

2024-411

ENACTMENT: ADOPT LOCAL LAW INTRODUCTORY NO. 35-2024 AMENDING THE CODE OF THE TOWN OF HUNTINGTON, CHAPTER 74 (AFFORDABLE HOUSING)

Resolution for Town Board Meeting Dated: August 6, 2024

The following resolution was offered by: **SUPERVISOR SMYTH,**
COUNCILMAN FERRO

and seconded by: **COUNCILMAN BENNARDO**

WHEREAS, the Town Board recognizes that the establishment of quality affordable housing opportunities of rental and equity units for individuals and families eases a long-standing housing deficit, maximizes the use of limited land resources and the existing infrastructure, and promotes economic growth by assisting low- and moderate-income individuals and families to obtain home ownership. The Board also recognizes that increasing the supply of modestly priced housing is an important tool in reducing poverty, increasing self-sufficiency, and maintaining a local workforce in the community; and

WHEREAS, one of the greatest emerging public concerns arising from the affordability and availability of housing on Long Island is the critical shortage of volunteer first responders; and

WHEREAS, in an effort to mitigate the recruitment and retention issues confronting emergency service providers, it is the intention of the Town Board to amend the affordable housing eligibility guidelines to include a preference for first responders; and

WHEREAS, accordingly, the Town intends to offer preference to housing applicants who are first responders in good standing with their respective department and satisfy income and other eligibility requirements; and

WHEREAS, pursuant to the SEQRA regulations, updating administrative processes in the Code of the Town of Huntington is a Type II action pursuant to 6 NYCRR Part 617.5(c)(26), and no further SEQRA review is required at this time; and

THE TOWN BOARD having held a public hearing on August 6, 2024 at 2:00 p.m. to consider adopting Local Law Introductory No. 35-2024 amending the Code of the Town of Huntington, Chapter 74 (Affordable Housing), and due deliberation having been had,

HEREBY ADOPTS

Local Law Introductory No. 35-2024 amending the Code of the Town of Huntington, Chapter 74 (Affordable Housing), as follows:

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF HUNTINGTON AS FOLLOWS:

LOCAL LAW NO. 30-2024
AMENDING THE CODE OF THE TOWN OF HUNTINGTON
CHAPTER 74 (AFFORDABLE HOUSING)
ARTICLE IV (REZONING OF PROPERTY)

Section 1: Chapter 74 (Affordable Housing) of the Code of the Town of Huntington is hereby amended as follows:

CHAPTER 74
AFFORDABLE HOUSING
ARTICLE I

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§ 74-4. Participation By Certain Employees In Affordable Housing Programs.

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(B) Huntington Community Development Agency Employees.

(1) No employee of the HCDA shall be permitted to apply for, or be approved to lease or own, an affordable housing unit of a Town of Huntington affordable housing program, while employed by the HCDA.

(2) No former employee of the HCDA for a period of three (3) years after leaving employment shall be permitted to apply for, or be approved to lease or own an affordable housing unit of a Town of Huntington affordable housing program, if that former employee had been involved in decisions concerning the affordable housing development that is the subject of the application or approval process, as determined by the HCDA Director.

* * *

(4) Procedure.

(a) The HCDA's [lottery and wait list] application forms shall require the applicant to state whether as of the date of the application the applicant is employed by the HCDA, or had been employed by the HCDA and involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(b) The HCDA shall reject any [lottery or wait list] application indicating that the applicant is employed by the HCDA, or had been employed by the HCDA for less than a period of three (3) years and involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(c) Prior to approving an applicant to enter into a lease or contract of sale with respect to a Town of Huntington affordable housing unit, the HCDA shall verify whether the applicant is an employee of the HCDA, or a former employee of less than three (3) years and was [of the HCDA] involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(d) If in the course of the HCDA's normal approval processes a person then-employed by the HCDA, or a former employee of the HCDA for a period of less than three (3) years and was involved in decisions concerning the affordable housing development that is the subject of the application or approval process, is slated to be offered the opportunity to lease or own a Town of Huntington affordable housing unit, that current or former HCDA employee shall be deemed ineligible, and such opportunity to lease or own shall be offered to the next person in the normal course of the HCDA's procedures.

(C) Certain Town of Huntington Employees.

(1) No current employee [or former employee] of the Town of Huntington or former employee for a period of three (3) years after leaving employment shall be permitted to apply for an affordable housing unit of a Town of Huntington affordable housing program, if that current or former employee of less than three (3) years had been involved in decisions concerning the affordable housing development that is the subject of the application or approval process, as determined by the HCDA Director.

(2) No current employee [or former employee] of the Town of Huntington or former employee for a period of 3 years after leaving employment shall be approved to lease or own an affordable housing unit of a Town of Huntington affordable housing program, if that current or former employee was involved in decisions concerning the affordable housing development that is the subject of the application or approval process, as determined by the HCDA Director.

* * *

(4) Procedure.

(a) The HCDA's [lottery and wait list] application forms shall require the applicant to state whether as of the date of the application the applicant is or was employed by the Town of Huntington and involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(b) The HCDA shall reject any [lottery or wait list] application indicating that the applicant is or was employed for a period of less than three (3) years by the Town of Huntington and involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(c) Prior to approving an applicant to enter into a lease or contract of sale with respect to a Town of Huntington affordable housing unit, the HCDA shall verify whether the applicant is either a current or former employee of less than three (3) years of the Town of Huntington who is or was involved in decisions concerning the affordable housing development that is the subject of the application or approval process.

(d) If in the course of the HCDA's normal approval processes a current or former employee for a period of less than three (3) years of the Town of Huntington who has been involved in decisions concerning the affordable housing development that is the subject of the application or approval process, is slated to be offered the opportunity to lease or own a Town of Huntington affordable housing unit, that person shall be deemed ineligible, and such opportunity to lease or own shall be offered to the next person in the normal course of the HCDA's procedures.

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ARTICLE IV
REZONING OF PROPERTY

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§ 74-15 Affordable Housing Yield.

(A) Required housing. Where an increase in lot yield or density results from an applicant-initiated change of zone or the development of a building containing residential units in an overlay district, and five (5) or more residential lots or dwelling units are proposed for development, an applicant shall be required to set-aside and establish, as a condition of the zone change, affordable housing equal to twenty (20%) percent of the increase in lot yield or density (owner-occupied or rental units). In the event the number of units to be established results in a fraction of a unit, the applicant shall pay an amount equal to that fraction multiplied by the fee set forth in § 74-16(B).

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§ 74-18. Conditions [of the Change of Zone].

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(K) Covenants and Restrictions. To insure continued compliance with this legislation, and as a condition of [the] any change of zone or the development of a building containing residential units in an overlay district, all affordable units shall be subject to covenants and restrictions that run with the land, and restrict the sale, resale and rental of such units in accordance with the requirements of the District. The covenants shall contain other restrictions established by the Town Board on the rezone. Said covenants and restrictions shall be prepared by the applicant and submitted to the Town Attorney and the Director of the Huntington Community Development Agency for review and approval as to form and content. Upon approval by the Town Attorney and the Director of the Huntington

Community Development Agency, the applicant shall record the covenants and restrictions in the Office of the Suffolk County Clerk, at his or her own expense and provide the Town Attorney and the Department of Planning and Environment with a copy of the recorded instrument before the local law will be filed. A copy of the recorded instrument shall be submitted to the Planning Board as part of any application for site plan, subdivision or re-subdivision approval for the property, and shall be noted on the map or plan signed by the Director. All deeds transferring title to affordable units shall contain a reference to the Liber and Page of the recorded covenants and restrictions.

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§ 74-21. Sale and Resale of Affordable Units.

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(A) Initial Sales Price. The initial sale price of each newly-created affordable unit shall be calculated based upon the Nassau-Suffolk median income for a family of four (4) at the time [of] the contract is fully executed [Town's lottery announcement], and shall remain at that price until all of the initial units are sold, as follows:

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(2) For developments in which more than one (1) affordable unit is required, the initial sale price of half the units shall be an amount equal to eighty (80%) percent of the Nassau-Suffolk median income for a family of four (4) multiplied by 2.5. If the developer can demonstrate to the satisfaction of the Director of the Huntington Community Development Agency sufficient justification for the construction of one (1) or more units containing additional [square footage] living space of at least twenty-five (25%) square footage of proposed eighty (80%) units, such as additional bedrooms [or a bath] over the number required, the initial sale price of such units shall be one hundred twenty (120%) percent of the Nassau-Suffolk median income for a family of four (4) multiplied by 2.1. In no event shall these larger units comprise more than half of the number of affordable units. In the event an odd number of affordable units is required, the initial sale price of the additional unit shall be an amount equal to eighty (80%) percent of the Nassau-Suffolk median income for a family of four (4) multiplied by 2.5.

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(B) Resale of Affordable Units.

(1) All purchasers must be approved by the Huntington Community Development Agency and taken from a waiting list maintained by the Agency or its designee. Any individual interested in selling an affordable unit must notify the Agency in writing that the unit is for sale, and the Agency shall notify the prospective seller of the next qualified purchaser [applicant] in the order of their appearance on the Agency-maintained list, until a qualified purchaser has agreed to purchase the available unit. The Huntington

Community Development Agency will make its best efforts to find a qualified purchaser within six months of being notified that the unit is for sale. If in the event the HCDA is unable to secure a qualified purchaser for such unit within a six-month period, then and only then, may the seller locate a buyer provided that the buyer meets all the affordable housing requirements for that development. The potential buyer will have to fill out an application and provide all necessary documentation for review and approval by the HCDA prior to executing a contract of sale.

(2) Ownership of affordable units must be titled to the approved purchaser(s) only and may not be transferred by will, devise, intestacy, gift, purchase on the open market, or otherwise.[, except that an affordable unit may be conveyed by its owner to a trust, provided that the owner is a beneficiary of the trust and the terms of the trust require that the trustee, within one-hundred and twenty (120) days of the date of the beneficiary's death, or the date when the unit is no longer being used as the beneficiary's primary residence (domicile), notify the affordable housing program administrator and offer the unit for sale to the next eligible applicant. Prior to conveying an affordable unit to a trust, a copy of the trust instrument shall be provided to, and approved by, the Agency Director.] Title may also be transferred to a court-appointed referee in mortgage foreclosure proceedings provided the unit is offered for sale and transferred to the next eligible applicant in accordance with the provisions of this legislation, and a copy of the Order of Reference and Order of Sale is provided to the Director.

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§ 74-22 Qualifications of Prospective Purchasers; Management of Applications.

(A) In order to qualify as an eligible purchaser of an affordable unit in all zoning districts, the annual household income may not exceed one hundred twenty (120%) percent of the Nassau- Suffolk median income adjusted by family size at the time of formal application to Huntington Community Development Agency. Applicants who have an annual household income of up to eighty (80%) percent of the Nassau-Suffolk median income adjusted by family size shall be eligible for the lower priced affordable units and those whose annual household income is between eighty-one (81%) percent and one hundred twenty (120%) percent of the Nassau-Suffolk median income adjusted by family size shall be eligible for the higher priced units. In all cases, applicants may not have assets, which, after deduction of the [down payment and] estimated closing costs, exceed twenty-five (25%) percent over [of] the contract sale price for nonage-restricted housing and two times [one hundred (100%) percent of] the contract sale price for age-restricted housing.

(B) An applicant must have adequate resources and credit to qualify for a home mortgage.

(C) Applicants who are engaged in volunteer services as firefighters and/or other first responders shall have priority to purchase affordable units. As used in this subsection, "firefighter" shall mean a person who is duly certified and trained to engage in firematic services and has performed such services in the County of Suffolk in good standing for the one-year period immediately prior to qualification; "first responder" shall mean a person

who is licensed and trained to provide emergency medical services and who has actively provided such services in the County of Suffolk in good standing for the one-year period immediately prior to qualification. Any such firefighter/first responder must maintain good standing for the five-year period immediately subsequent to the date of closing to maintain minimum qualifications for such housing status.

(D) [(C)] Management of Applications. Applicants who are residents of or who provide documented employment by a business or entity that maintains a verifiable physical location within the Town of Huntington, or non-residents who have parents, children, grandchildren or grandparents who are residents of the Town of Huntington shall have [priority] secondary preference to purchase affordable units. Applicants who do not meet the above criteria may also [enter a Town affordable housing lottery, or if a lottery is not being offered, may] apply for an affordable unit.

(E) [(D)] Waiting list. A list of potential purchasers for affordable units will be maintained and updated annually by the Huntington Community Development Agency. [shall be created for each development by a lottery system which will establish a ranking system by number.] It is the applicant's responsibility to update any changes to their application in writing. [Those who are not offered a unit due to rank number shall be placed on a waiting list.]

[(E)] Opening of Waiting List. When a waiting list for a given development is depleted, the Huntington Community Development Agency shall re-open the list. In all new developments, and all existing developments unless prohibited by the provisions of this Chapter or resolution of the Town Board, the waiting list shall remain open and populated by interested, qualified purchasers designated by priority categories.]

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§ 74-24 Affordable Rental Units.

The Huntington Community Development Agency shall monitor the rental of all affordable units for compliance with this Chapter. In all new developments, and all existing developments unless prohibited by the provisions of this Chapter or resolution of the Town Board, rentals of affordable units shall be determined by placement on the rental housing waiting list [a lottery system establishing a ranking system by number]. Applicants who meet the criteria set forth in § 74-22 of this Chapter shall have priority to rent affordable units. All lease agreements must be approved by the Agency, and shall not be amended except as authorized by the Director. The Director may pre-approve the developer's standard lease agreement in advance.

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§ 74-29. Administration Fees.

The Huntington Community Development Agency shall receive the following fee for monitoring compliance with the provisions of this Chapter:

(A) One (1%) percent on the initial sale of the contract price, one (1%) percent of the contract sales price per transfer in years one through five of ownership, two (2%) percent of the contract sales price per transfer in years six through ten (10) of ownership, and three (3%) of the contract sales price per transfer in years eleven (11) and beyond of owner-occupied affordable unit paid by the seller at or prior to closing; and

(B) One month's rent per rental unit paid by the property owner [tenant] upon approval of the lease agreement by the Director. In addition, a \$50.00 fee will be paid by the property owner per rental unit at the time of recertification of the tenant.

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ARTICLE V
LONG ISLAND WORKFORCE HOUSING ACT

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§ 74-38. Covenants and Restrictions.

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(C) Said covenants and restrictions shall be prepared by the applicant and submitted to the Town Attorney and the Director of Huntington Community Development for approval as to form and content. Upon approval by the Town Attorney, the applicant shall record the covenants and restrictions in the Office of the Suffolk County Clerk, at his or her own expense and provide the Town Attorney and the Department of Planning and Environment with a copy of the recorded instrument before an application for a building permit will be accepted for filing.

§ 74-39. Management of Applications.

(A) Waiting list. A list of potential purchasers for workforce housing units will be maintained and updated annually by the Huntington Community Development Agency. [A list of potential purchasers for workforce housing units shall be created for each development by a lottery system which will establish a ranking system by number. Those who are not offered a unit due to rank number shall be placed on a waiting list.]

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§ 74-40. Administration fees.

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(B) One month's rent per rental unit paid by the property owner upon approval of the lease agreement by the Director. In addition, a \$50.00 fee will be paid by the property owner per rental unit at the time of recertification of the tenant.

