

FAIRFAX COUNTY BOARD OF SUPERVISORS'
COUNTYWIDE AND TYSONS CORNER URBAN CENTER WORKFORCE DWELLING
UNIT ADMINISTRATIVE POLICY GUIDELINES

Adopted June 22, 2010 TBD

The ~~Planned Countywide and Tysons Corner District Urban Center~~ Workforce Dwelling Unit Administrative Policy Guidelines (“~~Tyson’s Policy~~ WDU Policies”) are established to assist in the provision of affordable housing for persons of with low- to moderate- incomes in the Tysons Corner Urban Center, as set forth in the adopted Comprehensive Plan. ~~The provision of workforce housing is~~ WDU Policies are designed to promote a fuller range of housing choices by encouraging the proffering of ~~workforce dwelling units consistent with the policies set forth in the Fairfax County Comprehensive Plan and to encourage~~ Workforce Dwelling Units (WDUs) and the construction and continued existence of dwelling units affordable to households ~~whose income is one hundred twenty (120) percent or less of the Area Median Income (AMI) in accordance with the Guidelines for Washington Standard Metropolitan Statistical Area as specified annually by the Department of Provision of Workforce Dwelling Units in the Housing and Urban Development (HUD), as adjusted for family size. Such income limit is divided into multiple tiers, as set forth in this Tysons Policy, to provide for a range of housing opportunities for various household income levels up to one hundred twenty percent (120) of AMI.~~ Element of the Comprehensive Plan’s Policy Plan.

The provisions of ~~this Tysons Policy~~ the WDU Policies are hereby adopted by the Board of Supervisors (Board) as the preferred administrative tool for the implementation and administration of ~~workforce dwelling units~~ WDUs that are proffered in conjunction with a rezoning application. As such, it is the intent of the Board that proffered ~~workforce dwelling units~~ WDUs accepted in conjunction with a rezoning for property located Countywide and within the Tysons ~~Corner~~ Urban Center include a proffer of compliance with these ~~Tyson’s Policy Guidelines~~ WDU Policies. In the event that a specific development warrants consideration of an alternative scheme for the administration and continued availability of ~~workforce dwelling units~~ WDUs, it is the intent of the Board to consider such variations when the applicant can clearly demonstrate that the alternate proposal furthers the ~~workforce dwelling unit~~ WDU policies set forth in the Comprehensive Plan and offers appropriate controls to properly regulate, monitor, administer, and manage such units. Such controls ~~shall~~ must be provided in sufficient detail to clearly demonstrate that the ~~workforce dwelling units~~ WDUs will function in the manner intended by the provisions of the preferred administrative tools set forth below.

~~Terms utilized herein that are not specifically defined shall have the meaning given to them in the Fairfax County Zoning Ordinance.~~ For any WDUs proffered prior to the adoption of this Policy, the owner may elect to voluntarily comply with the provisions of this Policy, to the extent that such election does not conflict with any proffered conditions. To facilitate such voluntary compliance, the owner must submit a request to the Director of the Zoning Evaluation Division (ZED) of the Department of Planning and Development (DPD), who will determine whether such request conforms to the proffered conditions applicable to the property. However, if an applicant does not elect to comply with the provisions of this Policy, the WDUs must be provided in accordance with the applicable proffers or development conditions and will be administered in accordance with the Workforce Dwelling Unit Administrative Policy Guidelines dated October 15, 2007, or the Tysons Urban Center Workforce Dwelling Unit Administrative Policy Guidelines dated June 22, 2010, as applicable.

The following specific administrative policy guidelines are hereby set forth for the uniform administration and assurance of to ensure the continued availability of ~~workforce dwelling units in the Tysons Corner Urban Center~~ WDUs:

1. Location of Integration and Dispersion

WDUs should be integrated into and dispersed throughout the development to the extent feasible, and should be located in comparably desirable locations as market rate units. WDUs are generated by the entire number of for sale and/or rental units within a development. Each unit type of building is not required to provide the WDU expectation on its own. Subject to adequate integration and disbursement within the development, WDUs may be distributed in a manner that permits smaller or larger percentage within a building, phase or unit type. WDUs generated by for sale units may be provided in rental units provided that the WDUs are at the percentage as the for-sale policy but offer them for rent at the income tiers of the rental policy.

~~The location, integration and dispersion of the workforce dwelling units shall be as identified in the approved proffered conditions and/or development plans associated with the rezoning application for which the workforce dwelling units were generated.~~

2. Workforce Dwelling Unit Floor Area

~~The minimum gross floor area for any workforce dwelling unit should be as follows:~~

The minimum gross floor area for any WDU should be in accordance with the minimum size stated in the Guidelines for Provision of Workforce Dwelling Units in the Policy Plan and below. In accordance with the Policy Plan, for WDUs in Tysons, the bedroom mix of WDUs should be proportional to the market rate unit bedroom mix. For all WDUs, the average size (in square feet) of the WDUs should be within 10 percent of the square footage of the average market rate unit with the same number of bedrooms. Additionally, the bedroom count mix of the market rate units within the project as a whole must be noted on all such approved plats and/or plans. WDUs should meet the following minimum unit sizes:

Efficiency Unit:	450 square feet
1-Bedroom Unit:	600 square feet
2-Bedroom Unit:	750 square feet
3-Bedroom Unit	900 square feet
4-Bedroom Unit	1,050 square feet

The floor area for dwellings ~~shall~~ must be determined in accordance with the gross floor area definition of the Zoning Ordinance, as modified for cellar space in ~~the PTC Planned Tysons Tysons Corner Urban District Districts~~, except the following features will not be deemed gross floor area: balconies, porches, decks, breezeways, stoops and stairs which may be roofed but which have at least one open side; or breezeways which may be roofed but which have two ~~(2)~~ open ends. An open side or open end ~~shall~~ must have no more than ~~fifty (50)~~ 50 percent of the total area between the side(s), roof and floor enclosed with railings, walls, or architectural features.

Nothing included herein precludes the developer from providing ~~workforce dwelling units~~ WDUs that larger sized units, in terms of the square footage and/or the number of bedrooms.

3. Designation of Workforce Dwelling Units on Approved Plans

Except for multiple family rental developments under single ownership, each approved site plan, record subdivision plat, condominium plat/plan, and/or building plan ~~shall~~ must designate the specific lots or units that are the ~~workforce dwelling units~~ WDUs and any bonus market rate dwelling units. Such plans and/or plats ~~shall~~ must also provide a tabulation of any bonus units and/or bonus floor area achieved on the site as a result of the provision of ~~workforce dwelling units~~ WDUs. If there is to be any change in the location of a ~~workforce dwelling unit~~ WDUs after the original approval of a site plan or subdivision, the owner ~~shall be responsible for amending~~ is required to amend the approved plats and/or plans to reflect the designation of the alternate ~~workforce dwelling unit~~ WDU prior to the issuance of a Residential Use Permit for the new ~~workforce dwelling unit~~ WDU.

In the case of a multiple family rental development that is under single ownership, the site plan and/or record subdivision plats ~~shall~~ must identify the development as a rental project and ~~shall~~ must note the total number of ~~workforce dwelling units~~ WDUs and the number of bonus market rate units and/or bonus floor area provided.

For all for-sale developments, the floor area and bedroom count of each ~~workforce dwelling unit~~ WDU ~~shall~~ must be noted on each approved site plan, subdivision plat, condominium plats/plans and/or building plan. Additionally, the bedroom count mix of the market rate units within the project as a whole ~~shall~~ must be noted on all such approved plats and/or plans to demonstrate that the ~~workforce dwelling units~~ WDUs are of the same mix as the market rate dwelling units in terms of bedroom count unless the development is providing units with more bedrooms.

For multiple ~~section~~ phased developments where all ~~workforce dwelling units~~ WDUs are not to be provided in the first section of the development, the site plan and/or record subdivision plat for the first section and all subsequent sections ~~shall~~ must contain a notation identifying in which section(s) the ~~workforce dwelling units~~ WDUs will be or have been provided and a total of all ~~workforce dwelling units~~ WDUs for which such site plan(s) and/or record subdivision plat(s) have been approved. In the event that ~~workforce dwelling units~~ WDUs are approved to be provided at a location that is not on the same lot as the market rate dwelling units with which the ~~workforce dwelling units~~ WDUs are associated, all site plans, subdivision plats and/or building plans for all associated properties ~~shall~~ must include a notation identifying the site plan(s) and/or subdivisions(s) that include the ~~workforce dwelling units~~ WDUs.

~~Workforce dwelling units~~ WDUs that are accepted as part of proffered conditions associated with a rezoning application and are included on approved site plans and recorded subdivision plats ~~shall~~ must be deemed features shown for purposes of Va. Code Ann. §15.2-2232 and, as such, ~~shall~~ must not require further approvals pursuant thereto in the event the Board ~~shall~~ or its designee must acquire or lease such units.

4. Condominium Developments

- A. If a building is initially built as a condominium, then the ~~workforce dwelling units~~ WDUs within that building ~~shall~~ should also be for-sale units and ~~shall~~ should be specifically identified on the approved site plan and building plans and ~~shall~~ should be designated as such as part of the recorded condominium declaration and disclosed in the required public offering statement.

- B. If a building is initially built as a rental project and such building should subsequently convert to a condominium, then:
- (1.) The development ~~shall offer the same number of~~ must provide for-sale ~~workforce dwelling~~ WUDs in accordance with the for-sale guidelines in terms of percentage of units as there were rental workforce dwelling units and income tiers.
 - (2.) The ~~workforce dwelling units shall~~ WUDs must be specifically identified by unit number as part of the recorded condominium declaration.
 - (3.) The sales price for such ~~workforce dwelling units~~ WUDs being converted ~~shall~~ must be established by the County Executive pursuant to this ~~Tyson's~~ Policy. If the owner of such condominium conversion elects to renovate the ~~workforce dwelling units~~ WUDs, the County Executive ~~shall~~ will consider the reasonable cost of labor and materials associated with such renovation.
 - (4.) The rental tenant occupants of the ~~workforce dwelling units~~ WUDs subject to the condominium conversion ~~shall~~ must have the right to purchase the dwelling unit they occupy at the sales price established by the County Executive pursuant to this ~~Tyson's~~ Policy. Subsequently, the Board ~~shall~~ or its designee must have the right to purchase some or all of the ~~workforce dwelling units~~ WUDs that are not purchased by such rental tenants at the sales price established for such units by the County Executive pursuant to this ~~Tyson's~~ Policy. Such units ~~shall~~ must be offered to the Board or its designee and purchased by it in accordance with the provisions set forth below for for-sale ~~workforce dwelling units~~ WUDs.

5. Limitations on Building Permits and Residential Use Permits

Building Permits may be issued for all of the dwelling units in a development, provided, however, that for ~~for-sale developments any development, other than one comprised solely of rental multiple family dwelling units,~~ Residential Use Permits (RUPs) ~~shall~~ must not be issued for more than ~~seventy-five (75)~~ 75 percent of the total number of units in the development until such time as RUPs have been issued for at least ~~seventy-five (75)~~ 75 percent of the ~~workforce dwelling units~~ WUDs in the applicable phase of the development. Additionally, the required Notice of Availability and Sales Offering Agreement ~~shall~~ must be submitted prior to the issuance of the first RUP for any ~~workforce dwelling unit~~ WUD in the development.

A development comprised solely of rental multiple family dwelling units ~~development~~ shall must not be subject to the limitation on the issuance of RUPs; however, the required Notice of Availability and Sales Offering Agreement ~~shall~~ must be submitted prior to the issuance of the first RUP for any dwelling unit in the development.

6. Workforce Dwelling Unit Specifications

- A. The Director of the Department of Housing and Community Development (DHCD) ~~shall~~ may develop specifications for the prototype ~~workforce dwelling unit~~ WUD products both for-sale and rental. All building plans for ~~workforce dwelling units~~ WUDs are to comply with such prototype standards for design and construction specifications. Any applicant or owner may voluntarily construct ~~workforce dwelling units~~ WUDs to a standard in excess of such

specifications. In the event that ~~workforce dwelling units~~ WDUs are constructed in unit types other than multiple family dwelling units that exceeds the minimum specifications, only ~~fifty (50)~~ 50 percent of any added cost for exterior architectural compatibility upgrades (such as brick ~~façade~~ façade, shutters, bay windows, etc.) and additional landscaping on the ~~workforce dwelling unit~~ WDU lot may be included within recoverable costs, up to a maximum of two ~~(2)~~ percent of the sales price of the ~~workforce dwelling unit~~ WDU. The allowance for additional landscaping may not exceed one-half ~~(1/2)~~ of the above-noted two ~~(2)~~ percent maximum.

- B. In the administration of ~~workforce dwelling units~~ WDUs, the design and construction specifications established in both rental and sales prices will be structured to make the units affordable to households whose incomes ~~do not exceed one hundred twenty (120) percent of the area median income (AMI) of the Washington Standard Metropolitan Statistical Area as specified annually by the Department of Housing and Urban Development (HUD)~~, are subject to the income tiers specified in this Policy.

7. Administration of For-Sale Workforce Dwelling Units

- A. ~~The sale of workforce dwelling units shall be regulated by the Director of DHCD on behalf of the Board. On October 30, 2018, the Board delegated its authority to administer and regulate the sale of Workforce Dwelling Units to the Fairfax County Redevelopment and Housing Authority (FCRHA). The delegation of authority to the FCRHA includes the Board's right to acquire certain Workforce Dwelling Units pursuant to the Workforce Dwelling Unit Policies. The FCRHA may adopt reasonable rules and regulations to assist in the regulation and monitoring of the sale and resale of workforce dwelling units~~ WDUs, which may include giving a priority to persons who live or work in Fairfax County.
- B. The ~~Board~~ FCRHA has an exclusive right to purchase up to one-third ~~(1/3)~~ of the for-sale ~~workforce dwelling units~~ WDUs within a development for a ~~ninety (90)~~ 90 day period beginning on the date that a complete Notice of Availability and Sales Offering Agreement, submitted by the owner, is executed by the DHCD. The notice ~~shall~~ must advise the ~~Board~~ FCRHA that a particular ~~workforce dwelling unit~~ WDU or units are or will be completed and ready for purchase. The notice ~~shall~~ must be in the form prescribed by the DHCD and identify the unit or units being offered; the number of bedrooms, the floor area and amenities for each unit; the approved sales price for each unit and the evidence of issuance of a building permit for the units. Such written notice may be sent by the owner at any time after the issuance of a building permit for the ~~workforce dwelling unit~~ WDU and approval of the sales price for the unit by the County Executive, but ~~shall~~ must occur prior to the issuance of the first ~~Residential Use Permit (RUP)~~ RUP for any ~~workforce dwelling unit~~ WDU in the development. If the ~~Board~~ FCRHA elects to purchase a particular ~~workforce dwelling unit~~ WDU, the DHCD ~~shall~~ must so notify the owner in writing and an all cash closing ~~shall~~ must occur within ~~thirty (30)~~ 30 days from the end of the respective ninety day period, provided a RUP has been issued for the unit prior to closing.
- C. The remaining two-thirds ~~(2/3)~~ of the for-sale ~~workforce dwelling units~~ WDUs within a development and any units that the ~~Board~~ FCRHA does not elect to purchase are to be offered for sale exclusively for a ~~ninety (90)~~ 90 day period to persons who meet the income criteria established by the DHCD, and who have been issued a Certificate of Qualification by the DHCD. This ~~ninety (90)~~ 90 day period begins on the date that a complete Notice of Availability and Sales Offering Agreement, submitted by the owner, is executed by the DHCD. The notice

~~shall~~ must advise the DHCD that a particular ~~workforce dwelling unit~~ WDU or units are or will be completed and ready for purchase. The notice ~~shall~~ must be in the form prescribed by the DHCD and include the information described in Paragraph B above. In addition, the owner ~~shall~~ must provide marketing materials concerning the units and the development to be used in the sale of the units. Such written notice may be sent by the owner at any time after the issuance of a building permit for the ~~workforce dwelling unit~~ WDU and approval of the sales price for the unit by the County Executive. Notwithstanding the foregoing, after the first ~~thirty (30)~~ 30 days of the ~~ninety (90)~~ 90 day period referenced in this paragraph, the ~~Board~~ FCRHA may elect to purchase up to one-half ($1/2$) of the ~~workforce dwelling units~~ WDUs offered pursuant to this paragraph by giving written notice of its election to do so for those units then available within the ~~ninety (90)~~ 90 day period, which notice ~~shall~~ must provide for an all cash closing within ~~thirty (30)~~ 30 days from the end of the ~~ninety (90)~~ 90 day period, provided a RUP has been issued prior to closing.

- D. After the expiration of the ~~sixty (60)~~ 60 days of the ~~ninety (90)~~ 90 day period(s) referenced in Paragraphs B and C above, the ~~workforce dwelling units~~ WDUs not sold are to be offered for sale to nonprofit housing groups, as designated by the County Executive, subject to the established ~~workforce dwelling unit~~ WDU prices and the requirements of the applicable proffered conditions. The nonprofit housing groups ~~shall~~ must have a ~~thirty (30)~~ 30 day period within which to commit to purchase the units. This ~~thirty (30)~~ 30 day period begins on the date of receipt of written notification from the owner, sent by registered or certified mail, advising them that a particular ~~workforce dwelling units~~ Workforce Dwelling Units is or will be ready for purchase. The notice ~~shall~~ must state the number of bedrooms, floor area and amenities for each unit offered for sale. Such written notice may be sent by the owner any time after the commencement of the ~~ninety (90)~~ 90 day period referenced in Paragraphs B and C above. If a nonprofit housing group elects to purchase a particular ~~workforce dwelling unit~~ WDUs, they ~~shall~~ must so notify the owner in writing and an all cash closing ~~shall~~ must occur within ~~thirty (30)~~ 30 days from the end of the ~~thirty (30)~~ 30 day period, provided a RUP has been issued for the unit prior to closing.
- E. After the expiration of the time period(s) referenced in Paragraphs B, C, and D above, the ~~workforce dwelling unit~~ WDU not sold may be offered to the general public as for-sale units subject to established ~~workforce dwelling unit~~ WDU prices and the requirements of the proffered conditions.
- F. A schedule of County-wide cost factors and the cost calculation formula used to determine sales prices will be established and may be amended periodically by the County Executive, based upon a determination of all ordinary, necessary, and reasonable costs required to construct the various ~~workforce dwelling unit~~ WDU prototype dwellings by private industry in Fairfax County, after consideration by the County Executive of written comment from the public, the DHCD, and other information that may be available, such as the area's current real estate market and economic conditions.
- G. Sales prices will include, among other costs, a marketing and commission allowance of one and one-half ($1\frac{1}{2}$) percent of the sales price for the ~~workforce dwelling unit~~ WDU, provisions for builder-paid permanent mortgage placement costs and buy-down fees, and closing costs, except pre-paid expenses required at settlement, but will not include the cost of land associated with the ~~workforce dwelling unit~~. ~~Workforce dwelling units shall be distributed among each of five (5) income range tiers, as follows: 2% of the total number of dwelling units as~~ WDUs

~~servicing up to 60% of Area Median Income (AMI) for the Washington D.C. Metropolitan Area as specified annually by the Department of Housing and Urban Development (HUD); 3% serving up to 70% AMI; 5% serving up to 80% AMI, 5% serving up to 100% AMI and 5% serving up to 120% AMI. Nothing provided herein will preclude an owner/developer from providing a higher percentage of workforce dwelling units for households in the lower income tiers. WDU. The percentage of and income affordability tiers with for-sale WDU must be in accordance Guidelines for Provisions of WDUs in the Policy Plan.~~

- H. There will be a semiannual review and possible adjustment in ~~workforce dwelling unit~~ WDU sales prices that will be applied to the ~~workforce dwelling unit~~ WDU sales prices initially established by the County Executive adjusted according to the percentage change in the various cost elements as indicated by the U.S. Department of Commerce's Composite Construction Cost Index and/or such other comparable index or indices selected by the County Executive.

8. Administration of Rental Workforce Dwelling Units

- A. ~~The Board~~ On October 30, 2018, the Board delegated its authority to administer and regulate rental WDUs to the FCRHA. The FCRHA may adopt reasonable rules and regulations to assist in the regulation and monitoring of the rental of ~~workforce dwelling units~~ WDUs, which may include giving a priority to persons who live or work in Fairfax County. The regulation and monitoring of rental ~~workforce dwelling units~~ WDUs be by the ~~DHCD~~ FCRHA on behalf of the Board.

For the initial rentals of units, the owner ~~shall~~ must send the ~~Board~~ FCRHA a Notice of Availability and Rental Offering Agreement in a form prescribed by the DHCD, to advise that a particular ~~workforce dwelling unit~~ WDU or units are or will be completed and ready for rental. The ~~Board or its designee~~ FCRHA has an exclusive right to lease up to one-third (1/3) of the rental ~~workforce dwelling units~~ WDUs. Such Notice of Availability and Rental Offering Agreement ~~shall~~ must be submitted to and executed by the DHCD prior to the issuance of the first RUP for any dwelling within the development. The notice ~~shall~~ must state the number of bedrooms, floor area, amenities, and rent for each unit offered for rental. Such written notice may be sent by the owner at any time after the issuance of a building permit for the ~~workforce dwelling units~~ WDUs that are being offered for rental. If the ~~Board~~ FCRHA elects to assume control for a particular ~~workforce dwelling units~~ WDUs, the ~~Board~~ shall FCRHA must so notify the owner in writing within ~~thirty (30)~~ 30 days from the execution of the notice by the ~~Board~~ FCRHA. At the owner's option, the ~~Board~~ FCRHA may lease additional rental units at the ~~workforce dwelling unit~~ WDU rent or market rent as appropriate.

The remaining two-thirds (2/3) of the rental ~~workforce dwelling units~~ WDUs within a development are to be offered to persons who meet the established income criteria.

- B. Any ~~workforce dwelling units~~ WDUs required pursuant to the proffered conditions that are not leased by the ~~Board~~ FCRHA are to be leased for a minimum ~~six (6)~~ 6 month period with a maximum renewable term of lease for ~~one (1)~~ 1 year to tenants who meet the eligibility criteria established by the DHCD. The lease agreements for such units ~~shall~~ must include conditions that require the tenant to occupy the unit as his or her domicile, that prohibit the subleasing of the unit, that require continued compliance with the applicable eligibility criteria, and that require the tenant to annually verify under oath, on a form approved by the DHCD, his or her

annual income and such other facts that the landlord may require in order to ensure that the tenant continues to meet the applicable eligibility criteria. Workforce Dwelling Units not leased by the FCRHA may not be subleased.

- C. Eligible tenants must continue to meet the income criteria established by the DHCD in order to continue occupancy of the ~~workforce dwelling unit~~ WDU. However, a tenant who no longer meets such criteria may continue to occupy a ~~workforce dwelling units~~ WDUs until the end of the lease term. ~~Workforce dwelling units not leased by the Board may not be subleased.~~
- D. By the end of each month, the owner of a development containing rental ~~workforce dwelling units~~ WDUs leased to individuals other than the ~~Board~~ FCRHA must provide the DHCD with a statement verified under oath that certifies the following as of the first of such month:
- (1.) The address and name of the development and the name of the owner.
 - (2.) The number of ~~workforce dwelling units~~ WDUs by bedroom count and floor area, other than those leased to the ~~Board~~ FCRHA, which are vacant.
 - (3.) The number of ~~workforce dwelling units~~ WDUs by bedroom count and floor area that are leased to individuals other than the ~~Board~~ FCRHA. For each such unit, the statement ~~shall~~ must contain the following information:
 - (i) The unit address, bedroom count and floor area.
 - (ii) The tenant's name and household size.
 - (iii) The effective date of the lease.
 - (iv) The tenant's (household) income as of the date of the lease.
 - (v) The current monthly rent.
 - (4.) That to the best of the owner's information and belief, the tenants who lease ~~workforce dwelling units~~ WDUs meet the eligibility criteria established by the DHCD.
 - (5.) The owner will provide the DHCD with a copy of each new or revised annual tenant verification obtained from the renters of ~~workforce dwelling units~~ WDUs pursuant to Paragraph B above.
- E. Countywide and Tysons rental prices will be established by the County Executive such that rental ~~workforce housing~~ WDU is affordable to households, as set forth in this policy. The percentage and affordability tiers must be in accordance with the following income tiers: 2% of the total number of dwelling units as WDUs serving up to 60% of Area Median Income (AMI) Guidelines for the Washington D.C. Metropolitan Area as specified annually by the Department of Housing and Urban Development (HUD); 3% serving up to 70% AMI; 5% serving up to 80% AMI, 5% serving up to 100% AMI and 5% serving up to 120% AMI. Provisions of Workforce Dwelling Units in the Policy Plan.

Nothing provided herein ~~shall~~ may preclude an owner/developer from providing a higher percentage of ~~workforce dwelling units~~ Workforce Dwelling Units or from providing required units to serve households in the lower income tiers than those required. The base figures ~~shall~~ must be adjusted by the following factors for different ~~workforce dwelling unit~~ Workforce Dwelling Unit sizes based on the number of bedrooms in the dwelling unit:

Number of Bedrooms Adjustment Factor	
Efficiency (0 bedroom)	70%
1 Bedroom	85%
2+ Bedrooms	100%

The WDU maximum rents are calculated based on the AMI, adjusted for unit size, and household size. The 2020 AMI for a household of four is \$126,000 as set by the US Department of Housing and Urban Development.

The maximum rents are calculated by multiplying the AMI by the income tier served by the household size adjustment factor and dividing the product by 12, then multiplying the result by 25 percent and rounding up to the nearest dollar.

The example below shows the maximum rent for an efficiency at 60 percent of the AMI.

1. $\$126,000 \times 60\% \times 70\% = \$52,920$
2. $\$52,920/12 = \$4,410$
3. $\$4,410 \times 25\% = \$1,103$

Monthly Rent (Excluding Utilities)

<u>Unit Size (Number of Bedrooms)</u>	<u>Household Size Adjustment Factor</u>	<u>60% AMI</u>	<u>70% AMI</u>	<u>80% AMI</u>
<u>Efficiency</u>	<u>70%</u>	<u>\$1,103</u>	<u>\$1,286</u>	<u>\$1,470</u>
<u>1 Bedroom</u>	<u>85%</u>	<u>\$1,339</u>	<u>\$1,562</u>	<u>\$1,785</u>
<u>2 Bedroom</u>	<u>100%</u>	<u>\$1,575</u>	<u>\$1,838</u>	<u>\$2,100</u>
<u>3 Bedroom</u>	<u>115%</u>	<u>\$1,811</u>	<u>\$2,113</u>	<u>\$2,415</u>
<u>4 Bedroom</u>	<u>130%</u>	<u>\$2,048</u>	<u>\$2,389</u>	<u>\$2,730</u>

Nothing provided herein shall ~~may~~ preclude an owner/developer from providing a higher percentage of ~~workforce dwelling units~~ WDU's or from providing required units to serve households in the lower income tiers than those required. ~~The base figures shall be adjusted by the following factors for different workforce dwelling unit sizes based on the number of bedrooms in the dwelling unit:~~

- F. There will be a semiannual review and possible adjustment in ~~workforce dwelling unit~~ WDU rental prices that will be applied to the ~~workforce dwelling unit~~ WDU rental prices established by the County Executive, adjusted according to the percentage change in the various cost elements as indicated by the U. S. Department of Commerce's Composite Construction Cost Index and/or such other comparable index or indices that are selected by the County Executive. In setting adjusted rental prices, the County Executive may establish different rental classifications and prices that reflect the age and condition of the various rental developments within Fairfax County.

9. Term of Price Control of Workforce Dwelling Units

- A. For for-sale ~~workforce dwelling units~~ WDU's, the price for subsequent resale shall ~~must~~ be controlled for a period of ~~thirty (30)~~ 30-years after the initial sale. However, upon any resale, conveyance, and/or transfer to a new owner of such ~~workforce dwelling unit~~ Workforce Dwelling Unit within the initial ~~thirty (30)~~ 30-year period of control, the prices for each subsequent resale and/or transfer to a new owner shall ~~must~~ be controlled for a new ~~thirty (30)~~ 30-year period commencing on the date of such resale, conveyance, and/or transfer of the ~~workforce dwelling units~~ Workforce Dwelling Units. Each initial ~~thirty (30)~~ 30-year control period and each renewable subsequent ~~thirty (30)~~ 30-year control period may be referred to as a sales price control period. For any ~~workforce dwelling unit~~ Workforce Dwelling Unit that is owned for an entire ~~thirty (30)~~ 30-year control period by the same individual(s), the price control term shall ~~must~~ expire and the first sale of the unit after such expiration shall ~~must~~ be in accordance with the provisions of this Tysons Policy.
- B. For rental ~~workforce dwelling units~~ WDU's, the rents ~~must~~ be controlled for a period of ~~fifty (50)~~ 50 years from the date of issuance of the RUP for each ~~workforce dwelling unit~~ WDU in the development.
- C. For condominium conversion ~~workforce dwelling units~~ WDU's, regardless of the length of time the unit was offered as a workforce rental unit, the initial term of price control for the first sale of the unit after the conversion from a rental unit shall ~~must~~ be for a period of thirty (30) years

from the date of the initial sale. Subsequent resale of such units ~~shall~~ must be administered under the provisions of Paragraph A above.

10. Initial Sale and Re-Sale of Workforce Dwelling Units

- A. The initial sale of a ~~workforce dwelling unit~~ WDU, including the initial sale of a condominium conversion unit, ~~shall~~ must be for a sales price that is approved by the County Executive and ~~shall~~ must be made only to a person or household that meets the applicable income qualifications for the occupancy of a ~~workforce dwelling unit~~ WDU and have been issued a Certificate of Qualification by the Director of the DHCD. It is a violation of the proffered conditions associated with a ~~workforce dwelling unit~~ WDU to purchase a unit or to sell it or otherwise transfer or pledge it as security for an amount higher than the approved sales price during any period of price control.
- B. The owner of each unit to be resold, conveyed, or otherwise transferred to another owner and for the conversion of rental ~~workforce dwelling units~~ WDUs to condominium ~~workforce dwelling units~~ WDUs must provide the DHCD with written notification sent by certified mail that ~~workforce dwelling unit~~ WDU is being offered. The ~~Board~~ FCRHA has the exclusive right to purchase such unit at a purchase price that does not exceed the control price of the unit at that time. The DHCD ~~shall~~ must notify the owner in writing within ~~thirty (30)~~ 30 days after receipt of the written notification from the owner advising whether or not the ~~Board~~ FCRHA will enter into a contract to purchase the unit on the form approved by the DHCD and subject to certain conditions, such as acceptable condition of title and acceptable physical and environmental conditions. An all cash closing ~~shall~~ must occur within ~~ninety (90)~~ 90 days after receipt by the DHCD of the written notification of the owner offering the unit for sale, in the event that all such conditions of the contract are satisfied.

If the ~~Board~~ FCRHA does not elect to purchase an available for-sale ~~workforce dwelling unit~~ WDU, for the first ~~sixty (60)~~ 60 days thereafter that each such individual ~~workforce dwelling unit~~ WDU is offered, the for-sale unit is to be first be offered exclusively through the DHCD to persons who meet the DHCD's criteria, and who have been issued a Certificate of Qualification by the DHCD. Upon the expiration of the ~~sixty (60)~~ 60 day period, the unit may be offered for sale to the general public to persons who meet income requirements hereunder and at the current controlled price.

- C. Units offered for sale ~~shall~~ must not be offered for a price greater than the original selling price plus a percentage of the unit's original selling price equal to the increase in the U. S. Department of Labor's Consumer Price-Urban Area Index or such other index selected by the County Executive, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the DHCD in accordance with applicable regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing costs on behalf of the subsequent purchaser that are paid by the seller. Those features deemed to be substantial and appropriate replacements or improvements of housing components and structural improvements are as set forth by the DHCD. No increase in sales price is allowed for the payment of brokerage fees associated with the sale of the unit, except that with respect to units purchased and resold by the ~~Board~~ FCRHA, an increase of one and one half ($1\frac{1}{2}$) percent of the resale price is allowed for marketing and transaction costs, and with respect to resale by other owners, an increase of one

and one-half (~~1-1/2~~) percent of the sales price is allowed as a fee to be paid to a real estate broker or agent licensed to conduct residential real estate transactions in the Commonwealth of Virginia who meets the qualifications determined by the DHCD and who serves as a dual agent for both the qualified buyer and the seller in the resale of the ~~workforce dwelling unit~~ WDU in accordance with sales procedures approved by the DHCD. The one and one-half (~~1-1/2~~) percent fee ~~shall~~ must be paid to such real estate broker or agent by the seller at the time of settlement of the resale of the ~~workforce dwelling unit~~ Workforce Dwelling Unit as part of the disbursement of settlement proceeds.

- D. For the initial sale of a ~~workforce dwelling unit~~ WDU after the expiration of the term of price control established for the unit, the ~~Board~~ FCRHA has the exclusive right to purchase the unit. The owner of each such unit ~~shall~~ must provide the DHCD with written notification sent by registered or certified mail that the unit is for sale. If the ~~Board~~ FCRHA elects to purchase such unit, the DHCD ~~shall~~ must so notify the owner in writing within ~~thirty (30)~~ 30 days of receipt of the written notification from the owner and the all cash closing ~~shall~~ must occur within ~~sixty (60)~~ 60 days thereafter.

In all instances, whether or not the ~~Board~~ FCRHA elects to purchase such unit, one-half (~~1/2~~) of the amount of the difference between the net sales price paid by the purchaser at such sale and the owner's purchase price plus a percentage of the unit's selling price equal to the increase in the U.S. Department of Labor's Consumer Price-Urban Area Index, plus the lesser of the current fair market value or the actual original cost of certain improvements as determined by the DHCD in accordance with applicable regulations to be (a) substantial and appropriate replacements or improvements of existing housing components and/or (b) structural improvements made to the unit between the date of the owner's purchase and the date of resale is to be contributed to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlements proceeds. Notice of such equity interest of the Fairfax County Housing Trust Fund may be evidenced by a document recorded among the land records of Fairfax County, Virginia, encumbering any ~~workforce dwelling unit~~ WDU. Net sales price ~~shall~~ must exclude closing costs such as title charges, transfer charges, recording charges, commission fees, points, and similar charges related to the closing of the sale of the property paid by the seller. All amounts necessary to pay and satisfy any and all liens, judgments, deeds of trust, or other encumbrances on the unit, other than the equity interest of the Fairfax County Housing Trust Fund, ~~shall~~ must be paid by the seller out of proceeds of the seller from such sale, as determined in accordance with this paragraph, or ~~shall~~ must be paid otherwise by the seller. In no event ~~shall~~ must any such amounts required to be paid by the seller reduce the amount, as determined in accordance with this paragraph, which is to be contributed to the Fairfax County Housing Trust Fund pursuant to this paragraph.

11. Financing Control and Foreclosure of Workforce Dwelling Units

- A. The total aggregate amount of principal and accrued interest for all financing secured by an individual for-sale ~~workforce dwelling unit~~ WDU must not exceed the owner's purchase price (as adjusted in accordance with this ~~Tyson's~~ Policy). Any financing in excess of the owner's purchase price, as adjusted, ~~shall~~ must not be secured by any interest in the applicable individual for-sale ~~workforce dwelling unit~~ WDU.
- B. In developments containing WDUs, WDU covenants are required to be recorded in the Fairfax

County land records pursuant to the covenant provisions in section 12. The WDU covenants required pursuant to the ~~Tysons~~ Policy shall must be senior to all instruments securing financing, and the covenants ~~shall must~~ be binding upon all assignees, mortgagees, purchasers, and other successors in interest, except that the covenants may be released for an individual for-sale ~~workforce dwelling unit~~ WDU in the event of foreclosure by an Eligible Lender, as such term is defined in Paragraph C below, as and only to the extent provided for in this Policy. In the event of foreclosure of a development comprised solely of rental multiple family dwelling units, where such development contains ~~workforce dwelling unit~~ WDU, the covenants ~~shall~~ must not be released.

- C. An Eligible Lender is defined as an institutional lender holding a first priority purchase money deed of trust on an individual for-sale ~~workforce dwelling unit~~ WDU or a refinancing of such institutionally financed purchase money deed of trust by an institutional lender, provided that such refinancing does not exceed the outstanding principal balance of the existing purchase money first trust indebtedness on the unit at the time of refinancing. An Eligible Lender ~~shall~~ must have the right to foreclose on a rental project or a ~~workforce dwelling unit~~ WDU, and the covenants on an individual ~~workforce dwelling unit~~ WDU may terminate upon such foreclosure by the Eligible Lender or upon the sale of the ~~workforce dwelling unit~~ WDU by a trustee on behalf of the Eligible Lender to a bona fide purchaser for value at a foreclosure sale if all the requirements set forth in this Tysons Policy, the applicable proffers or development conditions, the covenants, and/or all other applicable regulations with respect to such foreclosure sale are satisfied. Such requirements include, but are not limited to, providing the County Executive and the ~~Board~~ FCRHA written notice of the foreclosure sale proposed and the Right to Acquire, as such term is defined in this ~~Tysons~~ Policy.
- D. No sale, pledge of a security interest in, or other transfer or foreclosure of a ~~workforce dwelling unit~~ WDU will affect the validity of the covenants, except as set forth in this ~~Tysons~~ Policy.
- E. Each Eligible Lender and any other lender secured by an interest in the ~~workforce dwelling unit~~ WDU is required to provide written notice of a foreclosure to the County Executive and the DHCD at least ~~ninety (90)~~ 90 days prior. At any time during such ~~ninety (90)~~ 90 day period, the ~~Board~~ FCRHA or a nonprofit agency designated by the County Executive ~~shall~~ must have the Right to Acquire any individual for-sale ~~workforce dwelling unit~~ WDU. The Right to Acquire entitles the ~~Board~~ FCRHA or a nonprofit agency designated by the County Executive to acquire the ~~workforce dwelling unit~~ WDU (s) at or before any foreclosure sale for which such notice has been given upon payment in full of the outstanding indebtedness on the ~~workforce dwelling unit~~ WDU owed to the lender, including principal, interest, and fees that together in the aggregate do not exceed the amount of the owner's purchase price, as adjusted in accordance with this Policy, and other reasonable and customary costs and expenses (the Outstanding First Trust Debt), with no owner, prior owner, or other party, whether secured or not, having any rights to compensation under such circumstances.
- F. In the event that neither the ~~Board~~ FCRHA nor the nonprofit agency designated by the County Executive exercises the Right to Acquire and the individual for-sale ~~workforce dwelling unit~~ WDU is sold for an amount greater than the Outstanding First Trust Debt, the remaining amount in excess of the Outstanding First Trust Debt ~~shall~~ must be paid to the Fairfax County Housing Trust Fund to promote housing affordability in Fairfax County as part of the disbursement of settlement proceeds.

12. Covenants and Deed Notification

- A. In developments containing ~~workforce dwelling units~~, WDUs covenants that are applicable to the ~~workforce dwelling units~~ WDUs and that run in favor of the ~~Board FCRHA~~ and are in the specific form prescribed by the Director of the DHCD providing, among other things, that the ~~workforce dwelling units~~ WDUs are subject to the provisions of this ~~Tyson's~~ Policy and/or any other policies established through the proffered conditions, ~~shall~~ must be recorded upon approval of the site plan and/or simultaneously with the recordation of the final subdivision plat or, in the case of a condominium, recorded simultaneously with the condominium declaration.
- B. The covenants ~~shall~~ must be senior to all instruments securing financing, and the covenants ~~shall~~ must be binding upon all assignees, mortgagees, purchasers, and other successors in interest.
- C. In developments containing for-sale ~~workforce dwelling units~~ WDUs, at the time of the initial sale of an individual ~~workforce dwelling unit~~ WDU, the owner/applicant ~~shall~~ must provide in the sales contract for each ~~workforce dwelling unit~~ WDU offered for sale a copy of the recorded covenant running with the land in favor of the ~~Board FCRHA~~. The owner/applicant ~~shall~~ must include in the deed for each ~~workforce dwelling unit~~ WDU sold an express statement that the ~~workforce dwelling unit~~ WDU is subject to proffered conditions setting forth specific terms and conditions and the covenants recorded pursuant to this ~~Tyson's~~ Policy with a specific reference to the deed book and the page where such covenants are recorded and such deed may also attach a copy of the covenants. At the time of the initial sale and any resale of an individual ~~workforce dwelling unit~~ WDU, the owner/applicant ~~shall~~ must also include in the deed for each ~~workforce dwelling unit~~ WDU sold an express statement that the total aggregate amount of indebtedness that may be secured by the ~~workforce dwelling unit~~ WDU is limited and that other terms and conditions apply, including, but not limited to, a right for the ~~Board FCRHA~~ or a nonprofit agency designated by the County Executive to acquire the ~~workforce dwelling unit~~ WDU on certain terms in the event of a pending foreclosure sale.
- D. In the case of a rental project, prior to the issuance of the first Residential Use Permit for the development and the offering for rent of any ~~workforce dwelling units~~ WDUs, the owner ~~shall~~ must record a covenant running with the land in favor of the ~~Board FCRHA~~ and which is on the specific form prescribed by the DHCD that provides that the ~~workforce dwelling units~~ WDUs are subject to proffered conditions setting forth specific terms and conditions, that no such unit may be rented for an amount that exceeds the limits set by the County Executive, that the covenant ~~shall~~ must be senior to all instruments securing permanent financing, and that the covenant ~~shall~~ must be binding upon all assignees, mortgagees, purchasers and other successors in interest.

13. Occupancy of Workforce Dwelling Units

- A. Before an individual may purchase a ~~workforce dwelling unit~~ WDU, he or she must obtain a Certificate of Qualification from the Director of the DHCD. Before issuing a Certificate of Qualification, the DHCD will make the determination that the applicant meets the criteria established by the DHCD for low and moderate income persons applicable to for-sale ~~workforce dwelling unit~~ WDU.

- B. Before an individual may rent a ~~workforce dwelling unit~~ WDU, he or she must meet the eligibility criteria established by the DHCD for persons of low and moderate income. The landlord/owner is responsible for determining that the tenant meets the eligibility criteria applicable to tenants in rental ~~workforce dwelling units~~ WDUs.
- C. Except for circumstances specifically set forth in this ~~Tysons~~ Policy, it is a violation of this ~~Tysons~~ Policy for someone to sell a ~~workforce dwelling unit~~ WDU to an individual who has not been issued a Certificate of Qualification by the DHCD.
- D. Except for circumstances specifically set forth in this ~~Tysons~~ Policy, it is a violation of this ~~Tysons~~ Policy for someone to rent or continue to rent a ~~workforce dwelling unit~~ Workforce Dwelling Unit to an individual who does not meet or fails to continue to meet the income eligibility criteria established by the DHCD.
- E. Purchasers or renters of ~~workforce dwelling units~~ WDUs must occupy the units as their domicile and ~~shall~~ must provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for-sale ~~workforce dwelling units~~ WDUs must forward such affidavit to the DHCD on or before June 1 of each year that they own the unit. Renters ~~shall~~ must provide such affidavit to their landlords/owners by the date that may be specified in their lease or that may otherwise be specified by the landlord/owner.
- F. In the event the renter of a ~~workforce dwelling unit~~ WDU fails to provide his or her landlord/owner with an executed affidavit as provided for in the preceding paragraph within ~~thirty (30)~~ 30 days of a written request for such affidavit, then the lease will automatically terminate, become null and void, and the occupant will vacate the unit within ~~thirty (30)~~ 30 days of written notice from the landlord/owner. It is a violation of this ~~Tysons~~ Policy for an owner of a ~~workforce dwelling unit~~ WDU to fail to provide the executed affidavit required by Paragraph E above.
- G. Except as specifically provided for in this ~~Tysons~~ Policy, in the event a renter of a ~~workforce dwelling unit~~ WDU no longer meets the eligibility criteria established by the DHCD, as a result of increased income or other factors, then at the end of the lease term, the occupant will vacate the unit.
- H. In the event a renter fails to occupy a ~~workforce dwelling unit~~ WDU for a period in excess of ~~sixty (60)~~ 60 days, unless such failure is approved in writing by the DHCD, a default ~~shall~~ must occur. The lease ~~shall~~ must automatically terminate, become null and void and the occupant will vacate the unit within ~~thirty (30)~~ 30 days of written notice from the landlord/owner.
- I. Notwithstanding the provisions of Paragraphs F, G, and H above, if the landlord/owner of a rental project ~~shall~~ must immediately designate an additional comparable unit as a ~~workforce dwelling unit~~ WDU to be leased under the controlled rental price and requirements of this ~~Tysons~~ Policy, the renter of such unit referenced in Paragraphs F, G, and H above may continue to lease such unit at the market value rent.

THIS BOARD POLICY for the Countywide and Tysons Corner Urban Center Workforce Dwelling Unit Administrative Guidelines is effective on this ~~22nd day of June, 2010~~ 23rd day of February, 2021.

NANCY VEHRS

Jill Cooper
Clerk to the Board of Supervisors