Town of Orangetown
Planned Active Adult Affordable Housing Program
Regulations and Procedures

In furtherance of the legislative purposes sought to be achieved by the adoption of the Planned Adult Community zoning district, in general, and the affordable unit component thereof, in particular, the following regulations and procedures shall govern the eligibility, selection, pricing and re-sale price of all affordable units developed as part of such an approved PAC development that includes such units.

1. Determination of the Unit Purchase Price

Chapter 43, § Section 4.66 the Town's PAC zone provides that for owner-occupied units, the affordable units shall be sold at a price not to exceed 3.3 times 80% of the median family income for Rockland County, as established annually by the U.S. Department of Housing and Urban Development ("HUD"). This requires that the unit price be re-calculated annually.

Utilizing the median family income for a family of four (4), for 2015, the purchase price for an affordable units (irrespective of size or amenities) is $260,832.00. Before entering into a contract of sale for the purchase of an affordable unit, both sellers and purchasers should contact the Town's "Monitoring Agent" to determine the permissible maximum price.

2. Income and Asset Eligibility Criteria

A. Annual Income Limits

Section 4.67 of the PAC Zoning Law provides that "The maximum household income for affordable units shall be 80% of the median income for Rockland County families established annually by the U.S. Department of Housing and Urban Development. Because HUD annually publishes an array of income data which varies not only by location, but also by family size, and notwithstanding the fact that PAC zone purchasers will likely consist of one and two-person households, the Town Board has further determined to use the four-person household income for determining income eligibility in order to capture the greatest percentage of those persons intended to benefited by the program. The four person household figure is also consistent with the figure used to compute the purchase price.

For 2015, the HUD established median income for a household of four in Rockland County is $98,800.00, making the maximum annual household income $79,040.00, i.e., 80% x $98,800.00 = $79,040.00.

(i) Definition of Household Income

Household income is defined as the total annual household income of the title owners of the affordable unit – those persons whose names will appear on the deed of the affordable units. Household income includes both earned income and passive income. Income of adult children who live with their parents will be excluded, unless they are also on title.

Household income includes the following:

- Earned income from current employment, social security and/or pensions
- Passive income, including interest from income producing assets, dividends, investments, real estate, etc.

(ii) Calculation and Inclusion of Passive Income

Unlike rental units, where household income generally must be certified yearly to determine continued eligibility, the PAC affordable units are for purchase, meaning that income (and asset) certification is a one-time exercise. Given that distinction, and so that a prospective purchaser of an affordable unit is neither qualified or disqualified on the basis of the performance of an income generating asset in a single year, the Town Board has determined that it is more appropriate to impute the annual interest rate to all income producing assets and add that amount to the person's annual earned income to determine income eligibility.

The Town Board has selected 5% as a fair and reasonable percent to compute the value of passive income. Five percent (5%) is a discretionary percentage, but is not an arbitrary percentage; rather, it is a rate intended to take into account significant historical fluctuations in the interest rate for a standard three-year certificate of deposit.

Assets to be counted in the asset calculation include but are not limited to the following income producing or appreciating assets:

- Revocable trusts, stocks, bonds, treasury funds, mutual funds
- 401ks, IRAs, other non-cash retirement investment instruments, certificates of deposit
- Cash, bank deposits
- Other assets that are a part of an active business
- Income from real estate

Assets to be excluded are non-income producing personal property such as safe deposit box contents, and the cash value of life insurance policies. The value of any pension or retirement instrument will not be counted unless the person is drawing it down as income. (General, pensions or other similar retirement vehicles are intended to be drawn down as income during retirement and have a penalty imposed upon early withdrawal.)

B. Maximum Total Value of Assets

Consistent with the legislative intent of the Town Board when it adopted the PAC Zoning Law that a certain number of units in each PAC development should be made available to persons of "moderate" means – the 80% of median income figure being a percent (%) ascribed by HUD as reflective of "moderate" income – the Town Board has determined that there should be a limit on the total value of an eligible purchaser's assets. Setting a maximum asset value will allow the limited number of units available to be more targeted to those of more modest means (as a point of reference, the median sales price of a home in Rockland was $425,000.00 in September 2015.)

The Board further has established a formula by which to compute an asset maximum by multiplying the current affordable housing price by a multiplier of 2.35. This asset limit will increase annually without the Board taking any action since it is linked to the price of the affordable housing unit which, in turn, is indexed to the HUD median income. Since the HUD median income can increase annually, the price of the affordable housing unit and the maximum asset limit will be adjusted accordingly. For 2015, the limit for total assets is $612,955.00. ($260,832.00 x 2.35).

Net Proceeds from the Sale of the Home as a Component of One's Assets

It is assumed that the majority of applicants for an affordable unit will already own a home which they will be selling, or will have sold, in order to purchase the new affordable unit, investing a portion of the net proceeds of the sale in the purchase of the affordable unit. For the purposes of income and asset determination, the portion of the net proceeds from the sale of the purchaser's existing home not invested in the affordable unit will be included in each (income/asset) calculation.

Either a HUD-1 Settlement Statement or a current market analysis of the existing home will be required to make a determination of the value of the includable asset. When a sale is pending, the contract price will be used to determine the asset's value. Net proceeds includable as an asset are, thus, calculated as follows:

Current market analysis (contract price or sales price)	
-	Closing costs
-	Outstanding mortgage
=	Net proceeds

Once the net proceeds from the home sale are determined, the purchaser will be asked to indicate the minimum amount that will be used for the purchase of the affordable unit. The difference will be treated as an asset in the asset calculation and a percentage of that net amount applied in the income determination.

As an example, John Smith is 65 years old. Recently, Mr. Smith sold his home for $500,000.00. He had an outstanding mortgage of $100,000.00 and closing expenses of $15,000.00. The net amount realized according to his HUD-1 Settlement Statement was $385,000.00. He has indicated that he will pay $175,000.000 towards the purchase of the affordable unit. The difference of $210,000.00 will be considered an asset and included in the maximum asset calculation. The imputed interest rate will also be applied to this amount to calculate the value of his passive income in the income calculation.

$500,000.00	Sales Price
100,000.00	Outstanding mortgage
+ 15,000.00	Closing costs
$385,000.00	Net proceeds

$385,000.00	Net proceeds
-175,000.00	Amount to be used for affordable unit
$210,000.00	Amount to be included in asset calculation

C. Determination of Eligibility – An Example

Expanding on the example above, Mr. Smith no longer works but receives earned income from a pension and social security. Regarding passive income, Mr. Smith has another pension invested in various stocks worth approximately $300,000.00. Although he is allowed to withdraw funds at any given time, he chooses to reinvest his dividends until age 70. Mr. Smith also has 2 certificates of deposit worth $50,000.000 which earn 5% interest annually; a checking account earning 0% interest and a savings account earning 2% interest totaling $10,000.00

His passive income generating assets are;

$210,000.00	Net proceeds from sale of the home (minus $175,000.00 for the affordable unit)
300,000.00	Retirement investment
50,000.00	Certificate of deposit
10,000.00	Check and saving accounts
$570,000.00	Net assets

Using 5%, the total annual income derived from assets (5% x $570,000.00) = $28,500.00. Adding the amounts for earned and unearned income produces a total household income of $56,500.00.

$	28,000.00	Social security and pension
+	28,500.00	Imputed interest on assets
$	56,500.00	Annual income

Mr. Smith would qualify to purchase a unit based on his annual income of $56,500.00 which falls below the $79,040.00 maximum and his net assets of $570,000.00 which are below $612,955.00.

3. Income and Asset Certification

Income certification will be performed by the Town's Monitoring Agent. In order to determine if the applicant qualifies he/she must submit to the Monitoring Agent financial documentation including but not limited to:

- Paycheck stubs, if applicable
- Most recent IRS tax returns and W2 form(s)
- Most recent copies of social security/pension award letters
- Six months of checking statements from all check accounts
- Most recent savings statements from all savings accounts
- Most recent statements for all other assets including stocks, bonds, IRAs, certificates of deposit, etc.

Additionally, either a HUD 1 Settlement Statement or a current market analysis of the applicant's home will be required in order to make a determination of the worth of the applicant's home for income eligibility, as described below. Other documentation may be required by the Housing Monitor to substantiate compliance with these limitations.

The income/asset certification is conducted only once, prior to purchase, to ascertain eligibility for purchasing a unit. Because this is ownership housing and not rental housing, there is no annual recertification.

4. Preferences

Affordable Units shall be made available giving recognition to the following preferences:

1. Current Orangetown residents who have lived in the Town at least 10 consecutive years
2. All others

Federal fair housing laws allow municipalities to give preference to residents.

5. Duration of Affordability

Affordable units shall remain affordable, meaning they shall remain subject to these regulations and procedures, as same may be amended from time to time, for a period of 99 years measured from the date of initial sale. The restrictions on ownership, price and eligibility, all consistent with the PAC Zoning Law and these implementing regulations, as from time to time may be amended, shall be embodied in a Restrictive Covenant, in a form approved by the Town Attorney, recorded against each affordable unit. (Provided, however, that no amendment to these Procedures and Regulations shall restrict the price on resale to an amount less than the price paid on purchase as adjusted in accordance with § 6 and § 11below.)

6. Resale Formula

The PAC zoning law requires that the maximum price on re-sale of an affordable unit be based on a formula tied to the HUD median income at the time of resale, as at the time of the initial sale by the developer. The HUD median income established for each county typically, but not always, increases annually be approximately 2% to reflect inflation, meaning the maximum re-sale would be expected to increase in the same amount, provided, however, as set forth in § 5 above, the maximum re-sale price shall never be deemed restricted to an amount less than that paid by the seller.

In addition to any increase in price occasioned by an increase in the HUD median income, the sales price on any re-sale may include an upward adjustment equal to the actual cost of any allowable capital improvement made to the unit by the unit owner during the period of his/her ownership. The allowable amount will be reduced by 10% per year measured from the date of such improvement(s), until the date of re-sale. The allowable amount for capital improvement(s) cannot be greater than a total of $25,000.00. The unit owner shall retain receipts for all work performed at, or equipment purchased for the unit. “Capital improvements” are intended to be those improvements that would be recognized as such by the IRS.

7. Resale Monitoring

The Town will designate a person or entity each year to perform the duties of Monitoring Agent set forth herein. Among the responsibilities hereby delegated to the Monitoring Agent shall be to compute the maximum re-sale price and to determine purchaser eligibility, both in accordance with the provisions hereof.

The fee for the services provided by the Monitoring Agent, as established by contract with the Town, will be paid by the Town of Orangetown when each unit closes and title is transferred to the buyer. This fee is in the nature of a closing cost and may be added as an upward adjustment to the price of the home upon re-sale.

8. Process for Selection of Purchasers

Lottery – The Town will publicly conduct one lottery for each development for all of the affordable units.

A card for each eligible applicant who has previously submitted an Application will be prepared, indicating among other things, the applicant's preference status (town resident or non-resident). All cards will be placed in a container for the drawing. All cards will be pulled, and the names will be announced along with their preference status. Each name will be assigned a number in the order it is drawn and entered onto one of the two preference lists. The first list will consist of those applicants meeting the Town residency preference criteria, and the second list will consist of all other applicants. By pulling all of the names, applicants will learn their number order and relative chance of obtaining a unit.

Unit Selection – After the two lists have been established, the applicant designed number 1 on the Town preference list will be offered his or her first choice, followed by number 2 on the Town preference list, who will be offered one of the remaining units, and so forth until all units have been reserved/designated.

Units will not be offered to anyone on the second (non-Town) list until all of the names from the first list have been exhausted.

Contract – After the lottery is held and eligibility is certified for an applicant, the applicant will have thirty (30) days within which to enter a contract to purchase with the developer.

If the applicant cannot sign a contract within the deadline or negotiate an extension with the developer, the unit will be offered to the next person.

Deed Restriction – The title company will record the deed with restrictions as prepared and approved by the Town.

9. Upgrades to Newly Constructed Affordable Units

While there is no limit to the dollar cost of upgrades to a newly constructed affordable unit that a purchaser may expend, the re-sale price of the unit shall not increase by more than $25,000.00 attributable to such upgrades. (The term "upgrade", is not intended to encompass those capital improvements required to maintain the unit in good habitable condition.)

Historical Note: The above Procedures and Regulations were duly adopted by Resolution of the Town Board, No. 654 of 2008, on September 22, 2008.