



**VILLAGE OF LIBERTYVILLE HUMAN RELATIONS COMMISSION
AND PLAN COMMISSION JOINT MEETING**

AGENDA

MARCH 10, 2022

5:00 P.M.

**Village Hall Board Room
118 W. Cook Avenue
Libertyville, IL 60048**

1. Roll Calls
2. Presentation of Draft Attainable Housing Ordinance
3. Adjournment

Any individual who would like to attend this meeting but because of a disability needs some accommodation to participate should contact the ADA Coordinator at 118 W. Cook Avenue, Libertyville, Illinois 60048 (847)362-2430



To: Chair Starr, Human Relations Commission and Chair Mark Moore, Plan Commission
FROM: Ashley Engelmann, Deputy Village Administrator; John Spoden, Community Development Director and David Smith, Senior Planner
DATE: March 10, 2022
SUBJECT: Draft Attainable Housing Ordinance

Background: In 2003 the State of Illinois enacted the Affordable Housing and Appeal Act to encourage Counties and Municipalities to incorporate affordable housing within their housing stock to meet the needs of their county or community. Under the Act, municipalities are required to maintain an affordable housing stock of at least 10% of year-round housing units. Every five years the Illinois Department of Housing re-assesses the affordable housing percentage in each community. As of 2018, the Village's current affordable housing percentage is 15%. If a community drops below 10% they are required to develop a plan to increase the number of affordable housing units within the community.

In July 2019, the Village's Human Relations Commission ("HRC") was re-initiated by then Mayor Wepler to focus on the development of an Attainable Housing Ordinance for the Village. Following approximately 20 meetings of the HRC, at their May 19, 2021 meeting, the HRC unanimously approved a draft of the Ordinance for consideration by the Village Board. A series of subsequent meetings were held with the Village Board regarding the draft Ordinance, a summary of which may be found below:

- **June 15, 2021 Committee of the Whole ("COTW") Meeting-** Rob Anthony, President of Community Partners for Affordable Housing ("CPAH") conducted a presentation on attainable housing which provided the Village Board with an overview of the State law, requirements, and examples of attainable housing in other communities
- **July 13, 2021 COTW Meeting-** Staff presented the draft attainable housing ordinance to the Village Board to obtain feedback from the Board prior to proceeding with the Plan Commission public hearing in order to streamline the focus of the review process. The Village Board directed staff to prepare a follow-up memorandum with responses to questions regarding the draft Ordinance and to schedule a joint workshop with the HRC to further discuss the draft Ordinance
- **August 17, 2021 Joint Meeting with the Village Board and HRC-** Staff presented a follow-up presentation to the Village Board and discussion occurred between the Village Board and HRC regarding the draft Ordinance. The Village Board directed staff to proceed with presenting the draft Ordinance to the Plan Commission

Due to pending Plan Commission items the draft Ordinance was scheduled for discussion during the first quarter of 2022. The draft Ordinance will be a new chapter in the Zoning Code and therefore requires a

public hearing by the Plan Commission. It is anticipated that this will occur at the April 25th Plan Commission meeting. In advance of the public hearing, at the March 10th joint workshop between the HRC and Plan Commission staff will be presenting the following:

- An overview of the Affordable Housing and Appeal Act
- A review of the Village's comprehensive plan and how it relates to the draft Ordinance
- The legislative process for the Ordinance
- An overview of the draft Ordinance
- A summary of the roles and responsibilities of the HRC and Plan Commission should the Ordinance be approved

Summary of Draft Ordinance: Provided below is a summary of the draft Ordinance that will be presented at the March 10th joint workshop.

Program Structure/Applicability

The Attainable Housing Ordinance is mandatory for all new residential developments that contain five or more units. Specifically, the Ordinance covers the following:

- A development consisting of new residential construction or new mixed-use construction with a residential component
- A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple family residential structure and that increases the number of residential units from the number of units in the original structure
- A development that will change the use of an existing building in whole or in part from non-residential to residential
- A development that includes the conversion of rental property to condominium property
- The development of senior citizen homes without nursing care

The Ordinance does not apply to nursing homes or assisted living facilities.

Requirements

- At least 15% of the total number of units within any applicable development project must be Attainable Housing Units and must be located on the site of the development project. To calculate the number of Attainable Housing Units, the total number of proposed units is multiplied by 15%.
 - If 15% of the number of proposed units results in a fraction, a fraction of 0.5 or more will be rounded up, and a fraction of less than 0.5 will be rounded down.
 - If an additional Attainable Housing Unit is required due to rounding up, the developer may choose to provide the additional required Attainable Housing Unit onsite or make a cash payment in lieu of the additional unit
- Attainable Housing Units must be integrated within the market rate units
- Attainable Housing Units must be constructed concurrent (timing) with the development of market rate units
- The exterior appearance of all Attainable Housing Units must be visually compatible with the market rate units

- The interior finishes and square footage may differ from the market rate units, however the aggregate gross square footage of the Attainable Housing Units should be roughly proportionate to the aggregate square footage of the market rate units

Attainable Housing Plan and Development Agreements

Prior to the approval of any applicable development project (including the issuance of any permits), the applicant must present to the Village Administrator, or designee and the Village Board must approve, an inclusionary housing plan that outlines and specifies the development project’s compliance with each of the applicable requirements of the Code.

Developer Cost Off-Sets

A developer may request a waiver of all applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, impact fees, and other development fees and costs for the specific Attainable Housing Units.

Incentives

- Density Bonuses
 - For all development projects that are in the C-1, C-2, or C-3 zoning districts, the maximum floor area ratio may be increased an additional 0.25 if all required Attainable Housing Units are constructed on the site of the development project
 - For all applicable development projects that are in all other zoning districts, a density bonus will be provided equal to one market rate unit for each Attainable Housing Unit that is required. However, the maximum number of units in a development project cannot exceed 115% of the total number of units

Alternatives

As an alternative to constructing Attainable Housing on the site of the development project, the Village Board may approve certain alternatives. The applicant must demonstrate that the alternate means of compliance will further Attainable Housing opportunities in the Village to an equal or greater extent than compliance with the onsite requirements.

- *Cash Payment In Lieu*- A cash payment in lieu of constructing some or all of the required Attainable Housing Units on the site of a development project. The cash payment for each unit will be established by the Village Board and set forth in the Annual Fee Ordinance. The amount will be established, reviewed and periodically adjusted by the Village Board based on an estimate of the cost of providing an Attainable Housing Unit.
- *Offsite Units*- The provision of an equivalent number of Attainable Housing Units at another site within the Village
- *Land Donation*- The dedication of land of a size and location appropriate for the development of Attainable Housing Units and consistent with administrative guidelines approved by the Village Board, which dedication shall be made to the Village or, at the Village’s discretion, to a qualified not-for-profit housing agency

Target Income Levels

There is a tiered system for determining eligibility for owners/renters of the Attainable Housing Units.

For-Sale Units

Proportion of Included Units	Eligible Income Tier	Maximum Purchase Price for Eligible Income Tiers
At least one and no less than 50%	Tier 1- Households with gross income less than 80% of AMI	Attainable to households with income equal to 65% AMI
Any remaining units	Tier 2- Households with gross income equal to or greater than 80% of AMI but less than 120% of AMI	Attainable to households with income equal to 100% AMI

Rental Units

Proportion of Included Units	Eligible Income Tier	Maximum Purchase Price for Eligible Income Tiers
No less than 33%	Tier 1-Households with gross income less than 50% of AMI	Attainable to households with income equal to 45% AMI
No less than 33%	Tier 2-Households with gross income equal to or greater than 50% of AMI but less than 80% AMI	Attainable to households with income equal to 65% AMI
No more than 33%	Tier 3-Households with gross income equal to or greater than 80% of AMI but less than 120% AMI	Attainable to households with income equal to 100% AMI

Eligibility of Households

The prioritization and selection of Eligible Households will be conducted by the Village or its agent, in accordance with administrative guidelines approved by the Village Board. The intention is to have a third party administer this function (i.e. CPAH), due to technical expertise and experience.

Period of Affordability

Sale of Attainable Housing Units- Attainable Housing Units will be resold to eligible households in perpetuity, or as long as permissible by law.

Rental of Attainable Housing Units- In covered development projects that contain rental units, Attainable Housing Units will be rented to eligible income households in perpetuity, or as long as permissible by law.

Legislative Process: Because the Ordinance requires an amendment to the Zoning Code a public hearing is required through the Plan Commission. The anticipated process is as follows:

- HRC develops a draft of the Attainable Housing Ordinance (*Completed*)
- Presentation by Rob Anthony, Executive Director of Community Partners for Affordable Housing (*Completed*)
- The Village Board reviews the draft prior to referring it to the Plan Commission for public hearing (*July 13, 2021*)

- The Village Board may elect to refer the draft back to the HRC for modifications prior to referring the matter to the Plan Commission for public hearing (*TBD*)
- The Plan Commission conducts a public hearing (multiple public hearings may occur) on the Ordinance and provides the Village Board with a recommendation (*Approximately 60 days from the Village Board's referral*)
- The Village Board considers the Plan Commission's recommendation (*Approximately 30 days from the Plan Commission's final public hearing*)

Next Steps: Staff will be seeking direction regarding proceeding with a public hearing date before the Plan Commission to review the proposed Attainable Housing Ordinance.

Attachments:

1. DRAFT Attainable Housing Ordinance

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VILLAGE OF LIBERTYVILLE

ORDINANCE 22-O-__

AN ORDINANCE AMENDING THE VILLAGE OF LIBERTYVILLE
ZONING CODE TO ESTABLISH ATTAINABLE HOUSING REQUIREMENTS

Adopted by the
President and Board of Trustees
of
the Village of Libertyville
Lake County, Illinois
This __ day of _____, 2022.

Published in pamphlet form by
Direction and authority of the
Village of Libertyville
Lake County, Illinois
This __ day of _____, 2022.

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ORDINANCE NO. 22-O-____

AN ORDINANCE AMENDING THE VILLAGE OF LIBERTYVILLE ZONING CODE TO ESTABLISH ATTAINABLE HOUSING REQUIREMENTS

WHEREAS, the State of Illinois has enacted the Affordable Housing Planning and Appeal Act, 310 ILCS 67/1 et seq., (the “Act”), to encourage counties and municipalities to incorporate Affordable Housing within their housing stock sufficient to meet the needs of their county or community; and

WHEREAS, under the Act, the General Assembly found that there exists a shortage of affordable, accessible, safe, and sanitary housing in the State to serve local workforces and retired persons within localities; and

WHEREAS, the Village desires to encourage, support and maintain a diverse population and to proactively support such diversity by enacting legislation which requires that residential developments within the Village address the needs of individuals who live and work in the Village and others who desire to reside in Libertyville for owner occupied and rental housing which is attainable (“*Attainable Housing Units*”) and which meets the standards for affordable housing as set forth in the Act; and

WHEREAS, increasing land values resulting from the increased scarcity of undeveloped land and the conversion of existing Attainable Housing Units into more expensive units have placed additional pressures on the availability of Attainable Housing in the Village; and

WHEREAS, new developments in the Village also increase the need for a readily available workforce in or near the Village that requires Attainable Housing; and

WHEREAS, as new developments are constructed in the Village, the gap between the availability of Attainable Housing Units and the need for Attainable Housing Units increases; and

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WHEREAS, in addition, as new developments utilize land otherwise available for Attainable Housing or convert existing units from Attainable Housing Units, the opportunity for the development of Attainable Housing Units decreases; and

WHEREAS, new development projects that do not provide Attainable Housing increase the direct and indirect cost to the Village and its residents in providing and obtaining needed services; and

WHEREAS, the Village President and Board of Trustees have determined that it is necessary and appropriate to ensure that the impact of new developments on the need for and relative availability of Attainable Housing be borne by the developers of such new developments; and

WHEREAS, the President and Board of Trustees have also determined that providing proper incentives (including, without limitation, density bonuses and cost off-sets) help neutralize the financial impact of providing Attainable Housing Units on such developers; and

WHEREAS, consistent with the intent of the Act, the President and Board of Trustees have determined that it is in the best interests of the Village and its residents to amend the Libertyville Zoning Code, as amended ("**Zoning Code**"), to require developers of new residential projects and conversion projects to provide Attainable Housing Units as part of covered residential developments in the Village ("**Proposed Text Amendments**"); and

WHEREAS, the President and Board of Trustees have further determined that, in light of the density bonuses and cost set-offs provided for in the Proposed Text Amendments, the net impact of the Proposed Text Amendments on affected developers is negligible and, to the extent there is any such impact, it is specifically and uniquely attributable to the effects of such

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development on the Village’s demand for and availability of Attainable Housing Units within the Village; and

WHEREAS, a public hearing of Plan Commission of the Village to consider approval of the Proposed Text Amendments was duly advertised in the *Daily Herald* on _____, and held on _____, 2022; and

WHEREAS, on _____, 2022, the Plan Commission voted to recommend approval of the Proposed Text Amendments; and

WHEREAS, the Village President and Board of Trustees have determined that the Proposed Text Amendments meets the required standards for text amendments set forth in Article 16 of the Zoning Code; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interest of the Village to amend the Zoning Code as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LIBERTYVILLE, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2: AMENDMENTS TO ZONING CODE. The Zoning Code is hereby amended to add a new Article 18, which Article 18 hereafter reads as set forth in **Exhibit A** to this Ordinance.

SECTION 3: PUBLICATION. The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION 4: EFFECTIVE DATE. This Ordinance will be in full force from and after its passage and approval in the manner provided by law.

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PASSED this ___ day of _____, 2022.

AYES:

NAYS:

ABSENT:

APPROVED this ___ day of _____, 2022.

Donna Johnson, Village President

ATTEST:

Luke Stowe, Village Clerk

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EXHIBIT A

ARTICLE 18 OF THE ZONING CODE

“ARTICLE 18 ATTAINABLE HOUSING

Section 18-1. Definitions.

(A) In General. The words and phrases used in this Article have the meanings ascribed to them in this Section 18-1. To the extent that words or phrases used in this Article are not defined in this Section, such words or phrases have the meanings otherwise set forth in the Zoning Code. Otherwise, words and phrases shall be interpreted in their commonly used sense as set forth in the Webster’s Third International Dictionary (Ed.), unless the context reasonably requires another construction.

(B) Definitions. The following words and phrases, when used in this Chapter, shall have the following meanings:

AREA MEDIAN INCOME: The median income level for the Chicago Metropolitan Statistical Area as established and defined in the annual schedule published by the Secretary of Housing and Urban Development, and adjusted for household size.

ATTAINABLE HOUSING: Decent, safe, sanitary, and appropriate housing that Moderate-income Households can own or rent without having to devote more than approximately 30 percent of their gross income to monthly Housing Expenses. Attainable Housing may also be referred to as “Affordable Housing”. The terms “attainable” and “attainable housing”, as used in this Code shall have the same meaning as the terms “Affordable” and “Affordable Housing” as such terms are used in the Affordable Housing Planning and Appeal Act.

ATTAINABLE HOUSING FUND: A fund to be established by the Village of Libertyville with the central purpose of providing financial resources to address the Attainable Housing needs of individuals and families Moderate- income Households who live in the Village.

ATTAINABLE HOUSING UNIT: A dwelling unit that meets the criteria for Attainable Housing.

CONVERSION: A change in a residential or mixed-use rental development to individual-owner residential condominium units.

COVERED DEVELOPMENT PROJECT: Any development project in the Village that is required to provide Attainable Housing Units pursuant to this Article. Projects at one location undertaken in phases, stages, or otherwise developed in distinct parts shall be considered a single Covered Development Project.

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ELIGIBLE HOUSEHOLD: A household that is eligible for the purchase or lease of an Attainable Housing Unit, as described and defined in Sections 18-9(A) and 18-9(B) of this Article.

HOUSING EXPENSES: (1) For rental housing - rent and utilities; (2) For home ownership — principal and interest of any mortgages placed on the unit, property taxes, condominium or homeowner’s association fees, if applicable, and insurance.

MARKET RATE UNITS: Residential dwelling units that are not required to be Attainable Housing Units under the requirements of this Chapter.

Section 18-2. Policy.

The purpose of this Article is to promote the public health, safety, and welfare by encouraging high quality housing throughout the community sufficient to meet the needs of all Village residents. Throughout its history, the Village has offered a diverse housing stock that permitted families of varying income levels and with various housing needs to own homes in the community. In recent years, property values have escalated to the point of discouraging a diverse housing stock. A certain percentage of residents who currently live in the Village are unable to meet or maintain the household income level necessary to afford housing in the Village and, therefore, must look to other communities for housing. Based upon the review and consideration of reports and analyses of the housing situation in the Village, it is apparent that the diversity of the Village’s housing stock has declined as a result of increasing property values and housing costs; that demolition of certain existing dwellings has led to a reduction in the diversity of the Village’s housing stock and Attainable Housing opportunities, and that subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of making Attainable Housing available in the Village. The Village recognizes the need to provide alternative housing opportunities in order to maintain the diversity of population that has historically characterized the Village.

While this Article provides specific alternatives to the production of on-site Attainable Housing Units, the intent and preference of this Article is to provide permanent Attainable Housing Units that are constructed on the site of the Covered Development Project. Contracting with a qualified not-for-profit agency for income-qualifying and management of waitlists for Attainable Housing units is encouraged where deemed appropriate.

Section 18-3. Covered Development Projects.

(A) Except as provided in Section 18-3(B) of this Chapter, the provisions of this Article shall apply to all residential developments that result in or contain five or more dwelling units and for which an application for such development has been submitted to the Village following the effective date of this Article. The types of development subject to the provisions of this Article include, without limitation, the following:

- (1) A development consisting of new residential construction or new mixed-use construction with a residential component;

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(2) A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple family residential structure and that increases the number of residential units from the number of units in the original structure;

(3) A development that will change the use of an existing building in whole or in part from non-residential to residential;

(4) A development that includes the conversion of rental property to condominium property; and

(5) The development of senior citizens homes without nursing care.

(B) This Article does not apply to nursing homes or assisted living facilities.

Section 18-4. Percentage of Attainable Housing Units Required.

(A) General Requirement. Except as otherwise provided in Section 18-8 of this Chapter, at least 15 percent of the total number of dwelling units within any Covered Development Project shall be Attainable Housing Units and shall be located on the site of the Covered Development Project.

(B) Calculation. To calculate the number of Attainable Housing Units required in a Covered Development Project, the total number of proposed units shall be multiplied by 15 percent. For purposes of this calculation, if 15 percent of the number of proposed units results in a fraction, a fraction of 0.5 or more shall be rounded up, and a fraction of less than 0.5 shall be rounded down. For example, a proposed multiple family development containing 15 units would be required to set aside two units as Attainable Housing Units. A similar 20-unit development would be required to set aside three of the units as Attainable Housing Units. In any event, not less than one unit shall be required as an Attainable Housing Unit. Any Bonus Units (as defined in Section 18-6 of this Chapter) shall not be included in the total number of proposed units for the purpose of calculating the required number of Attainable Housing Units. To the extent that an additional required Attainable Housing Unit is mandated as a result of the rounding up of a fractional unit, the developer of a Covered Development Project may elect to either provide the additional required Attainable Housing Unit upon the site of the Covered Development Project or make a cash payment in lieu of providing such additional Attainable Housing Unit. Such cash payment shall be made in accordance with the provisions of Section 18-8(A) of this Chapter. For example, if a proposed Covered Development Project included 25 homes, the fifteen percent multiplier would result in a number of 3.75. This number would be rounded up to require that the developer provide four Attainable Housing Units for the Covered Development Project. Rather than providing the fourth Attainable Housing Unit, the developer could, instead, elect to submit a cash payment in lieu of providing an Attainable Housing Unit to satisfy the requirement for the fourth unit.

Section 18-5. Development Cost Off-Sets.

An applicant that fully complies with the requirements of this Chapter (including any administrative rules that may be promulgated in accordance with Section 18-14 of this Chapter)

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shall, upon written request, receive from the Village with regard to only the Attainable Housing Units in the Covered Development Project, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, impact fees, and other development fees and costs which may be imposed by the Village. The fees charged for the total development shall be adjusted proportionately to reflect this waiver of fees for the Attainable Housing Units. In the event that an applicant has paid any development costs that might otherwise be subject to a waiver, such applicant may, upon satisfaction of the requirements of this Chapter, seek reimbursement of such development costs.

Section 18-6. Density Bonuses.

(A) For all Covered Development Projects that are located in the C-1, C-2, or C-3 zoning districts, the maximum floor area ratio applicable to such Covered Development Projects within such zoning district may be increased an additional 0.25 if all required Attainable Housing Units are constructed on the site of the Covered Development Project.

(B) For all Covered Development Projects that are located in all other zoning districts, a density bonus shall be provided equal to one Market Rate Unit (“Bonus Unit”) for each Attainable Housing Unit that is required pursuant to this Code and is constructed on the site of the Covered Development Project; provided, however, that the maximum number of dwelling units in a Covered Development Project shall not, pursuant to the provisions of this Chapter, exceed 115% of the total number of dwelling units otherwise authorized under the applicable zoning district regulations under the Zoning Code. For example, a proposed multiple family development containing 20 units would be required to provide three Attainable Housing Units in the development and would be permitted to construct three additional Market Rate Units, resulting in a total of 23 units in the development.

Section 18-7. Integration of Attainable Housing Units.

(A) Location of Attainable Housing Units. Attainable Housing Units shall be dispersed among the Market Rate Units throughout the Covered Development Project.

(B) Phasing of Construction. Where possible, Attainable Housing Units shall be constructed concurrent with the development of market-rate units. Construction phasing of Attainable Housing Units shall not be delayed beyond the schedule noted below, unless authorized by the Director of Community Development when it is demonstrated by the developer to the satisfaction of the Village that a delay is necessary in order to account for the different financing and funding requirements, economies of scale, and infrastructure needs applicable to development of the market rate and the Attainable Housing Units:

<u>Construction of Market-rate Units (%)</u>	<u>Required Construction of Attainable Housing Unit (%)</u>
Up to 30%	None Required
30% plus 1 unit.....	At least 10%
30% plus 2 units up through 50%.....	At least 30%
More than 50% up through 75%.....	At least 50%

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75% plus 1 unit.....At least 70%
75% plus 2 units through 100%.....100%
Fractions of units shall not be counted.

(C) Exterior Appearance. The exterior appearance of all Attainable Housing Units must be visually compatible with the Market Rate Units in the same Covered Development Project. External building materials and finishes shall be substantially the same in type and quality for Attainable Housing Units as for Market Rate Units.

(D) Interior Appearance and Finishes. Attainable Housing Units may differ from Market Rate Units with regard to interior finishes and square footage, provided that:

(1) Interior features and structural elements of Attainable Housing Units shall comply in all respects to the minimum construction standards set forth in this Code.

(2) The differences between the Attainable Housing Units and the Market Rate Units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

(3) The aggregate gross square footage of the Attainable Housing Units shall be roughly proportionate to the aggregate square footage of the Market Rate Units within the Covered Development Project.

(4) The bedroom mix of one- and two-bedroom Attainable Housing Units shall be established at the same ratio as the ratio of one- and two-bedroom Market Rate Units within the Covered Development Project.

Section 18-8. Alternatives to On-Site Attainable Housing Units.

As an alternative to constructing Attainable Housing on the site of the Covered Development Project, the Village Board may approve, concurrent with the approval of the overall development, one or more of the following alternatives to constructing Attainable Housing Units set forth in this Section. This Section shall not be utilized unless the applicant demonstrates to the satisfaction of the Village Board that the alternate means of compliance will further Attainable Housing opportunities in the Village to an equal or greater extent than compliance with the on-site requirements of this Chapter. The terms and requirements for utilizing the provisions of this Section shall be specifically set forth in the Development Agreement required pursuant to Section 18-12(B) of this Chapter.

(A) Cash Payment In Lieu of Attainable Housing Units. A cash payment in lieu of constructing some or all of the required Attainable Housing Units on the site of a Covered Development Project.

(1) Amount and Use of Cash in Lieu. The cash payment due for each unit for which cash may be paid in lieu of providing an Attainable Housing Unit (the “Per Unit Cash in Lieu Payment Amount”) shall be established by the Village Board and shall be set forth in the Annual Fee Ordinance adopted by the Village Board in accordance with

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the provisions of Section 1-19 of this Code. This amount shall be established, reviewed and periodically adjusted by the Village Board based on an estimate of the cost of providing an Attainable Housing Unit. All funds received by the Village relating to Per Unit Cash In Lieu Payment Amounts shall be deposited directly into an Attainable Housing Fund established by the Village, which shall be used for the purpose of providing financial resources to address Attainable Housing needs within the Village by promoting, preserving, and producing long-term Attainable Housing and providing housing related services; or providing support for not-for-profit organizations that actively address the Attainable Housing needs of residents within the community. The applicant shall execute all documentation relating to such payment as the Village Administrator (in consultation with the Village Attorney) deems to be appropriate.

(2) Calculation and Payment of Total Required Cash in Lieu Payment Amounts. Once the total number of units for which a cash payment in lieu of providing Attainable Housing Units for a Covered Development Project has been determined and approved by the Village Board, such total number shall be multiplied by the then applicable Per Unit Cash in Lieu Payment Amount. The resulting amount shall be divided by the total number all units to be constructed in the Covered Development Project. The result of this calculation shall be the amount to be remitted by the Developer to the Village for each unit to be constructed upon the Covered Development Project (the “Per Unit PIL Payment”). The Per Unit PIL Payment shall be paid by the Developer prior to and as a condition of issuance of any temporary or final certificate of occupancy for each unit within the Covered Development. Following approval by the Village Board of cash in lieu of payment as an alternative to providing one or more Attainable Units within a Covered Development Project, the amount of the Per Unit PIL Payment shall remain the same throughout the Development of the Covered Development Project, regardless of whether the Covered Development Project is developed in phases or if the Per Unit Cash in Lieu of Payment Amount set forth in the Annual Fee Ordinance has been modified during the course of development of the Covered Development Project.

The following example illustrates the methodology for calculating the Per Unit PIL Payment, utilizing a hypothetical Per Unit Cash in Lieu Payment Amount of \$130,000:

A developer seeks to develop a Covered Development Project consisting of 100 units. Assuming that cash payments in lieu of Attainable Housing Units are allowed for five units, the total aggregate amount due for all five units would be \$650,000 ($\$130,000 \times 5 = \$650,000$). This number would be divided by the 100 total units and result in a Per Unit PIL Payment of \$6,500. The \$6,500 payment would be due for each unit within the Covered Development Project prior to and as a condition of issuance of a temporary or final certificate of occupancy for such unit.

(B) The provision of an equivalent number of Attainable Housing Units at another site within the Village.

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(C) The dedication of land of a size and location appropriate for the development of Affordable Housing Units and consistent with administrative guidelines approved by the Village Board, which dedication shall be made to the Village or, at the Village's discretion, to a qualified not-for-profit housing agency.

Section 18-9. Target Income Levels for Attainable Housing Units.

(A) For-Sale Affordable Housing Units. In Covered Development Projects that contain for-sale units, at least one Attainable Housing Unit, and no less than 50 percent of the Attainable Housing Units, must be sold to households with gross incomes less than 80 percent of Area Median Income, at a price, as determined pursuant to Section 18-9(C) of this Chapter, that, on average, is affordable to a household with an annual income that is 65 percent of Area Median Income. Any remaining Attainable Housing Units may be sold to households with gross incomes equal to or greater than 80 percent, but less than 120 percent, of Area Median Income, at a price, as determined pursuant to Section 18-9(C) of this Chapter, that, on average, is affordable to a household with an annual income that is 100 percent of area median income.

(B) Rental of Affordable Housing Units. In Covered Development Projects that contain rental units: (i) no less than 33 percent of the Attainable Housing Units must be rented or leased to households with gross incomes less than 50 percent of the Area Median Income, at a price, as determined pursuant to Section 18-9(C) of this Chapter, that, on average, is affordable to a household with an annual income that is 45 percent of Area Median Income; (ii) no less than 33 percent of the Attainable Housing Units must be rented or leased to households with gross incomes equal to or greater than 50 percent, but less than 80 percent, of the Area Median Income, at a price, as determined pursuant to Section 18-9(C) of this Chapter, that, on average, is affordable to a household with an annual income that is 65 percent of Area Median Income; and (iii) no more than 33 percent of the Attainable Housing Units may be rented or leased to households with gross incomes equal to or greater than 80 percent, but less than 120 percent, of the Area Median Income, at a price, as determined pursuant to 18-9(C) of this Chapter, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. If fewer than three Attainable Housing Units will be provided, such units must be rented or leased to Moderate-Income Households at a price, as determined pursuant to 18-9(C) of this Chapter, that does not exceed what is affordable to a household with an annual income that is 65 percent of Area Median Income.

(C) Pricing Schedule. The Village, through the Village Administrator, will publish a pricing schedule of rental and sales prices for Attainable Housing Units, which pricing schedule must be updated at least once every 12 months. The Administrator may, in his or her discretion, include the pricing schedule within administrative guidelines adopted pursuant to Section 18-14 of this Chapter.

Section 18-10. Eligibility of Households.

(A) For-Sale Attainable Housing Units. Only Eligible Households shall be permitted to purchase and occupy an Attainable Housing Unit for purposes of satisfying the requirements of this Chapter. The prioritization and selection of Eligible Households shall be conducted by

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the Village or its agent, in accordance with such administrative guidelines as may be approved by the Village Board or as may be promulgated pursuant to Section 18-14 of this Article.

(1) If the gross income of the Eligible Household increases above the Eligible Household income levels provided in Section 18-9 of this chapter, the Eligible Household may continue to own and occupy the Attainable Housing Unit, subject to the limitations on sale or lease as set forth in Section 18-11 of this Chapter.

(2) The owner of the Covered Development Project shall execute and record any documents required by Section 18-12 of this Chapter to ensure compliance with this Section.

(B) Rental Attainable Housing Units. Only Eligible Households shall be permitted to rent and occupy an Attainable Housing Unit for purposes of this Article. The prioritization and selection of Eligible Households shall be conducted by the Village or its agent, in accordance with such administrative guidelines as may be approved by the Village Board or as may be promulgated pursuant to Section 18-14 of this Chapter.

(1) If the gross income of the Eligible Household increases above the Eligible Household income levels provided in Section 18-9 of this Chapter, during the lease period, the Eligible Household may continue to lease and occupy the unit and may renew the lease as well, subject to the limitations on lease as set forth in Section 18-11 of this Chapter.

(2) The owner of the Covered Development Project shall execute and record any documents required by Section 18-12 of this Chapter to ensure compliance with this Section.

Section 18-11. Period of Affordability.

(A) Sale of Attainable Housing Units. In Covered Development Projects that contain for-sale units, Attainable Housing Units shall be resold to Eligible Households in perpetuity, or as long as permissible by law. The owner of the Covered Development Project shall execute and record all documents required by Section 18-12 of this Chapter to ensure compliance with this Section. In each case, the owner of a for-sale Attainable Housing Unit shall occupy such unit, and such unit may not be leased or subleased unless expressly approved by the Village and such lease or sublease is to permit occupancy by an Eligible Household.

(B) Rental of Attainable Housing Units. In Covered Development Projects that contain rental units, Attainable Housing Units shall be rented to Eligible Income Households in perpetuity, or as long as permissible by law. The owner of the Covered Development Project shall execute and record all documents required by Section 18-12 of this Chapter to ensure compliance with this Section. In each case, the rental Attainable Housing Unit shall be occupied by an Eligible Household, and such unit may not be leased or subleased unless expressly approved by the Village and such lease or sublease is to permit occupancy by an Eligible Household.

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(1) In the event that the owner of a Covered Development Project with one or more rental units sells the development, the new owner shall be required to continue to provide the Attainable Housing Units in accordance with this Article.

(2) If the owner of a Covered Development Project with one or more rental units converts the development to condominiums, the development shall be subject to the for-sale development requirements of this Article.

Section 18-12. Attainable Housing Plan and Development Agreements.

(A) Attainable Housing Plan. Prior to the approval of any Covered Development Project by the Village (including the issuance of any permits), the applicant must present to the Village Administrator (, and the Village Board must approve, an inclusionary housing plan that outlines and specifies the Covered Development Project's compliance with each of the applicable requirements of this Code. The plan shall specifically contain, at a minimum, the following information regarding the Covered Development Project;

(1) A general description of the development, including whether the development will contain rental units or individually owned units, or both;

(2) The total number of Market Rate Units and Attainable Housing Units in the development;

(3) The number of bedrooms in each Market Rate Unit and each Attainable Housing Unit;

(4) The gross square footage of each Market Rate Unit and each Attainable Housing Unit;

(5) Site plans showing the location of each Market Rate Unit and each Attainable Housing Unit within the Covered Development Project, and/or floor plans showing the location of each Market Rate Unit and each Attainable Housing Unit within a multiple-family residential structure;

(6) The pricing for each Market Rate Unit and each Attainable Housing Unit;

(7) The phasing and construction schedule for each Market Rate Unit and each Attainable Housing Unit;

(8) Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the development and each of its individual units;

(9) A description of the marketing plan (which shall at least include the priority provisions set forth in Section 18-10 of this Chapter) that the applicant proposes to utilize and implement to promote the sale or rental of the Attainable Housing Units within the development;

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(10) A description of the specific efforts that the applicant will undertake to provide Attainable Housing Units to Eligible Households in accordance with this Chapter;

(11) A description of the screening and selection plan for Eligible Households for the Attainable Housing Units.

(12) A description of the documentation deemed necessary or appropriate by the Village in accordance with this Chapter to ensure continued affordability of the Attainable Housing Units in accordance with this Chapter.

(B) Development Agreement with Not-For-Profit Agencies. Prior to issuance of a building permit for any Covered Development Project, the applicant shall enter into a development agreement with the Village regarding the specific requirements and restrictions regarding Attainable Housing and the Covered Development Project. The applicant shall execute all documents deemed necessary or appropriate, including restrictive covenants and other related instruments, to ensure the continued affordability of the Attainable Housing Units in accordance with this Chapter. Applicants may also enter into agreements with a not-for-profit housing entity to provide the long-term management, including leasing of the Attainable Housing Units to Eligible Households, and maintenance of the Attainable Housing Units by the entity.

(C) Additional Documentation. In addition to the requirements of subsections (A) and (B) of this Section (as applicable), the documentation required for Covered Development Projects under this Article shall include without limitation:

(1) The identification of target income levels for Attainable Housing Units;

(2) The identification and selection of Eligible Households for the Attainable Housing Units;

(3) Assurances that, for during the period of affordability, any Covered Development Projects upon which association assessments are imposed are designed to limit such assessments in a manner that will preserve the affordability of the Attainable Housing Units.

(4) Method for marketing of the Attainable Housing Units to Eligible Households in the community;

(5) The execution and recordation of all documents deemed necessary to ensure the development and continued affordability of the Attainable Housing Units, including without limitation a development agreement between the owner of the Covered Development Project and the Village or its designee;

(6) Agreements relating to the long-term management and maintenance of the Attainable Housing Units in a Covered Development Project;

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(7) The bedroom mix and aggregate gross square footage of the Attainable Housing Units;

(8) Agreements and decisions regarding the applicability of any one or more of the alternatives to the provision of on-site Attainable Housing Units as set forth in Section 18-8 of this Chapter.

Section 18-13. Preservation of Attainability and Restrictions on Resale.

(A) For-Sale Attainable Housing Units. A for-sale Attainable Housing Unit may be sold to a private party who meets the income level and eligibility requirements established in this Article. The parties to the transaction shall execute and record all documentation as required by this Article and reviewed by the Village (or its authorized designee), including at a minimum each of the following:

(1) The Attainable Housing Unit may only be sold to eligible households, and in compliance with Section 18-9 of this Chapter.

(2) The Attainable Housing Unit must be conveyed subject to restrictions that permanently maintain the affordability of such Attainable Housing Units for Eligible Households.

(3) The resale price of any Attainable Housing Unit may not exceed the purchase price paid by the seller of that unit plus inflation as measured by the Consumer Price Index (All Urban Consumers, All Cities average, residential real estate) for the period of time that the unit owner resided in the unit.

(B) Rental Attainable Housing Units. For Covered Development Projects that contain Attainable Housing Units for rent, the owner of the development shall execute and record such documentation as required by this Article to ensure the provision and continuous maintenance of the Attainable Housing Units. All documents shall be submitted to the Village (or its authorized designee) for review to ensure, at a minimum, each of the following:

(1) The Attainable Housing Units must be leased and occupied by, and at rent levels, compliant with Section 18-9 of this Chapter.

(2) Preference for the Attainable Housing Units shall be given pursuant to such administrative guidelines as may be established by the Village Administrator and approved by the Village Board.

Section 18-14. Implementation.

The Village Administrator (or the Administrator's designee) shall develop appropriate regulations and forms that are consistent with this Article and necessary or convenient to affect its efficient and effective administration. Such regulations and rules shall be reported to the Village Board of Trustees and thereafter made available to the public.