

CITY OF BEACON
CITY COUNCIL

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE that the City of Beacon will hold a public hearing on Tuesday, September 8th, 2009 at the City of Beacon Municipal Center, One Municipal Plaza, Beacon, New York at 7:00 p.m. or as soon thereafter as the matter is reached on the agenda, to Consider a Proposed Local Law to Amend Chapter 223, Zoning, of the City Code with Respect to Affordable Housing.

This local law would take effect immediately upon filing with the Secretary of State. Complete copies of the proposed local laws are available at the Municipal Center for inspection during regular business hours.

All interested persons and citizens shall have an opportunity to be heard on said proposals at the date, time and place aforesaid.

Iola C. Taylor, City Clerk

Dated: July 28, 2009

7/24/09

LOCAL LAW NO. ____ OF 2009

**CITY COUNCIL
CITY OF BEACON, NEW YORK**

**LOCAL LAW AMENDING CHAPTER 223, ZONING,
OF THE CITY CODE WITH RESPECT TO AFFORDABLE HOUSING**

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1: Title

This Local Law shall be known and cited as “A Local Law Amending the Chapter 223, Zoning, of the City Code with Respect to Affordable Housing.”

Section 2: Legislative Intent

The intent of this law is to amend Chapter 223, Zoning, of the City Code so as to require the provision of new or rehabilitated Below Market Rate (BMR) Units within certain kinds of development in the City.

Section 3: Zoning Amendments

- 1. Section 223-63 of the Zoning Law shall be revised by means of adding the following new definitions in their proper alphabetical order:**

BELOW MARKET RATE (BMR) UNIT – A new or rehabilitated housing unit which is restricted as to sale or rent to remain affordable to a BMR Unit Eligible Household by generally not exceeding 30% of the aggregate gross income of the household. Said housing unit must be the primary residence of the household and shall not be sublet without the consent of the City Council or its designee.

BMR UNIT ELIGIBLE HOUSEHOLD – A household whose aggregate gross annual income, including the total of all current annual income of members residing in the household from any source whatsoever at the time of application (excluding the earnings of working household members of 21 years of age or younger who are full-time students), does not exceed 80% of the Dutchess County median annual income for its household size ~~for the purchase of a BMR unit or 60% of the Dutchess County median~~

annual income for its household size for the rental of a BMR unit (based on the US Census and as updated by the Department of Housing and Urban Development (HUD)). In addition, the net assets of the household at the time prior to purchase or lease may not exceed 75% of the purchase price of the unit, except where such households rely, due to age or disability, on the assets in lieu of income. Evidence of disability shall be the receipt of Social Security Disability Insurance (SSDI) payments.

For example, for the year 2009, limitations are as follows:

Table 1: BMR Units for Purchase

Persons in Household	1	2	3	4	5	6+
Maximum eligible income (80% of median)	\$44,800	\$51,200	\$57,600	\$64,000	\$69,100	\$74,250
Maximum housing cost (30% of gross income)						
Annually	\$13,440	\$15,360	\$17,280	\$19,200	\$20,730	\$22,275
Monthly	\$1,120	\$1,280	\$1,440	\$1,600	\$1,728	\$1,856
Eligible Unit Types	Studio or 1 BDR	1 BDR or 2 BDR	2 BDR or 3 BDR	2 BDR, 3 BDR or 4 BDR	3 BDR or 4 BDR	3 BDR or 4 BDR

Table 2: BMR Units for Rent

Persons in Household	1	2	3	4	5	6+
Maximum eligible income (60% of median)	\$33,600	\$38,400	\$43,200	\$48,000	\$51,825	\$55,688
Maximum housing cost (30% of gross income)						
Annually	\$10,080	\$11,520	\$12,960	\$14,400	\$15,548	\$16,706
Monthly	\$840	\$960	\$1,080	\$1,200	\$1,296	\$1,392
Eligible Unit Types	Studio or 1 BDR	1 BDR or 2 BDR	2 BDR or 3 BDR	2 BDR, 3 BDR or 4 BDR	3 BDR or 4 BDR	3 BDR or 4 BDR

EFFICIENCY OR STUDIO HOUSING UNIT – A housing unit that combines a single bedroom with one or more other rooms and uses, such as living and dining rooms. A kitchenette may be in a separate room or as a part of the larger multiple-use room.

2. The following *new* Article IVB, Affordable Housing, shall be added to the Zoning Law and shall read as follows:

ARTICLE IVB
Affordable Housing

§ 223-41.8. Findings.

The City Council of the City of Beacon acknowledges the high cost of housing compared to average earnings in the City and County, and this trend has grown more noticeable as land and housing values have increased in recent years. Maintaining and ensuring a balanced mix of housing types and sizes that are affordable to a range of incomes is essential to ensuring the long-term health of the community. Such balanced housing stock enables a variety of residents to live and work in the City, maintain family ties, and participate in community services, such as emergency services. Balanced housing is also essential to attracting and maintaining an adequate workforce, a healthy business environment, and a balanced tax base that supports local services and the quality of life. It is therefore important for the City to maintain a mix of housing choices and to require the creation of new or rehabilitated Below Market Rate (BMR) units in future renovation and development.

§ 223-41.9. Provision of BMR units; payment in lieu thereofDensity.

To achieve the purposes above, the approval authority shall require that ten percent (10%) of all projects containing twenty (20) or more apartment dwellings and/or attached dwellings (townhouses) as defined in § 223-63 of this chapter, shall be comprised of Below Market Rate units as defined and regulated in this article. Notwithstanding the requirement immediately above, the City Council, at its discretion, may allow the applicant to make a payment to the City in lieu of the provision of some or all of the required BMR units, in an amount determined by the City Council to be the value of the waived BMR units; said payment shall be made into a trust fund dedicated to the provision of affordable housing in the City.

§ 223-41.10. Below Market Rate units.

- A. Finishes, amenities, size, distribution and mix. BMR units shall have exterior finishes and general amenities comparable to the market rate units within the development and shall be reasonably distributed throughout the project. Further, the BMR units shall be provided in a mix of unit types in the same proportion as all other units in the development unless a different proportion is approved by the Planning Board as being better related to the housing needs, current or projected, of the City of Beacon.

B. Minimum gross floor area. Notwithstanding other provisions of this chapter, the minimum gross floor area per dwelling unit shall not be less than the following:

- (1) Studio/efficiency unit: 350 square feet
- (2) One bedroom unit: 600 square feet
- (3) Two bedroom unit: 800 square feet
- (4) Three bedroom unit: 1,000 square feet

C. Occupancy standards. The minimum and maximum occupancy of a BMR unit shall be as follows:

Number of Bedrooms	Minimum Number of Persons	Maximum Number of Persons
Studio/ efficiency	1	1
1	1	2
2	2	4
3	3	6
4	4	8

D. BMR Unit Eligible Household. Households must meet the criteria established in § 223-63 of this chapter, within the definition of “BMR Unit Eligible Household.”

E. Maximum rent and sales price. The monthly rent including utilities for BMR units shall not exceed 30% of the aggregate gross monthly income of an eligible household as defined in § 223-63, under “BMR Unit Eligible Household,” for the actual size of the household that will occupy such unit as set forth in subsection C above. The maximum gross sales price for a BMR unit shall not exceed a figure based on a maximum household expense of 30% of the aggregate gross monthly income of an eligible household as defined in § 223-63 for the actual size of the household that will occupy such unit as set forth in subsection C above, relating to the sum of principal, interest, taxes, and insurance, based on industry-standard mortgage underwriting guidelines for a 30-year fixed rate mortgage, prevailing interest rates, and a 5% down payment.

F. Households applying for BMR units shall be selected on the basis of the following categories of priority:

- (a) City of Beacon municipal employees.

- (b) Volunteer emergency responders for the City of Beacon who have served at least ____ years.
- (c) All other residents of the City of Beacon.
- (d) Employees of the Beacon School District.
- (e) Other persons employed in the City of Beacon.
- (f) The following relatives of residents of the City of Beacon: father, mother, son, daughter, brother, sister, grandparent, grandchild, father-in-law or mother-in-law.
- (g) Other residents of Dutchess County.
- (h) Other persons employed in Dutchess County.
- (i) All others.

Within each of the above categories, the following special groups shall receive priority in the following order:

- (a) Households whose head of household or spouse is sixty-two (62) years of age or older.
 - (b) First-time homebuyers.
 - (c) Households whose head of household or spouse is thirty (30) years of age or younger.
 - (d) Civil servants.
- G. The deed, certificate of occupancy and/or rental agreement, as appropriate, for each BMR dwelling unit shall contain language, satisfactory to the City Attorney in form and substance, which states that the subject dwelling is a Below Market Rate unit as defined in Section 223-63 of the Code of the City of Beacon, New York, and is subject to all restrictions and limitations as set forth therein.
- H. Resale. In the case of owner-occupied BMR units, the title to said property shall be restricted so that in the event of any resale by the homeowner or any successor, the resale price shall not exceed the maximum sales price for said unit, as determined in subsection E, plus the depreciated value of capital improvements based on their estimated life for up to 5% of the price of the unit.

- I. Lease of a BMR unit. Individual BMR unit owners may lease their units to ~~non-~~BMR eligible unit households for a period not exceeding two years, with the consent of the City Council or its designee, for employment, health or other good reason as determined by the Council. Notwithstanding the sentence above, this time frame may be extended by the Council or its designee for good cause shown.
- J. Implementing regulations. The City Council may, by resolution, adopt specific regulations to foster the efficient and equitable implementation of this chapter.
- K. Administration. The City Council shall be responsible for administering these regulations and may designate a board, commission or other organization to monitor compliance.

Section 4: 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 5: 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.

Dutchess County Department of Planning and Development

FOR OFFICE USE ONLY

To C/Beacon
Co./Dept. Planning
Fax# 838-5026

Date 8/25/ # pgs 2
From Anne Saylor
Phone# 486-3600

Zoning Referral

Please Fill Out This Entire Portion of the Form

Municipality: City of Beacon

Referring Agency: City Council

Tax Parcel Number(s): _____

Project Name: LL: Affordable Housing

Applicant: City Council

Address of Property: _____

Type of Action:

- Local Law / Text Amendment
- Rezoning
- Site Plan
- Special Permit
- Use Variance
- Area Variance
- Other: _____

Jurisdictional Determinant:

- State Road _____
- County Road _____
- State Property
- County Property
- Municipal Boundary
- Agricultural District

Date Response Requested (if less than 30 days): _____

If subject of a previous referral, please note County referral number(s): _____

FOR COUNTY OFFICE USE ONLY

Response from Dutchess County Department of Planning and Development

No Comments:

- Matter of Local Concern
- No Jurisdiction
- No Authority
- Project Withdrawn

Comments Attached:

- Local Concern with Comments
- Conditional
- Denial
- Incomplete — *municipality must resubmit to County*
- Incomplete with Comments — *municipality must resubmit to County*

Date of Submittal: 7/28

Date Submittal Received: 7/29

Date Report Requested: _____

Date Report Required: 8/26

Date of Transmittal
faxed: 8/25/09 mailed: _____

Notes:

Public Hearing scheduled for September 8th.

Reviewer: Anne Saylor

- Major Project
- Archive
- Discard after 2 yrs
- Discard after 7 yrs

Referral #: 09-355

August 25, 2009

TO: City Council, City of Beacon
 RE: Referral 09-355, Local Law, Affordable Housing Amendment

The Dutchess County Department of Planning and Development has reviewed the subject referral within the framework of General Municipal Law (Article 12B, Sections 239-1 and 239-m). After considering the proposed action in the context of the countywide and intermunicipal factors, the Department finds that the Council's decision involves a matter of some concern and offers the following comments:

Action

The proposed Local Law will amend the zoning with respect to affordable housing

Comments

Our department is supportive of the general intent of this Law. We issued preliminary comments on March 16, 2009 and a formal referral on March 27, 2009. The following are our comments on the most recent revisions:

BMR UNIT ELIGIBLE HOUSEHOLD – We strongly disagree with removing the 60% income standard for rental housing. As written, both owner occupied and rental housing will use the same income standard for the purpose of calculating sales prices and rents. Using 80% of the 2009 county median family income as the basis for the calculation would result in a rent of \$1,146 for a one-bedroom unit and \$1,472 for a two-bedroom unit (assuming 1.5 people per bedroom). These “affordable” rents will exceed the market rents in the City of Beacon based on the County's 2008 Rental Housing Survey. The City should return to the 60% standard in earlier versions of this ordinance.

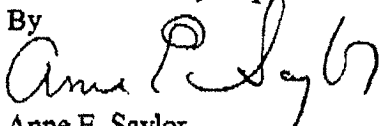
223.41.10 (E) – This section states the income of the “actual size of the household that will occupy the unit” be used to calculate the rent and sales prices. This standard is problematic because it will be impossible to inform developers what their affordable rents and sales prices will be until units are complete and the occupants are identified. It is important that the City establish a standard which developers can use to underwrite their developments. Most laws use a standard of 1.5 people per bedroom as it is a more accurate reflection of today's smaller household sizes. Where this calculation results in a fractional number (e.g. 4.5) the household income used is the mid-point between the household income of the adjacent household sizes (e.g. midpoint between incomes for 4 per household and 5 person household).

Recommendation

The Department recommends that the Board rely upon its own study of the facts in this case with due consideration of the above comments.

Roger P. Akeley, Commissioner
 Dutchess County Department of Planning and Development

By


 Anne E. Saylor
 Housing Coordinator

Dutchess County
 Department of
 Planning and
 Development

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Memorandum

Planning Board

TO: Mayor Gold & City Council
FROM: Etha Grogan
RE: Affordable Housing
DATE: August 26, 2009

At the August 11, 2009 Planning Board meeting, members reviewed and discussed the revised zoning provisions regarding affordable housing as outlined in David Stolman's memorandum dated July 24, 2009. Members unanimously agreed the revisions presented in the proposed legislation were appropriate and offered a positive recommendation to approve the proposed affordable housing provisions.