**Town of Conway Affordable Housing Ordinance**

**Purpose and Intent**:

The purpose of this ordinance is to (i) provide a mechanism to encourage the development of Affordable units for moderate and lower income households to meet the needs of the Town of Conway, (ii) foster stability within the larger community by providing opportunities for home ownership and long-term rental units, and (iii) provide for the sustainability of Affordable units in the future through the use of deed restrictions and other legal mechanisms and to further the intent of the Town of Conway to meet the requirements described under New Hampshire RSA 674.

**Authority**:

This ordinance is adopted under the authority of New Hampshire RSA 674:21 and is intended as an “inclusionary zoning” provision as defined therein which states in part that inclusionary zoning shall “provide a voluntary incentive or benefit to a property owner in order to induce the property owner to produce housing units which are affordable to persons or families of low and moderate income. Inclusionary zoning includes, but is not limited to, density bonuses, growth control exemptions, and a streamlined application process.”

**Applicability**:

This ordinance shall apply to the following districts:

1. Residential/Agricultural District,
2. Center Conway Village Residential District,
3. Conway Village Residential District, and
4. North Conway Village Residential District.

**Density Bonus and Other Development Incentives**:

Notwithstanding the minimum lot size, density requirements, frontage and road standards set forth in the zoning districts listed above as more particularly described in Chapter 190-13 through Chapter 190-16, lot size, density requirements, frontage and road standards, for Affordable units and market rate units within an affordable housing development shall be as follows:

1. For lots serviced by municipal water system and municipal sewerage system shall have at least one-quarter (1/4) acre for the first unit and five thousand (5,000) square feet for each additional unit on the same lot. [*instead of one-half (1/2) acre for the first unit and ten thousand (10,000) square feet for each additional unit on the same lot*]
2. Lots serviced by a municipal water system shall have at least one-quarter (1/4) acre for each unit that may be located thereon; [*instead of one-half (1/2) acre for each unit*]; provided the loading capacity for the septic system complies with NHDES septic standards.
3. All other lots shall have at least one-half (1/2) acre for each unit that may be located thereon [*instead of one (1) acre for each unit*]; provided the loading capacity for the septic system complies with NHDES septic standards.
4. All lots must front on a state or town highway with a Class I, II, III, IV or V classification, a private road, cul de sac all constructed to town standards as required by the Planning Board or a Class VI road proposed to be improved as stipulated by the Planning Board. To qualify as frontage the lot must have access rights to the subject highway or road. The minimum distance for frontage on a road shall be seventy-five (75) feet [*instead of one hundred fifty (150) feet*].
5. Notwithstanding the definition of driveway contained in Chapter 130-3 of the Town of Conway Subdivision of Land Ordinance, up to three (3) lots [*instead of two (2) lots*] may be serviced by a single driveway. For a planned unit development serviced by municipal water and municipal sewer shall be permitted to have up to eight (8) units serviced by a single driveway. Driveways shall comply with applicable New Hampshire Department of Transportation requirements.
6. No more than seventy percent (70%) [*instead of twenty-five percent (25%)*] of the lot may be covered with structures and impervious surfaces, including, without limitation, buildings, driveway and sidewalks.
7. Green space shall comprise not less than fifty percent (50%) of the total lot area, exclusive of wetlands, water bodies, the one-hundred-year floodplain and slopes over twenty-five percent (25%).
8. All roads shall comply with the Town of Conway Road Standards described in Chapter 130 of Town of Conway Subdivision of Land Ordinance.

At least twenty-five percent (25%) of dwelling units within the affordable housing development which uses the lot size, density requirements, frontage and road standards, as set forth above must meet the definition of Affordable units. When the number of Affordable units is calculated to a fractional number, any fraction of less than one-half shall be rounded down to the next whole number; any fraction of one-half or greater shall be rounded up to the next whole number and treated as a whole inclusionary unit For example, a three-unit development would be calculated as 3 x 25% = 0.75, which would be rounded up to one Affordable unit. The planning board may reduce the minimum required percentage of afford able units upon demonstration by the developer that the requirement would otherwise make the development economically unviable. Mobile homes or manufactured housing as defined in RSA 674:31 are not permitted; however pre-site built units as defined in RSA 674:31-a shall be permitted.

**Plan Submission and Approval**:

Any subdivision and/or site plan submitted to the Planning Board in connection with this ordinance shall contain the following information:

1. The number of Affordable units created and the percentage of Affordable units relative to the percentage of market rate housing.
2. Descriptions of the Affordable units and the market rate units evidencing comparable number of bedrooms, bathrooms and square footages and complementary architectural styles and exterior finishes.
3. Any other information as required by the subdivision ordinance of the Town of Conway.

At the time of Planning Board approval, the Affordable units must be expressly designated as such and shown on a plan with a condition that they shall remain affordable in compliance with this ordinance and a deed restriction shall be recorded in the Registry of Deeds as evidence of the same. The deed restriction will be in a form and substance as prepared and approved by the Town of Conway.

**Affordable Unit Location, Construction and Appearance**:

All Affordable units shall be dispersed throughout the project by being integrated with the market rate units such that they are distributed throughout the development and not clustered in one area of the development, as determined by the Planning Board.

All Affordable units shall be constructed concurrently with the market rate units. Progress rates for construction of Affordable units shall be the same as that of the market rate units.

Affordable units shall be constructed with complementary exterior design and materials that are used in the market rate units. Similar landscaping shall be applied to both Affordable units and the market rate units. Affordable units as well as market units may be pre-site built units as defined in RSA 674:31-a.

Interior materials and amenities in the Affordable units may be different from those used in the market rate units, provided that: the number of bedrooms shall be proportional between Affordable units and market rate units.

**Definitions**:

For purposes of this ordinance the following terms shall be defined as follows:

“Affordable unit” shall mean (i) with respect to unit ownership, the purchaser shall be an Eligible buyer (as defined below) and the initial purchase price of the Affordable unit shall be equal to the difference between the fair market value of the Affordable unit as of the time of its development and its reduced affordable sale price, which is indexed according to the qualifying income standards of the Eligible buyer but shall be no less than $20,000, and (ii) with respect to a rental unit, the renter shall be an Eligible renter (as defined below) and the estimated maximum affordable monthly rent as published annually by the New Hampshire Housing Finance Authority.

“Eligible buyer” is a household whose income does not exceed eighty percent (80%) of the area median income for a family of four in Carroll County as published by the United States Department of Housing and Urban Development. The Eligible buyer shall occupy the Affordable unit as its primary residence and shall not own or have an interest in any other real estate.

“Eligible renter” is a household whose income does not exceed sixty percent (60%) of the area median income for a family of three in Carroll County as published by the United States Department of Housing and Urban Development. The Eligible renter shall occupy the Affordable unit as its primary residence and shall not own or have an interest in any other real estate.

**Restrictions on Rental**:

For a period of twenty (20) years from the date of the sale or lease of an individual unit developed pursuant to this ordinance, said unit shall not be used for short-term rentals such as, and including, without limitation, Airbnb, VRBO, HomeAway or any other similar short term rental platform. All unit leases shall be in writing and for a period of not less than six (6) months or more than twelve (12) months in any one instance. Tenants that occupy a unit for more than twelve months may continue to occupy the same unit with a written lease on a month to month basis. No tenant in an Affordable unit shall be permitted to sublease all or a portion of the Affordable unit to anyone other than an Eligible renter. The foregoing shall be included in a declaration of restrictive covenant in a form approved by the Planning Board and shall be recorded with the Carroll County Registry of Deeds.

**Future Transactions and Ordinance Enforcement**:

Affordable units offered for sale and approved pursuant to this ordinance shall require a deed restriction or restrictive covenant and lien granted to the Town of Conway in a form approved by the Planning Board and shall be recorded with the Carroll County Registry of Deeds prior to the sale. The initial value of the lien shall be equal to the difference between the fair market value of the Affordable unit and its reduced affordable sale price, which is indexed according to the qualifying income standards but shall be no less than $20,000. The Town of Conway’s lien is indexed over time at a rate equal to a price index identified in the restrictive covenant and lien document. Future maximum resale limits shall be calculated as the fair market value minus the adjusted lien value and a transaction administrative fee as determined by the Town of Conway. Subsequent sales prices are not limited based on income targets, but on the housing unit’s fair market value, minus the adjusted lien value. Subsequent buyer income limits are calculated based on the adjusted sales price and the prevailing financing terms. The foregoing limitations on sale shall not apply to a foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender and upon foreclosure by an institutional lender or a deed-in-lieu of foreclosure resulting from a mortgage with an institutional lender the income qualifications and resale limitations set forth herein shall terminate with respect to the impacted unit.

Affordable units for rent shall limit annual rent increases to the percentage increase in the area median income, except to the extent that further increases are made necessary by hardship or other unusual conditions as determined by the Planning Board.

This ordinance shall be enforced by the Town of Conway pursuant to Section 190.6 of the Town of Conway Zoning Ordinance. To ensure that only eligible households purchase or lease Affordable units, at least thirty (30) days prior to the purchase of an Affordable unit the following information shall be provided to a designated officer with the Town of Conway or its agent, which may be New Hampshire Housing and Finance Authority, for review and approval (i) a copy of the purchase agreement, and (ii) a certification from a third party administrator designed by the Town of Conway that the prospective purchaser or tenant, as applicable, that his/her or their family’s annual income meets the standards set forth in this ordinance.

To the extent there is a conflict between the provisions of this ordinance and any other ordinance of the Town of Conway, this ordinance shall govern and control. If any provision of this ordinance is held invalid by a court of competent jurisdiction, the reminder of the ordinance shall not be affected thereby and shall remain in full force and effect.