

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF WHITE PLAINS AMENDING TITLE IX OF THE WHITE PLAINS MUNICIPAL CODE ENTITLED "ZONING, PLANNING, BUILDINGS AND STRUCTURES" BY ADDING A NEW CHAPTER 9-7, ENTITLED "AFFORDABLE HOUSING REGULATIONS".

The Common Council of the City of White Plains hereby ordains and enacts as follows:

§ 1. Title IX of the White Plains Municipal Code is hereby amended by adding Chapter 9-7 as follows:

ARTICLE I: AFFORDABLE RENTAL HOUSING REGULATIONS

9-7-1. Statement of Policy

The City of White Plains finds that having housing that is affordable to a range of income groups is necessary in order to ensure the continued social and economic diversity of its population, which is one of its defining characteristics. The City finds that Fair Market Rents are unaffordable to low and moderate income households, and that there is a shortage of affordable housing due to the high cost of existing housing, land, and construction in the region.

In the interest of reducing the number of cost-burdened households (those spending more than 30% of gross income on housing costs), the City has established a policy requiring that Affordable Rental Housing be a component of the development of multi-family or mixed-use residential rental developments greater than ten (10) dwelling units, including the conversion of existing non-residential buildings to residential, or substantial renovation of vacant residential structures.

9-7-2. Definitions

(A) AFFORDABLE RENTAL HOUSING: Rental housing for which the monthly rent is established using Westchester County Rent Limits published annually by the US Department of Housing and Urban Development (HUD) which is rented to an Income Eligible Household.

(B) AFFORDABLE RENT: Monthly rent, based on income limits for Westchester County published annually by the US Department of Housing and Urban Development (HUD), which is adjusted for unit-size, utilities, and amenities.

(C) AFFORDABLE RENTAL HOUSING PROGRAM (ARHP): The program established by the City of White Plains to assist families with incomes between 50% and 99% of Area Median Income (AMI) to obtain rental housing in ARHP Applicable Rental Projects. The ARHP shall be administered by the White Plains Department of Planning, or other agency approved by the Common Council, and operated under the oversight of the Commissioner of Planning.

(D) AFFORDABLE HOUSING ASSISTANCE FUND (AHAF): A fund held and maintained by the City of White Plains which may be used for: down payment assistance; land acquisition or project

construction expenses for the development or rehabilitation of affordable housing; program administration costs; and other actions taken for the furtherance of increasing affordable housing city-wide.

(E) AFFORDABLE UNITS: Dwelling units that are designated for rental to income qualified Households pursuant to these regulations.

(F) ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE (AI): A document published regularly by the Planning Department in compliance with HUD requirements, to further fair housing objectives. It analyzes impediments to fair housing, and it identifies strategies to reduce the effect of those impediments.

(G) APPLICANT: The person(s) under whose name the apartment will be leased.

(H) AREA MEDIAN INCOME (AMI): The middle of the income distribution, with equal parts falling below and above the median income. The Area Median Income (AMI) is defined herein as 100% of Westchester County Area Median Income as reported annually by the US Department of Housing and Urban Development (HUD) and adjusted for Household size.

(I) ARHP ADMINISTRATIVE AGENT: City of White Plains Planning Department or other agency contracted by the City of White Plains to administer the ARHP, with oversight retained by the Commissioner of Planning.

(J) ARHP APPLICABLE RENTAL PROJECT: Any multi-family rental or mixed-use development that includes ten (10) or more residential rental units including new construction, conversion of non-residential structures to residential use, or substantial renovation of vacant residential structures.

(K) HOUSEHOLD: Related and/or unrelated persons living together in a rental unit as a single housekeeping unit, sharing rent and unit amenities, as permitted under the Maximum Permitted Occupancy for the unit.

(L) HOUSEHOLD ASSETS: Monies in savings or checking accounts, certificates of deposit, trusts, stocks and bonds, and the value of any real property, less outstanding debt.

(M) HOUSEHOLD INCOME: The total income from all sources of all persons in the Household over eighteen (18) years of age and not registered full time at an accredited college, university or trade school.

(N) INCOME ELIGIBLE HOUSEHOLD: A Household with an annual income between 50% and 99% of the AMI for Westchester County, as adjusted annually by the US Department of Housing and Urban Development (HUD).

- (1) Household Income between 50% and 59% of AMI will qualify for an Affordable Unit that has rent based on 50% of the AMI.
- (2) Household Income between 60% and 79% of AMI will qualify for an Affordable Unit that has rent based on 60% of the AMI.
- (3) Household Income between 80% and 99% of AMI will qualify for an Affordable Unit that has rent based on 80% of the AMI.

- (4) An Applicant may rent an ARHP unit in a higher rent designation as long as the rent does not exceed 39% of the gross monthly Household Income.
- (5) Applicants with rental subsidies may qualify for an ARHP unit with an annual Household Income below the required AMI levels provided the combination of income and subsidy is sufficient to cover the monthly Affordable Rent.

(O) IN-LIEU HOUSING FEE: Fee paid to the Affordable Housing Assistance Fund (AHAF) in lieu of providing Affordable Units in an ARHP Applicable Rental Project.

(P) MARKET RATE UNIT: Any housing not restricted to low- and moderate-income households that may rent at any price.

(Q) MAXIMUM PERMITTED OCCUPANCY: The maximum number of people that can occupy a dwelling unit as determined by the Commissioner of Building based on the White Plains Building and Fire Prevention Code.

(R) PLANNING DEPARTMENT: The City of White Plains Department of Planning.

9-7-3. Affordable Housing Requirements

(A) Affordable Housing Obligation by Project Size.

- (1) ARHP Applicable Rental Projects approved after September 1, 2019* are required to provide Affordable Units in accordance with the following table. Projects containing 15 or more units may select either the 8% or 12% set-aside requirement.

Total Units in Development	Number/Percentage of required ARHP units	Percentage of units at designated AMI Level	AMI Level
1-9	None	---	---
10-14	1	100%	60% AMI
15+	12%	100%	80% AMI
	8%	80% 20%	60% AMI 50% AMI

* ARHP Applicable Rental Projects providing affordable housing pursuant to a site plan approval granted prior to September 1, 2019, remain subject to the terms and conditions of the resolution approving the project. For subsequent amendments to site plans granted prior to September 1, 2019, the regulations herein will be applied to any increase in dwelling units beyond the previously approved plan.

- (2) When selection of the 8% set-aside option results in an affordable housing requirement of less than 5 units, all units may be provided at the 60% AMI level.

- (3) If calculating the number of required Affordable Units results in a decimal of 0.5 or greater, the number of affordable dwelling units required shall be the next greater whole number.

(B) Term of Affordability.

The dedicated ARHP Affordable Units must remain affordable in perpetuity, for the life of the project.

(C) Affordable Unit Allocation by Size and Percent of AMI.

- (1) Affordable Units must be provided onsite and allocated by unit size (bedroom count) in the same proportion as the Market Rate Units.
- (2) Affordable Units shall be distributed throughout the building(s), except that for any building ten (10) or more stories in height, the top four floors may be reserved for Market Rate Units.
- (3) Each Affordable Unit in a development shall be designated as a 50% unit, a 60% unit, or an 80% unit, and it shall retain that designation regardless of whether tenant income fluctuation results in changes to Affordable Rent.

(D) Marketing.

The marketing of Affordable Units shall be the responsibility of the developer and/or owner, and shall be in compliance with Federal Fair Housing Laws and in consideration of the recommendations and strategies of the City's Analysis of Impediments to Fair Housing ("AI").

(E) Dwelling Unit Size and Quality.

- (1) The Affordable Unit(s) shall be of comparable square footage to the Market Rate Units.
- (2) Affordable Units must be maintained and updated on the same schedule and in the same manner as Market Rate Units.
- (3) All tenants in the Affordable Units shall have access to the same amenities as the tenants in Market Rate Units.

(F) Occupancy.

An ARHP Affordable Unit must be the primary residence of the Household. Only persons listed on the ARHP application or recertification form shall occupy an ARHP unit. Any change to Household composition must be reported to the ARHP Administrative Agent. Affordable Units may not be sublet.

(G) Timing of Construction.

The Affordable Units shall be constructed and issued certificates of occupancy concurrently with, or prior to, the Market Rate Units in the development. If a project has phased construction, Affordable Units shall be provided on a pro rata basis.

(H) Methods of Meeting the Affordable Housing Obligation.

The affordable housing requirement may be satisfied through one or both of the following methods:

- (1) Inclusion of Affordable Units within an ARHP development as described in Section C above;
or
- (2) Payment of a fee-in-lieu of providing Affordable Units within the ARHP development. A buy-out of up to 25 Affordable Units is permitted. The per unit fee, regardless of unit size (bedroom count) or AMI designation shall be 1.25 times (1.25X) the HUD Westchester County AMI for a Household of four for the year in which the project is approved. Any remaining Affordable Units

required within the project must be allocated at a pro-rata basis with respect to unit size (bedroom count) and AMI designation.

Applicants seeking a buy-out of their entire affordable housing obligation must calculate their Affordable Unit requirement at 12% of total project units. Applicants selecting the 8% set-aside option may choose to buy-out a portion of their affordable housing obligation provided a minimum of 5 ARHP Affordable Units are constructed within the project.

Fee-in-lieu payments shall be made prior to the issuance of the first Certificate of Occupancy for the development and will be deposited into the Affordable Housing Assistance Fund. If a project has phased construction, payments for Affordable Units shall be provided on a pro-rata basis.

Projects approved prior to the adoption of this section that have yet to receive a Certificate of Occupancy (temporary or permanent) may opt to buy-out of up to half of their affordable rental unit obligation without requiring an amendment to existing site plan approval. The per unit fee for retroactive buy-out shall be 1.25 times (1.25x) the HUD Westchester County AMI for a Household of four for the year in which the fee-in-lieu payment is made. Remaining Affordable Units must be provided within the development at a pro-rata share of the full Affordable Unit requirement designated in the site plan approval regarding unit size (bedroom count) and AMI.

Projects receiving a residential density bonus in exchange for the inclusion of Affordable Units within the development per Section 5.3 Schedule of Dimensional Regulations of the Zoning Ordinance may not buy-out of any portion of their affordable housing obligation.

(I) Rental Terms.

- (1) ARHP tenants are subject to the same leasing qualifications as those required for market rate tenants.
- (2) Application fees charged by the developer or management agency (including the charge for any credit check) shall not exceed 5 percent of the monthly rent of the applicable ARHP Affordable Unit. Except for a security deposit, additional up-front fees shall not exceed 20 percent of the monthly rent.
- (3) The monthly rental rate for the ARHP Affordable Units shall not be more than the Monthly Housing Cost Limits published by HUD for Westchester County, as adjusted annually and should not be higher than the rent for Market Rate Units. Rent will be adjusted annually, based on Westchester County Rent Limits published annually by HUD.
- (4) Tenants shall be responsible for security deposits and the full amount of the rent as stated on the lease. Tenants may be charged fees for optional services they choose, such as pet or parking fees associated with the rental in the same manner as other tenants of the building. However, any mandatory fees shall be considered a part of the rent and there will be a corresponding reduction in the ARHP monthly rent. No additional fees or charges shall be added to the Affordable Rent without the express written approval of the Commissioner of Planning.
- (5) A written lease is required for each ARHP rental unit, and a copy shall be provided to the ARHP Administrative Agent. The lease shall state which utilities are the tenant's responsibility, if any.
- (6) All Household members 18 years and older must sign the lease.
- (7) Under no circumstances shall the Affordable Unit premises be occupied by, subleased, or boarded to anyone other than the lease holder(s).

- (8) Renewal of a lease shall be subject to the terms and conditions of the original lease and to the conditions of Federal, State, or Westchester County provisions that may be imposed by the terms of the original funding agreements for the development, and the determination of continued eligibility by the ARHP Administrative Agent.

9-7-4. Rental Unit Assignments and Occupancy.

(A) Rental Unit Assignments.

Within each ARHP Project, individual Affordable Units will be designated for occupancy by a Household that is income qualified, as follows:

Rental Unit Designation			
Household Income	50%	60%	80%
50% - 59% AMI	*		
60% - 79% AMI		*	
80% - 99% AMI			*

- (1) Household Income between 50% and 59% of AMI will qualify for an Affordable Unit that has rent based on 50% of the AMI.
- (2) Household Income between 60% and 79% of AMI will qualify for an Affordable Unit that has rent based on 60% of the AMI.
- (3) Household Income between 80% and 99% of AMI will qualify for an Affordable Unit that has rent based on 80% of the AMI.
- (4) An Applicant may rent an ARHP Unit in a higher rent designation as long as the rent does not exceed 39% of the gross monthly Household Income.
- (5) Applicants with rental subsidies may qualify for an ARHP Affordable Unit with an annual Household Income below the required AMI levels provided the combination of income and subsidy is sufficient to cover the monthly Affordable Rent.

(B) Occupancy.

ARHP tenants will be assigned a unit size based on the number of persons in the Household, as follows:

Household Size	Studio	One Bedroom	Two Bedrooms	Three Bedrooms
1	*	*		
2	*	*	*	
3		*	*	*
4			*	*
5 or more				*

9-7-5. Qualification, Application, and Recertification

(A) Income and Asset Qualification.

The ARHP Administrative Agent determines income eligibility for participation in the Program. Lease offerings to eligible Applicants are subject to the discretion of the building owner, and shall be based on the same criteria as applied to Applicants for Market Rate Units.

- (1) **Income Sources.** All Households applying to the White Plains ARHP must have an annual income that falls between 50% and 99% of the Area Median Income level for the appropriate Household size listed in the Westchester County Income Limits published annually by the HUD. Applicants with rental subsidies may qualify for an ARHP unit with an annual Household Income below the required AMI levels provided the combination of income and subsidy is sufficient to cover the monthly Affordable Rent.
- (2) **Household Asset Limits.** The combined value of Household Assets must not exceed the 100% AMI for that Household size, as reported annually by US Department of Housing and Urban Development (HUD). Retirement and dedicated education savings accounts will not be counted toward assets.

(B) Application.

- (1) Applications for the ARHP can be obtained from City of White Plains Website at: www.cityofwhiteplains.com/ARHP or at the Planning Department Office.
- (2) All Applicants must submit a completed application and the following income documentation for each person 18 years and older who will reside in the apartment:
 - (a) Most recent Federal and State Income Tax Returns
 - (b) Copy of forms reporting unearned income (child support, alimony, SSI, SSD, investment income, dividends, etc.)
 - (c) Copy of three (3) most recent bank statements
 - (d) Copies of pay check stubs covering two months prior to application submission
 - (e) Copy of Pension Award statement, if any
 - (f) Copy of Social Security Statement, if any
 - (g) Enrollment verification from an accredited school for any full-time student over age 18.
 - (h) An Employment Verification Form completed by the Employer of each Household member over 18 years old.

An application will not be accepted until all of the above-listed documents have been submitted.

The ARHP Administrative Agent reserves the right to request additional information to verify/confirm any information required above.

Completed applications and supporting documents can be mailed, emailed, hand delivered, or faxed to the Planning Department.

- (3) Applications submitted to the Department of Planning will be date and time-stamped.
- (4) The ARHP Administrative Agent will examine each application in the order received to determine preliminary program eligibility, Household size, and unit size qualification.
- (5) The ARHP Administrative Agent will notify each Applicant of their eligibility.
 - (a) Those determined ineligible for the White Plains ARHP will be notified that they are ineligible and the reason for such determination.

- (b) Those determined eligible for the participation in the ARHP will be notified of their eligibility for a specified unit size. When a unit of appropriate size becomes available, the Applicant will be notified by the ARHP Administrative Agent.

(C) Recertification of Eligibility for Continued Participation in the ARHP.

Recertification of eligibility will occur every two years. At least 60 days prior to the recertification date, the ARHP Administrative Agent will notify the tenant to complete a recertification form and submit all required documentation in order to determine continued income eligibility for participation in the program.

- (1) Changes to Income and/or Household Size.
 - (a) Tenants have up to one year to move to a smaller or larger unit due to a change in Household size.
 - (b) If Household Income has increased to a higher AMI category, the rent will be based on the higher AMI category.
 - (c) If Household Income has decreased to a lower AMI category, the rent will remain in the same AMI category as the most recent recertification.
 - (d) If Household Income is 100% AMI or greater, the tenant will be determined ineligible for continued participation in the ARHP.
- (2) Determination of Ineligibility. If an ARHP tenant is determined ineligible upon recertification, the tenant must vacate the ARHP unit within 90 days.

(D) Rent Adjustments.

Rents will be adjusted annually. Adjustments to rent and utility allowances shall be made by the City for the new lease term, based on the HUD rent limits and utility allowances established for Westchester County.

(E) Landlord Notification.

Based on tenant recertification, the landlord shall be notified in writing by the ARHP Administrative Agent of any changes to tenant eligibility and changes to rent.

§ 2. This ordinance shall take effect immediately.