

TOWN BOARD OF THE TOWN OF COPAKE, NEW YORK

# A Local Law to Promote Affordable Housing in the Town of Copake

Local Law No. \_\_\_\_ of 2023

DRAFT for INTRODUCTION: August 1, 2023

Be it enacted by the Town Board of the Town of Copake as follows:

## Section 1. Purpose and legislative intent.

The Town Board of the Town of Copake finds that it is in the best interest of the Town and its residents to establish incentives for the development of affordable workforce housing within the Town of Copake, as authorized by Town Law §261-b. This includes promoting opportunities for development of affordable workforce housing within the Town of Copake, removing regulatory obstacles to the production of affordable workforce housing, and providing for the development of workforce housing in connection with the approval of major subdivisions within the Town.

These changes to the Copake Zoning and Subdivision laws are not simply to produce housing that meets the needs of people in a defined workforce income category, but also broadly to meet the needs of Copake's workforce and allow people who work in Copake and/or provide volunteer services to the Copake community to access affordable housing in the community.

## § 2. Findings.

In accordance with §261-b of the New York Town Law, the Town Board of the Town of Copake finds, after evaluating the effects of any potential incentives provided by this law, that in light of the flexible lot subdivision provisions of the Copake Zoning Code and the low population density throughout the Town of Copake, and the availability and capacity of roadways, waste disposal facilities, and emergency services, that each zoning district in which incentives or bonuses are authorized by this local law contains adequate resources, environmental quality and public facilities, including adequate transportation, water supply, waste disposal and fire protection and that such incentives or bonuses are compatible with the development otherwise permitted. Furthermore, whereas the incentives and bonuses that may be available under this law require the implementation of measures to create affordable housing, the Town Board finds that the establishment of such incentives and bonuses will not adversely affect the potential development of affordable housing within the Town.

## § 3. Enacting authority.

This Local Law is authorized by the New York Municipal Home Rule Law, the Statute of Local Governments, Article 16 and other relevant provisions of the Town Law of the State of New York, the laws of the Town of Copake and the general police power vested with the Town of Copake to enact zoning regulations and promote the health, safety and welfare of all residents and property owners in the Town.

§ 4. The following definitions are added to section 232-3 of Chapter 232 of the Code of the Town of Copake.

**AREA MEDIAN INCOME (AMI)** — The median household income within Columbia County as determined by the United States Department of Housing and Urban Development (“HUD”) and available at [www.huduser.gov](http://www.huduser.gov). In the event such calculation by HUD ceases to be generated or available, then an AMI determination shall be calculated or adopted by the Town Board, based upon the most recent US Census data.

**AWH AFFORDABLE PURCHASE LEVELS** — Purchase price for a residential dwelling unit at which the total monthly cost of mortgage, insurance, and taxes does not exceed one-twelfth of 30 percent of the applicable Qualifying Income. Such standards shall be calculated based upon the number of bedrooms in the dwelling unit, in accordance with the following schedule:

1 bedroom dwelling unit	QI for 2-person household
2 bedroom dwelling unit	QI for 4-person household
3 bedroom dwelling unit	QI for 4-person household

**AWH AFFORDABLE RENTAL LEVELS** — Rental cost of a residential dwelling unit at which the total monthly cost for rent, heat, hot water, and electricity does not exceed one-twelfth of 25 percent of the applicable Qualifying Income. Such standards shall be calculated based upon the number of bedrooms in the dwelling unit, in accordance with the following schedule:

1 bedroom dwelling unit	QI for 2-person household
2 bedroom dwelling unit	QI for 4-person household
3 bedroom dwelling unit	QI for 4-person household

**QUALIFYING INCOME (QI)** — Household income equal to the “Low (80%) Income Limit” for Columbia County, based on Area Median Income (AMI) and adjusted for household size, as determined by the United States Department of Housing and Urban Development (“HUD”) and available at [www.huduser.gov](http://www.huduser.gov). In the event such calculation by HUD ceases to be generated or available, then QI for a household of seven or more shall be ninety percent of the then-current Area Median Income; QI for a household of six shall be eighty-five percent of the then-current AMI; for a household of five shall be eighty percent of the then-current AMI; for a household of four shall be seventy-three percent of the then-current AMI; for a household of three shall be sixty-six percent of the then-current AMI; for a household of two shall be fifty-nine percent of

the then-current AMI; and for a household of one shall be fifty-two percent of the then-current AMI.

§ 5. Section 232-16.1 of Chapter 232 of the Code of the Town of Copake, entitled “Accessory Dwelling Unit,” is amended to read as follows:

#### § 232-16.1. Accessory Dwelling Unit.

An accessory dwelling unit (ADU) is permitted in any district in which single-family residences are permitted, or by special use permit, in accordance with the Table of Uses, subject to obtaining site plan approval by the Planning Board. Notwithstanding the above, an accessory dwelling unit is permitted in any zoning district as of right upon approval by the Building Inspector/Code Enforcement Officer and no special use permit or site plan review shall be required, provided that the applicant certifies that the ADU shall be used only for non-transient occupancy for a period of two years after a certificate of occupancy is issued for such ADU. An ADU permitted in such manner shall be strictly prohibited from being used for transient or short-term rentals and shall be ineligible to obtain a short-term rental permit during such two-year period. Approval by the Building Inspector/Code Enforcement Officer without the need to obtain a special use permit or site plan approval shall, in addition, be contingent upon compliance with all specifications of an accessory dwelling unit set out in section 232-3 and the following conditions:

- A. Separate access to the accessory dwelling unit shall be required, preferably on the side or rear.
- B. The accessory dwelling unit shall consist of not more than two bedrooms, one full bath and appropriate kitchen, living and dining areas.
- C. An accessory dwelling unit in an accessory structure, or that involves the physical expansion or exterior alteration of an existing dwelling or structure, must conform to the dimensional requirements of section 232-8 and the Density Control Schedule of this chapter.

§ 6. A new Section 232-16.15 of Chapter 232 of the Code of the Town of Copake, entitled “Multifamily Dwellings and Clusters,” is added to read as follows:

#### § 232-16.15. Multifamily Dwellings and Clusters.

- A. Multifamily dwellings are permitted in accordance with all provisions of this chapter and subject to the requirements and limitations of the Table of Uses and Density Control Schedule, and to the review processes prescribed therein.
- B. Conversions to multifamily dwellings. Notwithstanding the specifications of the Table of Uses or subdivision A of this section, conversion of an existing building into a multifamily dwelling containing not more than six dwelling units is permitted in any zoning district as

of right upon approval by the Building Inspector/Code Enforcement Officer and no special use permit or site plan review shall be required, provided that the dwelling otherwise complies with all requirements of this Chapter except the 10,000 additional square foot provision of section 232-8(G.(1) and the applicant certifies that all units of such multifamily dwelling shall be used only for non-transient occupancy for a period of two years after a certificate of occupancy is issued for such dwelling. A multifamily dwelling permitted in such manner, and any dwelling unit therein, shall be strictly prohibited from being used for transient or short-term rentals and shall be ineligible to obtain a short-term rental permit during such two-year period.

C. New construction of multifamily workforce housing. Notwithstanding the specifications of the Table of Uses or subdivision A of this section, new construction of multifamily dwellings containing up to six dwelling units, or new cluster-style dwellings of up to six dwelling units, are exempt from special use permit requirements and are permitted in every zoning district subject to site plan review, provided such dwellings either:

- (1) are used as inclusionary housing as part of inclusionary housing requirements established pursuant to section 197-22 of Chapter 197 of the Code of the Town of Copake, or
- (2) if not inclusionary housing, contain not less than the following number of units to be operated as Affordable Workforce Housing for eligible residents:
  - (a) 1 unit in 3-4 unit building/cluster;
  - (b) 2 units in 5-6 unit building/cluster.
- (3) In connection with new construction of multifamily dwellings, site plan review shall include consideration of the Commercial Design Standards set forth in section 232-21(J).(18) of this chapter.

§ 7. A new Section 232-16.16 of Chapter 232 of the Code of the Town of Copake, entitled “Affordable Workforce Housing (AWH)”, is added to read as follows:

#### § 232-16.16. Affordable Workforce Housing (AWH).

In accordance with section 261-b of the New York State Town Law, which authorizes towns to implement incentive zoning for community benefits or amenities, including housing for persons of low or moderate income, the Town of Copake has established requirements for the development, maintenance, sale and rental of Affordable Workforce Housing (AWH). Affordable Workforce Housing is housing subject to the requirements of this section, the sale or rental of which is restricted to certain eligible persons or households, and which is subject to price and cost limitations or controls, as set out herein.

- A. Affordable Workforce Housing (AWH) shall mean dwelling units in the Town of Copake that may lawfully be sold or rented only to an eligible person or household. An eligible person or household is a household or member of a household which meets, as of the time

of such sale or commencement of rental, one of the following qualifying standards of eligibility:

- (1) Any household with income not exceeding the Qualifying Income, as defined in section 232-3 of this chapter.
  - (2) A household with at least one member who is an active volunteer Fire Department member serving the Town of Copake with a minimum of six months of consecutive active service, without regard to household income level.
  - (3) A household with at least one member who is a full-time Town of Copake municipal employee, Copake Rescue Squad employee, or Taconic Hills Central School District employee, with a minimum of six months of consecutive employment with such entity, without regard to income level.
  - (4) A household with at least one member who is a full-time State of New York or Columbia County employee and currently resides in the Town of Copake, with a minimum of six months of consecutive employment with such entity, without regard to income level.
  - (5) A household with at least one member who is a Veteran or active-duty member of the United States Armed Forces or an active-duty member of the United States Armed Forces Reserve or New York National Guard, without regard to income level.
  - (6) A household with at least one member who is a farmer or farmworker engaged in active farming on a farm located within the Town of Copake, without regard to income level.
- B.** In addition to meeting one or more of the above qualifying eligibility standards, the unit of AWH must, at the time the buyer or tenant takes occupancy be the full-time primary residence of the qualifying household or household member.
- C.** A person or household shall not lose eligibility to remain in the subject unit of AWH if they cease to become eligible after taking residence, provided such person or household was properly qualified at the time of the initial lease or purchase.
- D.** Affordable Workforce Housing (AWH) may be developed for sale or rental, and may be sold or rented in accordance with the following provisions:
- (1) AWH may be sold only to eligible purchasers at prices that meet AWH Affordable Purchase Levels, as defined in section 232-3 of this Chapter. Resale restrictions, which shall permit resale only to eligible purchasers at or below AWH Affordable Purchase Levels in effect at the time of such resale, shall be in effect for ten years from the date of any deed conveying such unit and such ten-year restrictive period shall reset upon each conveyance. Upon the passage of ten years of continuous ownership without a conveyance, restrictions upon sales shall permanently terminate. Such restrictions shall be implemented and enforced by means of restrictive declarations, restrictive

covenants, and/or deed restrictions filed in the deed records of the County of Columbia, as the Copake Town Board may direct.

- (2) AWH may be leased to eligible tenants at annual rents not to exceed AWH Affordable Rental Levels. Rental housing restrictions shall be in effect for twenty-five years from the date of the issuance of a certificate of occupancy for the dwelling unit to which they apply. Such restrictions shall be implemented and enforced by means of restrictive declarations, restrictive covenants, and/or deed restrictions filed in the deed records of the County of Columbia, as the Copake Town Board may direct.
- (3) The Planning Board shall approve the content of any restrictive declarations, restrictive covenants, and deed restrictions required under this subdivision.

E. The Town of Copake shall maintain a registry of all AWH units within the Town. The owner of any AWH rental unit in the Town subject to the restricted period shall annually file with the Town Clerk, by January 31<sup>st</sup> of each year, a statement identifying each AWH rental unit owned and stating the rents charged for the previous year.

§ 8. A new Section 232-17.3 of Chapter 232 of the Code of the Town of Copake, entitled “Inclusionary Housing,” is added to read as follows:

#### § 232-17.3. Inclusionary Housing.

Affordable Workforce Housing (AWH), as set out in section 232-16.16 of Chapter 232 of the Code of the Town of Copake, provided for or constructed in connection with, or arising from, a major subdivision shall be designated as Inclusionary Housing. In order to promote the development of AWH within the Town of Copake, all major subdivisions shall include provisions for AWH in accordance with this section.

- A. A minimum of twenty percent of the baseline capacity of the subdivision development shall be developed as Affordable Workforce Housing (AWH), in return for an incentive density bonus of additional lots available for construction of market rate units. Baseline capacity shall be the number of lots created by the subdivision, not to exceed the maximum number of lots permitted pursuant to section 232.17 of Chapter 232 of the Code of the Town of Copake (Flexible Lot Subdivisions) but not including any bonus or incentive provided by this section, or the number of bedrooms constructed in the development of the subdivision, or a combination of the two, as may be applicable.
- B. The twenty percent threshold shall be satisfied in one of the following ways:
  - (1) Units. To the extent residential development is to be undertaken in connection with a major subdivision, provision shall be made for the concurrent development of AWH such that the number of bedrooms constructed for AWH shall equal not less than twenty percent of the number of bedrooms constructed for market-rate housing. Within one year of the completion of five or more units of market-rate housing, the required AWH shall be completed at the required ratio and offered for sale or rent in

accordance with section 232.16.16 of this chapter and other applicable provisions of the Code of the Town of Copake governing AWH and inclusionary housing. Upon further development, AWH units achieving the required ratio of AWH to market-rate bedrooms must be completed, and such AWH units made available for sale, within one year of the completion of any market-rate housing.

- (2) Land or lots. To the extent lots are created by a major subdivision upon which residential development is not to be undertaken as part of the subdivision, then twenty percent of the baseline number of lots created shall be set aside to be made available only for AWH housing.
- (3) Hybrid. If residential development is to be undertaken on some but not all of the parcels created by the subdivision, then the provisions of subsections (1) and (2), supra, shall be proportionately applicable in proportion to the number of market-rate bedrooms constructed and the number of undeveloped lots.

**C. Incentive Density Bonus.**

- (1) The incentive density bonus shall be determined as follows: The total number of lots reserved for market rate dwelling units shall be equal to the [baseline number of lots created] – [number of lots set aside for AWH units] + [1.25 x the number of lots set aside for AWH dwelling units]. The total number of permitted lots shall therefore be equal to the [baseline number of permitted lots] + [1.25 x the number of lots reserved for AWH units].
- (2) In determining the number of lots required to be set aside or created for AWH, the number shall be  $[0.2 \times \text{the baseline number of lots created}]$ , with any fraction being rounded down to the next whole number. In determining the number of bonus lots for market-rate units, the number shall be  $[1.25 \times \text{the number of lots reserved for AWH units}]$ , rounded up to the next whole number.
  - (a) Example: if the baseline number of lots created is 20, then 4 of those lots would be required to be set aside for AWH dwelling units and a bonus of 5 additional lots for market rate units would be permitted, for a total of 21 lots for market rate units and 4 lots for AWH units. If the baseline number of lots created is 33, then 7 of those lots would be required to be reserved for AWH dwelling units and a bonus of 9 additional lots for market rate units would be permitted, for a total of 35 lots for market rate units and 7 lots for AWH units.
- (3) If the subdivider employs one of the alternative methods set out in subdivision E of this section in order to meet the requirement to create AWH, the total number of lots permitted to be created within the subdivision shall be reduced by the number of lots that would otherwise have been required to be reserved for AWH, and the total number of lots within the subdivision shall not exceed  $1.05 \times \text{the baseline number of lots}$ , rounded up to the next whole number.

**D. Density bonuses for inclusionary housing are in addition to other density bonuses available under other provisions of this Chapter or Chapter 197 of the Code of the Town of Copake.**

Where a subdivision is also subject to “flexible lot subdivision” requirements under §232-17, the baseline density and number of permitted units shall first be calculated in accordance with such section and adjusted in accordance with subdivision C of this section, to establish the final maximum number of lots or units permitted for the subdivision. The number of permissible lots or units established thereby, which includes both market rate and affordable workforce set-asides, shall not be further increased, but the 60% of acreage required to be preserved pursuant to section 232-17(C.)(7) may be reduced on a 1:1 basis in an amount equal to the on-site acreage set aside for affordable workforce housing, provided that not less than 50% of total land in the subdivision, containing appropriate conservation values, shall remain in open space condition.

- E. In lieu of incorporating the required AWH dwelling units into the subdivision, the requirements may be satisfied in the following ways, subject to approval of the Planning Board:
- (1) Construction of AWH providing the required number of bedrooms in a suitable off-site location or locations in the Town of Copake, subject to approval by the Planning Board; or
  - (2) Purchase, rehabilitation, and conversion of existing housing in the Town of Copake in a suitable off-site location or locations, subject to approval by the Planning Board, to create AWH providing the required number of bedrooms.
  - (3) In the event that the subdivision is of residential lots for sale only and houses are not being developed by the developer, donation to a not-for-profit landholding organization or governmental entity of lot area sufficient to create a number of lots meeting the minimum zoning requirements for development that is at least equal to twenty percent of the baseline number of market-rate lots created by the subdivision, plus payment of affordable housing fee to a workforce housing trust fund in amount to be established by resolution of the Town Board upon recommendation of the Planning Board, to support cost of future development of affordable workforce housing. The landholding entity and the workforce housing trust fund receiving the donations will both be as designated by the Town Board.
- F. Inclusionary AWH housing may comprise single-family, two-family, and multi-family dwellings. Multiple units or dwellings of AWH may be located on a single lot to the extent permitted by the Density Control Schedule (Table 1 of Chapter 232 of the Copake Code) and in accordance with other provisions of Chapter 232 of the Copake Code. When such AWH is located on the site of a major subdivision, its design shall be aesthetically consistent or compatible with the associated market-rate development.
- G. Major subdivisions and inclusionary housing units developed under this provision will be permitted in all zoning districts. Review requirements of Chapters 197 and 232 of the Copake Code will continue to apply to all major subdivisions, provided, however, that offsite inclusionary housing units developed pursuant to section 232-16.14(C.) will be subject to modified Site Plan Review as provided therein.



- H.** Inclusionary housing units shall be used only as permanent full-time housing and shall not be used for transient or short-term rentals.

§ 9. Severability.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjudicated finally by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby declared to be the legislative intent that the remainder of this local law would have been adopted had any such provisions been excluded.

§ 10. Effective Date.

This law shall become effective September 1, 2023.