

BOARD OF TRUSTEE
CIRCULATION OF PLL C 2019
RECEIVED 3/27/2019

Village of



Mamaroneck

Village Hall At The Regatta

P.O. Box 369

123 Mamaroneck Avenue

Mamaroneck, N.Y. 10543

<http://www.Village.Mamaroneck.ny.us>

OFFICE OF
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TO: Village of Mamaroneck Planning Board, Zoning Board & HCZMC

FROM: Agostino A. Fusco

RE: Referral of PLL C-2019

E-MAIL DATE: March 27, 2019

At the Board of Trustees Regular Meeting of March 25, 2019, the Board scheduled the Public Hearing on Proposed Local Law C-2019 and referred it to the Planning Board, Zoning Board and Harbor and Coastal Zone Management Commission. Attached is a copy of the Certified Resolution Scheduling the Hearing and Referral, and the Proposed Local Law. Please note that Greg Cutler will be providing all the other back up needed.

Please review and discuss at your next available opportunity and report back to the Board. Please note that the Public Hearing is scheduled to open at the Board of Trustees May 13, 2019 Regular Meeting.

Thank you.

/sjr

Attachment

Cc: J. Barbiero
D. Sarnoff
BA. Sherer
G. Cutler
R. Spolzino
K. Halpin
E. Acosta

**EXTRACT OF MINUTES OF A REGULAR MEETING OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF MAMARONECK HELD ON MARCH 25, 2019, AT 7:30 P.M. IN THE
COURTROOM AT VILLAGE HALL, MAMARONECK, NEW YORK**

**RESOLUTION REGARDING SCHEDULING A PUBLIC HEARING
– PROPOSED LOCAL LAW C OF 2019 –
A PROPOSED LOCAL LAW AMENDING CHAPTER 342 OF THE VILLAGE CODE
(ZONING) REGARDING HOUSING**

A PROPOSED LOCAL LAW amending Chapter 342 of the Village Code (Zoning) regarding housing having been duly presented to the Board of Trustees for its consideration,

NOW THEREFORE, be it resolved by the Board of Trustees of the Village of Mamaroneck, as follows:

1. The Board of Trustees finds and determines that the adoption of Proposed Local Law C of 2019 is a Type I Action under the New York State Environmental Quality Review Act (SEQRA) because the proposed local law will, if adopted, change the allowable uses within any zoning district affecting 25 acres or more (6 NYCRR § 617.4[b][2]).
2. A public hearing on Proposed Local Law C of 2019 in accordance with Municipal Home Rule Law § 20 will be held at the regular meeting of the Board of Trustees at 7:30 p.m. on May 13, 2019 at the Municipal Building, located at 169 Mount Pleasant Avenue, Mamaroneck, New York.
3. The Village Clerk-Treasurer is to provide copies of the proposed local law and any relevant materials together with the EAF and CAF to the Harbor and Coastal Zone Management Commission for a recommendation on consistency with the LWRP and to the Village Planning Board and Zoning Board of Appeals for review and recommendation.

Ayes: Natchez, Lucas, Waitt, Tafur, Murphy

Nays: None

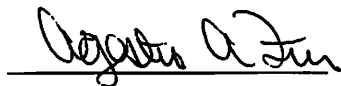
I, the undersigned Clerk Treasurer of the Village of Mamaroneck, Westchester County, New York,

DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the Regular Meeting of the Board of Trustees of the Village of Mamaroneck, including the resolution contained therein, held on the 25th day of March 2019 with the original thereof on file in my office, and that the same is a true and correct transcript therefrom and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Village this 26th day of March 2019.



Agostino A. Fusco

PROPOSED LOCAL LAW C – 2019

A Proposed Local Law to amend Chapter 342 of the Code of the Village of Mamaroneck
(Zoning) regarding housing.

**BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF MAMARONECK
AS FOLLOWS:**

*(Language in strike-through ~~abedefghijk~~ to be deleted; language in **bold** is to be added)*

Section 1.

Section 342-30(A)(1)(p) of the Code of the Village of Mamaroneck is amended as follows:

- (p) Residence uses ~~as permitted by~~ **in accordance with** § 342-50, **but not on Boston Post Road, on the southwestern side of Old White Plains Road northwest of Center Avenue and on Mamaroneck Avenue north of Nostrand Avenue. (This use is subject to the approval procedure set forth in Article X and shall conform to any additional requirements made in connection with such approval.)**

Section 2.

Section 342-30.1(D) of the Code of the Village of Mamaroneck is amended as follows:

D. Notwithstanding the requirements of the underlying C-1 Districts, the following provisions shall apply ~~to~~ **in** the TOD Overlay District:

- (1) ~~Residence uses in the TOD Overlay District.~~ Residence uses in the TOD Overlay District shall meet the standards for residence uses in C-1 Districts, as specified in § 342-50, except as follows:

- (a) ~~Such residential uses~~ **Residence uses in the TOD Overlay District do** shall not require a special permit ~~from the Planning Board.~~
- (b) Site size. For residential uses within the TOD Overlay District, there shall be no minimum or maximum site size requirement.
- (c) Floor area ratio. The permitted FAR for the entire building, including residential and nonresidential uses, shall not exceed 0.6 **for buildings with four or fewer residential units and 0.8 for buildings with five or more residential units**, except that the FAR may be increased to a maximum of 1.5, ~~as provided in~~ **in accordance with** the following provisions:

~~[1] The Planning Board may increase the FAR to 0.80 in accordance with the provisions of Article XV of this chapter for below market rate housing.~~

[1] The Planning Board may further increase the FAR by ~~an additional~~ **up to 0.3** for mixed-use development that includes a full-service grocery store ~~of up to not more than 25,000 square feet of~~ **gross floor area.**

[2] **For buildings with five or more residential units, the** ~~The~~ Planning Board may further increase the FAR by ~~an additional~~ **up to 0.4**, ~~provided that if both of the following requirements are met to the satisfaction of the Planning Board:~~

[a] ~~Payment into a Neighborhood Stabilization Fund.~~ The developer or property owner ~~shall pay~~ pays an amount equal to 10% **percent** of the market value of the additional gross floor area allowable by the 0.4 FAR bonus, as estimated by the Town of Mamaroneck Assessor, **into the neighborhood stabilization fund**. Payment ~~shall~~**must** be made prior to the issuance of a certificate of occupancy.

[b] ~~Provision of~~ **The developer or property owner incorporates** green building elements and/or green infrastructure as defined in this chapter **into the project** to the satisfaction of the Planning Board and as reviewed by the Building Inspector and/or the Village Engineer.

[43] If ground-level retail stores, restaurants, personal service stores, clubs, dancing studios, dancing schools, or other similar uses are provided that, in the opinion of the Planning Board, will encourage an active street environment for pedestrians, the Planning Board may exempt up to 3,000 square feet of gross floor area, of such use, or 1/3 of the ground floor area, whichever is greater, from the calculation of maximum FAR.

(d) Maximum coverage: 50% **percent**.

(e) Minimum required yards:

[1] Front: five feet.

[2] Two sides combined: 20 feet.

[3] Lesser side: eight feet.

[4] Rear: 25 feet.

(f) Usable open space requirement: 150 square feet per unit. "Usable open space" ~~shall be defined as means~~ active recreation, sitting or landscaped areas open to the sky. Parking shall not be considered usable open space. On any lot containing more than 15 dwelling units, the design, layout and equipment of such open space shall be subject to Planning Board approval. For purposes of open space calculations, an "atrium" is defined as a continuous area open to a sidewalk and street which is open and unobstructed, except for sitting and landscaped areas, to a height of at least 25 feet and whose roof and wall configuration allows natural sunlight as the main light source. Rooftop and atrium open spaces that are open to all the residents of the building may account for up to 10% **percent** of the open space requirements.

(2) Parking for any permitted principal or accessory use shall meet the parking requirements of § 342-56, except that for **market-rate** multifamily housing **units**, the requirement shall be one space per dwelling unit, plus 1/4 space per bedroom. For a building containing a mix of multifamily residential and nonresidential uses, the required parking for the **market-rate** residential **units** may be reduced to one space per dwelling unit, plus 1/4 space per bedroom in excess of one bedroom. Such parking for mixed uses must be shared among the uses on the site and not assigned to any one user, as acceptable to the Planning Board.

Section 3.

Section 342-31(A)(1)(d) of the Code of the Village of Mamaroneck is amended as follows:

- (d) Residence uses ~~as permitted by~~ in accordance with § 342-50. (This use is subject to the approval procedure set forth in Article X and shall conform to any additional requirements made in connection with such approval.)

Section 4.

Section 342-50 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-50 Residence uses in commercial districts

A. Special permit criteria. The Planning Board may grant a special permit for a residence use in the C-1 or C-2 Districts if the application satisfies the following requirements, in addition to the requirements of Article X:

- (a) **Separate entrances.** No entrance to the residentially used portion of any structure may be through any area not used for residential purposes, other than a common lobby or plaza. The location and design of the entrance or entrances must be approved by the Planning Board as part of the required special permit application.
- (b) **Reserved parking.** Parking for the residences of any mixed-use structure must be in a separate lot or in a reserved section of the common parking area. The reserved section must be adequately marked, landscaped and otherwise demarcated from commercial parking. To allow for visitor parking, the Planning Board may require up to 15 percent more off-street than would otherwise be required by Article VIII.
- (c) **Compatibility of use.** The Planning Board may allow residence uses above or in conjunction with commercial uses only if the Planning Board determines that the proposed commercial uses will be compatible with residences. In making that determination, the Planning Board must consider noise, odors, hours of operation and expected traffic volumes. Restaurants, motor vehicle service stations, public garages, printing plants, clubs, farms, transformer stations and motels are presumed to be incompatible with residence uses, but the Planning Board may determine, on the basis of proof submitted by the applicant, that those uses are compatible with residences.
- (d) **Building context.** In order to achieve a compatible building environment, the Planning Board may modify height, setback and yard controls. In making that determination, the Planning Board must consider the surrounding scale, height, design and setbacks of existing buildings. In undertaking this contextual evaluation, the Planning Board may request building sections and elevations, shadow diagrams, showing the impact of the proposed use on adjacent property and planimetric context maps, showing all adjacent buildings with street or build-to lines.
- (e) **Where a lot in single ownership is partly in the C-1 Districts and partly in the RM District, the Planning Board, upon making specific written findings as to why**

doing so will result in a superior building context, may modify the height, setback, yards, floor area ratio and building coverage of the lot in both the C-1 and the RM Districts, but may not allow greater density or coverage than would be permitted in both the C-1 and the RM Zoning Districts.

AB. Residence uses in C-1 Districts shall meet the following standards:

- (1) Site size. ~~The infill provision for housing in C-1 Districts shall apply only to sites under~~
The site must be less than 40,000 square feet in area, unless a the site is to be utilized
used for below-market rate housing in accordance with Article XV of this chapter. In cases
~~of the provision of below market housing there shall be no restriction on site size.~~
- (2) Floor area ratio.
 - (a) ~~The Except as provided in Article XV, the permitted total floor area ratio (FAR) shall~~
~~not exceed 0.60 for developments with four or fewer residential units. The Planning~~
~~Board may increase the FAR to 0.80 in accordance with the provisions of Article XV~~
~~of this chapter for below market housing.~~
 - (b) **Except as provided in Article XV, the permitted total floor area ratio (FAR) shall**
not exceed 0.80 for developments with five or more residential units.
- (3) Height, setback and yard controls. Zoning envelope controls shall be as follows:
 - (a) Minimum lot width and frontage: 50 feet.
 - (b) Minimum lot depth: 100 feet.
 - (c) Minimum habitable floor area (per unit): 450 square feet.
 - (d) Maximum stories: ~~three; four in the C-1 Zone on Mamaroneck Avenue, Boston Post~~
~~Road and Van Ransst Place, except that four stories are permitted in the C-1~~
~~Districts on Mamaroneck Avenue.~~
 - (e) Maximum height: ~~40 feet; 45 feet on Boston Post Road and 50 feet, except that a~~
maximum height of 50 feet is permitted on Mamaroneck Avenue.
 - (f) Maximum coverage: ~~30% percent; except that a maximum coverage of 35 percent~~
is permitted in the C-1 Zone Districts on Mamaroneck Avenue and Boston Post Road
or for a development that consists of all below-market-rate housing as defined in Article XV.
 - (g) Minimum required yards:
 - [1] ~~Front: 20 feet. (NOTE: Applies to for new construction. Setbacks may be modified~~
~~for rehabilitation of existing structure, provided that the structure complies with C-~~
~~1 regulations and the Planning Board determines that adequate light, air and open~~
~~space will exist for residents of the rehabilitated space.)~~
 - [2] ~~Lesser side: 10 feet. (NOTE: These minimum setbacks must be landscaped and may~~
~~be doubled where they are adjacent to a residential district.)~~
 - [3] ~~Two sides combined: 20 feet. (NOTE: These minimum setbacks must be landscaped~~
~~and may be doubled where they are adjacent to a residential district.)~~

- [4] Rear yard: 25 feet. ~~(NOTE: Applies to new construction. Setbacks may be modified, for rehabilitation of existing structure, provided that the structure complies with C-1 regulations and the Planning Board determines that adequate light, air and open space will exist for residents of the rehabilitated space.)~~
- [5] The Planning Board may modify the front yard and rear yard requirements for the rehabilitation of an existing structure if the structure otherwise complies with the C-1 Districts regulations and the Planning Board determines that adequate light, air and open space will be provided for residents of the rehabilitated space.
- [6] Required side yards must be landscaped.
- [7] The Planning Board may require that the required side yards be doubled where they are adjacent to a residential district.
- (h) Minimum setback for parking and driveways: five feet. ~~(NOTE: These minimum setbacks. The setback area required for parking and driveways must be landscaped and the Planning Board may require that the area be doubled where they are the area is adjacent to a residential district.)~~
- (i) Off-street parking and loading: as required by Article VIII.
- (j) Open space requirement: 300 square feet per unit, except 200 square feet in Village Center. ~~(NOTE: The Village Center shall include the C-1 Zone Districts on Mamaroneck Avenue and Old White Plains Road.)~~
- (4) ~~Special permit criteria. The infill housing provision within C-1 Zones shall be allowed only through a special permit granted by the Planning Board. No such permit shall issue unless the following requirements are met, in addition to those of Article X hereof:~~
- ~~(a) Separate entrances. The residentially used portion of any structure shall have an entrance or entrances which do not require access through any nonresidentially used area, other than a common lobby or plaza. The location and design of such entrances shall be subject to approval by the Planning Board as part of the required special permit application.~~
- ~~(b) Reserved parking. Parking for the residences of any mixed structure shall be in a separate lot or in a reserved section of the parking area, which reserved section must be adequately marked, landscaped and otherwise demarcated from commercial parking. For any or all buildings, the Planning Board may require additional parking for visitors up to 15% more than required in Article VIII.~~
- ~~(c) Compatibility of use. The Planning Board shall allow infill housing above commercial uses or in conjunction with commercial uses only if such uses are found to be compatible with such housing. The Planning Board shall consider noise, smell pollution, hours of operation and expected traffic volumes in making this determination. The following use groups of the C-1 District shall normally be considered incompatible without proof of the contrary from the applicant that is satisfactory to the Planning Board: § 342-30A(1)(e), restaurants, § 342-30A(1)(g), motor vehicle service stations and public garages, § 342-30A(1)(i), printing plants,~~

~~§ 342-30A(1)(j), clubs, § 342-30A(1)(m), farms, § 342-30A(1)(n), transformer stations and § 342-30A(1)(e), motels.~~

~~(d) Building context. The Planning Board shall consider the surrounding scale, height, design and setbacks of existing buildings in its determination of the zoning envelope for infill housing. In undertaking this contextual evaluation, the Planning Board may request building sections and elevations; shadow diagrams, showing the impact of the proposed use on adjacent property; and planimetric context maps, showing all adjacent buildings with street or build to lines. In order to achieve a compatible building environment, the Planning Board may modify height, setback and yard controls. Where a lot is in one ownership and a portion of said lot lies in the C-1 Zoning District and a contiguous portion of said lot lies in an RM Zoning District, the Planning Board may modify the height, setback, yards, floor area ratio and building coverage of the lot in both the C-1 and the RM Zoning Districts, provided that in no case shall the zoning regulations be changed so as to increase density or coverage of the land which combined would be permitted in both the C-1 and the RM Zoning Districts. However, any modification must be accompanied by written findings as to why such modification will produce a superior building context.~~

(4) Below market rate dwelling units. Developments with five or more residential units must provide below market rate dwelling units in accordance with the provisions of Article XV.

BC. Residence uses in C-2 Districts shall meet the following standards:

~~(1) Residential uses in C-2 Districts shall be allowed only through a special permit granted by the Planning Board.:~~

~~(2) No such permit shall issue unless the following requirements are met, in addition to those of Article X hereof and those of Subsection A(4) of this section.~~

~~(1) The residentially used portion of any structure shall have an entrance or entrances which do not require access through any non-residentially used area not used for residential purposes, other than a common lobby or plaza. The location and design of such entrances shall be subject to approval by the Planning Board as a part of the required special permit application.~~

(1) There must be at least five residential units in the building.

(2) The maximum permitted floor area ratio for residential uses shall be 2.0. This The maximum permitted floor area ratio may be increased in accordance with the bonus provisions of Article XV of this chapter for below-market-rate housing.

(3) The maximum permitted building height shall be 45 feet. This The maximum permitted building height may be increased in accordance with the bonus provisions of Article XV of this chapter for below-market-rate housing.

(4) Parking Off-street parking spaces shall must be as provided in as required by Article VIII.

(5) No ground floor space with frontage on Mamaroneck Avenue may be used for residential occupancy.

Section 5.

Section 342-56(A) of the Code of the Village of Mamaroneck is amended by adding the following requirement:

Use	Minimum Number of Spaces
Below-market-rate dwelling units in a multifamily dwelling	3/4 space per dwelling unit plus 1/4 space per bedroom in excess of one.

Section 6.

Section 342-103 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-103 ~~Bonus provisions enumerated~~ **Below market rate requirements and bonus provisions; definitions**

- A. In order to provide a choice of housing opportunities for a variety of income groups within the Village, in accordance with the purposes of this article and the policies as set forth in the Village Comprehensive Plan, ~~bonus provisions for increasing the number of units or floor space devoted to housing shall be allowed, upon a vote of the Planning Board for each specific application, in accordance with the following schedule~~ **below market rate residential units, where required, are subject to the following schedule:**

Zoning District	Maximum FAR or coverage - 5 or more units	Percentage Required
C-1	.8	10% of units
C-2	2.0	10% of units
TOD	.8 (up to 1.5 if other TOD incentives are utilized)	10% of units

- B. In order to provide a choice of housing opportunities for a variety of income groups within the Village, in accordance with the purposes of this article and the policies as set forth in the Village Comprehensive Plan, where below market rate residential units are provided, the development bonuses set forth in the following schedule will apply:

Zoning District	Bonus	Maximum FAR or coverage - 5 or more units	Percentage Required
C-2	.5 FAR	2.5	100% of units
RM-1	20% unit bonus	2,500 square feet of land/unit	50% of bonus
RM-2	20% unit bonus	1,500 square feet of land/unit	50% of bonus
RM-3	20% unit bonus	1,000 square feet of land/unit	50% of bonus

- ~~B. For each additional market rate unit produced as a result of the bonus provision, one~~
~~For each additional market rate unit produced as a result of the bonus provision, one~~

~~comparable below market rate unit must be provided. In all cases, 50% of the total number of additional units provided by these bonus provisions must be reserved for below market rate families as herein defined.~~

- C. Period of affordability. Owner-occupied below-market-rate dwelling units must remain affordable in accordance with the provisions of this chapter for a period of 99 years. Renter-occupied below-market-rate dwelling units must remain affordable in accordance with the provisions of this chapter for so long as any portion of the site is used for residential purposes.**

CD. As used in this Article, the following terms shall have the meanings indicated:

BELOW-MARKET-RATE DWELLING UNIT

A dwelling unit, the rental or sales price of which does not exceed the maximum allowable level established by this Article for below-market-rate families.

BELOW-MARKET-RATE FAMILIES

Families whose aggregate annual income, including the total of all current annual income of all family members from any source whatsoever ~~at the time of application~~, but excluding the earnings of those under 21 years of age attending school full time, shall not exceed 80% percent of the actual Westchester County median income (not capped), as defined and periodically updated by the United States Department of Housing and Urban Development ("HUD"), ~~at the time of application, or 120 percent at the time of renewal. At renewal, continuing eligibility will be based upon 120% of the Westchester County, NY AMI.~~

Section 7.

Section 342-104 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-104 Development standards.

- A. Distribution. ~~Such~~ During the period of affordability established by § 342-103, below market rate dwelling units created under the provisions of this Article may be sold, re-sold or rented ~~Such units shall be available for sale, resale or continuing rental~~ only to below-market-rate families, as defined in this Article.**
- B. Design. ~~Such units shall~~ Below market rate dwelling units created under the provisions of this Article must be physically integrated into the design of the development in a manner satisfactory to the Planning Board and shall be distributed among efficiency, one-, two- and three-bedroom units in the same proportion as all other units in the development, unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the Village of Mamaroneck. The below-market-rate dwelling units must not be distinguishable from other market rate units from the outside or building exteriors.**
- BC.** Minimum floor area. Minimum gross floor area per dwelling unit shall not be less than the comparable market-rate unit in the building, or the following minimums, whichever are less:
- (1) Efficiency: 450 square feet.
 - (2) One bedroom: 650 square feet.
 - (3) Two bedrooms: 850 square feet.

(4) Three bedrooms: 1,100 square feet, including at least 1 1/2 baths.

CD. Occupancy guidelines. In renting or selling, the following schedule shall provide guidelines in approving the rental or sale of below-market-rate dwelling units:

Number of Bedrooms	Number of Persons	
	Minimum	Maximum
Efficiency	1	1
1	1	2
2	2	4
3	3	6

E. Affirmative marketing. Below-market-rate families shall be solicited in accordance with the requirements, policies and protocols established in the Westchester County Fair & Affordable Housing Affirmative Marketing Plan so as to ensure outreach to racially and ethnically diverse households.

Section 8.

Section 342-107.1 of the Code of the Village of Mamaroneck is amended as follows:

§ 342-107.1 ~~Additional~~ **Bonus** provisions for the C-2 District.

In order to provide flexibility to the Village in encouraging below-market-rate housing, these additional **development bonus** provisions are provided for in the C-2 District:

A. Eligibility. **The Planning Board may allow the additional development bonuses permitted by this section in accordance with the standards set forth in § 342-50(B) and § 342-107.1(B) if:**

- (1) The proposed housing development is undertaken in cooperation with the Village of Mamaroneck through the Village Economic Development Program, a state or local affordable housing program or in conjunction with a not-for-profit corporation whose purpose is the creation of below-market-rate housing; **or**
- (2) **The Board of Trustees has determined that the proposed development is located within the C-2 District and will enhance the vitality of the area both by the provision of housing and the provision of ground floor retail and/or office uses.**

~~B. Special permit procedure. The Village Board of Trustees shall certify that the eligibility standards listed in Subsection A above have been met by the applicant. The applicant may then apply for a special permit for below market rate housing to the Planning Board. The Planning Board shall consider the may grant a special permit in accordance with the standards of § 342-50B of the Zoning Code and the additional standards listed below in Subsection C.~~

C. Development standards.

- (1) ~~The development standards of the C-2 District shall apply with the exception of building height, which may be increased from 45 feet~~ **If 100 percent of the dwelling units in the building are below market rate dwelling units, the building may contain up to six**

stories, the building height may be up to 60 feet; and the floor area ratio (FAR), which may be increased ~~from 2.0~~ to 2.5.

- (2) ~~In order to achieve the above-listed area and bulk exceptions, the development must provide 100% of the units at below-market-rate levels. The maximum yearly rent, excluding utilities, for a below-market-rate dwelling unit shall not exceed 30 percent of, and the maximum gross sales price shall not exceed 2.5 times, the aggregate family income for a below-market-rate family, as defined in this Article, for the maximum size of family eligible for such unit as listed above. The applicant shall demonstrate the affordability of the units to the satisfaction of the Planning Board. The applicant shall compare the rental or sales levels with existing federal, state or county affordable housing programs that might be utilized and/or with the median income for Westchester County as defined and periodically updated by HUD. In no case, however, shall sales prices or rent levels exceed a level affordable by 150% of the median income of county residents.~~
- (3) ~~The applicant must establish a mechanism, such as a covenant or deed restriction, controlling resale of the individual units that assumes record an instrument, acceptable in form to the Village Attorney, which obligates the owner of the development to maintain the below market dwelling units as the housing will remain affordable in perpetuity for a period of 99 years. This mechanism must be acceptable to the Village Attorney, and that the cap on resale prices must not exceed an appreciation on equity of more than 10% five percent annually.~~
- (4) ~~The proposed development shall must be administered in accordance with § 342-107 or by a separate program acceptable to the Village Manager. Village employees and residents shall be given first preference in the rent up or sales program established for the development.~~

Section 9.

If any section, subsection, clause, phrase or other portion of this local law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, the portion of the law declared to be invalid will be deemed a separate, distinct and independent portion and the declaration will not affect the validity of the remaining portions hereof, which will continue in full force and effect.

Section 10.

This law is adopted pursuant to the authority granted by Municipal Home Rule Law § 10(1)(e)(3) and will supersede the provisions of the Village Law to the extent that they are inconsistent with this local law.

Section 11.

This local law will take effect immediately upon its filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.