

§8-5 AFFORDABLE HOUSING

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§8-5-1 FINDINGS, PURPOSE AND APPLICABILITY

§8-5-1.1 Findings. A continuing high level of demand for more luxurious housing, with a higher profit potential, discourages developers from offering a more diversified range of housing. A significant shortage exists within the County [City] with respect to the supply of affordable housing. Without providing for the inclusion of affordable housing units pursuant to this chapter, public policies would likely permit exclusively high-priced housing development that are too expensive for workforce households. Such policies if allowed to continue would produce undesirable exclusionary effects, thus failing to implement the County's [City's] housing goals and policies of its comprehensive plan. The private sector is best equipped and possesses the necessary resources and expertise required to provide the type of moderately priced housing needed in the County [City].

§8-5-1.2 Purpose and Intent. This Code Section is adopted to meet the following purposes:

- (a) Implement through regulations the responsibility of the County [City] under the Georgia Planning Act and implementing rules which requires the County [City] to consider the housing needs of all economic segments of the community.
- (b) Provide for affordable housing to meet existing and anticipated needs of families and households for detached, single-family, fee-simple housing in the County [City].
- (c) Require that certain subdivisions and housing developments include a minimum number of moderately priced units of varying sizes with regard to family and household needs.
- (d) Avoid the problems of overconcentration, isolation, and stigmatization of affordable housing units by integrating them into housing developments located throughout the community, in appropriate land use intensity [zoning] districts.
- (e) Require that the exterior design of affordable housing units within proposed projects be of comparable quality and like appearance with market-rate housing units.
- (f) Prevent new owners from renting or reselling affordable housing units at market rates and ensure that affordable housing units established pursuant to this Code Section remain affordable for a period of 15 years from their first date of occupancy.
- (g) Establish obligations for buyers, sellers, and real estate transactions involving affordable housing units.
- (h) Provide a simple method of calculating affordability which is built into this ordinance so that continuous annual calculations of affordability are not required, but which can be amended as the need exists.
- (i) Provide for the administration and enforcement of the requirements of this Code Section.

**§8-5 Affordable Housing
Model Land Use Management Code**

§8-5-1.3 Applicability.

- (a) This Code Section applies all properties within the Suburban Residential District (SR), and Urban Residential District (UR) land use [zoning] districts where on six (6) or more housing units are constructed or proposed to be constructed.
- (b) Multiple developments or projects by the same applicant or responsible party within any consecutive twelve (12) month period that in the aggregate equal or exceed six housing units in one or both of the specified land use [zoning] shall be subject to this Code Section.
- (c) This Code Section shall not apply to any development for which a preliminary plat has already been approved or a development permit has been issued.

§8-5-2 DEFINITIONS

Affordable housing unit: A single-family dwelling that is restricted in terms of purchase price to an amount that is at minimum affordable to workforce household as defined in this Code Section, where such units are offered for sale in fee-simple, condominium, or cooperative ownership via the conveyance of a deed. The purchase price of such a unit for the year in which it is purchased does not exceed the affordable purchase price as shown in the table below:

Purchase Price of Single-Family Home Affordable to
Workforce Household, _____, Georgia

| Year | Projection of Median Family Income, _____, GA | Moderate Income, _____, GA (80% of Median Family Income) | Affordable Purchase Price, _____, GA (80% Figure Multiplied by 2.5) |
|-----------------|---|---|--|
| 1999 (Census) | | | |
| 2004 (Estimate) | | | |
| 2005 | | | |
| 2006 | | | |
| 2007 | | | |
| 2008 | | | |
| 2009 | | | |
| 2010 | | | |
| 2011 | | | |
| 2012 | | | |
| 2013 | | | |
| 2014 | | | |
| 2015 | | | |
| 2016 | | | |
| 2017 | | | |
| 2018 | | | |
| 2019 | | | |
| 2020 | | | |

[\[See Commentary\]](#)

Control period: The time an affordable dwelling unit is subject to resale price controls and owner occupancy requirements. The control period is 15 years and begins on the date of initial sale.

Market-rate housing unit: A housing unit with a purchase or rental price that is not restricted by the terms of this Code Section and is set by the private market and which may be sold to the highest bidder according in the real estate market.

Workforce household: A family or household that earns no more than eighty percent (80%) of the county's [city's] median household income.

§8-5-3 DEVELOPMENT AND BUILDING REQUIREMENTS

§8-5-3.1 Generally. No rezoning, plat, development plan, building permit, or certificate of occupancy shall be approved or issued for property or development of property subject to the requirements of this Code Section, unless it meets the requirements of this Code Section.

§8-5-3.2 Affordable Housing Unit Requirement. Each property or development subject to the requirements of this Code Section shall provide one affordable housing unit, as defined, for each six market-rate housing units included in the same development.

§8-5-3.3 Interpretation of Affordable Housing Unit Requirements. The calculations of the number of affordable units required of a development or property subject to the requirements of this Code Section shall be made by the Land Use Officer at the time of rezoning, preliminary plat approval, development plan approval, or building permit, whichever occurs first. Where this requirement results in a fraction of a unit of less than 0.50, that fraction shall not be considered as a requirement for an additional affordable housing unit. When this requirement results in a fraction of a unit of 0.50 or more, said fraction shall be construed to be requirement for one affordable housing unit.

§8-5-3.4 Alternatives for Compliance. In exceptional cases, instead of building the required number of affordable housing units within the boundaries of the development project, an applicant may offer to and the Governing Body upon application may approve the following three alternative means of compliance with this Article:

- (a) The developer agrees to build 1.25 times the number of affordable housing units required to be constructed as a part of the development project at one or more other sites in the County within a SR or UR land use [zoned] district and approved by the Governing Body according to schedule approved by the Governing Body.
- (b) Convey, to an approved community development corporation or community-based housing organization, if such corporation or organization operates in Morgan County, for purposes of future affordable housing development, developable land with an area that at minimum can accommodate twice the number of affordable housing units otherwise required to be constructed on the property containing the development project, as determined by the Land Use Officer based on gross density or average lot size. Such conveyance shall be deed-restricted to affordable housing use only.
- (c) A combination of construction of affordable housing units within the development project, construction on other approved off-site locations zoned SR or UR, and conveyance of land that will result in building significantly more affordable housing units than would otherwise be required on-site.

§8-5-3.5 Affordable Housing Agreement Required. When a residential development is subject to the requirements of this Code Section, the applicant there for shall submit an agreement for affordable housing at the time of rezoning, preliminary plat approval, or

development plan approval, whichever occurs first, that demonstrates compliance with the provisions of this Code Section.

§8-5-3.6 Contents of the Affordable Housing Agreement. An affordable housing agreement required by this Code Section shall include the number, type, location, and plan for staging construction of all dwelling units in the development project and such other information as the Land Use Officer may require to determine the applicant's compliance with this Code Section. Said agreement must specify the number of affordable housing units that will be constructed and the time schedule for construction in relation to market-rate housing units.

§8-5-3.7 Minimum Bedrooms. Each affordable housing unit shall have at least two (2) bedrooms.

§8-5-3.8 Bedroom Mix. The bedroom mix of affordable housing units in any development project subject to the requirements of this Code Section shall be in more or less the same ratio as the bedroom mix of the market-rate dwelling units of the development project, as approved by the Governing Body at the time of rezoning approval, or, if no rezoning approval is required, approved by the platting authority at the time of preliminary plat approval, or, if no preliminary plat approval is required, by the development site plan approval authority at the time of development site plan approval.

§8-5-3.9 Phasing of Affordable Housing Units.

- (a) The staging plan included in the agreement for affordable housing for all dwelling units must be sequenced so that a proportion of affordable housing units are built along with (at the same time as) or before market-rate dwelling units. The pace of affordable housing unit production must reasonably coincide with the construction of market-rate housing units.
- (b) No more than six building permits for market-rate dwelling units shall be issued until a building permit for at least one affordable housing unit in the same development project is applied for and issued. This proportion of one affordable housing unit for each six market-rate housing units shall be maintained in the development project as additional housing units are built.
- (c) No more than six market-rate housing units shall be issued certificates of occupancy until a certificate of occupancy for at least one affordable housing unit in the same development project is applied for and issued. This proportion of one affordable housing unit for each six market-rate housing units shall be maintained in the development project as additional housing units are occupied.

§8-5-3.10 Exterior Appearance. There shall be no noticeable difference in exterior appearance, other than the gross floor area or footprint, of the unit of affordable housing units and market-rate housing units in the same development. At minimum, this means that affordable housing units shall have the same quality of exterior construction, exterior building materials, insulation, windows, and heating and cooling systems as market-rate housing units in the same development project.

§8-5-3.11 Interior Amenities. Affordable housing units may differ from the market units in the same development project with regard to interior amenities.

§8-5-3.12 Size of Units. The gross floor area of affordable housing units may differ from the market units in the same development project. The gross floor area of any affordable housing unit shall not be less than the following minimum requirements, unless waived by Governing Body:

| | |
|------------------------|-------------------|
| Two bedrooms: | 1,000 square feet |
| Three bedrooms: | 1,100 square feet |
| Four or more bedrooms: | 1,250 square feet |

§8-5-3.13 Types of Units. In SR land use intensity [zoning] districts, 100 percent of the required affordable housing units shall be detached, single-family, fee-simple units. In SR land use intensity [zoning] districts, not less than 50 percent of the required affordable housing units shall be detached, single-family, fee-simple units.

§8-5-4 LIMITATIONS ON THE SALE OF AFFORDABLE HOUSING UNITS

§8-5-4.1 Continuation of Affordability. All affordable housing units established pursuant to this Code Section shall remain affordable for a period of no less than fifteen (15) years commencing from the date of issuance of the certificate of occupancy for the units. No housing unit shall be offered for initial sale or resale during the control period, as defined in this article (15 years), at a purchase price that exceeds the definition of affordable housing unit for the year in which it is sold or resold, and until and unless the requirements of this Code Section are met. A transfer of an affordable housing unit does not comply with this Code Section until all required documents and affidavits have been submitted to and approved by the Land Use Officer.

§8-5-4.2 Original Sales Price. The initial sales price of any affordable housing unit, excluding closing costs and sales commission/brokerage fees, shall not exceed the maximum sales prices for said unit, as established in the definition of affordable housing unit in this Article, for the year during which it is sold or resold. Maximum initial sales prices (i.e., affordable purchase prices) established in this Code Section shall continue in effect until changed by amendment to this Code Section.

§8-5-4.3 Resale Price and Terms. Except for foreclosure proceedings, any affordable housing constructed or offered for sale shall not sold or resold for a price greater than the affordable purchase price established for the year during which it is sold or resold, as indicated in the definition of affordable housing unit provided in this Article, except that said resale price may be adjusted upward to include the following as approved by the Land Use Officer:

- (a) The fair market value of improvements made to the unit between the date of original sale and the date of resale; and
- (b) An allowance for closing costs; and
- (c) A reasonable sales commission.

§8-5-4.4 Sublet Restrictions. Affordable housing units established pursuant to this Code Section are for owner occupancy. No affordable housing unit established pursuant to this Code Section shall be sublet or rented, and no owner of an affordable housing unit shall rent the unit to another party; provided, however, that in unusual circumstances the Governing Body upon application may find sufficient cause to allow temporary rental of an affordable housing unit subject to appropriate conditions, which may include adherence to established maximum rents.

§8-5-4.5 Covenants and Deed Restrictions.

- (a) Legally binding covenants and/or deed restrictions shall apply to all affordable housing units.
- (b) No deed for sale or transfer of an affordable housing unit shall be drafted or offered until and unless it contains restrictions approved by the Land Use Officer that are consistent with the requirements of this Code Section. The grantor must state in any deed or instrument conveying title to an affordable housing unit, that the property conveyed is an affordable housing unit and is subject to the restrictions contained in this Code Section, including maximum sale and resale prices during the control period until the restrictions expire.

- (c) No covenant involving development containing an affordable housing unit shall be recorded until and unless it contains restrictions approved by the Land Use Officer that are consistent with the requirements of this Code Section. Covenants shall run with the land during the control period, as defined. The covenants will bind the applicant, any assignee, mortgagee, or buyer, and all other parties that receive title to the property.
- (d) Such agreements or deed restrictions shall ensure that affordable housing units will remain an affordable housing unit during the control period, and that the sale and resale of affordable housing units shall meet the requirements of this Code Section.
- (e) No agreements or deed restrictions shall be recorded until reviewed and approved by the Land Use Officer with such modifications as he or she may deem necessary to carry out the purposes of this Code Section. Such review and approval shall be completed within ten (10) calendar days following date of submission of such documents to the Land Use Officer. Failure of the Land Use Officer to respond within the ten (10) calendar-day period shall constitute approval of the documents.

§8-5-5 OBLIGATIONS OF SELLERS AND PURCHASERS

§8-5-5.1 Information Prior to Initial Offering of Sale. Before offering any affordable housing unit for sale, the seller shall notify the Land Use Officer of the proposed offering and the date on which the seller will be ready to begin the marketing to eligible persons and households. The notice shall set forth the number of affordable housing units offered, the bedroom mix, the floor area for each unit, a description of the amenities offered in each unit and a statement including information regarding any mortgage financing available to buyers of the designated unit. The seller must also provide the Land Use Officer a vicinity map of the offering and such other information or documents as the Land Use Officer finds necessary.

§8-5-5.2 Obligations of Sellers. Prior to transfer of ownership, the seller, including the developer or builder initially offering the affordable housing unit for sale, shall submit a copy of the proposed sales contract, including the purchase price of the affordable housing unit and any real or personal property included in the sale and a signed affidavit attesting to the accuracy of all documents and certifying that the applicable requirements of this Code Section are met.

§8-5-5.3 Obligations of Buyers.

- (a) Prior to transfer of ownership, the buyer or purchaser shall submit to the Land Use Officer certification and affidavit that he or she is an eligible buyer (i.e., a moderate-income household as defined by this Code Section). A prospective buyer shall not purchase any affordable housing unit without first submitting a certificate of eligibility to the Land Use Officer. Said certificate shall at minimum provide proof of all annual family income during the past two years. Copies of such certificates shall be public records and maintained on file by the Land Use Officer.
- (b) Every buyer of an affordable housing unit must occupy the unit as his or her primary residence during the control period. Each buyer and renter must certify before taking occupancy that he or she will occupy the unit as his or her primary residence during the control period.
- (c) Upon closing and prior to occupancy, the purchaser of the affordable housing unit shall submit a signed copy of the settlement statement for the real estate transaction and a signed affidavit attesting to the accuracy of all documents and certifying that the applicable requirements of this Code Section are met.

§8-5-6 ADMINISTRATION AND ENFORCEMENT

§8-5-6.1 Authority to Adopt Additional Standards and Requirements. Where the provisions of this Code Section do not provide sufficient specificity in terms of administration, the Land Use Officer is hereby authorized to prepare and apply additional standards, qualifications, submittal requirements, and review procedures for administering the requirements of this Code Section. If prepared, said standards and requirements shall be titled “Affordable Housing Unit Implementation Standards and Procedures” and shall be public record. The Land Use Officer may but is not required to seek approval by resolution of said administrative procedures and standards by the Governing Body.

§8-5-6.2 Enforcement. The Land Use Officer may deny, suspend, or revoke any development permit, building permit or certificate of occupancy upon finding a violation of this Code Section. Any prior approval of a preliminary or final plat, or development plan, for which affordable housing units were required may be suspended or revoked upon the failure to meet any requirement of this Code Section. The Land Use Officer may take legal action to stop or cancel any transfer of an affordable housing unit if any party to the transfer does not comply with all requirements of this Code Section. In addition to or instead of any other available remedy, the Land Use Officer may take legal action to enjoin an owner of an affordable housing unit who violates this Code Section, from continuing the violation.

§8-5-6.3 Remedies. The Land Use Officer may require an owner who does not occupy the unit as his or her primary residence to offer the unit for resale to an eligible person under the resale provisions. The Land Use Officer may recover any funds improperly obtained from any sale or rental of an affordable housing unit in violation of this Code Section. Such funds, if recovered, shall be deposited in a fund of the Governing Body and disposed of for affordable housing purposes as may be determined appropriate by the Governing Body.

§8-5-6.4 Appeal. Any person aggrieved by a decision of the Land Use Officer in the application, interpretation, or enforcement of this Article may file an appeal with the Board of Appeals in accordance with procedures established for the appeal of administrative decisions as specified in Section 1-10 of this Code.