

Article 13. Inclusionary Housing in New Developments

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13-101. Purpose and Intent

The Inclusionary 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 Inclusionary 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 inclusionary housing opportunities in the Village.

The Village recognizes the need to provide inclusionary 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 inclusionary 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.

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Definitions

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 inclusionary for low-to-middle income households and working families.

13-102. Definitions

- A. The words and phrases used in this Part shall be interpreted to have the meanings ascribed to them in this Section 13-102. 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.**
 1. **Inclusionary Housing.** Any housing that qualifies as inclusionary for the targeted households identified in this Part. For the purpose of this Part, "Inclusionary Housing" is divided into tiers based on availability to households at distinct income levels.
 2. **Inclusionary Housing Plan.** That certain inclusionary housing plan prepared by the Village of Northbrook and adopted by the Village's Board of Trustees.
 3. **Inclusionary Housing Compliance Plan.** A plan submitted by a developer or owner of a governed development describing how development will comply with the requirements of this Part.
 4. **Inclusionary Housing Trust Fund.** A trust fund to be established by the Village, pursuant to Article VII Section 19-185 of the Municipal Code of the Village, with the purpose of aggregating and providing financial resources to address the inclusionary housing needs of individuals and families in the Village.
 5. **Inclusionary Housing Unit.** A dwelling unit that meets the criteria for Inclusionary Housing.
 6. **Inclusionary Owner-Occupied Units.** Inclusionary housing units marketed and offered for sale to eligible households subject to an inclusionary unit covenant.
 7. **Inclusionary Rental Units.** Inclusionary housing units marketed and offered for rent to eligible households subject to standard lease terms.
 8. **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.
 9. **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.

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Administration

10. **Certificate of Qualification.** A certificate establishing a qualified household's eligibility to purchase or lease an inclusionary dwelling unit based on income eligibility using income and asset limits, in accordance with the Village's policies and procedures.
11. **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.
12. **Conversion.** A change in a residential or mixed-use rental development to individual-owner residential condominium units.
13. **Developer.** The party responsible for obtaining approvals from the Village, including zoning, subdivision, and building permit approvals, for a governed development.
14. **Eligible Household.** For purposes of this Part, a household with an annual income less than 120% of the Area Median Income.
15. **Governed Development.** Any residential or mixed-use development with a residential component that is required to provide inclusionary 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.
16. **Housing Expenses.** a) For inclusionary rental units - rent and utilities; and b) For inclusionary 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.
17. **Maximum Resale Price.** The maximum price an owner-occupied inclusionary 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.
18. **Market Rate Housing Units.** All owner-occupied or rental dwelling units in a governed development that are not classified as inclusionary housing units.

13-103. 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 inclusionary 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 13-103 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:

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Applicability

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 inclusionary unit;
4. Establishing limitations on renting or subletting an inclusionary 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 inclusionary 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 inclusionary housing units, marketing inclusionary 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 13-103.

13-104. 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;

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Inclusionary Housing Requirements for Governed Developments

3. A non-residential development;
4. Assisted living facilities; and
5. Nursing facilities.

13-105. Inclusionary Housing Requirements for Governed Developments

A. **Calculation of Required Inclusionary Units.** Unless an exception or alternative is approved pursuant to Section 13-106 of this Part, the developer of a governed development must satisfy the requirements of this Part by providing inclusionary 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 inclusionary housing units. The total number of dwelling units in a development will include any units permitted above the base density pursuant to Section 13-107-A.
2. **Fractional Units.** When the application of the percentages specified above results in a number of required inclusionary 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 inclusionary housing units on-site, or providing the Village with a payment-in-lieu of providing an additional inclusionary housing unit. The fee in lieu shall be calculated in accordance with Section 13-105-B below.
 - a. **Example:** A developer proposes to construct a 40-unit multiple family residential development:
 - b. The developer will be required to offer 6 of the units as inclusionary housing units (15% of 40 = 6 Inclusionary Units and 34 Market Rate Units.)
 - c. If the 6 Inclusionary units are provided, the developer may then receive an additional development density incentive set forth in Section 13-107, allowing the development to expand to 46 units, one additional unit for each inclusionary housing unit provided. A final round of calculations is performed to determine the total Inclusionary 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 inclusionary seven (7) inclusionary units in addition to the 40 market rate units.)

B. **Eligible Income Tiers and Maximum Prices.** Inclusionary 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.

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Inclusionary Housing Requirements for Governed Developments

C. Pricing Schedule. The Village Manager shall publish a Housing Expenses Pricing Schedule of rental and sales prices for inclusionary housing units for each income tier designated in Subsection 13-105 B, which pricing schedule will be made publicly available and will be updated annually.

Table 13-105-C: Eligible Income Tiers and Maximum Prices

Inclusionary 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	1	Households with income less than 80% AMI	Attainable to household with income equal to 65% AMI
Inclusionary 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 100% AMI
Notes:			
[1] 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.			
[2] Housing Expenses: For inclusionary rental units, "housing expenses" equals the monthly sum of rent and utilities. For inclusionary 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.			
[3] 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 inclusionary owner-occupied units will be calculated based on the most current area median income levels published by HUD.			

13-106. Alternate Methods for Providing Required Inclusionary Housing Units

- A. **Approval of Alternative Methods.** Any deviation from the minimum inclusionary housing requirement for governed developments may only be approved as part of the Village's review of the inclusionary housing compliance plan submitted for a governed development. None of the alternative methods for providing inclusionary housing units may be incorporated into a governed development unless such methods are first included in the approved final inclusionary 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 inclusionary 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 offsite location will create inclusionary housing opportunities in the Village to an equal or greater extent than including inclusionary units within the governed development. If provided off-site, the inclusionary 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 inclusionary housing units in any one area. The Board of Trustees' determination will be made and incorporated into the Board's approval of the inclusionary housing compliance plan for the governed development.
- C. **Dedication of Land.** Rather than providing the inclusionary 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 inclusionary housing opportunities in the Village to an equal or greater extent than including inclusionary units in the governed development; and (b) the developer offers to dedicate a quantity of land sufficient to construct a quantity of inclusionary 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 inclusionary housing compliance plan for the governed development.
- D. **Payment-in-Lieu of Providing Inclusionary Units.**
 - 1. **General Applicability.** A developer may make a cash payment-in-lieu of constructing some or all of the required inclusionary housing units otherwise required to be constructed 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 inclusionary housing opportunities in the Village to an equal or greater extent than through the inclusion of inclusionary units in the governed development. Such

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determination will be made and incorporated into the Board of Trustees' approval of the inclusionary housing compliance plan for the governed development.

2. **Amount and Use of Payment-In-Lieu.** The amount of the payment-in-lieu per inclusionary 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 inclusionary housing unit, and shall be reviewed and modified periodically by the Village Board. All payment-in-lieu received pursuant to this Article shall be deposited directly into the Village Inclusionary Housing Trust Fund and reserved for authorized purposes.
3. **Calculation of Required Payment-in-Lieu.** For governed developments permitted to satisfy their inclusionary 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 Village's Annual Fee Ordinance multiplied by 15% of the total number of units proposed in the governed development, less the number of inclusionary 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.
 - a. **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 inclusionary housing requirement for a governed development through a combination of the alternative methods set forth in this Section 13-106. 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 inclusionary housing opportunities in the Village to an equal or greater extent than including inclusionary units in the governed development. Such determination will be made and incorporated into the Board of Trustees' approval of the inclusionary housing compliance plan for the governed development.

13-107. Incentives for Development of Inclusionary Housing Units

Developers constructing governed developments incorporating the inclusionary 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 13-107 shall be proposed and memorialized in the inclusionary housing compliance plan for the governed development. Governed developments taking advantage of alternate methods of providing inclusionary units pursuant to Section 13-106 are not eligible for the incentives set forth in this Section 13-107 (with the exception of developments that chose to make a payment-in-lieu for a fractional required unit.)

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Incentives for Development of Inclusionary Housing Units

- A. **Additional development density.** Any governed development providing inclusionary 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 inclusionary 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 inclusionary 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 inclusionary 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 inclusionary units within the physical envelope of the governed development:
 1. **Choice of housing type.** inclusionary 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 inclusionary 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 inclusionary units are consistent with other residential units within the governed development.
 2. **Reduced setback and lot size requirements.** Dwelling units within governed developments (both inclusionary 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 inclusionary 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.** inclusionary 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 inclusionary 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 inclusionary housing units within a governed development, the Plan Commission may recommend, and the Board of Trustees

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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 inclusionary 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 10 percent, 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 inclusionary 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 10 percent.
7. **Reduced Off-street Parking Minimums.** In considering a proposed governed development with inclusionary 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 inclusionary 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.
8. 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 inclusionary 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 inclusionary housing units, up to a maximum of 15 percent 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 inclusionary 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 13-107 should be available for a governed development, shall consider the following:

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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 inclusionary housing compliance plan and the inclusionary housing covenant for the governed development.

13-108. Location and Design Attributes of Inclusionary Housing Units

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

- A. **Location of Inclusionary Housing Units.** Inclusionary 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 inclusionary housing units.
- B. **Size of Units.** Inclusionary 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 inclusionary housing units proportional to the fraction that the phase consists of the entire governed development. Construction of inclusionary housing units may not be delayed or grouped into later phases of a governed development.
- D. **Exterior Appearance.** The exterior appearance of inclusionary 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 inclusionary housing units as for market rate housing units. Inclusionary housing units shall be indiscernible from market rate housing units when viewed from interior corridors and other common areas.
- E. **Interior Appearance and Finishes.** Inclusionary housing units may have different interior appearances and finishes than market rate housing units, but all interior finish materials used in inclusionary housing units must be Contractor Grade or higher.
- F. **Mix of Bedroom Types of Inclusionary Housing Units.** The bedroom mix of inclusionary housing units must be in equal proportion to the bedroom mix of the market rate housing units within the governed development.
- G. **Amenities.** Inclusionary 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.

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Period of Affordability

1. **Parking Amenities.** Regular access to at least one parking space per inclusionary 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 inclusionary 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 inclusionary 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 inclusionary 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 inclusionary 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 inclusionary housing units.

I. **Mixed Occupancy Developments.** If a governed development includes both rental housing units and owner-occupied housing units, the ratio of inclusionary rental to inclusionary 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.

13-109. Period of Affordability

A. **Sale of Inclusionary Owner-Occupied Units.** If governed developments include owner-occupied housing units, inclusionary housing units may be offered and resold 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 13-109.

B. **Lease of Inclusionary Rental Units.**

1. In developments that contain rental units, inclusionary 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 13-109. In the event that the owner of a governed development including inclusionary rental units sells the development,

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the new owner will be required to continue to offer the inclusionary 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 13-109. The Village shall have the option and right, but not the obligation, to purchase any converted inclusionary owner-occupied units in the development pursuant to this Code in accordance with the provisions of Subsection 13-110-D.

13-110. Affordability Controls for Inclusionary Owner Occupied Units

A. **Initial Sale Prices for Inclusionary Owner-Occupied units.** Permitted initial sales prices for inclusionary 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 13-105 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 inclusionary housing expenses are calculated:

Table 13-110-A: Initial Sale Prices for Inclusionary Owner-Occupied units.

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;
8. A calculation of private mortgage insurance, if applicable.

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

1. Sixty (60) days prior to offering any owner-occupied inclusionary 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 inclusionary 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 inclusionary 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 inclusionary 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 inclusionary housing unit will be their primary residence.
3. The developer may not sell or lease any inclusionary 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 inclusionary owner-occupied unit may be sold to an eligible household for shall be established in an inclusionary unit covenant executed by the purchaser. This price will take into account the maximum permitted appreciation allowed by this Subsection 13-110-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 inclusionary 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 inclusionary 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 inclusionary owner-occupied unit prior to the unit being marketed or offered to the public. If the Village exercises the option and purchases the inclusionary 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.

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Affordability Controls for Inclusionary Rental Units

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 inclusionary housing unit, may result in the sale of an inclusionary housing unit at a price lower than the calculated maximum resale price.
- E. The Village shall also reserve the right to assign and transfer its interest in any inclusionary owner-occupied units that it purchases pursuant to this Subsection to a not-for-profit partner organization.
- F. **Purchases by Eligible Households.** In all other sales of inclusionary 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 13-109 of this Code to ensure the provision and continuous maintenance of the inclusionary 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 13-110 D of this Part.
 2. In the event that the Village does not exercise its first option to purchase, the inclusionary housing unit may only be sold to and occupied by an eligible household.
 3. The inclusionary housing unit may only be conveyed subject to restrictions that shall permanently maintain the affordability of such inclusionary housing units for eligible households, including a prohibition on sales above the maximum resale price.

13-111. Affordability Controls for Inclusionary Rental Units

A. **Rental Rates for Inclusionary Rental Units.** Permitted housing expenses for inclusionary 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 13-105-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 inclusionary housing expenses are calculated:

Table 13-111: Rental Rates for Inclusionary Rental Units

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 Inclusionary Rental Unit to an Eligible Household.

1. Sixty (60) days prior to offering any inclusionary 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 inclusionary housing units offered, and provide a description of each dwelling unit's finishes and availability. The notice must also include a copy of the inclusionary 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 inclusionary 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 inclusionary 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 inclusionary rental units without a valid certificate of qualification from the contracted agency for the prospective lessee. Any lease for an inclusionary 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 inclusionary 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 inclusionary 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.

13-112. Marketing of Inclusionary Housing Units

- A. **Good Faith Marketing Required.** All sellers and lessors of inclusionary housing units are responsible for marketing the inclusionary housing units to members of the public who are likely to be eligible households qualified to purchase or lease inclusionary housing units. Prior to the initiation of public marketing efforts to sell or lease an inclusionary 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 inclusionary 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 inclusionary housing units to eligible households, for an additional charge to be determined by the Village.
- C. Every inclusionary owner-occupied housing unit required to be developed under this Part may only be offered for sale to a good-faith purchaser or lessee to be used as their own primary residence.

13-113. Inclusionary 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 inclusionary 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. **Inclusionary Housing Compliance Plan.** As part of the approval of a governed development project, the developer must present to the designee of the Board of Trustees and the Village Board an inclusionary 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 Inclusionary 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 or owner-occupied dwelling units, or a mix of both.
 - ii. The total number of market rate units and inclusionary 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 inclusionary housing unit;
- v. The floor area of each market rate unit and each inclusionary housing unit;
- vi. The location within any multiple-family residential structure and any single-family residential development of each market-rate unit and each inclusionary housing units.
- vii. Floor plans for each inclusionary housing unit;
- viii. The amenities that will be provided to and within each market rate unit and inclusionary housing unit; and
- ix. The pricing for each market rate unit and each inclusionary housing unit.

b. **Final Plan.**

- i. All of the information required for the preliminary inclusionary housing compliance plan pursuant to paragraph (B)(1)(a), of this Section 13-313;
- ii. A phasing and construction schedule for each market rate unit and each inclusionary 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 Inclusionary Housing Units within the development; and
- v. A description of the efforts that the developer will undertake to provide Inclusionary housing units to eligible households pursuant to the priorities set forth in this Part.

C. Review Procedure.

1. Preliminary Plan.

a. **Designee of the Board of Trustees Review.** Within 60 days after the filing of a complete preliminary Inclusionary Housing Plan, the Designee of the Board of Trustees shall review the inclusionary housing compliance plan, and shall recommend either the approval (with or without modifications) or the rejection of the inclusionary housing compliance plan. The Designee of the Board of Trustees shall transmit its findings of fact and recommendation to the Village Board. The failure of the Designee of the Board of Trustees 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 inclusionary housing compliance plan.

b. **Village Board Consideration.**

- i. Upon receipt of the Designee of the Board of Trustees recommendation pursuant to Section 2-112-C-5 of this Code, the Village Board may, by resolution duly adopted, approve or reject the preliminary inclusionary housing compliance plan.
- ii. Approval of the preliminary inclusionary housing compliance plan by the Village Board shall neither: (1) be deemed or interpreted as obligating the Village Board to approve a final inclusionary housing compliance plan; nor (2) vest any right to the developer other than the right to submit a final inclusionary housing compliance plan for the proposed governed development project.

2. **Final Plan.**

- a. Designee of the Board of Trustees **Review.** Within 60 days after the filing of a complete final inclusionary housing compliance plan, the Designee of the Board of Trustees shall review the inclusionary housing compliance plan, and shall recommend either the approval (with or without modifications) or the rejection of the inclusionary housing compliance plan. The Designee of the Board of Trustees shall transmit its findings of fact and recommendation to the Village Board. The failure of the Designee of the Board of Trustees 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 inclusionary housing compliance plan.
- b. **Village Board Consideration.** Upon receipt of the Designee of the Board of Trustees recommendation, the Village Board may, by Code duly adopted, approve or reject the inclusionary housing compliance plan. Any ordinance approving a final inclusionary 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 Designee of the Board of Trustees and Village Board shall review the preliminary and final inclusionary housing compliance plans concurrently, pursuant to the final inclusionary housing compliance plan review procedure set forth in this Code.

D. **Standards of Review.** The Designee of the Board of Trustees may not recommend the approval of a preliminary or final Inclusionary Housing Plan, and the Village Board may not approve a

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Housing Development Agreement and Covenants

preliminary or final inclusionary housing compliance plan, except upon making the following findings:

1. That the developer has demonstrated that the proposed inclusionary 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 inclusionary housing unit satisfy the applicable provisions of this Part and are suitable for the needs of the target households;
3. That each inclusionary housing unit is designed to accommodate family living needs for common space and dining areas;
4. That the proposed inclusionary 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 inclusionary housing units satisfy the respective standards set forth in Section 13-106 of this Part; and
6. That the application of any development incentives satisfy the standards set forth in Section 13-107 of this Part.

13-114. 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 inclusionary 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 inclusionary 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 inclusionary 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 inclusionary housing compliance plan for the development.