

**REVISED NOTICE**  
NEW ROCHELLE, NY  
PUBLIC HEARING NOTICE  
RE: PROPOSED AMENDMENT TO CHAPTER 331,  
ZONING CODE - AFFORDABLE HOUSING

NOTICE is hereby given that the Council of the City of New Rochelle, New York, will hold a *virtual* Public Hearing pursuant to Chapter 331 of the Code of the City of New Rochelle, Section 239-m of the General Municipal Law of the State of New York, and Sections 277.61 and 277.71 of the County Administrative Code, on **Tuesday, April 13, 2021, at 7:00 P. M.**, in the Council Chamber, City Hall, 515 North Avenue, New Rochelle, New York, on the proposed amendment, as follows:

ORDINANCE AMENDING SECTION 331-152, REQUIREMENTS FOR AFFORDABLE HOUSING, OF CHAPTER 331, ZONING, OF THE CODE OF THE CITY OF NEW ROCHELLE.

WHEREAS, the Department of Development has been reviewing mechanisms to bolster our affordable housing initiatives; and

WHEREAS, while New Rochelle has been a regional leader in providing affordable housing, it is important to revisit policies and make changes as appropriate; and

WHEREAS, as affordability continues to be an issue for residents and others looking to live in the community, proposals for zoning amendments to enhance the City's existing affordable housing opportunities have been identified; and

WHEREAS, the proposals will increase affordability, provide greater flexibility, update/increase the fee in-lieu of affordable housing requirements, eliminate the ability to provide affordable units off-site, and also help foster home ownership for lower income families; now, therefore

BE IT ORDAINED by the City of New Rochelle:

Section 1. Section 331-152, Requirements for Affordable Housing, is hereby amended as follows:

Article XIX. Affordable Housing

§ 331-152. Requirements for Affordable Housing.

A. Purpose. The City Council of the City of New Rochelle is deeply concerned that there are insufficient opportunities for individuals and families of Low Income, Moderate Income, and Median Income to purchase or rent dwelling units in the City. In order to enhance the public welfare and to promote the well-being of the City's current and future residents, the Council believes that it is essential that new residential and mixed-use developments involving the construction of more than two new dwelling units be required to include dwelling units for

individuals and families of Moderate Income in Rental Housing and dwelling units for individuals and families of Median Income in Purchase Housing or, in the alternative, be required to make payments to an Affordable Housing Fund to assist in the development of housing opportunities for individuals and families of Low Income and Moderate Income in the City. Further, this Council believes that it is essential that dwelling units for individuals and families of Low Income and Moderate Income which are scheduled for demolition be replaced with new affordable housing or, in the alternative, payments be made to an Affordable Housing Fund to assist in the development of housing opportunities for individuals and families of Low Income and Moderate Income in the City.

B. Definitions. As used in this article, the following terms shall have the meanings indicated:

**BONUS FLOOR AREA**

That square footage of extra floor area permitted in a Residential Development, which extra floor area shall equal 150% of that square footage of floor area in such Residential Development devoted to Low-Income Housing Units, Moderate-Income Housing Units, and/or Median-Income Housing Units, as the case may be.

**LOW INCOME**

Annual household income which does not exceed 60% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

**LOW-INCOME HOUSING UNITS**

Dwelling units constructed for individuals and families whose annual household income does not exceed 60% of the Westchester County median annual income for their household size (based on U.S. Census and as updated by HUD), and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, common charges, and homeowner-paid utilities does not exceed 30% of said household income.

**MARKET-RATE PURCHASE HOUSING**

Dwelling units in single-family, residential condominium, and residential cooperative apartment buildings which are purchased for residency by the owner thereof at market-rate purchase prices, without governmental or other subsidy to such owner.

**MARKET-RATE RENTAL HOUSING**

Dwelling units in single-family, two-family, multifamily, residential condominium, and residential cooperative apartment buildings which are rented for residency by the tenant thereof at market-rate rental rates, without governmental or other subsidy to such tenant.

**MEDIAN INCOME**

Annual household income which does not exceed 100% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

### **MEDIAN-INCOME HOUSING UNITS**

Dwelling units constructed for individuals and families whose annual household income does not exceed 100% of the Westchester County median annual income for their household size (based on U.S. Census and as updated by HUD), and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, common charges, and homeowner-paid utilities does not exceed 30% of said household income.

### **MODERATE INCOME**

Annual household income which does not exceed 80% of the Westchester County median annual income for its household size (based on U.S. Census and as updated by HUD).

### **MODERATE-INCOME HOUSING UNITS**

Dwelling units constructed for individuals and families whose annual household income does not exceed 80% of the Westchester County median annual income for their household size (based on U.S. Census and as updated by HUD), and whose combined annual rental cost and tenant-paid utilities do not exceed 30% of said income, or for homeowners (single-family, residential condominium, or residential cooperative apartment), the annual total of the sum of secured loan principal, secured loan interest, private mortgage insurance, property taxes, home insurance, and common charges, and homeowner-paid utilities does not exceed 30% of said household income.

### **PURCHASE HOUSING**

Dwelling units in single-family, residential condominium, and residential cooperative apartment buildings which are purchased for residency by the owner thereof.

### **RENTAL HOUSING**

Dwelling units in single-family, two-family, multifamily, residential condominium, and residential cooperative apartment buildings which are rented for residency by the tenant thereof.

### **RESIDENTIAL DEVELOPMENT**

A residential or mixed-use development involving the construction of three or more new dwelling units.

### **RESIDENTIAL DEVELOPMENT APPLICATION**

An application for final subdivision, site plan, or special permit approval which proposes the construction of three or more new dwelling units.

## **C. Inclusion of Affordable Dwelling Units in Rental Housing.**

- (1) Each Residential Development Application which proposes the construction of more than two dwelling units of Rental Housing shall provide moderate-income housing as set forth below. [floor area in such Residential Development set aside for Moderate-Income

Housing Units. (NOTE: Residential Development Applications proposed within the Downtown Overlay Zone may satisfy this requirement on-site or off-site on property located within the Downtown Overlay Zone. Such affordable units, whether on-site or off-site, shall be commensurate in size, unit type, and finishings to the market-rate units of the associated project.) The floor area devoted to Moderate-Income Housing Units shall comprise at least 10% of the floor area devoted to Rental Housing in the Residential Development.]

The minimum required amount of affordable housing shall be equivalent to a 10-percent set-aside at 70-percent area median income (AMI), and can be achieved through a system of credits as follows:

Schedule of Affordable Housing Credit Values

<u>Level of Affordability</u> <u>(target household AMI)</u>	<u>Affordable Housing</u> <u>Credits</u>
<u>80%</u>	<u>0.5</u>
<u>70%</u>	<u>1</u>
<u>60%</u>	<u>1.5</u>
<u>50%</u>	<u>2</u>
<u>40%</u>	<u>2.5</u>

The floor area square footage of any Replacement Housing Units or Partial Replacement Housing Units proposed under Subsection **E(1)(a)** and **(b)** below shall be credited against this requirement.

- (2) Moderate-Income Housing Units shall be generally distributed throughout the Rental Housing; shall not be distinguished as a class from the Market-Rate Rental Housing; shall be distributed among one-, two-, and three-bedroom units in the same proportion as the dwelling units in the Market-Rate Rental Housing; and shall each have a floor area of not less than 90% of the average floor area of the dwelling units in the Market-Rate Rental Housing.
- (3) Moderate-Income Housing Units shall only be re-rented to individuals or families who are of Moderate Income at the time of such re-rental, and the rent for such re-rental shall not exceed the then rent for a Moderate-Income Housing Unit.
- (4) Each Residential Development Application for Rental Housing containing Moderate-Income Housing Units shall include a draft Declaration of Restrictive Covenants, which Declaration shall set forth and particularize the requirements set forth in Subsection **C(1)** through **(3)** above, and which shall be recorded against the property containing the Moderate-Income Housing Units prior to issuance of the first temporary or permanent certificate of occupancy for the Residential Development. Such Restrictive Covenants shall run for a term to be determined by the Commissioner of Development but at no time for a term limit to be less than 30 years. The Declaration shall include rules and regulations for insuring compliance with the Restrictive Covenants. The City's Department of Development and/or one or more nonprofit entities to be designated by the City Council shall administer and enforce such compliance program. The form and

substance of such Declaration shall be subject to approval of the City's Corporation Counsel and Commissioner of Development.

- (5) In lieu of providing all or a part of such Moderate-Income Housing Units in the Rental Housing, the Residential Development Application shall provide for payment to the City's Affordable Housing Fund, in accordance with the payment schedule set forth in Chapter 133, Fees, of the New Rochelle City Code. Such payment shall be made prior to issuance of the first building permit for construction of the Rental Housing. Any Partial Replacement Housing Units Demolition Payments or Residential Development Demolition Payments paid in connection with Subsection **E(1)(b)** or **(c)** below shall be credited against the payment due hereunder.
- (6) Local Preference. Affordable units created in projects outside of the Downtown Overlay Zone ("DOZ") in New Rochelle shall be allocated in the following order of priority:
  - (a) Eligible members of the workforce of New Rochelle (e.g., uniformed City workers, teachers, etc.), who are existing residents of New Rochelle;
  - (b) Eligible New Rochelle residents;
  - (c) Other eligible members of the workforce of New Rochelle; and
  - (d) Other eligible individuals.
- (7) Local Preference for Downtown Overlay Zone ("DOZ") projects. New development projects utilizing the Downtown Overlay Zone in New Rochelle shall be allocated in the following order of priority:
  - (a) Existing eligible residents living on sites that have opted into the DOZ:
  - (b) Existing eligible residents of the DOZ;
  - (c) Eligible members of the workforce of New Rochelle (e.g., uniformed City workers, teachers, etc.);
  - (d) Eligible New Rochelle residents;
  - (e) Other eligible individuals.

**D. Inclusion of Affordable Dwelling Units in Purchase Housing.**

- (1) Each Residential Development Application which proposes the construction of more than two dwelling units of Purchase Housing shall provide floor area in such Residential Development set aside for Median-Income Housing Units. (NOTE: Residential Development Applications proposed within the Downtown Overlay Zone may satisfy this requirement on-site or off-site on property located within the Downtown Overlay Zone.

Such affordable units, whether on-site or off-site, shall be commensurate in size, unit type, and finishings to the market-rate units of the associated project.) The floor area devoted to Median-Income Housing Units shall comprise at least 10% of the floor area devoted to Market-Rate Purchase Housing in the Residential Development. The floor area square footage of any Replacement Housing Units or Partial Replacement Housing Units proposed under Subsections **E(1)(a)** and **(b)** below shall be credited against this requirement.

- (2) Median-Income Housing Units shall be generally distributed throughout the Purchase Housing; shall not be distinguished as a class from the Market-Rate Purchase Housing; shall be distributed among one-, two-, three-, and four-bedroom units in the same proportion as the dwelling units in the Market-Rate Purchase Housing; and shall each have a floor area of not less than 90% of the average floor area of the dwelling units in the Market-Rate Purchase Housing.
- (3) Median-Income Housing Units shall only be resold to individuals or families who are of Median-Income at the time of such resale, and the sales price for such resale shall not exceed the then sales price for a Median-Income Housing Unit.
- (4) Each Residential Development Application for Purchase Housing containing Median-Income Housing Units shall include a draft Declaration of Restrictive Covenants, which Declaration shall set forth and particularize the requirements set forth in Subsections **D(1)** through **(3)** above, and which shall be recorded against the Median-Income Housing Units in the Purchase Housing prior to issuance of the first temporary or permanent certificate of occupancy for the Residential Development. Such Restrictive Covenants shall run for the life of the building in which such Median-Income Housing Units are located. The Declaration shall include rules and regulations for insuring compliance with the Restrictive Covenants. The City's Department of Development and/or one or more not-for-profit entities to be designated by the City Council shall administer and enforce such compliance program. The form and substance of such Declaration shall be subject to approval of the City's Corporation Counsel and Commissioner of Development.
- (5) In lieu of providing all or a part of such Median-Income Housing Units in the Purchase Housing, the Residential Development Application shall provide for payment to the City's Affordable Housing Fund, in accordance with the payment schedule set forth in Chapter 133, Fees, of the New Rochelle City Code. Such payment shall be made prior to issuance of the first temporary or permanent certificate of occupancy for construction of the Purchase Housing. Any Partial Replacement Housing Units Demolition Payments or Residential Development Demolition Payments paid in connection with Subsection **E(1)(b)** or **(c)** below shall be credited against the payment due hereunder.
- (6) Local Preference. Affordable units created in projects in New Rochelle shall be allocated in the following order of priority:
  - (a) Eligible members of the workforce of New Rochelle (e.g., uniformed City workers, teachers, etc.), who are existing residents of New Rochelle,

- (b) Eligible New Rochelle residents:
  - (c) Other eligible members of the workforce of New Rochelle; and
  - (d) Other eligible individuals.
- E. Payment for Demolition of Building Containing Low-Income Housing Units and/or Moderate-Income Housing Units.
- (1) Each application to the Building Bureau for demolition of a building which contains Low-Income Housing Units and/or Moderate-Income Housing Units shall be accompanied by one of the following:
    - (a) A Residential Development Application which proposes construction, within two years of the date of issuance of the demolition permit for such building ("Demolition Permit"), of new Moderate-Income Housing Units of Rental Housing and/or new Median-Income Housing Units of Purchase Housing on the property subject to such Residential Development Application, which new Units shall contain aggregate floor area square footage at least equal to the aggregate floor area square footage of the Low-Income Housing Units and/or Moderate-Income Housing Units proposed to be demolished ("Replacement Housing Units");
    - (b) A Residential Development Application which proposes construction of a portion of the Replacement Housing Units within two years of the date of issuance of the Demolition Permit ("Partial Replacement Housing Units"), together with a payment equal to the square footage of the balance of the Replacement Housing Units, were they to be constructed, multiplied by the fee set forth in Chapter 133, Fees, of the New Rochelle City Code, ("Partial Replacement Housing Units Demolition Payment");
    - (c) A Residential Development Application which does not propose construction of any Replacement Housing Units, together with a payment equal to the aggregate floor area square footage of the Low-Income Housing Units and/or Moderate-Income Housing Units proposed to be demolished, multiplied by the fee set forth in Chapter 133, Fees, of the New Rochelle City Code ("Residential Development Demolition Payment"); or
    - (d) In the event no Residential Development Application is submitted, a payment equal to the floor area square footage of the Low-Income Housing and/or Moderate-Income Housing Units proposed to be demolished multiplied by the fee set forth in Chapter 133, Fees, of the New Rochelle City Code ("Demolition Payment").
  - (2) In the event the applicant for the Demolition Permit proposes to construct Replacement Housing Units or Partial Replacement Housing Units, the applicant therefor shall post an irrevocable, unconditional letter of credit naming the City of New Rochelle as sole payee

thereof, in an amount equal to the Replacement Housing Units Payment that would be payable were no Replacement Housing Units proposed to be constructed less any Partial Replacement Housing Units Payment paid hereunder ("Replacement Housing Units Letter of Credit"). In the event certificates of occupancy for all the Replacement Housing Units or Partial Replacement Housing Units, as the case may be, are not obtained within two years of the date of issuance of the Demolition Permit, the Replacement Housing Units Letter of Credit shall be drawn down in full by the City and the proceeds thereof shall be paid into the Affordable Housing Fund.

- (3) Nothing in this Section E shall be construed to diminish the obligations set forth in Subsections C and D above in the event they exceed the obligations set forth in this Subsection E.

#### F. Affordable Housing Fund.

- (1) In-lieu payments and demolition payments made pursuant to Subsections **C(5)**, **D(5)**, and **E(1)** above shall be deposited in the City's Affordable Housing Fund which shall be invested by the City's Commissioner of Finance. The monies in such Affordable Housing Fund may be appropriated by the City Council, and if so appropriated, shall be administered by the City's Commissioner of Development and/or one or more not-for-profit entities to be designated by the City Council, to facilitate the following Affordable Housing Programs:
  - (a) Acquisition of land in the City which is suitable for the construction of Low-Income Housing Units and Moderate-Income Housing Units;
  - (b) Construction of Low-Income Housing Units and Moderate-Income Housing Units in the City;
  - (c) Renovation or rehabilitation of existing dwelling units in the City for Low-Income Housing Units and Moderate-Income Housing Units; and/or
  - (d) Direct assistance to persons purchasing Moderate-Income Housing Units in the City with preference given, whenever possible, to New Rochelle residents.
  - (e) Infrastructure improvements to facilitate the development of affordable units.
  - (f) Eligible federal, state or local down payment assistance programs.
- (2) The administration, rules, and regulations for each of such Affordable Housing Programs shall be approved by the City Council prior to allocation of monies from the Affordable Housing Fund for such Programs. All costs of administration shall be paid from the Affordable Housing Fund.
- (3) The monies appropriated from the Affordable Housing Fund for such Affordable Housing Programs shall be allocated so that the aggregate floor area square footage of



new Low-Income Housing Units and Moderate-Income Housing Units created through the assistance of such Fund shall not, in any given City Council District over any given ten-year period, exceed 50% of the total floor area square footage of such Low-Income Housing Units and Moderate-Income Housing Units so created in the entire City during such period of time. The City Council may waive this maximum percentage limitation, in its sole and absolute discretion, on a finding that an appropriation from the Affordable Housing Fund in excess of such limitation is essential to furthering the goals and objectives of the Affordable Housing Program.

Matter [bracketed] deleted.

Matter underlined added.

Due to the ongoing COVID-19 public health crisis and related Executive Orders issued by Governor Andrew M. Cuomo, the City Council will not be able to accommodate any in-person public attendance or participation for Public Hearings and Citizens to be Heard. Nonetheless, and in furtherance of the provisions of Section 859-a of the Act requiring interested parties be provided a reasonable opportunity, both orally and in writing, to present their views, Public Hearings and Citizens to be Heard will be broadcast live on the City's website and cable public access channel on television (Optimum Channel 75 / Verizon Channel 28). In addition, the City Council will allow the public to provide oral comments in real time via telephone or virtually through Microsoft Teams.

[Sign up to speak at the Public Hearing or Citizens to be Heard](#)

**All registrations must be received by noon on April 13.**

By order of the City Council by resolution duly adopted on March 16, 2021.

Michelle Oliveros  
City Clerk