING COMPLIANCE PLAN: A plan submitted by a developer or owner of a governed development describing how development will comply the requirements of this Part.

AFFORDABLE HOUSING TRUST FUND. A trust fund to be established by the Village, pursuant to Section 19-137 of the Municipal Code of the Village, with the purpose of aggregating and providing financial resources to address the affordable housing needs of individuals and families in the Village.

AFFORDABLE HOUSING UNIT. A dwelling unit that meets the criteria for affordable housing.

AFFORDABLE OWNER-OCCUPIED UNITS. Affordable housing units marketed and offered for sale to eligible households subject to an affordable unit covenant.

AFFORDABLE RENTAL UNITS. Affordable housing units marketed and offered for rent to eligible households subject to standard lease terms.

AREA MEDIAN INCOME (AMI). The median income level for the Chicago-Naperville-Elgin, IL-IN-WI Metropolitan Statistical Area, as established and defined in the annual schedule published by the Secretary of Housing and Urban Development, and adjusted for household size.

BASE DENSITY. The number of dwelling units permitted to be constructed on a parcel in conformance with the requirements of the zoning district in which it is located, prior to applying any applicable density bonus.

CERTIFICATE OF QUALIFICATION. A certificate establishing a qualified household's eligibility to purchase or lease an affordable dwelling unit based on income eligibility using income and asset limits, in accordance with the Village's policies and procedures.

CONSUMER PRICE INDEX (CPI). Consumer price index for the Chicago-Naperville-Elgin area as published annually by the U.S. Department of Labor, Bureau of Labor Statistics.

CONVERSION. A change in a residential or mixed-use rental development to individual-owner residential condominium units.

DEVELOPER. The party responsible for obtaining approvals from the Village, including zoning, subdivision, and building permit approvals, for a governed development.

ELIGIBLE HOUSEHOLD. For purposes of this Part, a household with an annual income less than 120% of the Area Median Income.

GOVERNED DEVELOPMENT. Any residential or mixed-use development with a residential component that is required to provide affordable housing units under provisions of this Part. Projects at one location undertaken in phases, stages or otherwise developed in distinct parts shall be considered a single governed development.

HOUSING EXPENSES.

- a) For affordable rental units - rent and utilities; and
- b) For affordable owner-occupied units - principal and interest of any mortgages placed on the unit, property taxes, condominium or homeowner's association fees, if applicable, and insurance.

MAXIMUM RESALE PRICE. The maximum price an owner-occupied affordable unit may be sold to another eligible household at based on a valuation formula incorporating appraisal data, a maximum appreciation factor, and allowances for capital improvements, all as set forth in a schedule to be published by the Village on an annual basis.

MARKET RATE HOUSING UNITS. All owner-occupied or rental dwelling units in a governed development that are not classified as affordable housing units.

9-303: ADMINISTRATION

- A. The provisions of this Part shall be administered by the Village Manager and the Department of Planning and Development. The Board of Trustees may designate the Plan Commission or another body to conduct reviews of affordable housing compliance plans for governed developments and make recommendations regarding their sufficiency to the Board of Trustees.
- B. The Board of Trustees shall have the right, but not the obligation, to adopt, and to amend from time to time, administrative guidelines, procedures, and schedules to assist in the effective implementation of this Part; provided, however, that any administrative guidelines, procedures, and schedules adopted or amended pursuant to this Section 9-303 shall not be inconsistent with this Part, and that in the event of a conflict between the administrative guidelines and this Part, this Part shall control. Pursuant to this authority, the Board of Trustees may adopt guidelines for:
 1. Factoring in net worth and assets when determining qualification as an eligible household;
 2. Calculating maximum permitted household expenses;

3. Setting a maximum resale price for an owner-occupied affordable unit;
4. Establishing limitations on renting or subletting an affordable housing unit; and
5. Other guidelines, procedures and schedules deemed necessary by the Board of Trustees to assist in administering this Part.

C. The Village Manager may, with the authorization of the Board of Trustees, enter into an agreement with a not-for-profit organization specializing in the management and operation of affordable housing programs to assist in the administration of portions of this Part, including, without limitation, performing assessments of households' certificate of qualification, managing waitlists for affordable housing units, marketing affordable housing units, verifying governed developments' ongoing compliance with the requirements of this Part, and advising on the administrative guidelines, procedures, and schedules authorized by this Section 9-303.

9-304: APPLICABILITY

A. General. The provisions of this Part shall apply to all developments that result in the addition of or contain six (6) or more residential dwelling units. Developments subject to the provisions of this Part shall be deemed governed developments and shall include, but are not limited to, the following:

1. A development that is new residential construction or new mixed-use construction with a residential component.
2. A development that is the renovation or reconstruction of an existing multiple family residential building that increases the number of residential dwelling units from the number of dwelling units in the original structure.
3. A development that will change the use of an existing building from non-residential to residential or that will change the class of residential use from single family to multi-family.
4. A development that includes the conversion of rental property to private ownership of individual dwelling units.

B. Development on Multiple Parcels. For purposes of this Part, a development that is constructed across multiple adjacent parcels under common ownership shall be considered a single development.

C. Excluded Developments. The requirements of this Part will not apply to the following housing types:

1. Any subdivision or development resulting in five (5) or fewer residential units;
2. The reconstruction of an individual dwelling unit that is rebuilt;
3. A non-residential development;
4. Independent senior living facilities;
5. Assisted living facilities; and
6. Nursing facilities.

9-305: AFFORDABLE HOUSING REQUIREMENT FOR GOVERNED DEVELOPMENTS

A. Calculation of Required Affordable Units. Unless an exception or alternative is approved pursuant to Section 9-306 of this Part, the developer of a governed development must satisfy the requirements of this Part by providing affordable housing units within the physical envelope of the development, in the amounts to be calculated as follows:

1. General Requirement. Fifteen percent (15%) of the total number of dwelling units in a governed development shall be marketed, offered, and maintained as affordable housing units. The total number of dwelling units in a development will include any units permitted above the base density pursuant to Section 9-307 A.
2. Fractional Units. When the application of the percentages specified above results in a number of required affordable housing units that includes a fraction, the fraction will be rounded up to the next whole number if the fraction is greater than 0.5. If the result includes a fraction equal to or less than 0.5, the developer will have the option of rounding up to the next whole number and providing the affordable housing units on-site,

or providing the Village with a payment-in-lieu of providing an additional affordable housing unit. The fee in lieu fee shall be calculated in accordance with Section 9-305 D below.

Example: A developer proposes to construct a 40-unit multiple family residential development:

-The developer will be required to offer 6 of the units as affordable housing units (15% of 40 = 6 Affordable Units and 34 Market Rate Units.)

-If the 6 affordable units are provided, the developer may then receive an additional development density incentive set forth in Section 9-307, allowing the development to expand to 46 units, one additional unit for each affordable housing unit provided. A final round of calculations is performed to determine the total affordable housing unit requirement: 15% of 46 units = 6.9. Since 6.9 includes a fraction greater than $\frac{1}{2}$, the requirement is to provide 7 affordable now seven (7) affordable units in addition to the 40 market rate units.)

B. Eligible Income Tiers and Maximum Prices. Affordable units in governed developments may only be offered to eligible households from the income tiers and at the maximum price levels listed in the chart below.

Affordable Rental Units	Proportion of Included Units	Eligible Income Tier	Maximum Rent Prices for Eligible Income Tiers
	At least 1/3 (33.33%)	Tier A: Households with income less than 50% of AMI	Attainable to household with income equal to 45% AMI
	At least 1/3 (33.33%)	Tier B: Households with income equal to or greater than 50% AMI but less than 80% AMI	Attainable to household with income equal to 65% AMI
	No more than 1/3 (33.33%)	Tier C: Households with income equal to or greater than 80% AMI but not exceeding 100% AMI	Attainable to household with income equal to 80% AMI
If three or less units offered	100%	Households with income less than 80% AMI	Attainable to household with income equal to 65% AMI
Affordable Owner-Occupied Units	Proportion of Included Units	Eligible Income Tier	Maximum Purchase Price for Eligible Income Tiers
	1/2 (50%)	Tier 1: Households with income less than 80% AMI	Attainable to household with income equal to 65% AMI
	1/2 (50%)	Tier 2: Households with income equal to or greater than 80% AMI but less than 120% AMI.	Attainable to household with income equal to than 100% AMI

Explanatory Notes:

- Eligible Income Tier: Units reserved for each income tier may only be offered to households with incomes that do not exceed the eligible income tiers.
- Housing Expenses: For affordable rental units, "housing expenses" equals the monthly sum of rent and utilities. For affordable owner-occupied units, "housing expenses" equals the monthly sum of principal and interest of any mortgages placed on the unit, property taxes, condominium or homeowner's association fees, if applicable, and insurance.
- Attainability of Housing Expenses: Maximum housing prices are based on spending 31% of monthly household income on housing expenses. Permitted housing expenses for rental and affordable owner-occupied units will be calculated based on the most current area median income levels published by HUD.

C. Pricing Schedule. The Village Manager shall publish a Housing Expenses Pricing Schedule of rental and sales prices for affordable housing units for each income tier designated in Subsection 9-305 B, which pricing schedule will be made publicly available and will be updated annually.

9-306: ALTERNATIVE METHODS FOR PROVIDING REQUIRED AFFORDABLE HOUSING UNITS

- A. Approval of Alternative Methods. Any deviation from the minimum affordable housing requirement for governed developments may only be approved as part of the Village's review of the affordable housing compliance plan submitted for a governed development. None of the alternative methods for providing affordable housing units may be incorporated into a governed development unless such methods are first included in the approved final affordable housing compliance plan for the development and approved by the Village Board by resolution duly adopted.
- B. Units Provided Off-Site. Rather than providing the affordable housing units required pursuant to this Part within a governed development, a developer may provide some or all of the required units at an alternate off-site location within the Village, but only upon a determination by the Village Board that provision of the required units at an alternate off-site location will create affordable housing opportunities in the Village to an equal or greater extent than including affordable units within the governed development. If provided off-site, the affordable units shall also be comparable to the surrounding market housing in quality, design, and general appearance. The Board of Trustees may determine in its sole discretion whether this alternative is appropriate on a case-by-case basis and shall consider whether or not the location of the units off-site would result in an undue concentration of affordable housing units in any one area. The Board of Trustees' determination will be made and incorporated into the Board's approval of the affordable housing compliance plan for the governed development.
- C. Dedication of Land. Rather than providing the affordable housing units pursuant to the requirements of this Part, a developer may dedicate land within the corporate limits of the Village to the Village of Northbrook, but only if: (a) the Village Board determines that dedication of land will create affordable housing opportunities in the Village to an equal or greater extent than including affordable units in the governed development; and (b) the developer offers to dedicate a quantity of land sufficient to construct a quantity of affordable dwelling units that the developer would otherwise be required to provide within the governed development. The Village Board's determination and the developer's commitment will be incorporated into the Village's approval of the affordable housing compliance plan for the governed development.
- D. Payment-in-Lieu of Providing Affordable Units.
 - 1. General Applicability. A developer may make a cash payment-in-lieu of constructing some or all of the required affordable housing units otherwise required to be construct pursuant to this Part, but only if either:
 - a) the governed development consists solely of 19 or fewer single-family detached dwelling units; or
 - b) the Village Board approves such payment, and determines that such a payment will create affordable housing opportunities in the Village to an equal or greater extent than through the inclusion of affordable units in the governed development. Such determination will be made and incorporated into the Board of Trustees' approval of the affordable housing compliance plan for the governed development.
 - 2. Amount and Use of Payment-In-Lieu. The amount of the payment-in-lieu per affordable housing unit will be set forth in the Village's Annual Fee Ordinance. The minimum per-unit payment-in-lieu shall be determined by the Village Board considering and factoring in the cost of constructing, operating, and maintaining an affordable housing unit, and shall be reviewed and modified periodically by the Village Board. All payments-in-lieu received pursuant to this Article shall be deposited directly into the Village Affordable Housing Trust Fund and reserved for authorized purposes.
 - 3. Calculation of Required Payment-in-Lieu. For governed developments permitted to satisfy their affordable housing requirement through a full or partial payment-in-lieu, the payment-in-lieu amount due to the Village shall be equal to the per unit amount established in the Northbrook Municipal Code's Annual Fee Ordinance multiplied by 15% of the total number of units proposed in the governed development, less the number of affordable housing units actually provided by the developer pursuant to this Part.

4. **Timing of Payment.** A developer will be required to submit the permitted payment-in-lieu for a governed development prior to the issuance of any building permits for the governed development. In the event that a governed development is being constructed in phases, the developer will only be required to submit a portion of the payment-in-lieu corresponding to the proportion of the full development that the phase being permitted consists of

Example: A developer applies for permits for half of a 200-unit development – 100 units; a payment-in-lieu for 15 units will be required upon initial permit submission for this phase of the development.

- E. **Combination of Methods.** A developer may request that it be allowed to fulfill the affordable housing requirement for a governed development through a combination of the alternative methods set forth in this Section 9-306. However, no such options shall be allowed unless the Village Board determines that provision of the required units through a combination of alternative methods will create affordable housing opportunities in the Village to an equal or greater extent than including affordable units in the governed development. Such determination will be made and incorporated into the Board of Trustees' approval of the affordable housing compliance plan for the governed development.

9-307: INCENTIVES FOR DEVELOPMENT OF AFFORDABLE HOUSING UNITS

Developers constructing governed developments incorporating the affordable housing units required on-site will be allowed to take advantage of the following incentives and development options. All incentives and options authorized by this Section 9-307 shall be proposed and memorialized in the affordable housing compliance plan for the governed development. Governed developments taking advantage of alternate methods of providing affordable units pursuant to Section 9-306 are not eligible for the incentives set forth in this Section 9-307 (with the exception of developments that chose to make a payment-in-lieu for a fractional required).

- A. **Additional development density.** Any governed development providing affordable housing units pursuant to this Part shall be entitled to an increase in the permitted residential density equal to one additional dwelling unit above that otherwise established by the zoning district in which the development is located for each affordable housing unit provided on-site. Governed developments will not receive an increase in permitted residential density for any units for which the payment-in-lieu is provided. The affordable housing compliance plan for the governed development must include a narrative describing how the design and orientation, as well as the increased density of the governed development will be compatible with the surrounding land use character, particularly with any surrounding residential parcels. The developer's narrative must address building size and massing, site layout and design, architectural characteristics, and landscaping, as well as any other aspects of development that the developer deems appropriate.
- B. **Design flexibility.** Any governed development providing the minimum number of affordable housing units pursuant to this Part will be eligible to obtain greater flexibility in development design through application of the following options without need for special zoning relief, but only if such flexibility is necessary to accommodate the required affordable units within the physical envelope of the governed development:
 1. **Choice of housing type.** Affordable housing units required by this Part as well as any dwelling units allowed pursuant to the additional density incentive may be provided as (a) single family or two-family units within the R-1, R-2, R-3, R-4 and R-5 zoning districts, and (b) as single family, duplex, triplex, or townhouse units or as affordable owner-occupied units in a condominium, or multifamily residential structure, in other zoning districts, provided that the height, setbacks, massing and exterior appearance of the affordable units are consistent with other residential units within the governed development.
 2. **Reduced setback and lot size requirements.** Dwelling units within governed developments (both affordable housing units and market rate units) will not be subject to the Code's minimum district yard and setback requirements, except for yards and setbacks adjacent to the perimeter of the governed development. Dwelling units within governed developments (both affordable housing units and market rate units) will not be subject to the Code's minimum lot size requirements. This exception will not apply to dwelling units located on the perimeter of a governed development directly abutting parcels outside of the governed development.
 3. **Reduced buffering and screening requirements internal to the development.** Affordable housing units within governed developments will not be subject to the Code's buffering and screening requirements implemented

for purpose of mitigating incompatibility within the governed development. This exception will not apply to affordable housing units located on the perimeter of a governed development directly abutting parcels outside of the governed development.

4. Increased Building Height. In order to accommodate affordable housing units within a governed development, the Plan Commission may recommend, and the Board of Trustees may approve, a height increase of up to one story or 12 feet above district height limits in any zoning district other than single family zoning districts.
5. Increased Lot and Building Coverage. In order to accommodate affordable housing units within a governed development, the Plan Commission may recommend, and the Board of Trustees may approve, an increase in the otherwise applicable maximum building and lot coverage limit in a zoning district by up to ten percent (10%), provided, however, that in no event shall the increase in building coverage relieve the development from fully complying with all of the applicable stormwater management standards for development.
6. Increased Floor Area Ratio. In order to accommodate affordable housing units within a governed development, the Plan Commission may recommend and the Board of Trustees may approve an increase in the otherwise applicable Floor Area Ratio (FAR) limit by up to ten percent (10%).
7. Reduced Off-street Parking Minimums. In considering a proposed governed development with affordable housing units, the Plan Commission may recommend and the Board of Trustees may approve a reduction in the otherwise applicable off-street parking minimums for the affordable housing units. In considering the merits of such a reduction, the Village shall consider the availability of alternative means of transportation, including mass transit and bicycle facilities in the vicinity of the governed development and any unique transportation needs of the expected residents.

Notwithstanding the foregoing, the Village shall not be required to approve any request for a waiver, reduction, or modification of any development standard if the waiver, reduction, or modification would have a specific and foreseeable adverse impact upon health, safety, or the physical environment for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact.

- C. Fee Waivers and Reductions. Any governed development providing the minimum number of affordable housing units pursuant to this Part shall be eligible for a partial waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, demolition permit fees, the Village's demolition tax, impact fees and such other development fees and costs which may be imposed by the Village, applicable to the portion of the governed development that will consist of affordable housing units, up to a maximum of 15% of all applicable fees. In no event shall the fee waiver be applied to any third-party legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued by the Village in connection with the review and processing of plans for the governed development. The waiver and discount of fees and costs under this Section shall be calculated as the percentage of units within the governed development that are affordable housing units. All applicable fees and costs under this Code shall apply to all market rate units.
- D. Standards for Approving Incentives. The Village Board, in determining whether the incentives set forth in this Section 9-307 should be available for a governed development, shall consider the following:
 1. Whether the incentives will result in conditions detrimental to the public's health, safety, or welfare; and,
 2. Whether the granting of the incentives will be consistent with the intent and purpose of this section and the Northbrook Comprehensive Plan.
- E. Any terms or conditions associated with the incentives shall be stipulated in the affordable housing compliance plan and the affordable housing covenant for the governed development.

9-308: LOCATION AND DESIGN ATTRIBUTES OF AFFORDABLE HOUSING UNITS.

Affordable housing units in a governed development must comply with the following standards, unless granted an exception by the Village Board as part of the affordable housing compliance plan.

- A. Location of Affordable Housing Units. Affordable housing units must be dispersed among the market rate housing units throughout the governed development and not clustered together or segregated from market rate housing unless there is a therapeutic or other justification particular to the populations to be served by the affordable housing units.
- B. Size of Units. Affordable housing unit size must be generally representative of and correspond to the size of the market-rate housing units within the governed development.
- C. Phasing of Construction. In a governed development to be constructed in multiple phases, each phase of the development must include a number of affordable housing units proportional to the fraction that the phase consists of the entire governed development. Construction of affordable housing units may not be delayed or grouped into later phases of a governed development.
- D. Exterior Appearance. The exterior appearance of affordable housing units in any governed development must be visually compatible with the market rate housing units in the governed development. External building materials and finishes must be substantially the same in type and quality for affordable housing units as for market rate housing units. Affordable housing units shall be indiscernible from market rate housing units from when viewed from interior corridors and other common areas.
- E. Interior Appearance and Finishes. Affordable housing units may have different interior appearances and finishes than market rate housing units, but all interior finish materials used in affordable housing units must be Contractor Grade or higher.
- F. Mix of Bedroom Types of Affordable Housing Units. The bedroom mix of affordable housing units must be in equal proportion to the bedroom mix of the market rate housing units within the governed development.
- G. Amenities. Affordable housing units must have similar access to common areas, facilities, and services as that enjoyed by comparable market rate housing units in a governed development including but not limited to outdoor spaces, amenity spaces, storage, parking, bicycle parking facilities, and resident services.
 - 1. Parking Amenities. Regular access to at least one parking space per affordable housing unit must be included with the occupancy of the unit without any additional charge to the occupant above the maximum permitted housing expenses for that unit. Additional parking spaces must be made available at the same price and using the same method for allocation for market rate housing units. Premium parking spaces, such as indoor parking, will not be required to be allocated to the affordable housing units free of charge, provided that required parking is provided elsewhere within the governed development.
 - 2. Storage Amenities. To the extent that storage is allocated to all market rate housing units within a governed development, similar storage space must be allocated to all affordable housing units and included with the occupancy of the unit without additional charge to the occupant above the maximum permitted housing expenses for that unit. If storage space is not allocated to all units due to insufficient ratio of storage space to residential units, then the affordable housing units should have access to storage in the same manner and proportion as do the market rate housing units, at a cost discounted by the ratio of the affordable housing unit's housing expenses to the equivalent size unit's market rent.
- H. Energy Efficiency. Standard improvements, fixtures, and components related to energy efficiency, including, but not limited to, mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, must be the same in market rate dwelling units and affordable housing units.
- I. Mixed Occupancy Developments. If a governed development includes both rental housing units and owner-occupied housing units, the ratio of affordable rental to affordable owner-occupied units marketed and offered must be equal to the ratio of rental to owner-occupied market rate housing units marketed and offered in the governed development.

9-309: PERIOD OF AFFORDABILITY.

A. Sale of Affordable Owner-Occupied Units. In governed developments include owner-occupied housing units, affordable housing units may be offered and resold to only to eligible households and in accordance with this Part at all times that the units are used for residential purposes, in perpetuity or as long as permissible by law. The developer or owner shall execute and record any agreements, covenants, or instruments required by this Part to ensure compliance with this Section 9-309.

B. Lease of Affordable Rental Units.

1. In developments that contain rental units, affordable housing units shall be offered and leased only to eligible households and in accordance with this Part for so long as those units are used for residential purposes, in perpetuity or as long as permissible by law. The developer or owner shall execute and record any agreements, covenants, or instruments required by this Part to ensure compliance with this Section 9-309. In the event that the owner of a governed development including affordable rental units sells the development, the new owner will be required to continue to offer the affordable housing units in accordance with this Part.
2. If the owner of a governed development consisting of rental housing units converts the development to condominiums or other form of owner-occupied housing units, the development shall be subject to the owner-occupied development requirements set forth in this Section 9-309. The Village shall have the option and right, but not the obligation, to purchase any converted affordable owner-occupied units in the development pursuant to this Code in accordance with the provisions of Subsection 9-310 D.

9-310: AFFORDABILITY CONTROLS FOR AFFORDABLE OWNER-OCCUPIED UNITS.

A. Initial Sale Prices for Affordable Owner-Occupied units. Permitted initial sales prices for affordable owner-occupied units shall be set according to a schedule published by the Village annually and calculated on the basis of:

1. Housing expenses at or below thirty one percent (31%) of the designated eligible income tiers set forth in Section 9-305 C, with a household size corresponding to the size of the unit.
2. The following relationship between unit size and household size shall be used to determine the appropriate income level at which affordable housing expenses are calculated:

Unit Size	Income Level for Household Size
Efficiency	1 Person
1 Bedroom	2 Persons
2 Bedrooms	3 Persons
3 Bedrooms	4 Persons
4 Bedrooms	5 Persons

3. An available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac;
4. A down payment of no more than five percent (5%) of the purchase price;
5. A calculation of property taxes;
6. A calculation of homeowner's insurance;
7. A calculation of condominium or homeowner association fees; and
8. A calculation of private mortgage insurance, if applicable.

B. Procedure for Initial Sale of an Affordable Owner-Occupied Unit to an Eligible Household.

1. Sixty (60) days prior to offering any owner-occupied affordable unit for sale to the public, a developer must notify the Village in writing of such offering. The notice shall set forth the number, size, price, and location of affordable housing units to be offered, and must provide a description of each housing unit's finishes and availability. The notice must also include a copy of the approved affordable housing compliance plan for the development, and any such additional information the Village Manager may reasonably require in order to establish compliance with this Part.
2. The prospective purchaser must make application for a "certificate of qualification" on a form provided by the Village. If the Village or its designated not-for-profit partner organization determines a purchaser is an eligible household pursuant to the requirements of this Part to purchase an affordable housing unit, it will issue a "certificate of qualification" to that purchaser. A purchaser must provide documents to verify that their household satisfies these requirements, including an affidavit that the affordable housing unit will be their primary residence.
3. The developer may not sell or lease any affordable housing units without a valid certificate of qualification from the Village for the prospective purchaser.

C. Maximum Resale Price and Maximum Appreciation.

1. The maximum resale price that an affordable owner-occupied unit may be sold to an eligible household for shall be established in an affordable unit covenant executed by the purchaser. This price will take into account the maximum permitted appreciation allowed by this Subsection 9-310 C as well as changes in the area median income.
 - a) The maximum resale price is an upper limit, but should not be construed as a guarantee that the unit will be resold at that price.
 - b) Market conditions, and characteristics of the affordable housing unit, may result in the sale of an owner-occupied housing unit at a price lower than the maximum resale price.
2. The maximum permitted appreciation that may be claimed by the owner of an affordable owner-occupied unit may not exceed fifteen percent (15%) of the increase in the unit's value, as determined by the difference between fair market appraisal at the time of purchase of the unit by the current owner and a fair market appraisal at the time of resale, with such adjustments for improvements made by the current owner and necessary costs of sale which will be accounted for in the price schedule published by the Village.

D. Village First Option to Purchase. The Village shall have the first option and right, but not an obligation, to purchase any affordable owner-occupied unit prior to the unit being marketed or offered to the public. If the Village exercises the option and purchases the affordable owner-occupied unit, the Village will have the right to subject the unit to such agreements, covenants, or instruments, to ensure the continued affordability of the unit in accordance with this Part. Such documentation shall incorporate the provisions of this Part and shall provide, at a minimum, each of the following:

1. The maximum resale price is an upper limit, but shall not be construed as a guarantee that the unit will be resold at that price.
2. Market conditions, and characteristics of the affordable housing unit, may result in the sale of an affordable housing unit at a price lower than the calculated maximum resale price.

The Village shall also reserve the right to assign and transfer its interest in any affordable owner-occupied units that it purchases pursuant to this Subsection to a not-for-profit partner organization.

E. Purchases by Eligible Households. In all other sales of affordable owner-occupied units between private eligible households, the parties to the transaction will be required to execute and record such documentation as required by Section 9-309 of this Code to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:

1. That the purchaser acknowledges the Village's first option to purchase the owner-occupied unit set forth in Section 3-110 D of this Part.
2. In the event that the Village does not exercise its first option to purchase, the affordable housing unit may only be sold to and occupied by an eligible household.
3. The affordable housing unit may only be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units for eligible households, including a prohibition on sales above the maximum resale price.

9-311: AFFORDABILITY CONTROLS FOR AFFORDABLE RENTAL UNITS.

A. Rental Rates for Affordable Rental Units. Permitted housing expenses for affordable rental units shall be set according to a schedule published by the Village annually and calculated on the basis of:

1. Housing expenses at or below thirty one percent (31%) of the designated eligible income tiers set forth in Section 9-305 C, with a household size corresponding to the size of the unit.
2. If the most recent edition of HUD's reporting indicates a lower area median income than the previous edition, the maximum housing expenses shall be adjusted accordingly.
3. The following relationship between unit size and household size shall be used to determine the appropriate income level at which affordable housing expenses are calculated:

Unit Size	Income Level for Household Size
Efficiency	1 Person
1 Bedroom	2 Persons
2 Bedrooms	3 Persons
3 Bedrooms	4 Persons
4 Bedrooms	7 Persons

B. Procedure for Initial Lease of an Affordable Rental Unit to an Eligible Household.

1. Sixty (60) days prior to offering any affordable housing unit for sale or rent, the developer must notify the Village in writing of such offering. The notice must set forth the number, size, price, and location of affordable housing units offered, and provide a description of each dwelling unit's finishes and availability. The notice must also include a copy of the affordable housing compliance plan, and any such additional information the Village may reasonably require in order to establish compliance with this Part.
2. The prospective lessee must make application for a "certificate of qualification" on a form provided by the Village. If the Village or its designated not-for-profit partner organization determines a lessee is an eligible household pursuant to the requirements of this Part to lease an affordable housing unit, it will issue a "certificate of qualification" to that lessee. A lessee must provide documents to verify that their household satisfies these requirements, including an affidavit that the affordable housing unit will be his or her primary residence. The Village will determine whether or not the prospective lessee satisfies the requirements of this Part no later than ten (10) business days after receiving the completed application.
3. The developer shall not lease any affordable rental units without a valid certificate of qualification from the contracted agency for the prospective lessee. Any lease for an affordable rental unit shall also contain a prohibition on subleasing or allowing occupancy by a household without a valid certificate of qualification.

C. Lease Term. No affordable rental unit may be initially leased for a period of less than 12 months. All leases must be written and in a form approved by the Village. Renewal leases may be less than 12 months based on mutual agreement between the developer and tenant. Final lease agreements are the responsibility of the developer and the

prospective tenant. Tenants are responsible for application fees, security deposits and the full amount of the rent as stated on the lease. All lease provisions shall comply with applicable laws and regulations. The developer shall maintain copies of all leases entered into with a certified household (including an income certification) and distribute a copy to the Village or its designated not-for-profit partner organization.

D. Rental Compliance. The developer, or its designee, shall submit an annual compliance report describing each affordable unit in detail including but not limited to changes in tenancy, turnovers, and income certifications for all new tenants upon request of the Village Manager.

9-312: MARKETING OF AFFORDABLE HOUSING UNITS.

A. Good Faith Marketing Required. All sellers and lessors of affordable housing units are responsible for marketing the affordable housing units to members of the public who are likely to be eligible households qualified to purchase or lease affordable housing units. Prior to the initiation of public marketing efforts to sell or lease an affordable housing unit, the seller or lessor thereof shall submit to the Village Manager a description of the marketing plan that the developer proposes to implement for the affordable housing units within the development to eligible households in the appropriate income tiers.

B. Village Assistance with Marketing. At the developer's request, the Village or its designee shall assist the developer in marketing the affordable housing units to eligible households, for an additional charge to be determined by the Village.

C. Every affordable owner-occupied housing unit required to be developed under this Part may only be offered for sale to a good-faith purchaser or lessee who is eligible to use the unit as their own primary residence.

9-313: AFFORDABLE HOUSING COMPLIANCE PLANS – REVIEW AND APPROVAL PROCESS.

A. Application. For all governed development projects, the developer shall file an application for approval of the project's plan to comply with this Part on a form provided and required by the Village. The application will require, and the developer must provide, a description of the governed development, including specifically how and where affordable units will be incorporated into the development as well as such other documents and information as the Village Manager may require. The Village Manager will also have the authority to require, as part of the application submittal, such additional information, documents, and plans as the Manager deems necessary to evaluate the proposed governed development's compliance with this Part.

B. Affordable Housing Compliance Plan. As part of the approval of a governed development project, the developer must present to the Plan Commission and the Village Board an affordable housing compliance plan that outlines and specifies the governed development's compliance with each of the applicable requirements of this Part, including the following:

1. Required Submittals for Affordable Housing Compliance Plan. The plan must include, at a minimum, the following information regarding the governed development project;
 - (a) Preliminary Plan.
 - i. A general description of the development, including whether the development will contain rental units or owner-occupied units, or both;
 - ii. The total number of market rate units and affordable housing units in the development;
 - iii. The total number of attached and detached residential units;
 - iv. The number of bedrooms in each market rate unit and each affordable housing unit;
 - v. The floor area of each market rate unit and each affordable housing unit;
 - vi. The location within any multiple-family residential structure and any single-family residential development of each market-rate unit and each affordable housing units.
 - vii. Floor plans for each affordable housing unit;

- viii. The amenities that will be provided to and within each market rate unit and affordable housing unit; and
- ix. The pricing for each market rate unit and each affordable housing unit.

(b) Final Plan.

- i. All of the information required for the preliminary affordable housing compliance plan pursuant to paragraph (B)(1)(a), of this Section 9-313;
- ii. A phasing and construction schedule for each market rate unit and each affordable unit;
- iii. Documentation and plans regarding exterior and interior appearances, materials, and finishes of the development and each of its individual units;
- iv. A description of the development marketing plan to promote the sale or rental of the Affordable Housing Units within the development; and
- v. A description of the efforts that the developer will undertake to provide affordable housing units to eligible households pursuant to the priorities set forth in this Part.

C. Review Procedure.

1. Preliminary Plan.
 - a) Plan Commission Review. Within 60 days after the filing of a complete preliminary Affordable Housing Plan, the Plan Commission shall review the affordable housing compliance plan, and shall recommend either the approval (with or without modifications) or the rejection of the affordable housing compliance plan. The Plan Commission shall transmit its findings of fact and recommendation to the Village Board. The failure of the Plan Commission to provide a recommendation within such 60-day period, or such further time to which the developer may, in writing, agree, shall be deemed a recommendation against the approval of the affordable housing compliance plan.
 - b) Village Board Consideration.
 - i. Upon receipt of the Plan Commission recommendation pursuant to Section 9-131(C)(a)(i) of this Code, the Village Board may, by resolution duly adopted, approve or reject the preliminary affordable housing compliance plan.
 - ii. Approval of the preliminary affordable housing compliance plan by the Village Board shall neither: (1) be deemed or interpreted as obligating the Village Board to approve a final affordable housing compliance plan; nor (2) vest any right to the developer other than the right to submit a final affordable housing compliance plan for the proposed governed development project.
2. Final Plan.
 - a) Plan Commission Review. Within 60 days after the filing of a complete final affordable housing compliance plan, the Plan Commission shall review the affordable housing compliance plan, and shall recommend either the approval (with or without modifications) or the rejection of the affordable housing compliance plan. The Plan Commission shall transmit its findings of fact and recommendation to the Village Board. The failure of the Plan Commission to provide a recommendation within such 60-day period, or such further time to which the developer may, in writing, agree, shall be deemed a recommendation against the approval of the affordable housing compliance plan.
 - b) Village Board Consideration. Upon receipt of the Plan Commission recommendation, the Village Board may, by ordinance duly adopted, approve or reject the affordable housing compliance plan. Any ordinance approving a final affordable housing compliance plan shall include, without limitation, the following:
 - i. All standards, conditions, or restrictions deemed necessary or applicable by the Village Board to effectuate the proposed development and protect the public interest, health, safety and welfare; and

- ii. All provisions requiring the execution and recordation by the developer of a housing development agreement, as required pursuant to this Part.
- 3. Concurrent Review of Preliminary and Final Plans. Notwithstanding any provision of this Code to the contrary, for all governed developments that are not planned developments, and for all planned developments for which a concurrent review procedure has been approved pursuant to this Section, the Plan Commission and Village Board shall review the preliminary and final affordable housing compliance plans concurrently, pursuant to the final affordable housing compliance plan review procedure set forth in this Code.

D. Standards of Review. The Plan Commission may not recommend the approval of a preliminary or final Affordable Housing Plan, and the Village Board may not approve a preliminary or final affordable housing compliance plan, except upon making the following findings:

- 1. That the developer has demonstrated that the proposed affordable housing units are designed to accommodate the needs of the target households;
- 2. That the location, floor plan, fixtures and finishes, and amenities of each proposed affordable housing unit satisfy the applicable provisions of this Part and are suitable for the needs of the target households;
- 3. That each affordable housing unit is designed to accommodate family living needs for common space and dining areas;
- 4. That the proposed affordable housing units, and the development as a whole, conform to the applicable standards and requirements of this Part;
- 5. That any alternative methods for providing required affordable housing units satisfy the respective standards set forth in Section 9-306 of this Part; and
- 6. That the application of any development incentives satisfy the standards set forth in Section 3-907 of this Part.

9-314: HOUSING DEVELOPMENT AGREEMENT AND COVENANTS.

Prior to issuance of a building permit for any governed development, a developer must enter into a housing development agreement with the Village establishing requirements and restrictions for the inclusion of affordable housing units in the governed development. The developer shall execute any and all documents deemed necessary by the Village, including, without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units within the development in accordance with this Part. The housing development agreement shall set forth the commitments and obligations of the developer and the Village and shall incorporate, among other things, the affordable housing compliance plan for the covered development. The housing development agreement shall also memorialize any alternatives and incentives that have been approved as part of the affordable housing compliance plan for the development.