

CITY OF KINGSTON

Kingston Planning

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Suzanne Cahill, Planning Director
Kyla Dedea, Assistant Planner

Steven T. Noble, Mayor

November 19, 2024

Delivered Via Email Nov. 19, 2024

Ald. At Large Andrea Shaut, President
City of Kingston Common Council
City Hall-420 Broadway
Kingston, NY 12401

Re: City of Kingston Planning Board – Recommendation
FBC Modification to Section 405.19 Affordable Housing

Dear Pre. Shaut:

Per the meeting of the City Planning Board held last evening, attached please find a copy of the summary minutes, along with the recommendation on the proposed change in definitions for both Affordable and Workforce housing as presently Identified under the City's Form Based Code.

If there are any questions, please do not hesitate to contact our office to discuss.

Sincerely,

Suzanne Cahill
Planning Director

CC: S. Noble, Mayor (via email)
E. Tinti, City Clerk (via email)
Ald. M. Hirsch (via email)
Ald. M. Tierney (via email)

Ulster County Planning Board



Dennis Doyle, Director

RECOMMENDATION

Elisa Tinti, City Clerk
City of Kingston
420 Broadway
Kingston, N.Y. 12401

REFERRAL NO: 2024-147
DATE REVIEWED: 11/04/24

Re: Amendment to Section 4015.19 of the City Code – Zoning Statute Amendment

Summary

The City of Kingston is proposing to amend its zoning statute to update its thresholds for determining “affordable housing units” and “workforce housing units.” The change will reduce the affordability thresholds from 80% and 120% of the area median income (AMI) of Kingston Metropolitan Area/Ulster County to 50% and 80% of AMI, respectively.

Materials Submitted for Review:

- Referral Form
- Existing section of zoning statute
- Resolution Committee Report

Recommendations

The Ulster County Planning Board (UCPB) has previously provided staff comments (discussed with the Board) on the affordability levels proposed within the City’s update of its zoning to a form-based code. Staff’s preliminary review of the City’s updating form-based code from 9/30/22 recommended thresholds like those now being proposed as follows:

“Affordable Dwelling Unit – The affordable housing standards should include requirements for a mix of incomes below AMI. Research suggests that the largest lack of affordable housing is for households earning less than fifty percent of AMI. The Affordable Housing Standards should require that, of the required number of affordable units, thirty percent of affordable units are available at fifty percent of AMI and seventy percent of affordable units are available at eighty percent of AMI.”

And

“Workforce Housing Unit – As with affordable dwelling units, rentals and home ownership should be considered at different thresholds. While one hundred percent of AMI may be appropriate for home ownership in this instance, eighty percent of AMI for rentals is recommended.”

As part of that review, staff also proposed amendments to Table 405.19 (see below) similar to staff’s 9/30/22 review for the City Council’s consideration here.

2024-147 Amendment to Section 4015.19 of the City Code
 Zoning Statute Amendment

TABLE 405.19 - Comments Submitted 2022

TABLE 405.19: AFFORDABLE HOUSING	Project Size	Required Affordable / Workforce Housing Units	Maximum Rent
Rental Units or For-Sale Units	6 to 20 units	10% minimum affordable housing units	<p>For 30% of the required Affordable Housing Units for rent, the monthly rent including utilities shall not exceed 30% of the figure that represents 50% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for rent, the monthly rent including utilities or mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 80% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for sale, mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 100% of Ulster County's AMI.</p>
	21 to 49 units	15% minimum affordable housing units	<p>For 30% of the required Affordable Housing Units for rent, the monthly rent including utilities shall not exceed 30% of the figure that represents 50% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for rent, the monthly rent including utilities shall not exceed 30% of the figure that represents 80% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for sale, mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 100% of Ulster County's AMI.</p>
	50 or more units	15% minimum affordable housing units AND 10% minimum workforce housing units	<p>For 30% of the required Affordable Housing Units for rent, the monthly rent including utilities or mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 50% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for rent, the monthly rent including utilities shall not exceed 30% of the figure that represents 80% of Ulster County's AMI.</p> <p>For 70% of the required Affordable Housing Units for sale, mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 100% of Ulster County's AMI.</p> <p>The monthly rent including utilities shall not exceed 30% of the figure that represents 100% of Ulster County's AMI.</p>

2024-147 Amendment to Section 4015.19 of the City Code
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	<p>Bonus Height Incentive (any number of units) See Sec 405.20</p>	<p>At least 50% of the area of each bonus story, and 20% minimum of the total units shall be affordable housing units</p>	<p>The monthly rent including utilities or mortgage (plus insurance) payments shall not exceed 30% of the figure that represents 80% of Ulster County's AMI.</p>
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Recommendations

Table 405.19 Affordable Housing Standards

The proposed law did not include an updated version of table 405.19 in the draft and will require updates to reflect the proposed changes.

Required Modification.

The amendment needs to include a revision of Table 405.19. The new thresholds for affordable dwellings and workforce housing units will need to replace the existing thresholds.

Advisory Comment

As discussed above, the data on income and affordability provides clear indications that levels at 80% AMI for rentals will do little to improve affordability for a high percentage of Kingston residents. These rental rates are above the fair market rate for the county. In some sense, the city may be counting on the filtering up process whereby new units allow those to move up to better accommodations and improve vacancy rates and overall ability to find housing.

We would simply state that no amount of rationalization should be applied to labeling units as affordable when they are likely not.

The UCPB asks that the city engage in a comprehensive effort to lower the affordability thresholds below 80% AMI for affordable dwelling units and move similarly to a more reasonable AMI level for its definition of workforce housing units.

Many tools are available to ensure market-rate and affordable housing can be built, including the City's zoning statute, which grants significant clarity and leeway to development in a manner that increases the certainty of approvals, allows greater density, and removes costly improvements such as parking. Others include income averaging on affordability as provided for in Low Income Tax Credit Housing, waiver of fees for affordable units, taxing and pilot policies, and using available public lands to create housing.

Affordable Housing and Data

There is ample evidence of the UCPBs concern that the affordability component of the city's current zoning suffers from an inability to reach those needing assistance or that what was labeled as affordable may not be so. Recent changes in income levels have heightened these concerns. In the last four (4) years, county-wide area median income has risen by approximately forty (40) percent. In 2022, there was a marked difference in household income between the city and the county. According to the American Community Survey (ACS), in 2022, the median household income in Ulster County was \$77,197, contrasted against the City of Kingston's \$62,071. Additionally, the 2022 ACS data showed that owner-occupied households in the City of Kingston had a median income of \$90,500, while renter households had a median income of \$43,526. Notably, renters are the primary population the City's inclusionary zoning law serves.

Numerous other data sources argue that a different set of standards is needed to adequately meet the affordability requirements for would-be renters and homeowners than the standard 80% of AMI (see [Pattern Out of Reach](#) and Ulster County Housing Action Plan [Kingston](#)).

*2024-147 Amendment to Section 4015.19 of the City Code
Zoning Statute Amendment*

These facts cannot be dismissed as immaterial to the City's laudable goal of creating more housing units, a percentage of which would be affordable.

Advisory Comment

As mentioned in the discussion, the UCPB recommends that the city examine data local to the city rather than the region, as the average median income is lower at the city level than at the county level.

Reviewing Officer



Robert A. Leibowitz, AICP
Principal Planner

Cc: Steve Noble, Mayor
Lee Molyneaux, UCPB
Suzanne Cahill, Kingston Planning Director
Kyla DeDea, Kingston Assistant Planner

PORTION OF CITY OF KINGSTON SUMMARY MEETING MINUTES
NOVEMBER 18, 2024
City Hall, Conference Room 1

Board Members/Alternates Present: Wayne Platte, Chairman; Charles Polacco, Robert Jacobsen, Vincent Archer, Sage Newkirk, Andrew Harris, Kaira Grundig

Absent: Matt Gillis

CC REFERRAL:

Item #9: ZONING AMENDMENT: RECOMMENDATION to Common Council on Referral Amending Section 405.19 Affordable Housing Standard, by modifying definitions of both Affordable and Work Force Housing.

DISCUSSION: Council Members Michelle Hirsch and Michael Tierney were present at the meeting. Ald. Hirsch explained that they are proposing a change to the Zoning Code to adjust the income limits of affordable and workforce housing. The current language sets affordable to be 80% of the area median income (AMI) and workforce to be 120% of the area median income (AMI). The proposal before the Board includes adjusting the percentages to 50% AMI for affordable, and 80% AMI for workforce.

M. Hirsch and M. Tierney stated the change is being initiated because the current affordable housing rates are above the market rate rents for the area and that residents cannot afford the current rates. M. Hirsch presented a chart showing the AMI for the County and how Kingston's AMI relates to the County as a whole. She also presented a document obtained from the Department of Labor showing the income levels for Kingston residents.

The Board asked how the new numbers were chosen and if there were any considerations to how the revisions would affect new development projects. The Board reiterated numerous times that they did not want to create a situation where the limits are so restrictive that it hinders the creation of new units.

R. Jacobsen asked if there are other communities in the region that have similar requirements for new housing. Both Alderpersons noted that locally there are no other communities with Inclusionary Zoning such as Kingston has developed. Ald. Hirsch did note that the City of Albany has a requirement for 60% and she is waiting to hear back from a contact there to get more information. R. Jacobsen noted that the differences between Kingston and Albany, and they are not equitable as a comparison.

The Board reviewed a memo submitted by Bartek Starodaj, Director of Housing Initiatives dated November 12, 2024 and the Ulster County Planning Board Recommendation reviewed on November 4, 2024. It was recognized that the comments from the UCPB were only obtained late in the afternoon, so Board members present, as well as the Council representatives had not had not previewed them before the meeting. In his memo, B. Starodaj recommended that the Planning Board issue a negative report based on information that he did not feel was considered and too many outstanding questions. The Ulster County Planning Board recommended

amendments to the section of the code but included required modifications to the proposal including adjustments to the table. Much of their recommendation was reiterated from their 2022 comments during the review of the Form Based Code. The Board acknowledged that these recommendations were sent to the Common Council and were not implemented during the adoption of the Code. M. Hirsch stated that this was true but that at the time, she expressed concern with the numbers that were included in the final version and that there are new Common Council members not and that housing conditions have continued to change drastically.

Using the memo from B. Starodaj, the key questions identified:

- With these new requirements, will new housing projects still be financially feasible?
- How many affordable housing units do they believe will be generated by the change?
- Is there evidence from other jurisdictions or academic research that the new requirements will work?

Ald. Hirsch responded to each, but was uncertain of actual research or data available, and noted that it was not possible to predict numbers of units that might be generated. The issue of other communities was also previously addressed.

S. Cahill explained the calculations that are used when establishing affordable rates. The Board considered potential alternatives in using the City of Kingston AMI instead of the County. They also asked if 50% should be the number used or if there is another percentage that should be used. Board members noted the increased costs on landlords and developers including construction costs, homestead/non-homestead tax rates, renovations, vacancies, etc. They noted that since the new code was adopted there has been an influx of housing projects and renovations to increase the number of housing units. Ald. Tiernay stated that the increase in numbers does not always translate to available units as affordable in the true sense of the City's statistics and numbers.

A. Harris agreed, and he and other Board members noted that there have been developers that have come before the Board recently that indicated that they intend for the entire development to be under the affordable limits. Council members noted that the reason for this is because the affordable housing standards are currently higher than market rate. M. Hirsch noted that the County had to lower their affordable limits for their ADU program because residents could not fulfill the requirements. She stated that there is concern that units may sit vacant because limits are mandated by funding sources and residents still may not qualify.

Board members discussed issues with neighboring towns and municipalities throughout the County and State not actively working toward solutions to the housing issues. They noted that Kingston should not be the only municipality making changes and issuing incentives, there needs to be participation on a wider scale.

DECISION: The Board voted unanimously to issue a Negative Report opposing the proposed amendment to section 405.19 Affordable Housing as submitted based on the following: development considerations and additional constraints on future development potentially hindering the number of units being created, allowing additional time for the newly adopted

Form Based Code to work and time for the impacts to be studied and considered, the Form Based Code was crafted with a significant investment and considered and reviewed by the Common Council, the public, and numerous agencies and was agreed upon and adopted by the Council. The Board also noted and encouraged the Council to return with alternative proposals and more information to consider. They noted that the City of Kingston has and continues to invest in affordable housing and promote a number of affordable housing initiatives while surrounding towns do not offer any solutions to the problem. This is not only an issue in Kingston and it cannot be Kingston that solves the issues alone.

(WP – motion, RJ – 2nd, CP, VA, SN – yes)

CITY OF KINGSTON

Office of Housing Initiatives

Bartek Starodaj, Director



November 12, 2024

To: City of Kingston Planning Board

CC: Mayor Steve Noble, City of Kingston

From: Bartek Starodaj, Director of Housing Initiatives

Re: Proposed Changes to Section 405.19 Affordable Housing Requirements – Form-based Zoning Code

Local inclusionary zoning (IZ) laws are implemented to address the need for affordable housing by incentivizing or mandating developers to allocate a portion of housing units at prices below the market rate. The primary objective of these laws is to provide housing options to low-income individuals who would otherwise struggle to afford suitable accommodation. Crucially, IZ relies on the production of market-rate units to produce new affordable housing units.

The research on the impact of IZ laws on the private market is inconclusive, and no consensus has been reached regarding whether these policies hinder development or raise prices. This indicates that the effectiveness of IZ policies may heavily depend on policy design considerations and local market dynamics. **Before any changes are made to the City of Kingston's affordable housing requirements, we must be sure that, based on a synthesis of the existing evidence and a clear demonstration of the efficacy of the proposed changes, such changes will not have unintended consequences for the development of new housing.**

In the version of the form-based code adopted by the Common Council in August 2023, new development with seven or more units must now include 10% affordable housing at 80% of the Area Median Income. Any project over 20 units must include a certain percentage of workforce housing at 120% of the Area Median Income. I believe that these requirements are realistic and proven based on examples from other municipalities. Meaning, developers are generally able to provide the affordable and workforce units and still have a financially feasible project.

The proposed legislation would lower those Area Median Income levels to 50% of Area Median Income for affordable housing units and to 80% of Area Median Income for workforce housing units.

The sponsors of this legislation have failed to provide any evidence of how the new requirements would impact the construction of housing throughout Kingston. Key unanswered questions include:

- With these new requirements, will new housing projects still be financially feasible?
- How many affordable housing units do they believe will be generated by the change?
- Is there evidence from other jurisdictions or academic research that the new requirements will work?

CITY OF KINGSTON

Office of Housing Initiatives

Bartek Starodaj, Director



Poorly designed IZ requirements can reduce the overall housing supply and stifle development of all kinds, therefore contributing to the kind of housing shortages that we continue to face.

I cannot find any example of another New York jurisdiction that has mandated the level of affordability proposed by this legislation. In fact, it should be noted that comparable Hudson Valley cities such as Newburgh, Poughkeepsie, and Hudson, have no citywide affordability requirements whatsoever.

These municipalities don't have an IZ requirement not because they do not value affordable housing, but because of the recognition of the costs and uncertainty that market-rate projects already face. In Kingston, many of the market-rate projects we do have in the pipeline are struggling to pencil out given high construction costs. If the City mandates that developers include units at a higher affordability level, those developers will have to raise the price of the market-rate units or abandon the project entirely, leading to no market or below-market housing getting built in the first place.

To be clear, I believe that we should be trying to get as many affordable housing units as possible at levels under 80% of the Area Median Income through incentives and new PILOT agreements to achieve deeper affordability, by encouraging our non-profit partners to build new housing units in the city, and by working creatively with public and private stakeholders. This is the approach the City has already taken, producing hundreds of deeply affordable units in projects such as Energy Square, Landmark Place, and Golden Hill. But the current proposal would function as an unfunded mandate and would likely smother most market-rate projects, worsening housing availability and affordability for all Kingstonians. The developers that do choose to build in Kingston would likely be forced to rely on complex low-income tax credits or other public subsidies to make their projects financially feasible.

I do not believe the proposed changes are consistent with the intent of the form-based code to encourage a variety of housing types throughout the city.

I strongly recommend the Planning Board issue a negative report to the Common Council on the proposed affordable housing requirements.