

INCLUSIONARY HOUSING ORDINANCE SUBCOMMITTEE

Wednesday, September 12, 2018

6:00 PM

Lorraine H. Morton Civic Center, 2100 Ridge, Room 2404

- 1. CALL TO ORDER / DECLARATION OF QUORUM**
- 2. APPROVAL OF MEETING MINUTES** July 24, 2018
- 3. PUBLIC COMMENT**
- 4. FINALIZE REVISIONS TO INCLUSIONARY HOUSING ORDINANCE**
 - A. Onsite unit requirement
 - B. Income restrictions
 - C. Fee in lieu of onsite units
 - D. Developer incentives/bonuses
- 5. OTHER SOURCES OF REVENUE DISCUSSION**
- 6. OLD/NEW BUSINESS**
- 7. ADJOURNMENT**

Next Meeting: TBD

Order & Agenda Items are subject to change. Information about the Inclusionary Housing Ordinance Subcommittee is available at: www.cityofevanston.org/government/agendas-minutes. Questions may be directed to Savannah Clement at 847.448.8679.

The City of Evanston is committed to making all public meetings accessible to persons with disabilities. Any citizen needing mobility or communications access assistance should contact Savannah Clement at 847.448.8679.

La ciudad de Evanston está obligada a hacer accesibles todas las reuniones públicas a las personas minusválidas o las quines no hablan inglés. Si usted necesita ayuda, favor de ponerse en contacto con la Oficina de Administración del Centro a 847/866-2916 (voz) o 847/448-8052 (TDD).



DRAFT

MEETING MINUTES

INCLUSIONARY HOUSING ORDINANCE SUBCOMMITTEE

Tuesday, July 24, 2018, 7:00 P.M.

Lorraine H. Morton Civic Center, room 2404, Glacier Conference Room

Present: Ald. Fiske, Ald. Rainey, Ald. Revelle, Ald. Wilson, Rob Anthony, Kent Swanson, Stacie Young

Absent: Lynn Robinson

Presiding Member: Ald. Wilson

Staff: Sarah Flax, Housing and Grants Administrator; Melissa Klotz, Zoning Planner; Savannah Clement, Housing Policy and Planning Analyst

Call to order

Chair Alderman Wilson called the meeting to order at 7:07 PM with a quorum present.

Approval of meeting minutes

Kent Swanson made a revision in the second line, on page 5 of packet, change “seller” to “buyer,” then moved approval as revised, Rob Anthony seconded and the motion was approved unanimously.

Public comment

No comments.

Discuss revisions to Inclusionary Housing Ordinance

Staff provided brief a presentation to highlight the proposed revisions to the ordinance.

Covered developments in new IHO: 5+ units across the city – no longer a difference in TOD and non-TOD areas. Subcommittee members asked if a different formula for buildings under a certain size should be developed for inclusionary units or fee in lieu. Other Subcommittee members noted that developers aren’t building smaller projects now because they don’t make enough profit from them to justify all of the administrative work and construction costs.

The addition of rehabs that change the size and configuration of units dwelling units to covered developments was discussed. It was agreed that if the rehab changed the number of bedrooms in a unit or units, the project would be covered by the IHO ordinance.

Subcommittee members discussed market rate buildings that are generally affordable. Should they be included in the definition of “primarily affordable” and therefore exempt from the IHO? It could be easier for existing buildings to comply with the IHO requirements and result in Naturally Occurring Affordable Housing (NOAH). Staff explained that these projects/buildings would still have to maintain affordability for a specified amount of time through some type of written agreement. Having units renovated and rented at rates close to the median is a good thing, but the proportion of units and maximum rent levels would have to be established. Example, if 80% or more of the units in a building were rented at 120% AMI for a specified number of years then the building would be exempt from ordinance. A Land Use Restriction Agreement (LURA) would be recorded on the property. Subcommittee members asked about income certifications in these types of buildings. Staff noted that re-certifications would likely not have to be completed every year - compliance would not be as stringent as other inclusionary/affordable units, but maybe have affidavits, etc. to certify rents.

Minimum unit size was discussed. Staff explained there minimum size or square footage requirements should be based on the building code in effect at the time of application. The affordable units must be able to have the same occupancy as the market rate units.

Question about the definition of an “alternative equivalent proposal.” Staff said nothing specific had been spelled out, but a project with 20% project-based vouchers, or all units at rents below 120% AMI could be considered. Staff also noted that it is difficult to predict what could be proposed based on changing market conditions.

Subcommittee members raised concerns about the fees in lieu and the impact they could have on smaller projects outside of downtown and suggested changing the ordinance to downtown vs non-downtown zones for the fees and bonuses, and only keep the TOD vs non-TOD distinctions for parking requirements.

Question about parking spots - would affordable units not get a spot? Subcommittee members stated that parking is generally not one for one. Members pointed out that the development at 1571 Maple is not using all of its parking spaces, and it has much fewer parking spots onsite than other developments. If parking spots are deeded with units, as with some condo developments, affordable units would include parking.

Take a look at “in perpetuity” requirement for ownership units - maybe remove and just say affordable term renews at each sale.

Subcommittee members expressed concerns about the rental affordability periods and development cycles - all of the affordable units could drop off the market at the same time. Question about whether it makes more sense to stagger the affordability terms (30, 35, 40 years) to minimize this. Other members noted this would only be an issue

when there are a lot of units and phased affordability terms would make financing and management of projects more difficult, but would affect a very small portion of the market. Chair Wilson asked that staff highlight this as a discussion item for City Council.

The bonus structure for onsite units was discussed. Staff explained that the revised bonuses are now structured to be more meaningful and useful to developers. For example, a 10% height bonus in the existing IHO might result in 4 only additional feet, which would not result in an economic benefit to a development.

Allowing the same bonuses for projects that are primarily affordable housing was discussed. The Subcommittee discussed the possibility of offering the same bonuses that market rate developers can get, but only for 10% of the units to prevent affordable projects from getting out of scale with market rate development.

Other sources of revenue

Question about whether the demolition tax should be increased for multifamily structures. Subcommittee members are in favor of raising demolition fees, and would like to explore the possibility of tying the demolition tax to the sale price of the new building constructed. Example, if a modest single-family home were replaced by a McMansion, the demolition tax would be higher.

Impact/linkage fees could cover all developments, and several different types of calculations have been used in different municipalities, including square footage and construction value. City doesn't track square footage, but could look at evaluating permit fees which are based on construction valuations. Subcommittee members noted that Illinois has one of the most restrictive laws on impact fees.

Subcommittee members said the City also needs to get a handle on short-term rentals, but don't want to create more of a deterrent for people to get licensed with the City. Alderman Wilson asked that staff add additional Affordable Housing Fund revenue sources to the July 30th City Council agenda.

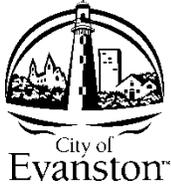
Chair Alderman Wilson said that his intention is to have one more meeting in late August in order to run through the IHO revisions before the amended ordinance goes to City Council.

Adjournment

Ald. Fiske motioned for adjournment and the meeting was adjourned at 8:37 p.m.

The next scheduled meeting is TBD, late August.

Respectfully submitted,
Savannah Clement, Housing Policy and Planning Analyst



Memorandum

To: Members of the City Council IHO Subcommittee

From: Johanna Leonard, Community Development Director
Sarah Flax, Housing and Grants Administrator
Savannah Clement, Housing Policy and Planning Analyst

Subject: Inclusionary Housing Ordinance Revisions Discussion Guide

Date: September 10, 2018

Discussion:

At the October 30, 2017 special City Council meeting to discuss affordable housing, Council agreed to form a subcommittee to evaluate revisions to the City's Inclusionary Housing Ordinance (IHO) to more effectively generate on-site affordable units. In addition, the subcommittee will evaluate potential additional sources of revenues to fund other strategies to address affordable housing needs that are under consideration.

In order to address these and other issues, staff has provided a draft revised ordinance for the Subcommittee to review and discuss. The revisions proposed are designed to:

1. Make development bonuses more effective; the current bonus structure has not been providing developers the additional market rate units needed to offset costs on inclusionary dwelling units.
2. Decrease the difference between the fees in lieu of on-site affordable units and the cost to build on-site affordable units.
3. Simplify the requirements for on-site units and make consistent between TOD and non-TOD areas.

The proposed revisions to the Inclusionary Housing Ordinance are listed in order below:

§ 5-7-3. DEFINITIONS.

- Rental affordability period changed from 25 to 30 years
- "COVERED DEVELOPMENT" definition changes:
 - The distinction between TOD and non-TOD areas was removed; all developments with five or more units are covered.
 - Clarified that affordable housing developments are eligible for development bonuses, fee waivers/deferrals and parking reductions for up to 10% of the affordable units
 - In (B), added: "or changes the number of bedrooms in dwelling units without a change tenure."

§ 5-7-4. REQUIREMENTS.

- (B) Calculation changes: For all fractional units less one half, a payment of one half the fee-in-lieu will be required.

§ 5-7-6. ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS.

- (B) *Eligibility*:
 - For-sale considerations: All for-sale units shall be sold to households earning at or below 120% AMI
 - Rental considerations: Eliminate TOD and non-TOD distinctions and require that all rental affordable units be at 60% AMI or below. An alternative option was added that states “a covered development may provide affordable units all at 60% AMI, or provide a mix of affordable units at or below 80% AMI that achieve the equivalent reduction from 100% AMI as all units at 60% AMI.”

§ 5-7-7. DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS.

- (D) *Interior Appearance and Finishes* changed to say, “Affordable dwelling units may have different interior finishes than market rate units, but shall be Contractor Grade or higher quality.”
- (G) *Unit Size* changed to “Unit Characteristics,” and now says, “Affordable dwelling units shall be indiscernible from market rate units from the exterior or common areas and shall be equal to or larger than the minimum size requirements in the building code in effect at the time of project approval.” The chart with minimum square feet per unit was removed.

§ 5-7-8. CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS.

- First paragraph changed to add: “Developments that receive variances or allowances above the base zoning must have a minimum of 5% affordable units onsite and may pay a fee in lieu of the remaining 5% of affordable units, with the exception of condominium developments. Condominium developments may choose to pay a fee in lieu of building each affordable dwelling unit required by Section 4 of this chapter at the per-unit rate shown below.”
- (A) Fee-in-lieu increases: “The fee in lieu amount per affordable dwelling unit shall be one hundred seventy-five thousand dollars (\$175,000) for units in all Downtown zoning districts or one hundred and fifty thousand dollars (\$150,000) per affordable dwelling unit in all other zoning districts. For condominium developments that elect to pay fees in lieu of any onsite affordable units, the fee in lieu per affordable dwelling unit shall be 1.5 times the basic fee in lieu shown above for either Downtown or non-Downtown zoning districts. The fee in lieu rates will be adjusted annually based on the Consumer Price Index.”
- (C) Timing of fee-in-lieu payment changed to: “Unless otherwise preempted by law, any fee in lieu shall be paid at the same time as building permits.”

§ 5-7-10. REDUCTION OF REQUIRMENTS.

- Section deleted, changed to new titled “RESERVED.”

§ 5-7-13. INCENTIVES FOR APPLICANTS.

- (D) *Bonuses*: See charts in amended ordinance; removed TOD and non-TOD distinctions.
- (E) *Parking*: See chart in amended ordinance; maintained TOD and non-TOD distinctions.

Attachment:

107-O-18 Inclusionary Housing Ordinance with underlined revisions

107-O-18

AN ORDINANCE

Amending Portions of City Code Title 5, Chapter 7 to Expand the Application of the Inclusionary Housing Ordinance

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS THAT:

SECTION 1: Title 5, Chapter 7, "Inclusionary Housing," of the Evanston City Code, 2012, as amended, is hereby further amended to read as follows:

5-7-1. TITLE.

This chapter shall be titled and referred to as the *INCLUSIONARY HOUSING ORDINANCE*.

5-7-2. PURPOSE AND INTENT.

The purpose of this Chapter is to promote the public health, safety, and welfare of the residents of Evanston by requiring residential developments or developments which contain a residential component to include a certain percentage of dwelling units in a proposed development to be priced affordably for low-income, moderate-income, and middle-income and ~~moderate-income~~ households or to make a payment in accordance with the terms of this Chapter. Based upon the review and consideration of reports and analyses of the housing situation in the City, it is apparent that the diversity of the City's housing stock has declined as a result of increasing property values and housing costs, and a reduction in the availability of affordable housing; and that, with the exception of housing subsidized by the City, the privately developed new residential housing that is being built in the City generally is not affordable to low and moderate income households. The City recognizes the need to provide affordable owner occupied and rental housing to low-income, moderate-income, and middle-income and ~~middle-income~~ households in order to maintain a diverse population, and to provide owner occupied and rental housing for those who live or work in the City. Without intervention, the trend toward increasing housing prices and rental rates will result in an inadequate supply of owner occupied and rental affordable housing units for City residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force, and will otherwise be detrimental to the public health, safety, and welfare of the City and its residents. Since the remaining land appropriate for new residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into owner occupied dwelling units

and rental units that are affordable to low-income, moderate-income, and middle-income and moderate income households, including and working families.

5-7-3. DEFINITIONS.

For the purposes of administering this Chapter, these definitions shall apply:

<i>AFFORDABILITY PERIOD, OWNER OCCUPIED.</i>	The time during which the affordability restrictions imposed by this Chapter shall apply to owner occupied affordable dwelling units. Owner occupied affordable dwelling units covered by this Chapter shall remain affordable in perpetuity or as long as allowable by law. The affordability period begins at the time of first occupancy of the affected unit.
<i>AFFORDABILITY PERIOD, RENTAL.</i>	The time during which the affordability restrictions imposed by this Chapter shall apply to leased affordable dwelling units. Leased affordable dwelling units covered by this Chapter shall remain affordable for a period of <u>thirty (30)</u> twenty-five (25) years, after which the requirements of this Chapter cease to be controlling. The affordability period begins at the time of first occupancy of the affected Affordable Dwelling Unit.
<i>AFFORDABLE DWELLING UNIT.</i>	All owner occupied or leased dwelling units in a covered development as defined herein.
<i>AFFORDABLE HOUSING AGREEMENT.</i>	The document signed by the purchaser or lessee of an affordable dwelling unit at the time of sale or lease, along with such other legal documents as may be required, detailing the affordability requirements of the affordable dwelling unit.
<i>AFFORDABLE HOUSING, OWNER OCCUPIED.</i>	Decent, safe, sanitary housing that is: a) affordable to "households that meet AMI parameters" as set forth in this chapter; and b) to be sold only to "qualified households" as defined herein. The cost of the mortgage payment and relevant expenses (a calculation of property taxes, homeowner's insurance, and, when applicable, condominium or homeowner association fees) of owner occupied dwelling units shall not exceed <u>thirty one percent (31%)</u> thirty three percent (33%) of the household's gross annual household income (the total income of all adults over eighteen (18) years of age in the household).
<i>AFFORDABLE HOUSING, RENTAL.</i>	Decent, safe, sanitary housing that is: a) affordable to households with AMI parameters set forth in this chapter; and b) to be leased only to "qualified households" as defined herein.

<i>APPLICANT.</i>	Any developer who applies to the department to receive approval of a covered development pursuant to this Chapter.
<i>AREA MEDIAN INCOME (AMI).</i>	The median income level for the Chicago primary metropolitan statistical area, as established and defined in the annual schedule published by the secretary of the United States Department of Housing and Urban Development and adjusted for household size.
<i>CERTIFICATE OF QUALIFICATION.</i>	A certificate establishing a qualified household's eligibility to purchase or lease an affordable dwelling unit <u>based on income eligibility using the HUD Part 5 verification process.</u> Certificates of qualification shall be valid for six (6) months.
<i>COMMUNITY LAND TRUST.</i>	A private, not for profit corporation which the city may create or authorize organized exclusively for charitable, cultural, or other purposes to acquire and own land for the benefit of the city and low to middle income persons, including the creation and preservation of affordable housing.
<i>CONSUMER PRICE INDEX.</i>	Consumer price index for all urban consumers as published annually by the United States department of labor, bureau of labor statistics.
<i><u>CONTRACTED AGENCY</u></i>	<u>An organization with which the City contracts and has a written agreement to manage the centralized wait list for affordable dwelling units and to income certify households for those units.</u>
<i>COVERED DEVELOPMENT.</i>	A development containing five (5) or more dwelling units in a TOD area or a development containing ten (10) or more dwelling units outside a TOD area, on contiguous land under common ownership or control by an applicant at one location within the city, when such dwelling units are to be sold or leased to owner-occupants or <u>leased to tenants.</u> The term "covered development" and the regulations contained in this chapter shall not <u>may</u> apply to a development that is designed to <u>provide primarily affordable dwelling units.—; Developments that provide primarily affordable units are eligible for the development bonuses and fee waivers/deferrals for up to ten percent (10%) of the on-site affordable units, but are not eligible for bonuses on affordable units beyond the ten percent (10%). However, primarily affordable housing developments are eligible for the same parking reductions as covered developments.</u> The term "covered development" includes, without limitation, the following:

	(A) A development that is new residential construction or new mixed use construction with a residential component.
	(B) A development that is the renovation, repurposing or reconstruction of an existing multiple-family residential structure that changes the use from rental to owner occupied units or vice versa, <u>or that changes the number of bedrooms in dwelling units without a change in tenure.</u>
	(C) A development that will change the use of an existing building from nonresidential to residential.
	(D) A development built in phases.
<i>DEPARTMENT.</i>	The Evanston Community Development Department or any successor agency, unless otherwise indicated.
<i>DEVELOPER.</i>	Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops dwelling units, but does not include any governmental entity.
<i>DIRECTOR.</i>	The director of the City of Evanston Community Development department or his/her designee.
<i>HOUSING PROVIDER.</i>	A nonprofit entity designated by the city to own affordable dwelling units.
<i>INCLUSIONARY HOUSING PLAN.</i>	The plan submitted as part of a development application which details the development's compliance with the affordable housing requirements of this chapter.
<i>LOW INCOME HOUSEHOLD.</i>	For homebuyers: a household with a total income equal to or below eighty percent (80%) of the AMI. For renters: a <u>A household with a total income equal to or below 50% of the AMI in TOD areas, and equal to or below 60% of the AMI in all other areas.</u>
<i>MARKET RATE DWELLING UNITS.</i>	All owner occupied or rental dwelling units in a covered development that are not affordable dwelling units as defined herein.
<i>MIDDLE INCOME HOUSEHOLD.</i>	For homebuyers: a <u>A household with a total income between above eighty percent (80%) of the AMI and but not exceeding one hundred twenty percent (120%) of the AMI in TOD areas, and between 80% and 120% of the AMI in all other areas. For renters: a household with a total income between 50% and 60% of the AMI in TOD areas, and between 60% and 80% of the AMI in all other areas.</u>
<i>MODERATE INCOME HOUSEHOLD</i>	<u>A household with a total income above fifty percent (50%) of the AMI but not exceeding eighty percent (80%) of the AMI.</u>

<i>PROPERTY, RECEIVING PUBLIC FUNDING</i>	<p>Any residential development or development containing a residential component, existing or new, that receives or has received any public funds.</p> <p>Public funding is any grant, loan, or subsidy from any Federal, State or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits.</p> <p>Public funding shall not include the receipt of rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, or an exemption or abatement of real property taxes or other such other programs of full or partial exemption from or abatement of real property taxation.</p>
<i>PROPERTY, PRIVATELY FUNDED.</i>	Any residential development or development containing a residential component, current or new, that does not and has not received any public funds.
<i>QUALIFIED HOUSEHOLD.</i>	A household whose income has been verified as meeting the AMI parameters for a household as detailed in this Chapter and has received a certificate of qualification from the developer <u>City's contracted agency or its designee</u> per section 5-7-6 of this chapter.
<i>TRANSIT ORIENTED DEVELOPMENT or TOD</i>	A development pattern created around a transit station that is characterized by higher density, mixed uses, pedestrian environment, reduced parking, and a direct and convenient access to the transit station.
<i>TOD AREA</i>	The area that has the designation for an identified transit station and the area around it. The area provides for development that is compatible with and supportive of public transit and a pedestrian-oriented environment.
<i>TRANSIT STATION</i>	The area including the platform which supports transit usage and that is owned and/or operated by the transit agency.

5-7-4. REQUIREMENTS.

- (A) *General Requirement:* For privately funded developments, ten percent (10%) of the total number of dwelling units in a covered development shall be affordable dwelling units. For properties receiving public funds, twenty percent (20%) of the total number of dwelling units in a covered development shall be affordable dwelling units.

- (B) *Calculation:* To calculate the number of affordable dwelling units required in a covered development, the total number of proposed dwelling units shall be multiplied by ten or if applicable, twenty percent (10% / 20%). When a requirement of this Ordinance results in a fraction, the following rules apply:
1. Fractions of one-half and more are counted as a whole.
 2. Fractions less than one-half are disregarded in the onsite unit calculation but apply to the fee-in-lieu calculation.
 3. The above two rules are also applied in the computation of numbers of dwelling units. fees-in-lieu with any fraction of a unit less than one half calculated at half the per unit fee in lieu.
- (C) *TOD Areas:* A TOD area may or may not be divided into zones of varying development intensity, as described in this section. Central Street, downtown, Chicago Avenue, etc. The initial boundaries and zones of each TOD area are described in Appendix A.

5-7-5. COMPLIANCE PROCEDURES.

- (A) *Application.* The applicant for approval of a covered development shall file an application for approval of the affordable dwelling unit component of—the development on a form provided by the Community Development Department and submit it with the application for approval of the development. The application for development shall not be considered complete without the information required by this chapter for the affordable dwelling unit component. The application shall require, and the applicant shall provide, among other things, general information about the nature and scope of the covered development, as well as other documents and information as this chapter and the department may require. The application shall include the inclusionary housing plan referred to under subsection (B) of this section.
- (B) *Inclusionary Housing Plan.* The applicant shall submit an inclusionary housing plan on or before time of submission of a building permit that outlines and specifies the covered development's compliance with each of the applicable requirements of this chapter. The inclusionary housing plan shall specifically contain, as a minimum, the following information regarding the covered development:
1. A general description of the covered development.
 2. The total number of market rate dwelling units and affordable dwelling units in the covered development.
 3. The number of bedrooms in each market rate dwelling unit and each affordable dwelling unit.
 4. The square footage of each market rate dwelling unit and each affordable

dwelling unit.

5. The general location of each affordable dwelling unit within the covered development.
6. The pricing schedule for each affordable dwelling unit and each market rate dwelling unit.
7. The phasing and construction schedule for each market rate dwelling unit and each affordable dwelling unit.
8. Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the covered development and each of its dwelling units.
9. A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale of the affordable dwelling units within the covered development.
10. Any proposal to make a cash payment, per section 5-7-8 of this chapter, or alternative equivalent action, per section 5-7-9 of this chapter, in lieu of providing affordable dwelling units.

5-7-6. ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS.

(A) *Certificate Of Qualification.* ~~The developer, or its designee, contracted agency shall issue a certificate of qualification to any household the developer, or its designee, whose income has been verified meets as meeting the AMI threshold requirements for a "relevant household" as set forth in this chapter.~~

(B) *Eligibility.*

1. The affordable dwelling units within a covered development which are for-sale shall be sold only to owner-occupant qualified households whose primary residence shall be said affordable dwelling unit.
 - a. ~~TOD Area: For covered developments in a TOD Area, 50% of All affordable units must be sold to households earning up to 100% AMI and 50% of the units sold to households at 80% AMI, both adjusted for household size, whose incomes do not exceed 120% AMI adjusted for household size.~~
 - b. ~~Outside of TOD Area: For covered developments outside TOD area, 50% of units must be sold to households earning up to 120% AMI and 50% of the units sold to households at eighty percent (80%) AMI, both adjusted for household size.~~

2. The affordable dwelling units within a covered development for rent shall be leased only to tenants with qualified households whose primary residence shall be said affordable dwelling unit.
- a. ~~TOD Area: For covered developments in a TOD Area, 50% of all affordable units must be leased to households earning up to whose incomes do not exceed 60% AMI adjusted for household size. and 50% of the units leased to households at 50% AMI, both adjusted for household size.~~
- b. ~~Outside of TOD Area: For Alternatively, a covered developments may provide a mix of affordable units for households whose incomes do not exceed 30%, 50%, 60% and 80% AMI that achieve the equivalent reduction in affordability from 100% AMI as with all units at 60% AMI, all adjusted for household size. outside a TOD Area, 50% of units must be leased to households earning up to 80% AMI and 50% of the units leased to households at 60% AMI, both adjusted for household size.~~
- (C) *Preference.* Priority for affordable dwelling units will be given first to qualified households who currently live in Evanston, or who have lived in Evanston with a member of a household currently living in Evanston, or to households in which the head of the household or the spouse or domestic partner works in Evanston.
- (D) *Waiting List.* ~~The City may create, or authorize the creation, of waiting lists of households for affordable housing units in developed and managed by the contracted agency in advance of the construction of those units in order to prioritize households pursuant to Section 5-7-6 (C), After the affordable units within the covered development are fully occupied, households~~ Households may complete a preliminary income screening based on self-reported income and request to be placed on a waiting list for rental and ownership units. The waiting list will be prioritized with current Evanston residents or with individuals who have lived in Evanston with a member of a household currently living in Evanston, or to households in which the head of the household or the spouse or domestic partner works in Evanston. The contracted agency shall refer certified households drawn from the waiting list to developers of covered developments for rental or ownership units throughout the affordability period of the development according to the "Inclusionary Housing Policies and Procedures for Rental and Ownership Affordable Dwelling Units."

5-7-7. DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS.

- (A) *Location Of Affordable Dwelling Units.* Affordable dwelling units shall be dispersed among the market rate dwelling units throughout the covered development.

- (B) *Phasing Of Construction.* In a multiphase development, all phases shall include a proportion of affordable dwelling units throughout the covered development. The affordable dwelling units shall never be the last units to be built in any covered development.
- (C) *Exterior Appearance.* The exterior appearance of the affordable dwelling units in any covered development shall be visually compatible with the market rate dwelling units in the covered development. External building materials and finishes shall be substantially the same in type and quality for affordable dwelling units as for market rate dwelling units.
- (D) *Interior Appearance and Finishes.* Affordable dwelling units ~~shall~~ may have the ~~same~~ different interior appearance and finishes ~~as basic market rate dwelling units~~ than market rate units, but the interior finish materials shall be Contractor Grade or higher.
- (E) *Mix of Bedroom Types of Affordable Units.* The bedroom mix of affordable dwelling units shall be in equal proportion to the bedroom mix of the market rate dwelling units within the covered development. If the bedroom mix creates more options than the number of affordable dwelling units to be built, the affordable dwelling units shall be built with the greater number of bedrooms; e.g., if the bedroom mix provides for four (4) options: efficiency, one bedroom, two (2) bedroom, or three (3) bedroom; but only three (3) affordable dwelling units are to be built, then a one bedroom, a two (2) bedroom, and a three (3) bedroom unit shall be built.
- (G) *Unit ~~Size~~ Characteristics.* Affordable dwelling units shall be ~~similar to~~ indiscernible from market rate dwelling units from the exterior and common areas and shall be equal to or larger in size than the minimum requirements in the building code in effect at the time of project approval. ~~with a comparable number of bedrooms and subject to the following minimum standards for square footage size of the affordable dwelling unit:~~

Studio	500 square feet
1 Bedroom	750 square feet
2 Bedroom	900 square feet
3 Bedroom	1,200 square feet

- (H) *Energy Efficiency.* Standard components related to energy efficiency, including, but not limited to, mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, shall be the same in market rate dwelling units and affordable dwelling units.

5-7-8. CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS.

In a covered development that is aAs of right, an applicant may pay a fee in lieu of building each affordable dwelling unit required by Section 4 of this chapter for the covered development. Developments that receive variances or allowances above the base zoning must have a minimum of 5% affordable units onsite and may pay a fee in lieu of the remaining 5% of affordable units at the per unit rate below. Condominium developments only may choose to pay a fee in lieu of building each affordable dwelling unit required by Section 4 of this chapter at the per-unit rate shown below:

- (A) The fee in lieu amount per affordable dwelling unit shall be either one hundred seventy five thousand dollars (\$100175,000) for units in all TOD Downtown areazoning districts or seventy-fiveone hundred fifty thousand (\$75150,000) per affordable dwelling unit in a non-TOD areaall other zoning districts. For condominium developments only that elect to pay the fee in lieu of all onsite units, the fee in lieu per affordable dwelling unit shall be 1.5 times the fee in lieu shown above for either Downtown or non-Downtown zoning districts. The fee in lieu is subject to annual review and revision by the city council.will be adjusted annually based on the Consumer Price Index.
- (B) All cash payments received pursuant to this chapter shall be deposited directly into the affordable housing fund.
- (C) Unless otherwise preempted by law, any fee in lieu shall be paid at the same time as building permits.prior to the issuance of a temporary certificate of occupancy for any dwelling unit in the covered development.
- (D) The in-lieu fee will be calculated at the time the applicant submits an application for a building permit to the Community Development department. The fee, as calculated, will be valid for two years following the date it is calculated by the Community Development department and cannot be reduced within the two-year period for reduction in number of units.

5-7-9. ALTERNATIVE EQUIVALENT PROPOSAL.

An applicant may propose to meet the requirements of Section 4 of this chapter by an alternative equivalent action, subject to the review and approval by the City Council. A proposal for an alternative equivalent action may include, but is not limited to, the construction of affordable dwelling units on another site in the same neighborhood or a comparably zoned neighborhood, or acquisition and enforcement of affordability restrictions on existing market rate dwelling units so as to render them affordable dwelling units, or fewer on-site affordable units at prices affordable to households at lower income levels, such as 30% AMI, or more affordable units at higher income levels such as 80% AMI. To qualify as affordable units, rental units shall not exceed 80% AMI

and ownership units shall not exceed 120% AMI, both adjusted for household size. Any proposal shall show how the alternative proposed will increase affordable housing opportunities in the city to an equal or greater extent than compliance with the express requirements of this chapter. Such proposals for alternatives shall be considered on a case by case basis by the City Council and may be approved at the City Council's sole discretion, if the City Council determines that such alternative will increase affordable housing opportunities in the city to an equal or greater extent than compliance with the express requirements of this chapter.

5-7-10. ~~RESERVED. REDUCTION OF REQUIREMENTS.~~

~~*Reduction.* If the applicant presents clear and convincing financial evidence to the City Council that full compliance with Section 4 of this chapter, payment in lieu as per Section 8 of this chapter, or alternative equivalent action as per Section 9 of this chapter, or any combination thereof would render the development financially infeasible, the applicant may seek a reduction in the required number of affordable dwelling units and/or payment in lieu as to render the project financially feasible. If such a reduction is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of full compliance with the requirements of this chapter.~~

5-7-11. AFFORDABILITY CONTROLS.

(A) Initial Sale Prices For Affordable Owner Occupied Dwelling Units.

1. Every affordable owner occupied dwelling unit required to be established under this chapter shall be offered for sale or to a good faith purchaser to be used for his or her own primary residence.
2. The affordability period with affordable owner occupied dwelling units shall be for ninety-nine (99) years, renewable at each subsequent sale.
3. In calculating the sales prices of affordable dwelling units, the following relationship between unit size and household size shall be used to determine the income figure at which affordable housing payments are calculated:

Unit Size	Income Level for Household Size
Efficiency	1 Person
1 Bedroom	2 Persons
2 Bedrooms	3 Persons
3 Bedrooms	4 Persons
4 Bedrooms	5 Persons

4. Prices for the sale units shall be calculated on the basis of:
 - a. Housing payments at or below thirty one percent (31%) of the household income for a household at the designated income eligibility level (80%, 100% or 120% of AMI) at the household size corresponding to the size of the unit;
 - b. An available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac;
 - c. A down payment of no more than five percent (5%) of the purchase price;
 - d. A calculation of property taxes;
 - e. A calculation of homeowner's insurance;
 - f. A calculation of condominium or homeowner association fees; and
 - g. A calculation of private mortgage insurance, if applicable.

(B) *Rental Rates for Affordable Dwelling Units*

1. ~~Fifty percent (50%)~~One hundred percent (100%) of the affordable dwelling units within covered developments ~~in TOD~~ shall have affordable rental rates ~~at 50% AMI and the remaining fifty percent (50%) of affordable dwelling units shall have affordable rental rates at thirty (30%), fifty (50%), sixty (60%) or 80% AMI according to their Affordable Housing Agreement, pursuant to the that shall not exceed the~~ annual gross rental rate schedule published by the Illinois Housing Development Authority, less any tenant-paid utilities based on the City's wait list policies and procedures. ~~If an uneven number of total affordable units are in the development, the additional affordable unit shall be at 50% of the AMI.~~
2. ~~Fifty percent (50%) of the affordable dwelling units within a covered development that is not in a TOD area shall have affordable rental rates at 60% AMI and the remaining 50% of affordable dwelling units shall have affordable rental rates at 80% AMI, pursuant to the annual rental rate schedule published by the Illinois Housing Development authority. If an uneven number of total affordable units are in the development, the additional affordable unit shall be at 60% of the AMI.~~
3. If the most recent edition of the Illinois Housing Development Authority report indicates a lower AMI than the previous edition, the maximum allowable rent shall be adjusted accordingly.
4. The affordability period of an affected leased unit begins at the time of the first occupancy of an affordable unit in the covered development and

continues for thirty (30) ~~twenty-five (25)~~ years, after which the affordability requirements of this chapter cease to control the unit.

5. A written twelve (12) month lease is required for all leased affordable dwelling units, ~~except for units in an assisted living residence.~~ Renewal leases may be less than 12 months based on mutual agreement between the landlord and tenant. Final lease agreements are the responsibility of the landlord and the prospective tenant. Tenants are responsible for application fees, security deposits and the full amount of the rent as stated on the lease. All lease provisions shall comply with applicable laws and regulations. The landlord shall maintain copies of all leases entered into with a certified household (including an income certification) and distribute a copy to the City upon request.

(C) *Procedure For Initial Sale Or Lease To The General Public.*

1. Sixty (60) days prior to offering any affordable dwelling unit for sale or rent, the applicant shall notify the department in writing of such offering. The notice shall set forth the number, size, price, and location of affordable dwelling units offered, and shall provide a description of each dwelling unit's finishes and availability. The notice shall also include a copy of the inclusionary housing plan, and any such additional information the Director may reasonably require in order to establish compliance with this chapter.
2. The prospective purchaser or lessee from the centralized wait list shall make application for a "certificate of qualification" on a form provided by the ~~Director,~~contracted agency. If the ~~developer, or its designee,~~contracted agency determines an applicant is qualified pursuant to the requirements of this chapter to purchase or lease an affordable dwelling unit, he/she shall issue a "certificate of qualification" to that applicant. An applicant must provide documents to verify that ~~he or she~~their household satisfies these requirements, including an affidavit that the affordable dwelling unit will be his or her primary residence and evidence of income, household size, and residency or employment in Evanston. The ~~developer, or its designee,~~contracted agency shall determine whether or not the prospective purchaser or lessee satisfies the requirements of this chapter within ten (10) business days after receiving the completed application. The developer shall, upon request by the Director, furnish documentation to the City to demonstrate compliance with this section (C).

3. The developer shall not sell or lease any affordable dwelling units without a valid certificate of qualification from the contracted agency for the prospective purchaser/lessee.
- (D) *Agreement To Ensure Compliance During The Affordability Period.* Prior to issuance of a building permit for any covered development or conveyance of title of any dwelling unit in any covered development, the applicant shall have entered into an agreement with the city regarding the specific requirements and restrictions imposed by the city council upon the approved development. The applicant shall agree to execute any and all documents deemed necessary by the city, including, without limitation, deed restrictions, restrictive covenants, and other related instruments, to ensure the continued affordability of the affordable dwelling units in accordance with this chapter. The agreement shall set forth the commitments and obligations of the city and the applicant, and shall incorporate, among other documents, the inclusionary housing plan. If applicable, the agreement shall also detail the fee in lieu or alternative equivalent action of providing on site affordable dwelling units as set forth in Sections 8 and 9 of this chapter respectively.

Rental Compliance. The developer, or its designee, shall submit an annual compliance report describing each affordable unit in detail including but not limited to changes in tenancy, turnovers, and income certifications for all new tenants upon request of the Director. The contracted agency shall complete annual re-certifications of tenants renting affordable units according to the "Inclusionary Housing Policies and Procedures for Rental and Ownership Affordable Dwelling Units."

- (F) *Control Of Resale Prices.* The maximum sales price, with the exception of foreclosure sales, permitted on resale of an affordable dwelling unit shall be based on the following formula:
1. The original purchase price plus:
 - a. An inflation adjustment of the original purchase price calculated in accordance with the CPI, using the year of the prior sale as the base year, and capped in order to maintain affordability to a buyer at the same income level;
 - b. Allowances for closing costs and sales commissions paid by the seller; and
 - c. The fair market value of approved improvements made to the unit between the date of original sale and the date of resale, up to an average of five thousand dollars (\$5,000.00) per year—, capped in

order to maintain affordability to a buyer at the same income level. "Approved improvements" are capital improvements which add value to the home, prolong its useful life or adapt it to new uses. Repairs to maintain the home in good condition are not allowable capital improvements. A list of general allowable capital improvements shall be included in the affordability documents signed by the purchaser.

(G) *First Sale After Affordability Period Ends.*

1. This subsection (G) shall apply in the event an affordability period in perpetuity is unlawful or becomes unlawful. Upon the first sale of an affordable dwelling unit after the affordability period ends, the seller shall pay to the city out of the sale proceeds a percentage of the difference between the actual sales price and the current affordable resale price ~~as determined pursuant to subsection (G) of this section~~ as shown in the table below. Such sums shall be deposited into the affordable housing fund. The percentage is based upon the number of years the seller owned and occupied the unit, as follows:

Years of Ownership	Share to Affordable Housing Fund
11 to 15 Years <u>10+ Years</u>	50 Percent
6 to 10 Years	60 Percent
1 to 5 Years	70 Percent

2. The Director shall determine whether the price and terms of a resale covered by the preceding paragraph meet the requirements of this chapter. Upon a finding of compliance, the Director shall terminate the affordable housing controls and execute a recordable release of all applicable mortgages and restrictions.
- ~~3. If an affordable dwelling unit is sold through a foreclosure or other court ordered sale, the affordable restrictions are extinguished, but any remaining net profit shall be returned to the department and deposited into the affordable housing fund.~~

5-7-12. COMMUNITY LAND TRUST.

The City may create or authorize a community land trust to effectuate the purposes of this chapter. Any established or designated land trusts must be staffed by paid employees and be sufficiently operational, subject to the discretion of the City.

5-7-13. INCENTIVES FOR APPLICANTS.

For any covered development project that complies with the requirements of this chapter, the city shall follow the procedures described below and provide the described incentives:

- (A) *Expedited Application Process:* All applications shall be processed by all city departments before other residential land use applications regardless of the original submittal date.
- (B) *Fee Deferral:* All city required fees related to the covered development ~~shall be for plan review, and building permits fees or other similar development review fees~~ for the non-affordable dwelling units and a proportional share of the common areas associated with those units, which are not subject to a fee waiver per subsection 5-7-13(C), shall be deferred for payment until the issuance of the first temporary certificate of occupancy for a non-affordable dwelling unit. The project applicant shall not receive a fee deferral from payment for any other City fees associated with the covered development, including but not limited to right-of-way fees, demolition fees, and fees related to the commercial portion(s) of the development.
- (C) *Fee Waiver:* All projects with a covered development which must comply with the requirements of this Inclusionary Housing Ordinance shall be exempt from all plan review, ~~and building permit fees or other similar development review fees~~ for the affordable units and a proportional share of the common areas associated with those units. Whenever a project includes a combination of affordable and market rate housing units, fees shall be pro-rated appropriately as determined by the Director and no fees associated with the commercial portion shall be deferred, if applicable. The project applicant shall not receive a waiver from payment of any other fees associated with the covered development, including but not limited to right-of-way fees, demolition fees, or fees related to the commercial portion(s) of the covered development
- (D) *Bonuses:* Density, height, and FAR (floor area ratio) requirements provided in Title 6 are hereby amended for covered developments that provide on-site affordable units, the development is entitled to the following bonuses:

Development Bonus	In TOD Area	Outside TOD Area
Density	20% bonus	10% bonus
Height	10% bonus	5% bonus
FAR	10% bonus	5% bonus

5% On-Site Affordable Housing or 10% On-Site Housing with Public Financing

	<u>Downtown</u> <u>(D & RP Districts)</u>	<u>Commercial</u> <u>(B, C, M, & O</u> <u>Districts)</u>	<u>Residential</u> <u>(R, T, & U Districts)</u>

<u>Density</u>	<u>+2 per Inclusionary Dwelling Unit</u>	<u>+1 per Inclusionary Dwelling Unit</u>	<u>+1 per Inclusionary Dwelling Unit</u>
<u>FAR</u>	<u>+2.0</u>	<u>+1.0</u>	<u>--</u>
<u>Parking</u>	<u>No parking for Inclusionary Dwelling Unit</u>	<u>No parking for Inclusionary Dwelling Unit</u>	<u>No parking for Inclusionary Dwelling Unit</u>
<u>Height</u>	<u>--</u>	<u>--</u>	<u>+12' (not eligible for Planned Developments)</u>
<u>Building Lot Coverage and Impervious Surface Coverage</u>	<u>--</u>	<u>--</u>	<u>+15%</u>

10% On-Site Affordable Housing or 20% On-Site Housing with Public Financing

	<u>Downtown (D & RP Districts)</u>	<u>Commercial (B, C, M, & O Districts)</u>	<u>Residential (R, T, & U Districts)</u>
<u>Density</u>	<u>+4 per Inclusionary Dwelling Unit</u>	<u>+2 per Inclusionary Dwelling Unit</u>	<u>+2 per Inclusionary Dwelling Unit</u>
<u>FAR</u>	<u>+2.0</u>	<u>+1.0</u>	<u>--</u>
<u>Parking</u>	<u>No parking for Inclusionary Dwelling Units</u>	<u>No parking for Inclusionary Dwelling Units</u>	<u>No parking for Inclusionary Dwelling Units</u>
<u>Height</u>	<u>--</u>	<u>--</u>	<u>+12' (not eligible for Planned Developments)</u>
<u>Building Lot Coverage & Impervious Surface Coverage</u>	<u>--</u>	<u>--</u>	<u>+15%</u>
<u>Site Development Allowances for Planned Developments</u>	<u>Majority vote of City Council required to exceed maximum Site Development Allowances for Planned Developments (instead of Supermajority vote)</u>		

- (E) *Parking: Parking requirements provided in Title 6 are hereby amended for covered developments and primarily affordable non-covered developments in non-TOD areas that provide on-site affordable units, the parking requirements for the entire development provided in Title 6, Zoning Code, shall be reduced to:*

Parking Requirements	In TOD Areas	Outside TOD Area
0-1 Bedroom	<u>0.55 parking spaces</u>	0.75 parking spaces
2 Bedrooms	<u>1.1 parking spaces</u>	1.25 parking spaces
3+ Bedrooms	<u>1.65 parking spaces</u>	1.5 parking spaces

5-7-14. ENFORCEMENT.

- (A) The provisions of this chapter shall apply to all agents, successors and assignees of an applicant.
- (B) The City may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this chapter. In addition, any person, firm, or entity, whether as principal, agent, employee or otherwise, who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each offense. Each day such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense.

5-7-15. ADMINISTRATION.

In order to ensure compliance with the provisions of this chapter, the City may utilize a maximum of fifteen percent (15%) each year of funds from the affordable housing fund for administration.

5-7-16. SEVERABILITY.

The provisions and sections of this chapter shall be deemed separable, and the invalidity of any portion of this chapter shall not affect the validity of the remainder.

SECTION 3: The findings in this Ordinance, and the Legislative Record, are declared to be prima facie evidence of the law of the City of Evanston, and shall be received in evidence as provided by the Illinois Compiled Statues, and the courts of the State of Illinois.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect

without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: In the event of any conflict between the terms and conditions of this Ordinance 107-O-18 and the terms of the Zoning Ordinance, Ordinance 107-O-18 shall supersede, prevail and dictate the law of the City of Evanston until such time as the Zoning Ordinance is amended to address the regulations set forth herein. All other regulations not addressed within this Ordinance 107-O-18 shall remain in full force and effect in the City Code.

SECTION 6: This ordinance shall become effective on January 1, 2019. All completed applications for building permit, for developments needing no zoning relief, and all completed applications for a variance or special use permit, received after January 1, 2019 shall be subject to all provisions contained herein. Those completed applications received prior to January 1, 2019 shall be subject to the provisions of the preceding City Code provisions and exempted from the amended and additional provisions provided herein.

Introduced: _____, 2018

Approved:

Adopted: _____, 2018

_____, 2018

Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Devon Reid, City Clerk

Michelle Masoncup, Corporation Counsel