

NEW YORK STATE DEPARTMENT OF STATE
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Local Law Filing

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Town of POUND RIDGE

Local Law No. 2 of the year 2013

A local law entitled "A Local Law Pertaining to the Inclusion of Fair and Affordable Housing in the Zoning Chapter of the Town Code."

Be it enacted by the TOWN BOARD
of the _____

Town of POUND RIDGE as follows:

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW NO. 2 OF 2013
TOWN OF POUND RIDGE, NEW YORK

SECTION 1. **TITLE**

This local law shall be entitled, "A Local Law Pertaining to the Inclusion of Fair and Affordable Housing in the Zoning Chapter of the Town Code."

SECTION 2. **INTENT AND PURPOSE**

This local law is intended to amend the Town of Pound Ridge Zoning chapter in connection with the Westchester County Affordable Affirmatively Furthering Fair Housing Units Model Ordinance.

SECTION 3. **ZONING TEXT AMENDMENTS**

- 1. The following new definitions shall be added to Section 113-2 in their proper alphabetical order:**

AFFORDABLE FAIR HOUSING DWELLING UNITS

A for-purchase dwelling unit that is affordable to a household whose income, as defined by the U.S. Department of Housing and Urban Development (HUD), does not exceed 80% of the area median income (AMI) for Westchester County as defined annually by HUD and for which the annual housing cost of a unit including common charges, principal, interest, taxes and insurance (PITI) does not exceed 33% of 80% of the AMI, adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

A rental dwelling unit that is affordable to a household whose income, as defined by HUD, does not exceed 60% of said AMI and for which the annual housing cost of the unit, defined as rent plus any tenant paid utilities, does not exceed 30% of 60% of the AMI, adjusted for family size and that is marketed in accordance with the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

2. **The following existing definition in Section 113-2 shall be revised to read as follows:**

BELOW MARKET RATE DWELLING UNIT

A dwelling unit, the rental or sales price of which does not exceed the maximum allowable level established by § 113-99E.

3. **Article XV shall be revised to read as follows:**

ARTICLE XV. Housing Board, below market rate units, and affordable fair housing units.

§ 113-99. Housing Board established; eligibility and selection for below market rate housing; rent and sale prices for below market rate housing.

- A. Establishment of Housing Board. The Town Board hereby establishes a Town Housing Board, which shall be responsible for the administration of the below market rate housing requirements of this section as well as for the promulgation of rules and regulations as may be necessary to implement such requirements.
- (1) The Housing Board shall consist of seven members appointed by the Town Board and serving at the pleasure of the Town Board, with the Chairperson appointed annually.
 - (2) The rules and regulations developed by the Housing Board as may be necessary to implement the requirements outlined below must be approved by the Town Board.
 - (3) The Town Housing Board shall certify as eligible all applicants for rental or sales of "below market rate dwelling units" and shall annually reexamine, or cause to be reexamined, each renter occupant's family income and assets.
 - (4) On or before March 30 of each year thereafter, the Town Housing Board shall notify the owner or manager of each multifamily development containing below market rate affordable units as to the rent, sales and income eligibility requirements for such units derived from the preceding calendar year.

- (5) The owner or manager of each multifamily development shall certify to the Housing Board on or before May 31 of each year that the current rental or sales prices and income eligibility of all "below market rate dwelling units" and their occupants comply with the terms of this article.
- (6) "Below market rate dwelling units" may be occupied only by the owner, his or her immediate family and occasional houseguests, except by express permission of the Housing Board. Any unit not owner-occupied may be rented only if approved by the Housing Board, to applicants who qualify according to Subsections B, C, and D of this section.

B. Income eligibility for below market rate housing units. Income eligibility for below market rate housing applicants shall be verified by the Housing Board according to the following standards or as further restricted in the applicable zone:

- (1) Families whose aggregate income, including the total of all current annual income of all adult members residing in the household from any source whatsoever at the time of application, but excluding the earnings of working minors (under 21 years of age) attending school full-time, does not exceed the following multiples of Westchester County median income established by HUD during the three most recently completed calendar years:

<u>Size of Family (persons)</u>	<u>Multiple of Median Wages</u>
1	0.9
2	1.1
3	1.3
4	1.4
5	1.6
6	1.7
7	1.9
8 or more	2.0

- (2) Property income. For property or other investments that are not returning dividends, rents or other measurable income (excluding normal household personal possessions), a yearly income of 5% of the fair market value of the investment shall be included in the family's aggregate income.
- (3) Applicants for below market rate rental units referred to in this section shall, if eligible and if certified for occupancy by the Housing Board, sign leases for a term of no more than two years.
- (4) As long as a resident remains eligible and has complied with the terms of the lease, said resident may be offered a one-year renewal of the lease. If a resident's annual gross income should subsequently exceed by more than 20% of the maximum then allowable, as defined in this section, and if there is at that time an otherwise eligible applicant within one of the categories in Subsection B above, said resident may complete his current lease term or one year from date of notification, whichever is longer.
- (5) In the case of owner-occupied "below market rate dwelling units," the title to said property shall be restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then maximum sales price for said unit, regardless of improvement, as determined in accordance with Subsection B of this section. It is assumed that homeowners, in the course of their homeownership, will be making improvements to their property.

C. Additional eligibility priorities: Financially eligible persons and families applying for "below market rate dwelling units" shall be selected by the Housing Board on the basis of the following categories of priority:

- (1) Pound Ridge Volunteer Fire Department Member or Pound Ridge Volunteer Ambulance Corps Member. Applicants must now be and have been members in good standing for not less than two years.
- (2) Town of Pound Ridge municipal employees.
- (3) Pound Ridge residents.
- (4) Immediate relatives of Pound Ridge residents (children, parents, siblings, aunts and uncles).

- (5) Bedford Central and Katonah-Lewisboro School District employees.
 - (6) Other persons employed in Pound Ridge.
 - (7) Seniors from contiguous towns.
 - (8) Other persons employed in Westchester County.
 - (9) All others.
- D. Selection priorities. Within each of the above categories, the applicant shall be selected according to the following additional priorities.
- (1) Families of which the head or spouse is 62 years or older.
 - (2) Families of which the head or spouse is handicapped (certified by a physician).
 - (3) Pound Ridge head of family, 35 years of age or younger.
- E. Monthly rent and/or sale price of below market rate units.
- (1) The maximum monthly rent for a below market rate dwelling unit shall not exceed 1.75%, excluding utilities (gas, oil, electricity, water and sewage, common charges), or 2%, if utilities and common charges are included, of the multiple assigned to the number of bedrooms in the dwelling unit times the average of the last three-year median income levels published by Westchester County.
 - (2) The maximum gross sales price for a below market rate dwelling unit shall not exceed two times the multiple assigned to the number of bedrooms in the dwelling unit times the average of the last three-year median of annual paid wages as outlined in the table below.

Number of Bedrooms in <u>Dwelling Unit</u>	<u>Multiple Applied to Three-Year Average</u>	<u>Number of Occupants Permitted</u>	
		<u>Minimum</u>	<u>Maximum</u>
Efficiency	0.9	1	1
1	1	1 ¹	2
2	1.25	2	4
3	1.5	3	6
4	1.75	5	8

NOTE:

¹Only if efficiency is not available. Tenant should be transferred to efficiency when one becomes available; lease should so provide.

- (3) At the time of the issuance of a certificate of compliance, the Building Inspector shall send a copy of such certificate to the Town Housing Board, which shall then inform the applicant of the maximum rental or sales charge which may be established for the "below market rate dwelling units" in such development and the maximum annual gross family income for eligibility for occupancy of said units.
 - (4) Tax assessment. The limited rental income and/or sales value of below market rate units shall be taken into consideration by the Town Assessor in determining the full value basis for assessments on such units.
- F. Other Housing Board responsibilities. In addition to the administrative responsibilities outlined herein, the Housing Board shall also evaluate resident housing needs, identify housing opportunities and maintain waiting lists for those seeking housing. The Housing Board shall make recommendations to the Town Board on the status of various housing-related issues at least once each calendar year.

- G. New dwellings and occupancies. Notwithstanding the subsections above, subsequent to the effective date of § 113-100 of this chapter, all new affordable dwelling units created in accordance with § 113-99 shall be affordable fair housing dwelling units regulated by § 113-100, rather than below market rate units. The same shall be true for all new occupancies of all existing below market rate units.

4. A new Section 113-100 shall be added and shall read as follows:

§ 113-100. Affordable fair housing dwelling units.

- A. Required affordable fair housing dwelling unit component. Within all residential developments of 10 or more dwelling units created by subdivision or site plan approval in the Town, no less than 10% of the total number of units must be created as affordable fair housing units. For example, one dwelling unit out of 10 approved units shall be an affordable fair housing dwelling. In the calculation of the required number of affordable fair housing dwellings in projects containing 30 or fewer dwelling units, when 10% of the total lots results in a fraction of a whole number, fractions of 0.6 or greater shall result in the creation of an additional affordable fair housing dwelling unit. In the calculation of the required number of affordable fair housing dwellings in projects containing more than 30 dwelling units, when 10% of the total lots results in a fraction of a whole number, said fraction shall result in the creation of an additional affordable fair housing dwelling unit.
- B. Maximum rent and sales price. The maximum monthly rent for an affordable fair housing dwelling unit and the maximum gross sales price for such a unit shall be established in accordance with U.S. Department of Housing and Urban Development guidelines as published in the current edition of the “Westchester County Area Median Income (AMI) Sales & Rent Limits” available from the County of Westchester.
- C. Time period of affordability. Affordable fair housing dwelling units must remain affordable for a minimum of 50 years from the date of the initial certificate of occupancy for rental properties and from the date of the original sale for ownership units.
- D. Property restriction. A property containing any affordable fair housing dwelling units must be restricted using a mechanism such as a declaration of restrictive covenants in recordable form acceptable to the Town Attorney which shall ensure that the affordable fair housing unit(s) shall remain subject to the affordable fair housing regulations for a minimum of 50

years. Among other provisions, the covenants shall require that the affordable fair housing unit shall be the primary residence of the household selected to occupy the unit. Upon approval, such declaration shall be recorded against said property prior to the issuance of a certificate of occupancy for the development.

- E. Unit appearance and integration. All affordable fair housing dwelling units shall be indistinguishable in appearance, siting, and exterior design and finishes from the other homes in the development, to the greatest extent possible. Interior finishes and furnishings may be reduced in quality and cost to assist in the lowering of the cost of development of the affordable fair housing units. The affordable fair housing units shall be physically integrated into the design of the development and shall be distributed among various sizes (efficiency, one-, two-, three- and four-bedroom units) in the same proportion as all other dwelling units in the development.

- F. Minimum floor area. In single-family subdivisions, the minimum gross floor area of the affordable fair housing dwelling units shall not be less than 50% of the average floor area of the market-rate homes in the project. In multi-family projects, the minimum gross floor area of the affordable fair housing dwelling units shall not be less than 80% of the average floor area of the market-rate housing units in the development. Further, the affordable fair housing dwellings shall be no less than the following in size:

<u>Dwelling Unit</u>	<u>Minimum Gross Floor Area (square feet)</u>
Efficiency	450
1 Bedroom	675
2 Bedroom	750
3 Bedroom	1,000 (including at least 1.5 baths)
4 Bedroom	1,200 (including at least 1.5 baths)

- G. Occupancy standards. The following occupancy schedule shall apply to affordable fair housing dwelling units:

Number of Bedrooms in Dwelling Unit	Number of Occupants Permitted	
	Minimum	Maximum
Efficiency	1	1
1	1	2
2	2	4
3	3	6
4	4	8

- H. Marketing. The affordable fair housing dwelling units created under the provisions of this section shall be sold or rented, and resold and re-rented during the required period of affordability, to only qualifying income-eligible households. Such income-eligible households shall be solicited in accordance with the requirements, policies and protocols established in the Westchester County Fair & Affordable Housing Affirmative Marketing Plan.

Notwithstanding the above, not more than 25% of the affordable fair housing units in a particular development may be marketed to the Town's non-resident workforce if it can be shown that such targeted non-resident workforce is more diverse than the existing resident population in the Town.

- I. Resale requirements. All affordable fair housing units shall have the title to said property and be deed restricted so that in the event of any resale by the home buyer or any successor, the resale price shall not exceed the then-maximum sales price for said unit, as determined in this chapter, or the sum of:
- (1) The net purchase price (i.e., gross sales prices minus subsidies) paid for the unit by the selling owner, increased by the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers in the New York-Northern New Jersey

Area, as published by the United States Bureau of Labor Statistics (the “Index”) on any date between:

- (a) the month that was two months earlier than the date on which the seller acquired the unit; and
 - (b) the month that is two months earlier than the month in which the seller contracts to sell the unit. If the Bureau stops publishing this Index, and fails to designate a successor index, the Town shall designate a substitute index; and
- (2) The cost of major capital improvements made by the seller of the unit while said seller of the unit owned the unit as evidenced by paid receipts depreciated on a straight line basis over a 15-year period from the date of completion and such approval shall be requested for said major capital improvement no later than the time the seller of the unit desires to include it in the resale price.

Notwithstanding the above, in no event shall the resale price exceed an amount affordable to a household at 80% of AMI at the time of the re-sale.

- J. Lease renewal requirements. Applicants for affordable fair housing rental units shall, if eligible and if selected for occupancy, sign leases for a term of no more than two years. As long as a household remains eligible and has complied with the terms of the lease, said household shall be offered renewal leases for a term of no more than two years each. Renewal of a lease shall be subject to the conditions of federal, state or county provisions that may be imposed by the terms of the original development funding agreements for the development or to the provisions of other applicable local law.

If no such provisions are applicable and if a household's annual gross income should subsequently exceed the maximum then allowable, as defined in this chapter, then said household may complete their current lease term and shall be offered a market-rate rental unit available in the development at the termination of such lease term, if available. If no such dwelling unit shall be available at said time, the resident may be allowed to sign one additional one-year lease for the affordable fair housing unit they occupy but shall not be offered a renewal of the lease beyond the expiration of said term.

- K. Incentives for the provision of affordable fair housing dwelling units.
- (1) Each single-family detached affordable fair housing dwelling may be located on a lot meeting at least seventy-five percent (75%) of the minimum lot area for the single-family homes in the development.
 - (2) The Planning Board may, in its discretion, waive up to fifty percent (50%) of the recreation fee otherwise attributable to the creation of affordable fair housing dwelling units.
- L. Tax assessment. The limited rental income and/or sales value of the affordable fair housing units shall be taken into consideration by the Town Assessor in determining the full value basis for assessments on such units.
- M. Administration and monitoring. The Town Board shall designate a board, commission or other organization to administer and monitor compliance with these regulations. If the affordable fair housing has a regulatory agreement regarding the affordable fair housing nature of the project with a state and/or federal agency, a copy of the annual audit(s) by the regulatory agency(ies) shall be submitted to the Town.
- N. Expedited project review process.
- (1) The various review and approval authorities involved with a project having an affordable fair housing dwelling unit component shall make every practicable effort to hold their meetings and/or hearings concurrently.
 - (2) Projects containing affordable fair housing dwelling units shall be placed at the beginning of all relevant meeting and work session agendas.
 - (3) Should the approval process extend beyond one year, an applicant for a project containing affordable fair housing dwelling units shall be entitled to at least one additional meeting per year with said review and approval authorities.

5. Section 113-58.2 shall be revised to read as follows:

§ 113-58.2. Residential use of 100% of maximum permitted floor area.

No special permit shall be issued for residential use of 100% of the maximum permitted floor area in the PB-C District unless the Town Board shall find that, in addition to all other requirements of this article:

- A. The project permanently contributes toward meeting the Town's special housing needs, as set forth in the Town's Comprehensive Plan, whereby the rent or purchase price of 20%, but in no case less than two, of the dwelling units (such units shall be of the same size, bedroom count, and construction as the market-rate units except as specifically approved by the Town Board with the advice of the Planning Board and the Town Housing Board), are below market rate units, and which are affordable to households with an income of not more than 80% of the median income in Westchester County, in effect at the time, and further that such units shall be deed restricted as to maximum rental rates or sales price and other factors as determined by the Town Board to be appropriate to meet the objective of this section.
- B. An occupancy and management plan for the restricted units shall be provided by the Housing Board to be appointed by the Town Board to administer the below market rate housing requirements of this section. Such occupancy and management plan shall include income eligibility requirements, sale, resale and rental restrictions and limitations, and a plan of priority for below market rate housing applicants.
- C. Adequate off-street parking will be provided, but in no case less than 1.5 spaces per dwelling unit, exclusive of driveway spaces in front of garages.
- D. Notwithstanding the subsections above, subsequent to the effective date of § 113-100 of this chapter, all new affordable dwelling units created in accordance with § 113-58.2 shall be affordable fair housing dwelling units regulated by § 113-100, rather than below market rate units. The same shall be true for all new occupancies of all existing below market rate units.

6. Section 113-57.K shall be revised to read as follows:

- K. Except for any affordable fair housing dwelling unit component of the project, which shall be regulated by § 113-100 of this chapter, the priority for occupancy of "senior citizen housing," both at the time of initial purchase and at the time of resale, shall be in the following order, except

that, upon a showing of good cause, the Town Board may waive, or modify to be less restrictive, the following residency requirements:

- (1) Residents of the Town of Pound Ridge who, subject to sale of their existing residence in Pound Ridge, would own no other residence.
- (2) Other residents of the Town of Pound Ridge.
- (3) Parents of residents of the Town of Pound Ridge.
- (4) Employees and retired employees of the Town of Pound Ridge and of the following special "districts" serving the Town of Pound Ridge:
 - (a) Pound Ridge Fire District.
 - (b) Bedford Central School District.
 - (c) Katonah-Lewisboro School District.
- (5) Former residents of the Town of Pound Ridge.
- (6) Parents of employees of the Town of Pound Ridge.
- (7) Others.

SECTION 5. RATIFICATION, READOPTION AND CONFIRMATION

Except as specifically modified by the amendments contained herein, the Zoning chapter of the Town of Pound Ridge is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 6: NUMBERING FOR CODIFICATION

It is the intention of the Town of Pound Ridge and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Pound Ridge; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

SECTION 7. **SEPARABILITY**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 8. **EFFECTIVE DATE**

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

Dated: May 2, 2013