

§ 60 Affordable Housing Set Aside and Density Bonus Program

§ 60-1. Legislative intent and findings.

The Board of Trustees of the Village of Spring Valley recognizes that the high cost of housing is undermining the socioeconomic diversity that has long been central to the Village's identity and economic vitality. A housing market comprised exclusively of higher-priced residential construction or public housing may contribute to segregated neighborhoods, undermine racial and ethnic diversity, displace working families, and impede the development of a stable middle class essential to supporting the Village's retail economy, service employment sector, schools, civic institutions, and public welfare.

The Village further finds that the production and preservation of affordable housing promotes compliance with federal and state fair housing obligations, reduces displacement, supports workforce retention, advances economic integration, and promotes the public health, safety, and general welfare of Village residents.

The affordable housing set-aside program established herein shall not conflict with, but shall supplement, all applicable federal, state, and local laws governing housing, land use, and discrimination in housing.

§ 60-2. Definitions.

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

AFFORDABILITY RESTRICTION

A deed restriction, regulatory agreement, restrictive covenant, declaration, mortgage restriction, or other legally enforceable instrument approved by the Village Attorney and recorded against the property for the purpose of ensuring continued compliance with this article.

AFFORDABLE HOUSING CONTRIBUTION

A monetary contribution paid in lieu of constructing affordable housing units pursuant to § 60-4 of this article, deposited into the Village of Spring Valley Affordable Housing Trust Fund.

AFFORDABLE HOUSING UNIT

A dwelling unit affordable to and occupied by an Eligible Household, as defined herein, and subject to an Affordability Restriction.

AREA MEDIAN INCOME (AMI)

The median household income for Rockland County, adjusted for household size, as published annually by the United States Department of Housing and Urban Development (HUD).

ELIGIBLE HOUSEHOLD

A household whose gross annual income does not exceed the applicable income limits established pursuant to this article.

MULTIFAMILY HOUSING DEVELOPMENT

Any new construction, substantial rehabilitation, mixed-use development containing residential units, phased project, or redevelopment consisting of ten (10) or more dwelling units.

RENTAL AFFORDABLE HOUSING UNIT

An Affordable Housing Unit offered for lease to Eligible Households.

OWNERSHIP AFFORDABLE HOUSING UNIT

An Affordable Housing Unit offered for sale to Eligible Households subject to resale and affordability controls established pursuant to this article.

§ 60-2A. Anti-evasion.

For purposes of this article, all contiguous parcels, phased developments, commonly controlled entities, or related applications submitted within a five-year period shall be considered a single Multifamily Housing Development where segmentation would otherwise avoid or reduce the affordable housing obligations imposed by this article.

§ 60-3. Affordable housing set-aside.

A. Every Multifamily Housing Development for which municipal approval is sought following the effective date of this article shall provide a minimum of fifteen percent (15%) of the total dwelling units as Affordable Housing Units. Any fractional calculation of Affordable Housing Units shall be rounded up to the next whole number.

B. Affordable Housing Units shall be constructed on-site within the development unless an alternative compliance method is approved pursuant to § 60-4.

C. Affordable Housing Units shall be integrated throughout the development and shall be externally indistinguishable from market-rate units in design, appearance, materials, and access to building amenities and common areas.

D. Affordable Housing Units shall generally reflect the bedroom distribution and unit mix of the market-rate units and shall not be disproportionately concentrated in smaller unit types.

E. Affordable Housing Units shall contain substantially comparable interior finishes, appliance quality, and access to amenities as market-rate units.

F. Ownership Affordable Housing Units shall be affordable to households earning no greater than eighty percent (70%) of AMI, adjusted for household size.

G. Rental Affordable Housing Units shall be affordable to households earning no greater than sixty percent (60%) of AMI, adjusted for household size.

Affordable rent shall mean annual housing costs, including utilities paid by the tenant, not exceeding thirty percent (33%) of the applicable income limit adjusted for household size, unless otherwise required by federal or state law.

H. All Affordable Housing Units shall be affirmatively marketed, administered, leased, and sold pursuant to procedures established or approved by the Spring Valley Housing Authority, or any successor entity designated by the Board of Trustees.

§ 60-4. Affordable housing contribution and alternative compliance.

A. The Village strongly prefers the construction of on-site Affordable Housing Units. However, an applicant may request approval to satisfy all or a portion of the affordable housing obligation through an Affordable Housing Contribution, off-site construction, land dedication, preservation

of existing affordable housing, or another alternative compliance mechanism approved by the Spring Valley Housing Authority.

B. Alternative compliance may be approved only upon a finding by the Spring Valley Housing Authority that:

1. strict on-site compliance would be impracticable or would substantially impede the development of housing within the Village;
2. the proposed alternative compliance will result in an equal or greater affordable housing benefit to the Village;
3. the proposed alternative compliance will affirmatively further fair housing; and
4. the proposed alternative compliance is consistent with the purposes of this article.

C. Any Affordable Housing Contribution shall be deposited into the Village of Spring Valley Affordable Housing Trust Fund and used exclusively for:

1. development of affordable housing;
2. preservation of existing affordable housing;
3. acquisition of land for affordable housing;
4. infrastructure supporting affordable housing;
5. rental assistance programs;
6. rehabilitation of substandard housing; or
7. administrative and compliance costs associated with this article.

D. The amount of the Affordable Housing Contribution shall be established periodically by Mayor based upon:

1. prevailing land values;
2. estimated affordable housing subsidy gaps;
3. construction costs;
4. inflation; and
5. the estimated cost of producing an equivalent Affordable Housing Unit within the Village.

E. The Board of Trustees may permit payment of the Affordable Housing Contribution in installments pursuant to a development agreement approved by the Village Attorney; but in no case shall installment payments extend past issuance of a Certificate of Occupancy.

§ 60-4A. Affordable Housing Trust Fund.

A. There is hereby established a segregated Affordable Housing Trust Fund.

B. Monies deposited into the Trust Fund shall not revert to the Village general fund and shall be used solely for purposes authorized by this article.

C. The Village may partner with nonprofit organizations, public agencies, housing authorities, and private developers to leverage Trust Fund monies for affordable housing purposes. The Spring Valley Housing Authority shall manage and administer the Trust Fund.

D. The Spring Valley Housing Authority shall maintain records of all deposits, expenditures, and affordable housing activities funded pursuant to this article.

§ 60-5. Affordability restrictions and term.

A. Affordable Housing Units developed pursuant to this article shall remain affordable for a minimum period of:

1. forty (40) years for rental units; and
2. thirty (30) years for ownership units.

B. Affordability Restrictions shall be recorded against the property prior to issuance of a certificate of occupancy and shall bind all successors, assigns, heirs, and transferees.

C. Ownership Affordable Housing Units shall be subject to resale controls, shared equity provisions, or appreciation limitations established by regulation or regulatory agreement approved by the Village Attorney.

D. The Village, Housing Authority, or designated administrative entity may audit records and inspect Affordable Housing Units upon reasonable notice to ensure compliance with this article.

E. Owners of Affordable Housing Units shall submit annual compliance certifications in a form prescribed by the Village or Village Housing Authority.

§ 60-6. Density bonuses and incentives.

A. Multifamily Housing Developments providing Affordable Housing Units in excess of the minimum requirements of this article shall be eligible for density bonuses as follows:

Affordable Housing Percentage	Density Bonus
51%	100%
60%	125%
75%	150%
90%	175%
100%	200%

B. Projects eligible for density bonuses may also receive up to six (6) concessions or incentives, including but not limited to:

1. reductions in setback requirements;
2. reductions in lot coverage requirements;
3. reductions in minimum unit size requirements;
4. increases in building height;
5. mixed-use approvals;
6. reduced open space requirements;
7. expedited permitting and review procedures; or
8. other regulatory incentives approved by the Planning Board.

C. No concession, incentive, waiver, or density bonus shall be granted where it would create a specific adverse impact upon public health or safety that cannot be feasibly mitigated.

D. Projects located within one-half (1/2) mile of the Village train station/transit corridor may receive reduced parking requirements as determined appropriate by the Planning Board based upon parking demand, transit accessibility, walkability, and unit mix.

E. Projects providing units affordable at or below fifty percent (50%) of AMI may receive additional incentives or priority processing as determined by the Board of Trustees.

§ 60-7. Policies and procedures.

The Board of Trustees may promulgate additional rules, regulations, administrative procedures, forms, monitoring standards, and compliance requirements necessary to implement and enforce this article, provided such rules remain consistent with the purposes of this article and applicable law.

§ 60-8. Nondiscrimination and affirmative fair housing.

A. All Multifamily Housing Developments subject to this article shall comply with all applicable federal, state, and local fair housing and nondiscrimination laws.

B. No person shall discriminate in the sale, lease, rental, occupancy, financing, or advertising of any dwelling unit on the basis of race, color, national origin, religion, creed, sex, gender identity or expression, sexual orientation, familial status, disability, age, lawful source of income, marital status, military or veteran status, or any other protected classification under applicable law.

C. Developers and owners shall affirmatively market Affordable Housing Units in a manner designed to reach historically underrepresented and protected populations throughout the region.

D. Selection procedures for Affordable Housing Units shall be transparent, publicly available, and approved by the Village of Spring Valley Housing Authority or its designated administrative entity.

§ 60-9. Enforcement and penalties.

A. Failure to comply with this article, any Affordability Restriction, regulatory agreement, approval condition, or administrative requirement imposed pursuant to this article shall constitute a violation of the Village Code.

B. The Village may enforce this article through legal or equitable proceedings and may pursue any remedy authorized by law, including but not limited to:

1. withholding certificates of occupancy;
2. suspension or revocation of permits or approvals;
3. civil penalties;
4. injunctive relief;
5. specific performance;
6. liens authorized by law;
7. recovery of improperly avoided Affordable Housing Contributions; or
8. any combination thereof.

C. The remedies provided herein shall be cumulative and not exclusive.

§ 60-10. Severability.

If any clause, sentence, paragraph, subdivision, section, or portion of this article shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the specific provision directly involved in the controversy in which such judgment shall have been rendered.