



MANAGER'S MEMORANDUM

Prepared for: **Naperville City Council**
By: City Manager's office
4/9/2026

A. MANAGER'S MEMORANDUM

Source:	Subject:	Action:
1. Marcie Schatz, Assistant to the City Manager	Legislative positions – Week of April 6, 2026	FYI
2. Ben Mjolsness, Sustainability Manager	Expanded Styrofoam Recycling Events Returning for 2026 Season	FYI
3. Doug Krieger, City Manager	TRUST Act information	FYI
4. Allison Laff, AICP, Deputy Director - TED	Illinois Inclusionary Zoning Ordinance (IZO) Research	FYI

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: April 9, 2026
TO: Doug Krieger, City Manager
FROM: Marcie Schatz, Assistant to the City Manager
SUBJECT: Legislative positions – Week of April 6, 2026

Purpose:

At the December 2, 2025, meeting, the City Council approved the 2026 legislative priorities. City staff uses the approved legislative priorities (LP), principles, and review process which includes reporting on any legislative actions or positions in the Managers Memorandum.

Discussion:

Week of April 6, 2026

City staff filed a witness slip on the following bill:

Bill No.	Title	Position	Basis
HB5169	Senior Home Preservation	Proponent	Municipal Revenue Support

HB5169-SENIOR HOME PRESERVATION

Appropriates \$22,000,000 from the General Revenue Fund to the Development of Human Services for grants to municipalities or counties under the Senior Home Preservation Program.

Recommendation:

Please include in the April 9, 2026, Manager’s Memorandum.

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: April 9, 2026
TO: Doug Krieger, City Manager
FROM: Ben Mjolsness, Sustainability Manager
SUBJECT: Expanded Styrofoam Recycling Events Returning for 2026 Season

Purpose:

The purpose of this memorandum is to provide an update on free Styrofoam Recycling drop-off events planned for 2026 and summarize the performance metrics from 2025 events.

Background:

Expanded polystyrene foam (usually referred to by the brand name “Styrofoam”) is widely used to provide padding for consumer products and in grocery and food takeout applications. Styrofoam is not accepted in Naperville’s curbside recycling service or at the free recycling drop-off on Fort Hill Drive, but it can be recycled if collected separately and sent to the proper recycling partner. Naperville residents frequently request more options for recycling this material.

In 2025, the City partnered with NEST, the Naperville Noon Lions, and Dart Container Corporation to provide two free Styrofoam Recycling drop-off events as part of a pilot initiative to divert this material from landfills and recycle it to create new products.

The collection events were held at the north parking lot of the Route 59 Metra station (475 Fairway Drive); Dart provided a free, empty semi-trailer for collecting the Styrofoam and transported the container to their North Aurora facility to be recycled. NEST and Naperville Noon Lions members volunteered to help the City’s Sustainability staff with collecting Styrofoam from residents’ cars, interacting with residents and answering recycling questions, bagging the material, and loading the full bags into the semi-trailer.

The addition of this free program available to Naperville residents supports the City’s goal of providing easy and convenient ways to recycle.

Discussion:

The two Styrofoam Recycling events held in 2025 were well received by Naperville residents, with many attendees requesting information on future drop-off opportunities. The data reflected this, with the following participation and collection results:

Event Date	# of Participating Vehicles	Volume of Styrofoam Collected
Saturday, May 10	101	23 cubic yards
Saturday, September 6	120	27 cubic yards

Based on these results, as well as positive community response, the City and partners plan to expand to offer three Styrofoam Recycling events in 2026:

- Saturday, April 11, 9am – 12pm
- Saturday, July 18, 9am – 12pm
- Saturday, October 3, 9am – 12pm

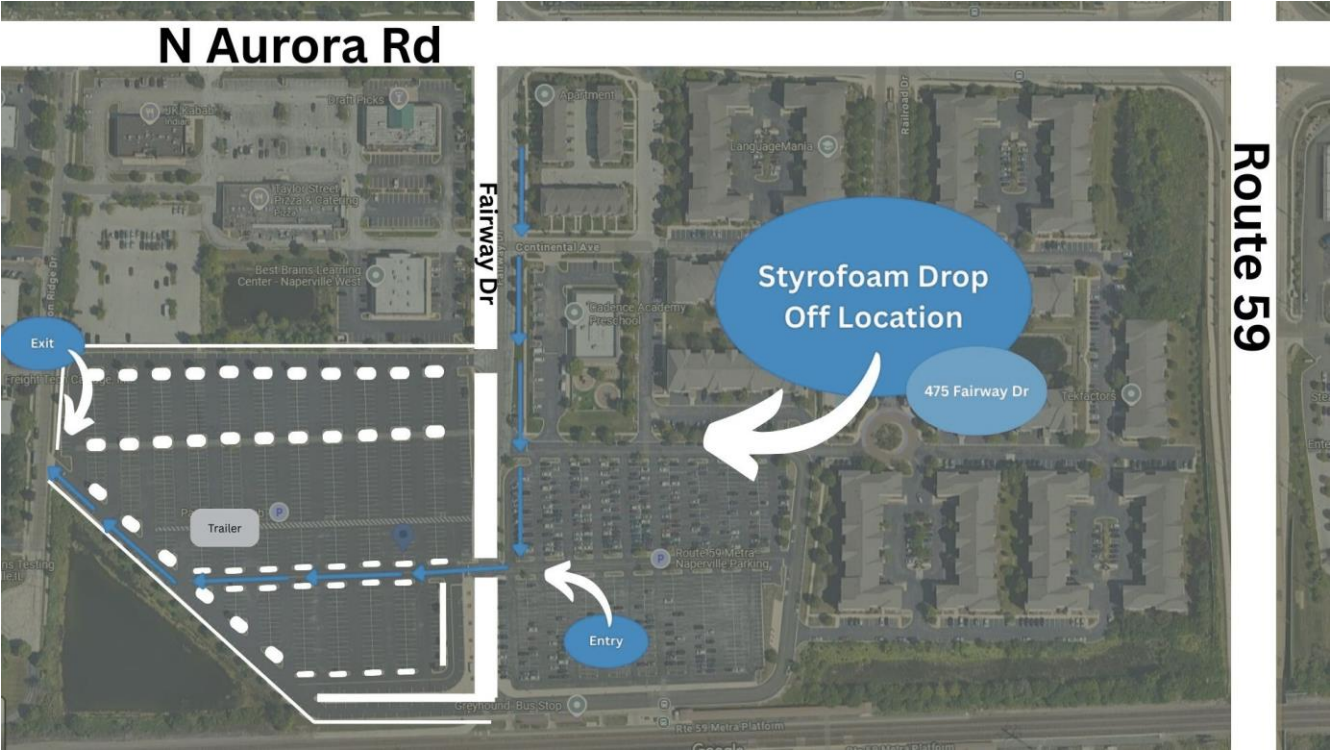
All events are currently planned to be held at the north parking lot at the Route 59 Metra station (475 Fairway Drive, map attached). A complete list of acceptable and unacceptable items is available at <https://www.naperville.il.us/government/environmental-sustainability-in-naperville/waste-and-recycling/>.

Program updates will be shared on the City's website and social media channels. Additionally, information about the 2026 Styrofoam Recycling events was featured in the April/early May edition of the *Connected* newsletter. A map of the Styrofoam Recycling drop-off location is attached.

Recommendation:

I recommend that this information be shared with the City Council through the Manager's Memorandum.

Attachment: Map of Styrofoam Recycling Drop-Off Site



**CITY OF NAPERVILLE
MEMORANDUM**

DATE: April 9, 2026

TO: Mayor and City Council

FROM: Doug Krieger, City Manager

SUBJECT: TRUST Act information

PURPOSE/BACKGROUND:

In response to a request from Councilwoman Gibson at the April 7, 2026 City Council meeting, this memorandum provides an update on the City of Naperville's training and communication initiatives regarding the Illinois TRUST Act. The following summary outlines the actions taken to date.

DISCUSSION:

Legal & Law Enforcement Training (March 6, 2026):

The Illinois Office of the Attorney General conducted a specialized training session for staff from both the Naperville Police Department and the Legal Department. This training served as the foundation for all subsequent training and communications.

Building Attendants Training (March 10, 2026):

The City Attorney and City Manager provided targeted training to Municipal Center building attendants.

Leadership Training (March 19, 2026):

The City Attorney presented a TRUST Act briefing to department directors during the Directors Leadership Team meeting.

Social Media Post (March 24, 2026):

Chief Arres discussed the City's attendance at the TRUST Act and Voices Act training in an [Instagram post](#).

Departmental Implementation (March 27, 2026):

A training bulletin was distributed to all directors. This resource serves as the primary tool for directors to facilitate consistent, department-specific training for staff members.

RECOMMENDATION:

Include in the April 9 Manager's Memorandum.

**CITY OF NAPERVILLE
MEMORANDUM**

DATE: April 9, 2026

TO: Doug Krieger, City Manager

FROM: Allison Laff, AICP, Deputy Director - TED

SUBJECT: Illinois Inclusionary Zoning Ordinance (IZO) Research

Purpose:

The purpose of this memo is to provide an overview of the components and outcomes of Inclusionary Zoning Ordinances (IZO) currently being utilized in Illinois communities.

Background:

Under new business at the January 20, 2026 meeting, City Council directed staff to prepare a report summarizing Naperville's most recent affordable housing discussions, including the Affordable Housing Incentive Program (AHIP) and Inclusionary Zoning Ordinance (IZO). Upon receipt of this report, Council noted that they could then provide direction as to if/how the City moves forward with either program.

The requested report was provided to the City Council at their February 17, 2026 meeting. Following discussion, City Council directed staff to research Illinois IZOs to determine the extent to which each have generated new affordable housing units. Council additionally requested that staff meet with Council to gain more insight into individual affordable housing goals and recommended approaches.

Discussion:

In response to Council direction on February 17th, staff researched the following Illinois IZOs: Evanston, Highland Park, Lake Forest, Northbrook, Oak Park, Skokie and St. Charles. A chart summarizing the components of these IZOs, as well as the fee-in-lieu payments collected and affordable housing units built, is attached. The full IZO ordinances for each community are also attached.

Following receipt and review of this report, Council may reach out to Rachel Pruneda, Assistant to the Mayor, to set up 2 x 2 meetings with staff to further discuss their individual affordable housing goals and recommended approaches, if desired.

Recommendation:

FYI

ILLINOIS INCLUSIONARY ZONING ORDINANCES

	Targeted Income	Set Aside Percentage	Affordability Term	Offsetting Benefits	Fee-in-Lieu Amount	Fee-in-Lieu Collected	Affordable Units Built	Housing Trust Fund
Evanston (2007; repealed and replaced in 2025)	80-100% AMI for ownership; 40-80% AMI for rental	15% of units	For-sale: in perpetuity; rental: 30 years	Fee waivers; zoning bonuses	\$405,000 - \$1,429,000 (depending on number of bedrooms)	\$3.6 million	102 units constructed; 122 additional units approved	Yes
Highland Park (2003; repealed and replaced in 2019)	100% AMI for ownership; 45-120% AMI for rental	20% of units	In perpetuity	Fee waivers	\$185,400 per unit	\$4.18 million	68 units constructed; 44 additional units approved	Yes
Lake Forest (2005)	80-120% AMI for ownership; 60-80% AMI for rental	15% of units	In perpetuity	Fee waivers; density bonuses	Amount established annually	TBD	54 units pending approval	Yes
Northbrook (2020)	80-120% AMI for ownership; 50-100% AMI for rental	15% of units	In perpetuity	Density bonuses; by right variances	\$125,000 per unit	\$1.17 million	75 units approved and/or constructed; 70 additional units pending	Yes
Oak Park (2019)	120% AMI for ownership; 60% AMI for rental	10% of units	Established in development's Affordable Housing Agreement	Permit fee waiver; density and height bonus	\$100,000 per unit	\$3.15 million	No units built through IZO; 86 units built by Housing Trust Fund	Yes

ILLINOIS INCLUSIONARY ZONING ORDINANCES

	Targeted Income	Set Aside Percentage	Affordability Term	Offsetting Benefits	Fee-in-Lieu Amount	Fee-in-Lieu Collected	Affordable Units Built	Housing Trust Fund
Skokie (2024)	60-80% AMI	5-10% of units	25 years	Parking reductions	\$100,000 – 150,000 per unit	\$900,000 pending payment	13 units built; 17 additional units approved	In process
St. Charles (2008)	<80% AMI for ownership; 50-60% AMI for rental	5-10% of units	15 years	Density bonuses and by-right zoning variances; fee waivers	\$20,000 - \$52,000 depending on development type	\$1.7 million	75 units	Yes

2-O-25

AN ORDINANCE

Amending Title 5, Chapter 7, “Inclusionary Housing”

WHEREAS, new or rehabbed housing in Evanston is generally not affordable to low- and moderate-income households; and

WHEREAS, without intervention, this will result in an inadequate supply of affordable housing and will reduce Evanston’s racial and economic diversity; and

WHEREAS, the City of Evanston’s first Inclusionary Housing Ordinance went into effect on March 12, 2007 and subsequent ordinances went into effect on January 1, 2016, and January 1, 2019; and

WHEREAS, on December 11, 2023, the City Council approved City Council goals specifically including, “[a]mend the Inclusionary Housing Ordinance, increasing the inclusionary requirement in 2024”; and

WHEREAS, it is best practice to routinely review and update local inclusionary housing policy to align with market conditions and the policy landscape;

WHEREAS, this Ordinance increases the inclusionary requirement from 10% to 15%; and

WHEREAS, this Ordinance increases both predictability and flexibility for developers and providers of Inclusionary Housing; and

WHEREAS, this Ordinance increases the variety of on-site units to better address Evanston’s housing needs; and

WHEREAS, this Ordinance reduces ambiguity and improves program administration, implementation, and efficacy; and

WHEREAS, the Evanston City Council finds that it is in the best interest of the City of Evanston to amend the inclusionary housing ordinance.

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

SECTION 1: Title 5, Chapter 7, "Inclusionary Housing" of the Evanston City Code of 2012, as amended, is hereby further amended and repealed in its entirety as follows:

~~CHAPTER 7 INCLUSIONARY HOUSING~~

~~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 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 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 households, including 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 thirty (30) 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 thirty one percent (31%) 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 based on income eligibility using the HUD Part 5 verification process and asset limits, per the City's wait list policies and procedures.
<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>CONTRACTED AGENCY.</i>	-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.
<i>COVERED DEVELOPMENT.</i>	-A development containing five (5) or more dwelling units on contiguous land under common ownership or control by an applicant at one (1) location within the City, when such dwelling units are to be sold to owner-occupants or leased to tenants. The term "covered development" may apply to a development that is designed to 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. 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, or that changes the number of bedrooms in dwelling units without a change in tenure.
	-(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>	A household with a total income equal to or below fifty percent (50%) of the AMI.
<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>	A household with a total income above eighty percent (80%) of the AMI but not exceeding one hundred twenty percent (120%) of the AMI.
<i>MODERATE INCOME HOUSEHOLD.</i>	A household with a total income above fifty percent (50%) of the AMI but not exceeding eighty percent (80%) of the AMI.
<i>PRIMARILY AFFORDABLE HOUSING DEVELOPMENT.</i>	A residential multi-family building that may have the physical characteristics of a covered development, but will have affordability restrictions that exceed the requirements of this ordinance. This may include a development in which all of the units are restricted to households earning at or below the median income.
<i>PROPERTY, RECEIVING PUBLIC FUNDING.</i>	Any residential development or development containing a residential component, existing or new, that receives or has received any public funds. 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. 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.
<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 City's contracted agency per Section 5-7-6 of this Chapter.

TRANSIT ORIENTED DEVELOPMENT or TOD.	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.
TOD AREA.	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.
TRANSIT STATION.	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 Chapter results in a fraction, the following rules apply:~~
- ~~1. Fractions of one half ($\frac{1}{2}$) and more are counted as a whole.~~
 - ~~2. Fractions less than one half ($\frac{1}{2}$) are disregarded in the onsite unit calculation but apply to the fee-in-lieu calculation.~~
 - ~~3. The above two (2) rules are also applied in the computation of fees in lieu with any fraction of a unit less than one half ($\frac{1}{2}$) 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 contracted agency shall issue a certificate of qualification to any household whose income has been verified 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. All affordable units must be sold to households whose incomes do not exceed one hundred percent (100%) AMI 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.~~
- ~~For covered developments all affordable units must be leased to households whose incomes do not exceed sixty percent (60%) AMI 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. A waiting list will be created, developed, and managed by a third party contractor, in advance of the construction of the units to prioritize households pursuant to Section 5-7-6(C). Households may complete a preliminary income screening based on self-reported income 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 may have different interior appearance and finishes 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 (1) 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.~~
- ~~(F) *Reserved.*~~
- ~~(G) *Unit Characteristics.* Affordable dwelling units shall be 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.~~
- ~~(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 as of right, an applicant may pay a fee in lieu of building each affordable dwelling unit required by Section 5-7-4 of this Chapter for the covered development. Developments that receive variances or allowances above the base zoning must have a minimum of five percent (5%) affordable units onsite and may pay a fee in lieu of the remaining five percent (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 5-7-4 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 (\$175,000.00) for units in all Downtown and Research Park zoning districts or one hundred fifty thousand (\$150,000.00) per affordable dwelling unit in all 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 one and one-half (1.5) times the fee in lieu shown above for either Downtown or non-Downtown zoning districts. The fee in lieu 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.~~
- ~~(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 (2) 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 5-7-4 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 thirty percent (30%) AMI, or more affordable units at higher income levels such as eighty percent (80%) AMI. The income levels for affordable units must be a level for which the Illinois Housing Development Authority publishes annual rent and income limits. To qualify as affordable units, rental units shall not exceed eighty percent (80%) AMI and ownership units shall not exceed one hundred percent (100%) 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.

Editor's note(s) — Ord. No. 107-O-18, § 1, adopted October 29, 2018, repealed the former Section 5-7-10 in its entirety, which pertained to the reduction or waiver of requirements, and derived from Ord. No. 32-O-07; Ord. No. 8-O-12, (48-O-11(exh. B, § 5-7-10)), adopted January 23, 2012, and Ord. No. 60-O-15, § 2, adopted November 23, 2015.

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:

<u>Unit Size</u>	<u>Income Level For Household Size</u>
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 (eighty percent (80%), one hundred percent (100%) or one hundred twenty percent (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.—One hundred percent (100%) of the affordable dwelling units within covered developments shall have affordable rental rates at sixty percent (60%) AMI according to their Affordable Housing Agreement, 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.~~
- ~~2.—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.~~
- ~~3.—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) years, after which the affordability requirements of this Chapter cease to control the unit.~~
- ~~4.—A written twelve (12) month lease is required for all leased affordable dwelling units. Renewal leases may be less than twelve (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 contracted agency. If the 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 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 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 5-7-8 and 5-7-9 of this Chapter respectively.~~

~~(E) *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 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:

<u>Years of Ownership</u>	<u>Share to Affordable Housing Fund</u>
10+ Years	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.~~

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 for plan review and building permits 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 plan review and building permit 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:

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

	Downtown (D & RP Districts)	Commercial (B, C, M, & O Districts)	Residential (R, T, & U Districts)
Density	+2 per Inclusionary Dwelling Unit	+1 per Inclusionary Dwelling Unit	+1 per Inclusionary Dwelling Unit
FAR	+2.0	+1.0	—
Parking	No parking for Inclusionary Dwelling Unit	No parking for Inclusionary Dwelling Unit	No parking for Inclusionary Dwelling Unit
Height	—	—	+12' (not eligible for Planned Developments)
Building Lot Coverage and Impervious Surface Coverage	—	—	+15%

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

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

~~(D) *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	0.55 parking spaces	0.75 parking spaces
2 Bedrooms	1.1 parking spaces	1.25 parking spaces
3+ Bedrooms	1.65 parking spaces	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 2: Title 5, Chapter 7, "Inclusionary Housing" of the Evanston City Code of 2012, as amended, is hereby further amended and replaced as follows:

CHAPTER 7 INCLUSIONARY HOUSING

5-7-1. TITLE.

This Chapter is titled and referred to as the INCLUSIONARY HOUSING ORDINANCE.

5-7-2. PURPOSE AND INTENT.

This Chapter aims to increase housing choice for low- and moderate-income households in Evanston by requiring covered developments to provide Inclusionary Housing units, i.e. affordable to low- and moderate-income households.

Except for housing subsidized by the City and/or other public entities, new or rehabbed housing in Evanston is generally not affordable to low- and moderate-income households.

The City recognizes that, without intervention, this will result in an inadequate supply of attainable housing and will reduce Evanston's racial and economic diversity.

Since there is limited land for new residential development, a reasonable proportion should be developed into for-sale and rental units affordable to low- and moderate-income households. The Inclusionary Housing Ordinance is not the only way the City seeks to address housing needs in Evanston; it is one of many tools in the City's toolkit to minimize displacement and preserve and increase the supply of housing affordable to low- and moderate-income households.

5-7-3. DEFINITIONS.

To administer this Chapter, these definitions will apply:

<u>APPLICANT.</u>	<u>Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities whose application to the Department includes a covered development according to this Chapter.</u>
<u>APPROVED COMMUNITY LAND TRUST.</u>	<u>A private, non-profit corporation that the City will create or authorize to acquire and own land for the benefit of the City and low- and moderate-income households.</u>
<u>AREA MEDIAN INCOME (AMI).</u>	<u>The median income level for the Chicago-Joliet-Naperville, IL HUD Metro FMR Area, adjusted for household size, as established annually by the U.S. Department of Housing and Urban Development.</u>
<u>CONTRACTED AGENCY.</u>	<u>An organization with which the City contracts and has a written agreement to manage components of this Chapter that may include, but are not limited to, the centralized wait list and/or tenant annual income certification.</u>
<u>COVERED DEVELOPMENT.</u>	<u>A development or concurrent developments containing seven (7) or more covered units under common ownership or control by an applicant.</u>
<u>COVERED UNIT.</u>	<u>Any dwelling unit including, but not limited to, an accessory dwelling unit, live/work unit, and age-restricted unit, that is either:</u> <ol style="list-style-type: none"> 1. <u>A new dwelling unit in a newly constructed development or a new dwelling unit in an existing development</u> 2. <u>A dwelling unit in an existing development that has increased or decreased in size and/or number of bedrooms.</u> 3. <u>A dwelling unit in an existing development where the development has changed tenure (from rental to for-sale or for-sale to rental)</u>
<u>DEPARTMENT.</u>	<u>The City of Evanston Community Development Department or any successor agency.</u>
<u>INCLUSIONARY HOUSING PROVIDER</u>	<u>Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that owns a covered development with Inclusionary Housing rental units.</u>

<u>INCLUSIONARY HOUSING UNIT.</u>	<u>A for-sale or rental dwelling unit in a covered development that is affordable to income-qualified households and sold or rented only to income-certified households.</u>
<u>INCOME CERTIFIED HOUSEHOLD.</u>	<u>A household that meets the eligibility criteria to rent or purchase a specific Inclusionary Housing unit, as stipulated by the Policies and Procedures.</u>
<u>MAJORITY AFFORDABLE DEVELOPMENT.</u>	<u>A covered development where greater than fifty percent (50%) of all covered units are affordable according to the requirements of this Chapter.</u>
<u>MARKET-RATE UNIT.</u>	<u>A dwelling unit in a covered development that is not an Inclusionary Housing unit.</u>
<u>POLICIES AND PROCEDURES.</u>	<u>A document(s), authorized by the City Manager or their designee, that provides additional detail to effectively implement, administer and enforce this ordinance.</u>
<u>PUBLICLY-FUNDED.</u>	<u>Any covered development, that receives or has received any grant, loan, or subsidy from any Federal, State, or local agency or instrumentality, including, but not limited to, the sale of property below market value, purchase money financing, construction financing, permanent financing, or Low-Income Housing Tax Credit allocations or bond proceeds. Public funding does not include a loan from a government-sponsored enterprise (i.e. Fannie Mae, Freddie Mac), a Housing Choice Voucher rent subsidy, or a property tax exemption or abatement.</u>

5-7-4. REQUIREMENTS – GENERAL.

- A. General Requirement: A covered development, containing a minimum of seven (7) covered units is required to meet its Inclusionary Housing Requirement.
- B. 7-14 Covered Units. The following are the Inclusionary Housing Requirements for covered developments with less than 15 covered units, with a weighted average of maximum gross rents at or below sixty percent (60%) AMI:
 - a. 7-9 covered units: One (1.0) Inclusionary Housing Requirement
 - b. 10-13 covered units: One point five (1.5) Inclusionary Housing Requirement
 - c. 14 covered units: Two (2.0) Inclusionary Housing Requirement
- C. 15+ Covered Units. Fifteen percent (15%) of covered units in a covered development of fifteen (15) or more covered units are required to be Inclusionary Housing units with a weighted average of maximum gross rents at or below 60% AMI. The resulting number of units, without rounding, will be the covered development's Inclusionary Housing Requirement.
- D. Publicly-Funded Developments. The Inclusionary Housing Requirement for a publicly-funded development is twice (2 times) the requirement in 5-7-4 B or C.

- E. Meeting the Inclusionary Housing Requirement. One hundred percent (100%) of the Inclusionary Housing Requirement must be provided by the applicant. There are three ways to do so:
- a. Option A: Provide the Inclusionary Housing Requirement on-site, rounded up to the nearest whole number.
 - b. Option B: Provide a portion of the Inclusionary Housing Requirement on-site and pay the remaining portion of the requirement as an in-lieu fee to the Affordable Housing Fund.
 - c. Option C: Pay 100% of the Inclusionary Housing Requirement as an in-lieu fee to the Affordable Housing Fund.

5-7-5. REQUIREMENTS – APPROVED OPTIONS.

To increase flexibility for applicants and to incentivize providing units with more bedrooms and units affordable to lower-income households, the Inclusionary Housing Requirement can be met using the following approved options. An applicant may both decrease the weighted average and increase the number of bedrooms to satisfy the Inclusionary Housing Requirement. Any remaining portion of the Inclusionary Housing Requirement must be paid at the full rate, as calculated in 5-7-4 B, C or D.

- A. Lower-Income Households.
- a. Rental Units: Maximum gross rent tiers will not exceed eighty percent (80%) AMI and must be a multiple of 10% AMI. Applicants must select from one of the following options:
 - i. 60% AMI: Fifteen percent (15%) of covered units at a weighted average rent at or below 60% AMI
 - ii. 50% AMI: Twelve percent (12%) of covered units at a weighted average rent at or below 50% AMI
 - iii. 40% AMI: Ten percent (10%) of covered units at a weighted average rent at or below 40% AMI
 - b. For-Sale Units: Sales price will not exceed the maximum price as stipulated by the Policies and Procedures. Applicants must select from one of the following options:
 - i. 100% AMI: Fifteen percent (15%) of covered units at a sales price affordable to households at or below 100% AMI
 - ii. 80% AMI: Twelve percent (12%) of covered units at a sales price affordable to households at or below 80% AMI
- B. More Bedrooms.
- a. One-Bedroom = One and a quarter (1.25) Studio
 - b. Two-Bedroom = Two (2) Studios or One and a half (1.5) One-Bedrooms
 - c. Three Bedroom = Two and three quarters (2.75) Studios, Two and a quarter (2.25) One-Bedrooms, or One and three quarters (1.75) Two-Bedrooms
 - d. Four-Bedroom = Three and three quarters (3.75) Studios, Three (3) One Bedrooms, Two and a quarter (2.25) Two-Bedrooms, or One and a half (1.5) Three-Bedrooms

5-7-6. REQUIREMENTS – IN-LIEU FEE.

If selecting Option B or Option C to fulfill the Inclusionary Housing Requirement, per Section 5-7-4 E, the covered development's in-lieu fee must be calculated. In the case of Option B, the unrounded remaining Inclusionary Housing Requirement, or in the case of Option C, the full, unrounded Inclusionary Housing Requirement is converted into a unit mix, as specified in Section 5-7-7 and as stipulated by the Policies and Procedures.

A. Calculation.

- a. In-lieu fees are as follows and are adjusted annually based on the Consumer Price Index, per the Policies and Procedures:

<u>Studio</u>	<u>1 BR</u>	<u>2 BR</u>	<u>3 BR</u>	<u>4 BR</u>
<u>\$405,000</u>	<u>\$481,000</u>	<u>\$711,000</u>	<u>\$1,070,000</u>	<u>\$1,429,000</u>

- b. If a fractional unit is required, the corresponding calculation uses the in-lieu fee for the most prevalent number of bedrooms. If the most prevalent is shared between multiple unit types, the unit type with the most bedrooms is used.
- c. In-lieu fees are calculated by the Department as part of the Inclusionary Housing Plan and building permit application process. In-lieu fees may be estimated by the Department separate from the above but are only estimates and subject to change.

- B. Payment. In-lieu fees are paid by the applicant as part of the permit application process and before being granted a building permit.

5-7-7. REQUIREMENTS – UNIT ATTRIBUTES AND DISTRIBUTION.

A. Unit Size.

- a. Number of Bedrooms. The unit mix of Inclusionary Housing units will be in equal proportion to the overall unit mix of covered units within the covered development, as stipulated by the Policies and Procedures.
- b. Area. Inclusionary Housing units will be equal to or larger than the smallest covered, market-rate units with the equivalent number of bedrooms within the covered development.

- B. Location. Inclusionary Housing units will be dispersed among the covered, market-rate dwelling units.

C. Appearance and Components.

- a. Exterior. The exterior appearance of Inclusionary Housing units will not differ from the covered, market-rate units in the covered development.
- b. Interior. Inclusionary Housing units may have different interior appearance and finishes to covered, market-rate units as long as the materials, appliances, and building systems are durable, of good and new quality, and consistent with the current standards for new housing.
- c. Energy Efficiency. Standard components of Inclusionary Housing units related to energy efficiency, including, but not limited to, mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, will not differ from the covered, market-rate units in the covered development.

- D. Phased Construction. In a multiphase development, Inclusionary Housing units will be frontloaded in the initial phase(s) or each phase will include an equal proportion of Inclusionary Housing units to covered, market-rate units.

5-7-8. REQUIREMENTS – ALTERNATIVE EQUIVALENT PROPOSAL.

- A. Alternative Equivalent Proposal. An applicant may propose to meet the Inclusionary Housing Requirement by an alternative equivalent action. A proposal for an alternative equivalent action may include, but is not limited to:
- a. The construction of Inclusionary Housing units off-site of the covered development
 - b. The acquisition and conversion of existing market-rate dwelling units to Inclusionary Housing units
 - c. The donation of property to the City of Evanston
- B. A proposal must articulate how the alternative action will increase affordable housing opportunities in the City to an equal or greater extent than the covered development's Inclusionary Housing Requirement.
- C. The proposal is subject to:
- a. An equivalent action analysis by the Department, as stipulated by the Policies and Procedures, resulting in a determination of either "lesser extent / not recommended" or "equal or greater extent / recommended".
 - b. An administrative fee, as stipulated by the Policies and Procedures.
 - c. City Council approval.

5-7-9. INCENTIVES.

For a compliant covered development that provides on-site Inclusionary Housing units, the City will provide the following incentives:

- A. Fee Waiver: City-required building permit fees for the Inclusionary Housing units and a proportional share of the common areas will be waived, capped at thirty-five percent (35%) of building permit fees, as stipulated in the Policies and Procedures. No waiver from payment of any other fees will be provided, including but not limited to right-of-way fees, demolition fees, or fees related to the commercial portion(s) of the covered development.
- B. Fee Deferral: The remaining City-required building permit fees will be deferred for payment until the application for the first temporary certificate of occupancy for a covered, market-rate unit. No deferral from payment of any other fees will be provided, including but not limited to right-of-way fees, demolition fees, and fees related to the commercial portion(s) of the development.
- C. Zoning Incentives: Any zoning bonuses for covered developments that provide Inclusionary Housing units on-site are addressed in Title 6 – Zoning.

5-7-10. COMPLIANCE – SUBMISSIONS.

- A. Inclusionary Housing Application. The applicant will submit an Inclusionary Housing Application, provided by the Department, concurrent with submitting a zoning analysis application. The application is a preliminary proposal of how the applicant will fulfill the requirements of this Chapter.
 - a. The zoning analysis will not be deemed complete until the Department has marked the Inclusionary Housing Application as compliant.
 - b. The Application fee and detailed requirements are stipulated in the Policies and Procedures.
- B. Inclusionary Housing Plan. The applicant will submit an Inclusionary Housing Plan, provided by the Department, concurrent with submitting a building permit application. The Plan is the applicant's final commitment to fulfill the requirements of this Chapter.
 - a. The building permit application will not be deemed complete until the Department has approved the Inclusionary Housing Plan.
 - b. The Plan fee and detailed requirements are stipulated in the Policies and Procedures.
- C. Annual Rental Compliance Report. The Inclusionary Housing provider, or its designee, will submit an annual rental compliance report to the Department or the contracted agency as stipulated in the Policies and Procedures.
- D. Majority Affordable Development. A majority affordable development will comply with the requirements and will benefit from the incentives of this Chapter unless otherwise stipulated in the Policies and Procedures.

5-7-11. COMPLIANCE – AFFORDABILITY CONTROLS.

- A. Rental Units.
 - a. Affordability Period. A rental Inclusionary Housing unit is required to comply with this Chapter for thirty (30) years. The affordability period begins when all Inclusionary Housing units at the covered development have had at least one signed lease.
 - b. Income-Certified Household. The Inclusionary Housing provider will only rent an Inclusionary Housing unit to an income-certified household, as stipulated in the Policies and Procedures.
- B. For-Sale Units
 - a. Affordability Period. A for-sale Inclusionary Housing unit is required to comply with this Chapter in perpetuity or as long as allowable by law. The affordability period begins at the initial sale.
 - b. Availability. A for-sale Inclusionary Housing unit must be made available for sale, as stipulated in the Policies and Procedures, at or before any covered, market-rate units are available for sale.
 - c. Initial Sale. The initial sale of a for-sale Inclusionary Housing unit must be made in one of the following ways:
 - Directly to an income-certified household, as stipulated in the Policies and Procedures. Any sale directly to an income-certified household

- b. When amended, the Policies and Procedures document(s) will be effective thirty (30) days after the City Manager or their designee's authorization.

B. Effective Date and Applicability

- a. An applicant beginning the zoning analysis process after the effective date of this Chapter is required to comply with the Chapter.
- b. An applicant beginning the zoning analysis process before the effective date of this Chapter is not required to comply with the Chapter, rather the Chapter effective at that time.
- c. An applicant that begins the zoning analysis process before the effective date of this Chapter and does not make substantive progress on their application, as stipulated by the Policies and Procedures, must resubmit and therefore is required to comply with the Chapter.

C. Data Tracking and Annual Report

- a. The Department will track key Inclusionary Housing metrics and, on an annual basis, prepare an annual report to be shared with the Housing and Community Development Committee and placed on file.
- b. The annual report will also include any recommendations, if applicable, for any changes to this Chapter to better achieve the City's housing goals.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this Ordinance 2-O-25 or application thereof to any person or circumstance is held 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 application of this Ordinance is severable.

SECTION 5: Ordinance 2-O-25 shall be in full force and effect as of April 1, 2025.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: January 27, 2025

Approved:

Adopted: February 10, 2025

Feb 14, 2025, 2025

Daniel Biss
box SIGN 4LR35Q59-4LJJJK6

Daniel Biss, Mayor

Attest:

Stephanie Mendoza
box SIGN 1RXPY3KL-4LJJJK6

Stephanie Mendoza, City Clerk

Approved as to form:

Alexandra B. Ruggie
box SIGN 1VWXZ88Z-4LJJJK6

Alexandra B, Ruggie, Corporation Counsel

ARTICLE XXI. INCLUSIONARY HOUSING¹

Sec. 150.2100. Policy.

The purpose of this Code is to promote the public health, safety, and welfare by promoting housing of high quality located in neighborhoods throughout the community for household members of all income levels, ages and sizes in order to meet the City's goal of preserving and promoting a culturally and economically diverse population in the City. The City recognizes the need to provide affordable housing to low- and moderate-income households in order to maintain a diverse population, to provide housing for those who live or work in the City, and to support the ability of local employers to maintain an adequate workforce. Because the City has limited remaining land appropriate for residential development and land values and housing prices are relatively high, City policies are essential to ensure that new residential development will include a reasonable proportion of housing units affordable to low- and moderate-income households and working families.

While this Article provides specific alternatives to the production of on-site affordable housing units, the intent and preference of this Code is for the provision of permanently affordable housing units constructed on-site and privately produced, owned, and managed.

The provisions of this Code may be supplemented by a set of Administrative Guidelines adopted pursuant to Section 150.2185 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19; Ord. O34-2020, § 2, passed 3/9/20)

Sec. 150.2105. Covered Development Projects.

(A) *General.* The provisions of this Code shall apply to all developments that result in or contain five or more residential dwelling units. The types of development subject to the provisions of this Code include, but are not limited to, the following:

- (1) A development that is new residential construction or new mixed-use construction with a residential component.
- (2) A development that is the renovation or reconstruction of an existing multiple family residential structure that increases the number of residential units from the number of units in the original structure.
- (3) A development that will change the use of an existing building from non-residential to residential or that will change the type of residential use.
- (4) A development that includes the conversion of rental property to private ownership of individual housing units.

¹Ord. O72-2019, § 2(Exh. A), adopted Oct. 28, 2019, repealed Art. XXI, §§ 150.2100—150.2115, and enacted a new Art. XXI, §§ 150.2100—150.2185, as set out herein. The former article pertained to similar subject matter and derived from Ord. 52-03, J. 29, p. 174-185, passed Aug. 25, 2003; Ord. 45-07, J. 33, p. 251-253, passed June 11, 2007; Ord. 16-09, J. 35, p. 32-48, passed Feb. 9, 2009; and Ord. 59-15, passed June 8, 2015.

-
- (B) *Development on Multiple Parcels.* For purposes of this Code, a development that occurs on adjacent parcels under common ownership shall be considered one development.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2110. General Affordable Housing Requirements.

All covered development projects within the City shall provide affordable residential units within the covered development, in accordance with Section 150.2115 of this Code, unless and to the extent the City approves an exception to allow either: (A) the provision of affordable residential units at an off-site location, in accordance with Section 150.2120 of this Code; (B) a cash payment in lieu of providing affordable housing units, in accordance with Section 150.2125 of this Code; or (C) the dedication of land to the Highland Park Housing Commission, in accordance with Section 150.2130 of this Code. The percentage of residential units within the covered development project that are affordable residential units must not be less than approximately 15 percent, calculated pursuant to Section 150.2115 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2115. Provision of Affordable Housing Units.

- (A) *Calculation of Units Required.* Unless an exception is approved pursuant to Sections 150.2120, 150.2125, or 150.2130 of this Code, the applicant for a covered development project must satisfy the requirements of this Article XXI by providing affordable housing units within the development, calculated as follows:

- (1) The applicant must identify the number of dwelling units proposed to be constructed as part of the covered development project, which quantity must comply with the applicable regulations set forth in Article VII of this Chapter 150 and the other applicable building and zoning regulations of this Code.
- (2) Of the quantity of dwelling units identified pursuant to Section 150.2115(A)(1) of this Code, 20 percent must be designated as affordable housing units. If the 20 percent calculation performed pursuant to this Section 150.2115(A)(2) yields a fractional number, the applicant must either: (a) provide a full affordable housing unit; or (b) pay a fee-in-lieu for that fractional unit, in the corresponding fractional amount of the per unit payment amount established pursuant to Section 150.2125(B) of this Code.
- (3) The applicant may then incorporate one and one-half additional dwelling units into the covered development project for each affordable unit provided pursuant to this Section 150.2115 (i.e. the applicant may incorporate the additional dwelling units, notwithstanding the number identified pursuant to Section 150.2115(A)(1) of this Code or any maximum density regulation set forth in another provision of this Code).

- (B) *Compliance with Requirements.* Affordable housing units provided by the applicant must comply with the requirements set forth in Sections 150.2150 through 150.2175 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2120. Off-Site Affordable Housing Units in Lieu of On-Site Affordable Housing Units.

- (A) *General Applicability.* In lieu of providing the affordable housing units required pursuant to Section 150.2115(A) of this Code within the covered development, the applicant may provide some or all of the required units at an alternate off-site location within the City, but only upon the approval of the City Council, after consideration of a recommendation from the Housing Commission, and after making a determination that provision of the required units at an alternate off-site location will further affordable housing

opportunities in the City to an equal or greater extent than through provision of affordable units within the covered development.

- (B) *Compliance with Requirements.* Affordable housing units provided by the applicant must comply with the requirements set forth in Sections 150.2150 through 150.2175 of this Code.

(Ord. 072-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2125. Cash Payment in Lieu of Affordable Housing Units.

- (A) *General Applicability.* The applicant may make a cash payment in lieu of constructing some or all of the required affordable housing units otherwise required pursuant to Section 150.2115 of this Code, but only if either: (1) the covered development consists solely of 19 or fewer single-family detached dwelling units; or (2) the City Council approves such payment, after consideration of a recommendation from the Housing Commission, and after making a determination that such a payment will further affordable housing opportunities in the City to an equal or greater extent than through provision of affordable units pursuant to Section 150.2115 of this Code.
- (B) *Amount and Use of Cash in Lieu.* For covered developments consisting solely of 19 or fewer single-family detached dwelling units, the per unit payment amount shall be in the amount set forth in the Annual Fee Resolution. For all other covered developments, the per unit payment amount shall be not less than the amount set forth in the City's Annual Fee Resolution. The minimum per unit amount shall be determined by the City Council, based upon an estimate of the cost of providing an affordable housing unit, and shall be reviewed and modified periodically by the City Council. All cash payments received pursuant to this Article shall be deposited directly into the Affordable Housing Trust Fund for purposes authorized under Section 33.1133 of this Code.
- (C) *Calculation.* The total in lieu payment amount shall be equal to the per unit amount established by the City pursuant to Section 150.2125(B) of this Code multiplied by 20 percent of the number of units proposed in the covered development, less the per unit amount multiplied by the number of affordable housing units actually provided by the applicant pursuant to Section 150.2115 of this Code.
- (D) *Timing of Payment.* No building permits will be issued for a covered development project that utilizes the provisions of this Section 150.2125 prior to the payment of that percentage of the required total in lieu payment that is equal to the percentage of the dwelling units in the covered development project for which building permits have been or are being issued.

(Ord. 072-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2130. Dedication of Land.

In lieu of providing affordable units pursuant to Section 150.2115 of this Code, and in lieu of making a cash payment pursuant to Section 150.2125 of this Code, the applicant may dedicate land to the Highland Park Housing Commission, or the Commission's not-for-profit designee, but only if: (a) the City Council approves such dedication, after consideration of a recommendation from the Commission and after making a determination that dedication of land will further affordable housing opportunities in the City to an equal or greater extent than through provision of affordable units pursuant to Section 150.2115 of this Code; and (b) the applicant dedicates a quantity of land sufficient for developing a quantity of dwelling units equal to 20 percent of the number of units in the covered development project.

(Ord. 072-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2135. Application and Inclusionary Housing Plan.

- (A) *Application.* For all covered development projects, the applicant shall file an application for approval thereof on a form provided and required by the City. 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 such other documents and information as the Director of the City's Department of Community Development, or his or her designee ("Director"), may require. The Director shall also have the authority to require, as part of the application submittal, such portions of the inclusionary housing plan required under Section 150.2135(B) of this Code as the Director shall deem necessary to properly evaluate the proposed covered development under the requirements and provisions of this Code.
- (B) *Inclusionary Housing Plan.* As part of the approval of a covered development project, the applicant shall present to the Housing Commission and the City Council an inclusionary housing plan that outlines and specifies the covered development's compliance with each of the applicable requirements of this Code, in accordance with the following:
- (1) *Required Submittals for Inclusionary Housing Plan.* The plan shall specifically contain, at a minimum, the following information regarding the covered development project;
- (a) *Preliminary Plan.*
- (i) A general description of the development, including whether the development will contain rental units or individually owned units, or both;
 - (ii) The total number of market rate units and affordable units in the development;
 - (iii) The total number of attached and detached residential units;
 - (iv) The number of bedrooms in each market rate unit and each affordable unit;
 - (v) The area of each market rate unit and each affordable unit;
 - (vi) The location within any multiple-family residential structure and any single-family residential development of each market rate unit and each affordable unit.
 - (vii) Floor plans for each affordable unit;
 - (viii) The amenities that will be provided to and within each market rate unit and affordable unit; and
 - (ix) The pricing for each market rate unit and each affordable housing unit.
- (b) *Final Plan.*
- (i) All of the information required for the preliminary Inclusionary Housing Plan pursuant to Section 150.2135(B)(1)(a) of this Code;
 - (ii) The phasing and construction schedule for each market rate unit and each affordable unit;
 - (iii) Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the development and each of its individual units;
 - (iv) A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development; and
 - (v) A description of the specific efforts that the applicant will undertake to provide affordable housing units to households pursuant to the priorities set forth in Section 150.2155 of this Code.
- (2) *Review Procedure.*

-
- (a) *Preliminary Plan.*
- (i) *Housing Commission Review.* Within 60 days after the filing of a complete preliminary Inclusionary Housing Plan, the Housing Commission shall review the Inclusionary Housing Plan, and shall recommend either the approval (with or without modifications) or the rejection of the Inclusionary Housing Plan. The Housing Commission shall transmit its findings of fact and recommendation to the City Council. The failure of the Housing Commission to provide a recommendation within such 60-day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the Inclusionary Housing Plan.
- (ii) *City Council Consideration.*
- (A) Upon receipt of the Housing Commission recommendation pursuant to Section 150.2135(B)(2)(a)(i) of this Code, the City Council may, by resolution duly adopted, approve or reject the preliminary Inclusionary Housing Plan.
- (B) Approval of the preliminary Inclusionary Housing Plan by the City Council shall neither: (1) be deemed or interpreted as obligating the City Council to approve a final Inclusionary Housing Plan; nor (2) vest any right to the applicant other than the right to submit a final Inclusionary Housing Plan for the proposed Covered Development Project.
- (b) *Final Plan.*
- (i) *Housing Commission Review.* Within 60 days after the filing of a complete final Inclusionary Housing Plan, the Housing Commission shall review the Inclusionary Housing Plan, and shall recommend either the approval (with or without modifications) or the rejection of the Inclusionary Housing Plan. The Housing Commission shall transmit its findings of fact and recommendation to the City Council. The failure of the Housing Commission to provide a recommendation within such 60-day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the Inclusionary Housing Plan.
- (ii) *City Council Consideration.* Upon receipt of the Housing Commission recommendation pursuant to Section 150.2135(B)(2)(b)(i) of this Code, the City Council may, by ordinance duly adopted, approve or reject the Inclusionary Housing Plan. Any ordinance approving a final Inclusionary Housing Plan shall include, without limitation, the following:
- (A) All standards, conditions, or restrictions deemed necessary or applicable by the City Council to effectuate the proposed development and protect the public interest, health, safety and welfare; and
- (B) [All] provisions requiring the execution and recordation by the applicant of a development agreement, as required pursuant to Section 150.2140 of this Code.
- (c) *Concurrent Review of Preliminary and Final Plans.* Notwithstanding any provision of this Code to the contrary, for all Covered Development Projects that are not planned developments, and for all planned developments for which a concurrent review procedure has been approved pursuant to Section 150.550 of this Chapter, the Housing Commission and City Council shall review the preliminary and final Inclusionary Housing Plans concurrently, pursuant to the final Inclusionary Housing Plan review procedure set forth in Section 150.2135(B)(2)(b) of this Code.

-
- (3) *Standards of Review.* The Housing Commission shall not recommend the approval of a preliminary or final Inclusionary Housing Plan, and the City Council shall not approve a preliminary or final Inclusionary Housing Plan, except upon making the following findings:
- (a) That the applicant has demonstrated that the proposed affordable housing units are designed to accommodate the needs of the target households;
 - (b) That the location, floor plan, fixtures and finishes, and amenities of each proposed affordable housing unit satisfy the applicable provisions of this Code and are suitable for the needs of the target households;
 - (c) That each affordable housing unit is designed to accommodate family living needs for common space and dining areas; and
 - (d) That the proposed affordable housing units, and the development as a whole, conform to the applicable standards and requirements of this Chapter.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2140. Development Agreement and Other Documents.

Prior to issuance of a building permit for any covered development, the applicant shall have entered into a development agreement with the City regarding the specific requirements and restrictions regarding affordable housing and the covered development. The applicant shall execute any and all documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article. The development agreement shall set forth the commitments and obligations of the City and the applicant and shall incorporate, among other things, the inclusionary housing plan. The development agreement shall also contain the agreements and decisions regarding the applicability of any one or more of the alternatives to the provision of on-site affordable housing units as set forth in Sections 150.2120, 150.2125, and 150.2130 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2145. Development Cost Off-Sets.

An applicant that fully complies with the requirements of this Code shall, upon written request, receive from the City, with regard to the affordable housing units in the covered development, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, the demolition tax, and such other development fees and costs which may be imposed by the City; provided, however, that this waiver shall not apply to third-party legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued by the City in connection with the review and processing of plans for the covered development. The waiver and discount of fees and costs under this Section shall only apply to the affordable units, and shall be calculated as the percentage of units within the covered development that are affordable units. All applicable fees and costs under this Code shall apply to all market rate units.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19; Ord. No. O06-2025, § 2, passed 1/27/25)

Sec. 150.2150. Integration of Affordable Housing Units.

- (A) *Location of Affordable Housing Units.* Affordable housing units shall be dispersed among the market rate units throughout the covered development.

- (B) *Phasing of Construction.* The inclusionary housing plan and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the covered development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the covered development project based upon the phasing plan. The phasing plan may be adjusted by the Director when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable housing units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.
- (C) *Exterior Appearance.* The exterior appearance of the affordable housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.
- (D) *Unit Amenities.* Amenities that are provided with a market rate unit shall also be provided with the affordable units. For purposes of this Section 150.2150(D), "amenities" shall include, without limitation, basements, front porches, storage lockers, balconies, roof decks, outdoor patios, off-street parking, enclosed parking, appliances, and similar unit features and additions. Specially, and without limitation of the foregoing, the development must comply with the following:
- (1) *Parking Amenities.* One parking space per affordable unit must be included in the rent and without any additional charge to the tenant. Additional parking spaces must be made available in the same manner and using the same method for allocation for the market rate units. Premium parking spaces, such as indoor parking, shall not be required to be allocated to the affordable units free of charge, provided that required parking is provided elsewhere on the site.
 - (2) *Storage Amenities.* To the extent that storage is allocated to all market rate units within a development, similar storage space must be allocated to all affordable units and included in the rent without additional charge to the tenant. If storage space is not allocated to all units due to insufficient ratio of storage space to residential units, then the affordable units should have access to storage in the same manner as do the market rate units, at a cost discounted by the ratio of the affordable unit's rent to the equivalent size unit's market rent.
- (E) *Interior Appearance and Finishes.* Affordable housing units may differ from market rate units with regard to interior finishes and gross floor area, provided that:
- (1) The bedroom mix of affordable units shall be in equal proportion to the bedroom mix of the market rate units.
 - (2) The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.
 - (3) The interior gross floor area for the affordable housing units shall be no less than the lesser of: (a) 75 percent of the gross floor area of market rate units with a comparable number of bedrooms; or (b) the minimum size requirements outlined in the table below; provided, however, that interior gross floor area shall not include areas devoted to vertical circulation, basements, off-street parking, lockers and similar storage areas, and mechanical rooms.

Number of Bedrooms	Unit Type	
	Single Story Dwelling Units	Multi-Story Dwelling Units
Studio	450 square feet	—
1	750 square feet	—
2	950 square feet	1,000 square feet

3	1,175 square feet	1,350 square feet
4	1,350 square feet	1,600 square feet

(F) *Special Assessments.* No special assessment may be imposed against any inclusionary housing unit except in connection with necessary maintenance of, and repairs to, structural improvements, parking areas, or common areas, and only for maintenance and repairs that are consistent with the approved inclusionary housing plan and other zoning plans for the property and for which the City has issued all required building permits.

(G) *Property Taxes.* The developer of a for-sale affordable housing unit must take all practicable steps to cause the Lake County Assessor to assign a unique property identification number to the affordable housing unit prior to issuance by the City of a certificate of occupancy for any portion of the property.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19; Ord. O60-2023, § 2, passed 11/13/23)

Sec. 150.2155. Target Income Levels for Affordable Housing Units.

(A) *For-Sale Affordable Housing Units.* In covered development projects that contain for-sale units, at least one affordable housing unit and no less than 50 percent of the affordable housing units shall be sold to low-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 65 percent of area median income. Any remaining affordable units shall be sold to moderate-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2155(A).

(B) *Rental of Affordable Housing Units.* In covered development projects that contain rental units: (i) no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes from zero percent to 50 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 45 percent of area median income; (ii) no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 51 percent and 80 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 65 percent of area median income; and (iii) no more than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 81 percent and 120 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. If fewer than three affordable units will be provided, such units shall be rented or leased to low-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that does not exceed what is affordable to a household with an annual income that is 65 percent of area median income.

(C) *Pricing Schedule.* The City, through the Director of Community Development, shall publish a pricing schedule of rental and sales prices for affordable housing units ("pricing schedule"), which pricing schedule shall be updated at least once every 12 months. The Director of Community Development may, in his or her discretion, include the pricing schedule within administrative guidelines adopted pursuant to Section 150.2185 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2160. Eligibility of Households.

- (A) *For-Sale Affordable Housing Units.* Only eligible households shall be permitted to purchase an affordable housing unit for purposes of this Code. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Public Library, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, the North Shore Sanitary District, or the South Lake County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If, during possession, the gross income of the eligible household increases above the eligible income levels, set forth in Section 150.2155 of this Code, the eligible household may continue to own the affordable housing unit. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2160(A).
- (B) *Rental Affordable Housing Units.* Only eligible households shall be permitted to rent an affordable housing unit for purpose of this Code. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Public Library, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, or the South Lake County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If, during possession, the gross income of the eligible household increases above the eligible income levels, set forth in Section 150.2155 of this Code, the eligible household may continue to lease the unit and may renew the lease as well. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2160(B).

(Ord. 072-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2165. Marketing of the Affordable Housing Units.

- (A) *Good Faith Marketing Required.* All sellers and lessors of affordable units are responsible for marketing the affordable units, and shall engage in good faith marketing efforts to inform members of the public who are qualified to purchase or rent affordable units of the availability of such units for sale or rent. Prior to the initiation of public marketing efforts to sell or lease an affordable housing unit, the seller or lessor thereof shall submit to the Director of Community Development a description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development to the appropriate income groups.
- (B) *City Assistance with Marketing.* At the applicant's request, the City or its designee shall assist the applicant in marketing the affordable housing units to eligible households, for an additional charge to be determined by the City.

(Ord. 072-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2170. Period of Affordability.

- (A) *Sale of Affordable Housing Units.* In covered developments that contain for-sale units, affordable housing units shall be resold to low and moderate income households for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2170(A).
- (B) *Rental of Affordable Housing Units.*
- (1) In developments that contain rental units, affordable housing units shall be rented to low and moderate income households in accordance with Section 150.2160 of this Code for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2170(B). In the event that the owner of a covered rental development sells the development, the new owner shall be required to continue to provide the affordable housing units in accordance with this Article XXI.
 - (2) If the owner of a covered rental development converts the development to condominiums or other form of individual unit ownership, the development shall be subject to the for-sale development requirements set forth in Section 150.2155(A) of this Code. The Housing Commission or its designee shall have the right, but not the obligation, to purchase any for-sale affordable housing units in the development pursuant to Section 150.2175 of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2175. Affordability Controls.

- (A) *For-Sale Affordable Housing Units.*
- (1) *Housing Commission Purchases.* The Housing Commission, or a not-for-profit agency designated by the Housing Commission, shall have the pre-emptive option and right, but not an obligation, to purchase each of the for-sale affordable housing units prior to any sale of any such unit. If the City, or the designated not-for-profit, exercises the option and purchases the affordable housing unit, the affordable housing unit shall be subject to such documents deemed necessary by the City, including, without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:
 - (a) The calculated maximum resale price is an upper limit, but shall not be construed as a guarantee that the unit will be resold at that price.
 - (b) Market conditions, and characteristics of the affordable housing unit, may result in the sale of an affordable housing unit at a price lower than the calculated maximum resale price.
 - (2) *Private Party Purchases.* In all other sales of for-sale affordable housing units, the parties to the transaction shall execute and record such documentation as required by Section 150.2140 of this Code to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:
 - (a) The affordable housing unit shall be sold to and occupied by an eligible household.
 - (b) The affordable housing unit shall be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units for eligible households.

-
- (c) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in Section 150.2160 of this Code.
 - (d) The calculated maximum resale price is an upper limit, but shall not be construed as a guarantee that the unit will be resold at that price.
 - (e) Market conditions, and characteristics of the affordable housing unit, may result in the sale of an affordable housing unit at a price lower than the calculated maximum resale price.
- (B) *Rental Affordable Housing Units.* For covered rental developments that contain affordable housing units, the owner of the development shall execute and record such documentation as required by Section 150.2140 of this Code to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:
- (1) The affordable housing units must be leased and occupied by eligible households.
 - (2) The affordable housing units must be leased at rent levels affordable to eligible households for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law.
 - (3) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in Section 150.2155 of this Code.
 - (4) The calculated maximum rental price is an upper limit, but shall not be construed as a guarantee that the unit will be rented at that price.
 - (5) Market conditions, and characteristics of the affordable housing unit, may result in the rental of an affordable housing unit at a price lower than the calculated maximum rental price.
- (C) *Subleasing Prohibited.* Subleasing of affordable units shall not be permitted without the express written consent of the Director.
- (Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2180. Departures from Requirements.

The Housing Commission may recommend, and the City Council may approve, departures from any of the standards set forth in this Article, upon making each of the following findings:

- (A) Due to specific and unique circumstances, undue hardship would be caused by the literal enforcement of the standards and requirements set forth in this Article;
- (B) By virtue of excellence in design, the proposed departure from the standards does not result in a diminished or lower quality affordable dwelling unit, but provides a functionally equivalent dwelling unit; and
- (C) The proposed affordable housing units otherwise meet the purpose and intent of this Code.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

Sec. 150.2185. Administrative Guidelines.

The City Director of Community Development shall have the right, but not the obligation, to adopt, and to amend from time to time, administrative guidelines to assist in the effective implementation of this Code by participants in the Inclusionary Housing Program; provided, however, that any administrative guidelines adopted

or amended pursuant to this Section 150.2185 shall not be inconsistent with this Article, and that in the event of a conflict between the administrative guidelines and this Article, this Article shall control.

(Ord. O72-2019, § 2(Exh. A), passed 10/28/19)

CHAPTER 158: INCLUSIONARY HOUSING

Section

- 158.01 Definitions
- 158.02 Policy
- 158.03 Covered development projects
- 158.04 Percentage of affordable housing units required
- 158.05 Development cost off-sets
- 158.06 Density bonuses
- 158.07 Integration of affordable housing unit
- 158.08 Alternatives to on-site affordable housing units
- 158.09 Target income levels for affordable housing units
- 158.10 Eligibility of households
- 158.11 Period of affordability
- 158.12 Inclusionary housing plan and development agreements
- 158.13 Preservation of affordability and restrictions on resale
- 158.14 Implementation

§ 158.01 DEFINITIONS.

(A) *In general.* The words and phrases used in this chapter shall be interpreted to have the meanings ascribed to them in this section. To the extent that words or phrases used in this chapter are not defined in this section, but such words or phrases are defined in the Zoning Code (Chapter 159), such words or phrases shall be deemed to have the meanings set forth in the Zoning Code. Otherwise, words and phrases shall be interpreted in their commonly used sense as set forth in the Webster's Third International Dictionary (Ed.), unless the context reasonably requires another construction.

(B) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AFFORDABLE HOUSING. Any housing that qualifies as affordable low-income housing or moderate housing.

AFFORDABLE HOUSING TRUST FUND. A trust fund to be established by the city with the central purpose of providing financial resources to address the affordable housing needs of individuals and families of low- and moderate-income households who live in the city.

AFFORDABLE HOUSING UNIT. A dwelling unit that meets the criteria for affordable low-income housing or for moderate housing.

AFFORDABLE LOW-INCOME HOUSING. Decent, safe, sanitary and appropriate housing that low-income households, households earning between 60% and 80% of the area median income, can own or rent without having to devote more than approximately 30% of their gross income to monthly housing expenses.

AREA MEDIAN INCOME. The median income level for the Chicago area, as established and defined in the annual schedule published by the Secretary of Housing and Urban Development, and adjusted for household size.

CONVERSION. A change in a residential or mixed-use rental development to individual-owner residential condominium units.

COVERED DEVELOPMENT PROJECT. Any development project in the city that is required to provide affordable housing units under provisions of this chapter. Projects at one location undertaken in phases, stages or otherwise developed in distinct parts shall be considered a **SINGLE COVERED DEVELOPMENT PROJECT**.

ELIGIBLE HOUSEHOLD. For purposes of this chapter, a low- or moderate-income household.

HOUSING EXPENSES.

- (a) For rental housing, rent and utilities; and
- (b) For home ownership, principal and interest of any mortgages placed on the unit, property taxes, condominium or homeowner's association fees, if applicable, and insurance.

LOW-INCOME HOUSEHOLDS.

- (a) For owner occupied units, households that have incomes that do not exceed 80% of the area median income; and

(b) For rental units, households that have incomes that do not exceed 60% of the area median income.

MARKET RATE UNITS. Residential dwelling units that are not required to be affordable housing units under the requirements of this chapter.

MODERATE HOUSING. Decent, safe, sanitary and appropriate housing that moderate-income households, households earning between 80% and 120% of the area median income, can own or rent without having to devote more than approximately 30% of their gross income to monthly housing expenses.

MODERATE-INCOME HOUSEHOLDS.

(a) For owner occupied units, households that have incomes that do not exceed 120% of the area median income, or such higher income limit as may be established for a local, county, state or federal housing program.

(b) For rental units, households that have incomes that do not exceed 80% of the area median income.

(Ord. 2005-45, passed 12-5-2005; Ord. 2011-24, passed 10-17-2011)

§ 158.02 POLICY.

(A) (1) The purpose of this chapter is to promote the public health, safety and welfare by encouraging high quality housing throughout the community sufficient to meet the needs of all city residents.

(2) Throughout its history, the city has offered a diverse housing stock that permitted families of varying income levels and with various housing needs to own homes in the community.

(3) In recent years, property values have escalated to the point of discouraging a diverse housing stock.

(4) A certain percentage of residents who currently live in the city are unable to meet or maintain the household income level necessary to support home ownership and, therefore, must look to other communities for housing.

(5) 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; that demolition of certain existing dwellings has led to a reduction in the diversity of the city's housing stock and affordable housing opportunities, and that subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of making affordable housing available in the city.

(6) With the exception of housing developed in partnership with the city and the Lake Forest Senior Cottages Foundation, the privately developed new residential housing that is being built in the city generally is not affordable to low- and moderate-income households.

(7) The city recognizes the need to provide alternative housing opportunities in order to maintain the diversity of population that has historically characterized the city.

(B) (1) While this chapter provides specific alternatives to the production of on-site affordable housing units, the intent and preference of this section is to provide permanent affordable housing units that are constructed on the site of the covered development project.

(2) Ownership and management of the units by the Lake Forest Senior Cottages Foundation, or a similarly qualified not-for-profit agency, is encouraged.

(Ord. 2005-45, passed 12-5-2005)

§ 158.03 COVERED DEVELOPMENT PROJECTS.

(A) The provisions of this chapter shall apply to all residential developments that result in or contain five or more dwelling units (excluding any single-family detached dwellings).

(B) The types of development subject to the provisions of this code include without limitation the following:

(1) A development consisting of new residential construction or new mixed-use construction with a residential component;

(2) A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple-family residential structure and that increases the number of residential units from the number of units in the original structure;

(3) A development that will change the use of an existing building in whole or in part from nonresidential to residential; and

(4) A development that includes the conversion of rental property to condominium property.

(Ord. 2005-45, passed 12-5-2005)

§ 158.04 PERCENTAGE OF AFFORDABLE HOUSING UNITS REQUIRED.

(A) *General requirement.* Except as otherwise provided in §158.08, at least 15% of the total number of dwelling units

within any covered development project shall be affordable housing units and shall be located on the site of the covered development project.

(B) *Calculation.*

(1) To calculate the number of affordable housing units required in a covered development project, the total number of proposed units shall be multiplied by 15%.

(2) For purposes of this calculation, if 15% of the number of proposed units results in a fraction, a fraction of 0.5 or more shall be rounded up, and a fraction of less than 0.5 shall be rounded down. For example, a proposed multiple-family development containing 15 units would be required to set aside two units as affordable housing units. A similar 20 unit development would be required to set aside three of the units as affordable housing units.

(3) Except, that in no case, shall the required number of units be less than one unit.

(Ord. 2005-45, passed 12-5-2005; Ord. 2011-24, passed 10-17-2011)

§ 158.05 DEVELOPMENT COST OFF-SETS.

(A) An applicant that fully complies with the requirements of this chapter (including any administrative rules that may be developed in accordance with § 158.14) shall, upon written request, receive from the city with regard to only the affordable housing units in the covered development project, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, impact fees and other development fees and costs which may be imposed by the city.

(B) The fees charged for the total development shall be adjusted proportionately to reflect this waiver of fees for the affordable housing units.

(C) In the event that an applicant has paid any development costs that might otherwise be subject to a waiver, such applicant may, upon satisfaction of the requirements of this chapter, seek reimbursement of such development costs.

(Ord. 2005-45, passed 12-5-2005)

§ 158.06 DENSITY BONUSES.

(A) For all covered development projects that are located in the B-2, B-3 or B-4 Zoning Districts, the maximum floor area ratio for the zoning district may be increased an additional 0.25 if the affordable housing units are constructed on the site of the covered development project.

(B) (1) For all covered development projects that are located in all other zoning districts, a density bonus shall be provided equal to one market rate unit for each affordable housing unit required under this code if the affordable housing units are constructed on the site of the covered development project; provided, however, that the maximum number of dwelling units in a covered development project shall not, pursuant to the provisions of this chapter, exceed 115% of the total number of dwelling units otherwise authorized under the applicable zoning district regulations under the Zoning Code.

(2) For example, a proposed multiple-family development containing 20 units would be required to provide three affordable housing units in the development and would be permitted to construct three additional market rate units; resulting in a total of 23 units in the development.

(Ord. 2005-45, passed 12-5-2005)

§ 158.07 INTEGRATION OF AFFORDABLE HOUSING UNIT.

(A) *Location of affordable housing units.* Affordable housing units shall be dispersed among the market rate units throughout the covered development project.

(B) *Phasing of construction.*

(1) Where possible, affordable housing units shall be constructed concurrent with the development of market-rate units.

(2) Construction phasing of affordable housing units shall not be delayed beyond the schedule noted below, unless authorized by the Director of Community Development when it is demonstrated by the developer to the satisfaction of the city that a delay is necessary in order to account for the different financing and funding requirements, economics of scale, and infrastructure needs applicable to development of the market rate and the affordable housing units:

Construction of Market-Rate Units (%)	Required Construction of Affordable Housing Unit (%)
Construction of Market-Rate Units (%)	Required Construction of Affordable Housing Unit (%)
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%

Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%
Fractions of units shall not be counted	

(C) *Exterior appearance.*

(1) The exterior appearance of the affordable housing units in any covered development project shall be visually compatible with the market rate units in the development.

(2) External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.

(D) *Interior appearance and finishes.* Affordable housing units may differ from market rate units with regard to interior finishes and square footage, provided that:

(1) Interior features and structural elements of affordable housing units shall comply in all respects to the minimum construction standards set forth in the city code;

(2) The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems;

(3) The bedroom mix and aggregate gross square footage of the affordable housing units shall be no less than the minimum requirements outlined in the table below (unless adjusted in accordance with § 158.12(B)); and

Number of Affordable Housing Units	Number of Bedrooms		Minimum Aggregate Gross Square Footage
	1 Bedroom	2 Bedroom	
1	0	1	1,200
2	1	1	2,000
3	1	2	3,200
4	2	2	4,000
5	2	3	5,200
6	3	3	6,000
7	3	4	7,200
8	4	4	8,000
9	4	5	9,200
10	5	5	10,000
11	5	6	11,200
12	6	6	12,000
13	6	7	13,200
14	7	7	14,000
15	7	8	15,200
16	8	8	16,000
17	8	9	17,200
18	9	9	18,000
19	9	10	19,200
20	10	10	20,000

(4) To the extent that a covered development project is required to provide more than 20 affordable housing units, the mix and aggregate gross square footage of such units shall be determined in a manner consistent with the preceding table.

(Ord. 2005-45, passed 12-5-2005)

§ 158.08 ALTERNATIVES TO ON-SITE AFFORDABLE HOUSING UNITS.

(A) As an alternative to constructing affordable housing on the site of the covered development project, the City Council may approve, concurrent with the approval of the overall development, one or more of the three alternatives to constructing affordable housing set forth in this section.

(B) This section shall not be utilized unless the applicant demonstrates to the satisfaction of the City Council that the alternate means of compliance will further affordable housing opportunities in the city to an equal or greater extent than compliance with the on site requirements of this chapter.

(C) The terms and requirements for utilizing the provisions of this section shall be specifically set forth in the development agreement required pursuant to § 158.12(B) of this chapter.

(1) *Cash payment in lieu of affordable housing units.* A cash payment in lieu of constructing some or all of the required affordable housing units on the site of a covered development project.

(a) *Amount and use of cash in lieu.*

1. The per unit payment amount for cash in lieu of affordable housing units shall be set at an amount may be determined by ordinance of the City Council.

2. The per unit amount shall be based on an estimate of the cost of providing an affordable housing unit and shall be reviewed periodically by the City Council, with any increase set forth in the city's annual fee ordinance.

3. The cash payment shall be deposited directly into an Affordable Housing Trust Fund established by the city, which shall be used for the purpose of providing financial resources to address affordable housing needs within the city by promoting, preserving and producing long-term affordable housing; providing housing-related services; or providing support for not-for-profit organizations that actively address the affordable housing needs of residents within the community.

4. The applicant shall execute all documentation relating to such payment as the City Manager (in consultation with the City Attorney) deems to be appropriate.

(b) *Calculation.*

1. For purposes of determining the total in lieu payment amount, the per unit amount established by the city shall be multiplied by 15% of the number of units proposed in the covered development project.

2. For purposes of this calculation, if 15% of the number of proposed units results in a fraction, the fraction shall not be rounded up or down.

3. If the cash payment is in lieu of providing one or more but not all of the required units, the calculation shall be prorated as appropriate.

(2) *Dedication of land.* A dedication of land of a size and location appropriate for the development of affordable housing units as determined by the City Council, which dedication shall be made to the city or, at the city's discretion, a qualified not-for-profit housing agency.

(3) *Provision of another site.* The provision of an equivalent number of affordable housing units at another site within the city.

(Ord. 2005-45, passed 12-5-2005)

§ 158.09 TARGET INCOME LEVELS FOR AFFORDABLE HOUSING UNITS.

(A) *For-sale affordable housing units.*

(1) In covered development projects that contain for-sale units, at least one affordable housing unit and no less than 50% of the affordable housing units shall be sold at a price that is affordable to a low-income household.

(2) Any remaining affordable housing units shall be sold at a price that is affordable to a moderate-income household.

(3) The owner shall execute and record any documents required by §158.12 or any other provision of this chapter to ensure compliance with this section.

(B) *Rental of affordable housing units.*

(1) In covered development projects that contain rental units, at least one affordable housing unit and no less than 50% of the affordable housing units shall be rented or leased at a price that is affordable to a low-income household.

(2) Any remaining affordable housing units shall be rented or leased at a price that is affordable to a moderate-income household.

(3) The owner shall execute and record any documents required by §158.12 or any other provision of this chapter to ensure compliance with this section.

(Ord. 2005-45, passed 12-5-2005)

§ 158.10 ELIGIBILITY OF HOUSEHOLDS.

(A) *For-sale affordable housing units.*

(1) Only eligible households shall be permitted to purchase and occupy an affordable housing unit for purposes of satisfying the requirements of this chapter.

(2) In order to address current and anticipated future demands within the city for affordable housing, the developer of a covered development project shall establish a plan, which plan shall be subject to the approval of the City Manager (or the Manager's designee).

(3) (a) Such plan is intended to give priority to low- and moderate-income households in the following order (unless adjusted in accordance with § 158.12(B)):

1. Households who live in the city and the head of the household or the spouse or domestic partner is 75 years of age or older;
2. Households who live in the city and the head of the household or the spouse or domestic partner is 65 years of age or older;
3. Former city residents that are age 65 and older;
4. Parents of city residents who are age 65 and older; and
5. Households in which the head of the household or the spouse or domestic partner works in the city.

(b) The selection of eligible households for the affordable housing units shall be conducted by the City Manager, or such other person or entity designated by the City Council in accordance with § 158.12(B).

(4) If the gross income of the eligible household increases above the eligible household income levels provided in § 158.09, the eligible household may continue to own and occupy the affordable housing unit, subject to the limitations on sale or lease as set forth in § 158.11.

(5) The owner of the covered development project shall execute and record any documents required by §158.12 to ensure compliance with this section.

(B) Rental affordable housing units.

(1) Only eligible households shall be permitted to rent and occupy an affordable housing unit for purpose of this code.

(2) In order to address current and anticipated future demands within the city for affordable housing, the developer of a covered development project shall establish a plan, which plan shall be subject to the approval of the City Manager (or the Manager's designee).

(3) (a) Such plan is intended to give priority to low- and moderate-income households in the following order (unless adjusted in accordance with § 158.12(B)):

1. Households who live in the city and the head of the household or the spouse or domestic partner is 75 years of age or older;
2. Households who live in the city and the head of the household or the spouse or domestic partner is 65 years of age or older;
3. Former city residents that are age 65 and older;
4. Parents of city residents, who are age 65 and older; and
5. Households in which the head of the household or the spouse or domestic partner works in the city.

(b) The selection of eligible households for the affordable housing units shall be conducted by the City Manager, or such other person or entity designated by the City Council in accordance with § 158.12(B).

(4) If the gross income of the eligible household increases above the eligible household income levels provided in § 158.09, during the lease period, the eligible household may continue to lease and occupy the unit and may renew the lease as well, subject to the limitations on lease as set forth in § 158.11.

(5) The owner of the covered development project shall execute and record any documents required by §158.12 to ensure compliance with this section.

(Ord. 2005-45, passed 12-5-2005)

§ 158.11 PERIOD OF AFFORDABILITY.

(A) Sale of affordable housing units.

(1) In covered development projects that contain for-sale units, affordable housing units shall be resold to low- and moderate-income households in perpetuity, or as long as permissible by law.

(2) The owner of the covered development project shall execute and record all documents required by §158.12 to ensure compliance with this section, in each case, the owner of a for-sale affordable housing unit shall occupy such unit, and such unit may not be leased or subleased unless expressly approved by the city and such lease or sublease is to permit occupancy by a low- or moderate-income household.

(B) *Rental of affordable housing units.*

(1) (a) In covered development projects that contain rental units, affordable housing units shall be rented to low- and moderate-income households in perpetuity, or as long as permissible by law.

(b) The owner of the covered development project shall execute and record all documents required by §158.12 to ensure compliance with this section.

(2) In each case, the rental affordable housing unit shall be occupied by a low- or moderate-income household, and such unit may not be leased or subleased unless expressly approved by the city and such lease or sublease is to permit occupancy by a low- or moderate-income household.

(a) In the event that the owner of a covered development project with one or more rental units sells the development, the new owner shall be required to continue to provide the affordable housing units in accordance with this chapter.

(b) If the owner of a covered development project with one or more rental units converts the development to condominiums, the development shall be subject to the for-sale development requirements of this chapter.

(Ord. 2005-45, passed 12-5-2005)

§ 158.12 INCLUSIONARY HOUSING PLAN AND DEVELOPMENT AGREEMENTS.

(A) *Inclusionary housing plan.*

(1) Prior to the approval of any covered development project by the city (including the issuance of any permits), the applicant shall present to the City Manager (or, in the event that the City Council enters into an agreement with a person or entity to implement provisions of this chapter, to such person or entity) an inclusionary housing plan that outlines and specifies the covered development project's compliance with each of the applicable requirements of this code.

(2) The plan shall specifically contain, at a minimum, the following information regarding the covered development project:

(a) A general description of the development, including whether the development will contain rental units or individually owned units, or both;

(b) The total number of market rate units and affordable housing units in the development;

(c) The number of bedrooms in each market rate unit and each affordable housing unit;

(d) The gross square footage of each market rate unit and each affordable housing unit;

(e) Site plans showing the location of each market rate unit and each affordable housing unit within the covered development project, and/or floor plans showing the location of each market rate unit and each affordable housing unit within a multiple-family residential structure;

(f) The pricing for each market rate unit and each affordable housing unit;

(g) The phasing and construction schedule for each market rate unit and each affordable housing unit;

(h) Documentation and plans regarding the exterior and interior appearances, materials and finishes of the development and each of its individual units;

(i) A description of the marketing plan (which shall at least include the priority provisions set forth in §58.10) that the applicant proposes to utilize and implement to promote the sale or rental of the affordable housing units within the development;

(j) A description of the specific efforts that the applicant will undertake to provide affordable housing units to low- and moderate-income households in accordance with this chapter; and

(k) A description of the documentation deemed necessary or appropriate by the city in accordance with this chapter to ensure continued affordability of the affordable housing units in accordance with this chapter.

(B) *Development agreement with not-for-profit agencies.*

(1) Prior to issuance of a building permit for any covered development project, the applicant shall enter into a development agreement with the city or, at the city's discretion, a qualified not-for-profit housing agency, regarding the specific requirements and restrictions regarding affordable housing and the covered development project.

(2) The applicant shall execute all documents deemed necessary or appropriate, including restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this chapter.

(3) Applicants may also enter into agreements with a not-for-profit housing entity to provide the long-term management, including leasing of the affordable housing units to low- or moderate-income households, and maintenance of the affordable housing units by the agency.

(C) *Additional documentation.* In addition to the requirements of divisions (A) and (B) above (as applicable), the documentation required for covered development projects under this chapter shall include, without limitation:

- (1) The identification of target income levels for affordable housing units;
- (2) The identification and selection of eligible low- and moderate-income households for the affordable housing units;
- (3) Assurances that, for during the period of affordability, any covered development projects upon which association assessments are imposed are designed to limit such assessments in a manner that will preserve the affordability of the affordable housing units;
- (4) Method for marketing of the affordable housing units to eligible low- and moderate-income households in the community;
- (5) The execution and recordation of all documents deemed necessary to ensure the development and continued affordability of the affordable housing units, including without limitation a development agreement between the owner of the covered development project and the city or its designee;
- (6) Agreements relating to the long-term management and maintenance of the affordable housing units in a covered development project;
- (7) The bedroom mix and aggregate gross square footage of the affordable housing units; and
- (8) Agreements and decisions regarding the applicability of any one or more of the alternatives to the provision of on-site affordable housing units as set forth in § 158.08.

(Ord. 2005-45, passed 12-5-2005)

§ 158.13 PRESERVATION OF AFFORDABILITY AND RESTRICTIONS ON RESALE.

(A) For-sale affordable housing units.

- (1) A for-sale affordable housing unit, the unit may be sold to a private party who meets the income level and eligibility requirements established in this chapter.
- (2) The parties to the transaction shall execute and record all documentation as required by this chapter and reviewed by the city (or its authorized designee), including, at a minimum, each of the following:
 - (a) The affordable housing unit shall be sold to and occupied by an eligible low- and moderate-income household;
 - (b) The affordable housing unit shall be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units for eligible low- and moderate-income households; and
 - (c) The resale price of any permanently affordable housing unit shall not exceed the purchase price paid by the seller of that unit plus inflation as measured by the Consumer Price Index (all urban consumers, all cities average, residential real estate) for the period of time that the unit owner resided in the unit.

(B) Rental affordable housing units.

- (1) For covered development projects with that contain affordable housing units for rent, the owner of the development shall execute and record such documentation as required by this chapter to ensure the provision and continuous maintenance of the affordable housing units.
- (2) All documents shall be submitted to the city (or its authorized designee) for review to ensure, at a minimum, each of the following:
 - (a) The affordable housing units must be leased and occupied by eligible low- and moderate-income households;
 - (b) The affordable housing units must be leased at rent levels affordable to eligible low- and moderate-income households; and
 - (c) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in § 158.10.

(Ord. 2005-45, passed 12-5-2005)

§ 158.14 IMPLEMENTATION.

- (A) The City Manager (or the Manager's designee) shall develop appropriate regulations and forms that are consistent with this chapter and necessary or convenient to effect its efficient and effective administration.
- (B) Such regulations and rules shall be reported to the City Council and thereafter made available to the public.

(Ord. 2005-45, passed 12-5-2005)

Policies and Procedures for the Administration of the Inclusionary Housing Ordinance

*From Pre-Development through Applicant Eligibility Verification (Ownership
and Rental), Rental Re-Certification, and Owner-Occupied Re-Sale*

For The Village of Northbrook Inclusionary Housing Program



TABLE OF CONTENTS

- I. Introduction 3
- II. Governed Residential Development Affordable Housing Compliance Plan
Process and Regulations 3
 - A. Governed Developments 3
 - B. When the Village Receives an Inquiry About Possible New Development, Renovation, Reconstruction, or Conversion of Residential Dwelling Units 4
 - C. General Compliance Guidelines for Developers 4
 - D. Eligible Income Tiers and Maximum Prices 5
 - E. Incentives For Development of On-Site Affordable Units 6
 - F. Design and Location of Affordable Housing Units 7
 - G. Alternative Means of Compliance 8
 - H. Affordable Housing Compliance Plan 9
 - I. Housing Development Agreement and Covenants 11
- III. Inclusionary Affordable Rental Units in Governed Developments 11
 - A. Marketing of Affordable Rental Units 11
 - B. Inquiries about Affordable Rental Units 11
 - C. Pre-Applications for the Rental Waiting list 12
 - D. Screening of Rental Pre-Applications 12
 - E. Rental Waiting List 12
 - F. Changes in Income or Household Composition 13
 - G. Ineligible Rental Pre-Applicants 13
 - H. Annual Rental Waiting List Update 13
 - I. When a Specific Unit Becomes Available and Full Rental Applications 14
 - J. Submitting Full Rental Applications 15
 - K. IHO Eligibility Determination for Specific Available Units 15
 - L. Special Occupancy Category 16
 - M. Occupancy Guidelines 16
 - N. Rental Applicants Determined to be Eligible for A Specific Unit 16
 - O. Rental Applicants Determined to be Ineligible for Specific Unit 17
 - P. Review of Appeals 17
 - Q. Annual Income Recertification Procedures for Tenants 18
- IV. Inclusionary Affordable Owner Occupied Units in Governed Developments ... 20
 - A. Marketing of Affordable Owner Occupied Units 20
 - B. Inquiries about Affordable Owner Occupied Units 20

C.	Application Process for Owner Occupied Affordable Units	20
D.	Ownership Applications	20
E.	Owner Occupied Unit Applications	21
F.	Submitting Full Applications for Owner Occupied Units	21
G.	IHO Eligibility Determination for Specific Available Units	22
H.	Special Occupancy Category	23
I.	Occupancy Guidelines	23
J.	Eligible Ownership Applicants	23
K.	Ineligibility For Program	23
L.	When An Applicant Is Found Ineligible for Specific Ownership Units	24
M.	Ownership Waiting List Procedures.....	25
N.	Resale Of Affordable Owner-Occupied Units	26
V.	Civil Rights and Nondiscrimination Requirements	27
A.	General	27
B.	Fair Housing Act	27
C.	Title VI of the Civil Rights Act of 1964	28
D.	Age Discrimination Act of 1975.....	28
E.	Section 504 of the Rehabilitation Act of 1973.....	28
F.	Executive Order 13166 – Limited English Proficiency	29

I. Introduction

The Village of Northbrook's ("the Village") inclusionary housing program, in accordance with the Village's Zoning Code Amendment Article IX; Part III related to Affordable Housing in New Developments. ("Inclusionary Housing Ordinance" or "IHO"), is intended to promote the public health, safety and welfare of existing and future Northbrook residents by requiring certain residential developments or mixed use developments to incorporate a percentage of units to be sold or rented at an affordable price to households with income below 120% of Area Median Income, or to utilize other mechanisms that will promote affordable housing opportunities in the Village. The Policies and Procedures for the Administration of the Inclusionary Housing Ordinance ("Policies and Procedures") outlines the policies and procedures for complying with the IHO, from the pre-development phase through initial lease up and sales and periodically as tenants and homeowners leave and units turnover to new tenants or homeowners. The Developer/Owner ("Developer") of the development project is responsible for following these procedures and for submitting an Affordable Housing Compliance Plan ("Compliance Plan") to the Village for review and approval by a commission or committee designated by the Village of Northbrook and the Village of Northbrook Board of Trustees ("the Village Board"). The Village has designated Community Partners for Affordable Housing ("CPAH") as its designee for consultation about the Village of Northbrook's inclusionary housing program.

II. Governed Residential Development Affordable Housing Compliance Plan Process and Regulations

A. Governed Developments

Governed developments are developments that result in the addition of or contain six or more residential dwelling units. This includes:

- (1) new residential construction or new mixed-use construction with a residential component,
- (2) a development that is the renovation or reconstruction of an existing multiple family residential building that increases the number of residential dwelling units from the number of dwelling units in the original structure,
- (3) a development that will change the use of an existing building from non-residential or that will change the class of residential use from single family to multi-family, and
- (4) a development that includes the conversion of rental property to private ownership of individual dwelling units. Assisted living and nursing facilities are not governed by the IHO

B. When the Village Receives an Inquiry About Possible New Development, Renovation, Reconstruction, or Conversion of Residential Dwelling Units

When the Village receives an inquiry from a party interested in constructing a new residential development, or rehabilitating or converting property:

- (1) Village staff will determine if the development is governed by the Inclusionary Housing Ordinance.
- (2) If the development is governed by the Inclusionary Housing Ordinance, Village staff will suggest a meeting with the developer, Village staff and CPAH.
- (3) Village staff and CPAH will work with the developer to answer questions and provide guidance on inclusionary housing compliance.
- (4) At this initial stage, after consultation with staff, Developer will be asked to provide a narrative that outlines their intention related to meeting the Village's affordable housing requirements. The narrative may include the expected number of on-site affordable units, whether developer plans to seek alternative compliance, and if so, what alternative compliance they expect to request. It can (but is not required to) also include the targeted income tiers of the proposed affordable units, size of affordable units, compliant rents or sales prices, building amenities, and other details related to the affordable housing requirement that the Developer deems important to include. This narrative will guide the discussion with Village staff, Commissions and the Village Board as the Developer prepares a preliminary Affordable Housing Compliance Plan as part of the Developer's formal application to the Village if they decide to go forward.

C. General Compliance Guidelines for Developers

The following is a summary of the ordinance requirements.

- (1) Governed developments shall provide 15% of the total number of units in the Development as affordable housing units. When calculation of 15% of the total number of units is a fractional number:
 - (a) if the fraction is greater than 0.5, the required number of affordable units will be rounded up to the next whole number and there is no option for fee-in-lieu for the fractional unit.
 - (b) if the fraction is equal to or less than 0.5, the developer can elect to round up to the next whole number to provide an additional affordable unit OR may round down to the whole number and instead pay the fee-in-lieu for that additional fractional, affordable unit.
- (2) Affordable rental and owner-occupied units will remain affordable in perpetuity. In the case of a conversion from rental to owner-occupied or owner occupied to rental, the ordinance requirements will continue to apply to those units.

- (3) For rental development, at least 1/3 of the affordable units shall be occupied by those with household income below 50% of AMI. At least 1/3 of the affordable units shall be occupied by those with household income equal to or greater than 50% AMI but less than 80% AMI. No more than 1/3 of the units shall be occupied by households with income equal to or greater than 80% AMI but not exceeding 100% AMI.
- (4) In a development of homes for sale, 50% of the affordable units shall be sold to those with household income below 80% of AMI, and 50% of the affordable units shall be sold to those with household income equal to or greater than 80% AMI but less than 120% AMI.
- (5) If a developer proposes to include fewer than 15% of affordable units on site in the development, the proposed alternative method of compliance must be submitted in the Affordable Housing Compliance Plan that will be reviewed in accordance to Sections I.F and 1. G, below.
- (6) The Village Manager will annually publish a schedule of rents and sales prices that comply with the ordinance.

D. Eligible Income Tiers and Maximum Prices

Affordable units in governed developments may only be offered to eligible households from the income tiers and at the maximum price levels listed in the chart below.

Affordable Rental Units	Proportion of Included Units	Eligible Income Tier	Maximum Rent Prices for Eligible Income Tiers
	<u>At least</u> 1/3 (33.33%)	<u>Tier A:</u> Households with income less than 50% of AMI	Attainable to household with income equal to 45% AMI
	<u>At least</u> 1/3 (33.33%)	<u>Tier B:</u> Households with income equal to or greater than 50% AMI but less than 80% AMI	Attainable to household with income equal to 65% AMI
	<u>No more than</u> 1/3 (33.33%)	<u>Tier C:</u> Households with income equal to or greater than 80% AMI but not exceeding 100% AMI	Attainable to household with income equal to 80% AMI
If three or fewer units offered	100%	Households with income less than 80% AMI	Attainable to household with income equal to 65% AMI
Affordable Owner-Occupied Units	Proportion of Included Units	Eligible Income Tier	Maximum Purchase Price for Eligible Income Tiers
	1/2 (50%)	<u>Tier 1:</u> Households with income less than 80% AMI	Attainable to household with income equal to 65% AMI
	1/2 (50%)	<u>Tier 2:</u> Households with income equal to or greater than 80% AMI but less than 120% AMI.	Attainable to household with income equal to than 100% AMI

E. Incentives For Development of On-Site Affordable Units

Developers incorporating the required affordable housing units on-site will be allowed to take advantage of the following incentives and development options. If a governed development requests and is approved for an alternative means of compliance in lieu of providing the units on site, they are not eligible for the incentives set forth in this section.

(1) Density bonus

Any governed development providing affordable housing units shall be entitled to an increase in the permitted residential density equal to one additional dwelling unit above that otherwise established by the zoning district in which the development is located for each required affordable housing unit provided on-site. Below are examples of how a developer may choose to utilize the density bonus and comply with the overall requirement that 15% of the total number of dwelling units in the development must be affordable.

Example:

A developer proposes to build 32 units, which is the maximum allowed under the zoning district. Fifteen percent, or 4.8 units which is rounded up to 5, are required to be affordable. The developer is therefore eligible for 5 bonus units, which brings the development size to 37 units (32 + 5). A final round of calculations is performed to determine the total affordable housing unit requirement: 15% of 37 units = 5.55. Since 5.55 includes a fraction greater than .5, the requirement is to provide 6 affordable housing units. The developer then has two options:

- a) The developer can build 31 market rate units and 6 affordable units
OR
- b) The developer may decide to build 30 market rate units, 5 affordable units, and pay a fee in lieu of the 6th unit. This would be allowed because fifteen percent of the total 35 units, or 5.25 units, includes a fraction less than .5, allowing the developer to pay a fee in lieu of the 6th unit.

(2) Design flexibility

Any governed development providing the minimum number of affordable housing units will be eligible to obtain greater flexibility in development design through the options listed below. The options below would NOT require special zoning relief if the flexibility is necessary to accommodate the affordable units within the physical envelope of the development. Please refer to the Zoning Code Text Amendment Article IX, Park III, 9-307 for additional details on the options listed below including choice of housing stock, and reductions and increase of standards. The options are:

- (a) expanded choice of housing stock type to include single family or 2 family units within R-1, R-2, R-3, R-4 and R-5 zoning districts, and single family, duplex, triplex or townhouse units, condominiums, or multifamily residential structures in other districts
- (b) reduced setback and lot size requirements
- (c) reduced buffering and screening requirements internal to the development
- (d) increased building height up to one story or 12' EXCEPT in single family residential districts
- (e) increased lot and building coverage
- (f) increased floor area ratio
- (g) reduced off-street parking minimums
- (h) fee waivers and reductions on affordable units

The Village shall not be required to approve any request for a waiver, reduction, or modification of any development standard if the waiver, reduction, or modification would have a specific and foreseeable adverse impact.

F. Design and Location of Affordable Housing Units

On- site affordable housing units must meet the following standards unless the development is granted an exception by the Village Board as part of the Affordable Housing Compliance Plan:

- (1) Affordable units must be dispersed throughout the development and not clustered
- (2) Unit size must be similar to the size of the corresponding market rate unit
- (3) Each phase of construction must include a proportionate number of affordable units relative to market rate units
- (4) Affordable unit exteriors must be visually compatible with and indiscernible from the market rate units and finishes must be substantially the same for market and affordable units
- (5) Affordable units may have different interior finishes and appearance than market rate units. Materials for affordable units must be contractor grade or higher.
- (6) Affordable unit bedroom mix must be proportionate to the bedroom mix of the market rate units
- (7) Affordable units must have similar access to common areas, facilities, and services as the market rate units
- (8) Affordable units must include a minimum of one parking space each at no additional charge. Additional spaces may be made available to the tenant or owner of an affordable unit at the same price as for the market rate units.
- (9) If the market rate units include storage, affordable units must also include storage at no additional charge. If storage space is not allocated to all units, then the affordable units should have access to storage in the same manner and

proportion as do the market rate housing units at a discounted cost equivalent to the ratio of the affordable unit rent or price compared to the rent or price of a similar market rate unit.

- (10) Affordable units must have the same energy efficiency features as the market rate units.
- (11) If a development is both rental and owner-occupied housing units, the ratio of rental to owner-occupied must be the same as for the market rate units.

G. Alternative Means of Compliance

The IHO provides specific alternatives to the production of on-site affordable housing units but the intent and preference of the IHO is for the provision of affordable units to be incorporated within governed developments. Any deviation from the on-site minimum affordable housing requirement may only be approved as part of the Village's review of the Affordable Housing Compliance Plan.

The following are possible alternative means of compliance:

- (1) Some or all of the required units may be provided at an alternate off-site location, but only upon a determination by the Village Board that provision of the required units at an alternate off-site location will create affordable housing opportunities in the Village to an equal or greater extent than including affordable units within the governed development.
- (2) A developer may dedicate land, but only if: (a) the Village Board determines that dedication of land will create affordable housing opportunities in the Village to an equal or greater extent than including affordable units in the governed development; and (b) the developer offers to dedicate a quantity of land sufficient to construct a quantity of affordable dwelling units that the developer would otherwise be required to provide within the governed development.
- (3) A developer may make a cash payment in-lieu of construction of some or all of the required affordable housing units, but only if (a) the governed development consists solely of 19 or fewer single-family detached dwelling units or (b) the Village Board approves such a payment and determines that such a payment will create affordable housing opportunities in the Village to an equal or greater extent than through the inclusion of affordable units in the governed development. The amount of the payment-in-lieu per affordable housing unit will be set forth in the Village's Annual Fee Ordinance. Developers will be required to submit any permitted payment-in-lieu PRIOR to the issuance of any building permits for the governed development.
- (4) A developer may request that it be allowed to fulfill the affordable housing requirements through a combination of the alternative methods set forth above.

H. Affordable Housing Compliance Plan

As part of the approval of a governed development project, the Developer must present to the Plan Commission and the Village Board an Affordable Housing Compliance Plan that outlines and specifies the governed development's compliance with each of the applicable requirements.

(1) Preliminary Affordable Housing Compliance Plan

The preliminary Affordable Housing Compliance Plan, which will be submitted with the Developer's formal application, must include the following:

- (a) General description of the development
- (b) Total number of market rate and affordable housing units, and total number of attached and detached units
- (c) Number of bedrooms in each market rate and affordable unit
- (d) Floor area of each market rate and affordable unit
- (e) Location of the market rate and affordable units within the development
- (f) Floor plans for the affordable units
- (g) Amenities and any associated fees that will be provided to the market rate and affordable units
- (h) Pricing for the market rate and affordable units. The Village Manager will annually publish a schedule of rents that comply with the ordinance.

(2) The Final Affordable Housing Compliance Plan

The final Affordable Housing Compliance Plan, which will incorporate Developer's adjustments as desired after review by staff, the Plan Commission and the Village Board, shall be submitted with the final application and must include the following:

- (a) All of the information required for the preliminary Affordable Housing Compliance Plan
- (b) Phasing and construction schedule for each market rate and affordable unit
- (c) Documentation and plans regarding exterior and interior appearances
- (d) Description of the marketing plan for the affordable units
- (e) Description of the efforts to provide affordable housing to eligible households

(3) Review of Preliminary Affordable Housing Compliance Plan

Within 60 days after filing the complete preliminary Affordable Housing Compliance Plan, the Plan Commission shall review the preliminary Affordable Housing Compliance Plan and shall recommend either the approval (with or without modifications) or the rejection of the preliminary Affordable Housing Compliance Plan. The Plan Commission shall transmit its findings of facts and recommendation to the Village Board. Upon receipt of the Plan Commission recommendation, the

Village Board may approve (with or without modifications) or reject the preliminary Affordable Housing Compliance Plan.

(4) Review of Final Affordable Housing Compliance Plan

Within 60 days after the filing of a final Affordable Housing Compliance Plan in conjunction with Developer's submission of a final application, the Plan Commission shall review the final Affordable Housing Compliance Plan and shall recommend either the approval (with or without modifications) or the rejection of the Affordable Housing Compliance Plan to the Village Board. Any determination approving a final Affordable Housing Compliance Plan shall include all standards, conditions or restrictions deemed necessary to effectuate the proposed development and all provisions requiring the execution and recordation by the Developer of a housing development agreement.

(5) Concurrent Review of Preliminary and Final Affordable Housing Compliance Plans

For all governed developments that are not planned developments, and for all planned developments for which a concurrent review procedure has been approved, the Plan Commission and Village Board may review the preliminary and final Affordable Housing Compliance Plans concurrently.

(6) Standards of Review

The Plan Commission may not recommend the approval of a preliminary or final Affordable Housing Compliance Plan, and the Village Board may not approve a preliminary or final Affordable Housing Compliance Plan, except upon making the following findings:

- (a) That the Developer has demonstrated that the proposed affordable housing units are designed to accommodate the needs of the target households
- (b) That the location, floor plan, fixtures and finishes, and amenities of each proposed affordable housing unit are suitable for the needs of the target households
- (c) That each affordable housing unit is designed to accommodate family living needs for common space and dining areas
- (d) That the proposed affordable housing units, and the development as a whole, conform to the applicable standards and requirements of the IHO
- (e) That any alternative methods for providing required affordable housing units satisfy the respective standards
- (f) That the application of any development incentives satisfies the standards set forth in the IHO

I. Housing Development Agreement and Covenants

Prior to issuance of a building permit for any governed development, a Developer must enter into a housing development agreement with the Village establishing requirements and restrictions for the inclusion of affordable housing units in the governed development. The Developer shall execute any and all documents deemed necessary by the Village, including, without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units within the development. The housing development agreement shall set forth the commitments and obligations of the Developer and the Village and shall incorporate, among other things, the final Affordable Housing Compliance Plan for the covered development. The housing development agreement shall also memorialize any alternatives and incentives that have been approved as part of the Affordable Housing Compliance Plan for the development.

III. Inclusionary Affordable Rental Units in Governed Developments

A. Marketing of Affordable Rental Units

- (1) Developers are responsible for good faith marketing of the affordable housing units to members of the public who are likely to be eligible households qualified to lease the affordable rental units. CPAH can assist the Developer in marketing the affordable housing units.
- (2) Sixty days prior to offering any affordable unit for lease, the developer must notify the Village and CPAH in writing. The notice shall set forth the number of affordable units, location, square footage of units, bedroom and bathroom counts, rents, fees, designated income levels, availability date, a description of each unit, parking, storage, pet policy, other building or unit amenities, and any available photos. CPAH will post information about the affordable units on its website and send a notification and a full application to anyone on the IHO waitlist who might qualify for units that will be available. If requested, CPAH can also assist the Developer in reaching out to the public who are likely to be eligible households.

B. Inquiries about Affordable Rental Units

Persons interested in learning more about available affordable rental units may contact the Developer's leasing staff or CPAH. Prospective tenants must apply to CPAH for a "certificate of qualification" before applying for a rental unit in order to verify that the household meets eligibility criteria and to ensure that households are taken in the proper order on the waiting list. The Developer may not lease any affordable rental unit without a valid certificate of qualification from CPAH.

C. Pre-Applications for the Rental Waiting list

Persons interested in applying for a certificate of qualification and/or wanting to be added to the rental housing waitlist are directed to CPAH's website (www.cpahousing.org) to either submit an online pre-application or download a fillable pre-application that can be submitted by mail, email, fax or in person. CPAH can also send pre-applications to potential applicants via mail, email, or fax. Pre-applications collect self-reported information only to determine potential eligibility. Pre-applications received are logged according to the date and time received and note applicant preferences, household size, size of unit requested, income, and the Special Occupancy Category described in section L.

D. Screening of Rental Pre-Applications

Rental pre-applications are the first step in determining potential eligibility for an affordable rental unit and used to determine eligibility for the rental housing waitlist. Pre-applications are shorter forms that require the submission of self-reported information only and do not collect supporting documentation. If an applicant appears to be eligible based on the self-reported information and there is an affordable rental unit available, they are then asked to complete a full rental application with supporting documentation as described in Section J. If there is not an affordable rental unit available that meets the applicant's criteria, the potentially eligible applicant is added to the waiting list. The applicant will be notified in writing whether they are deemed (1) eligible for an available unit and should submit a full application, (2) ineligible or (3) added to the waiting list. A reason will be provided if the applicant is deemed ineligible. The pre-application process is helpful so that applicants do not have to spend a significant amount of time completing a full application until a unit is actually available. It also avoids requiring applicants submit a full application initially and then requiring them to resubmit a large portion of their application and updated supporting documentation when a unit actually becomes available, since information and supporting documentation would most often be outdated.

E. Rental Waiting List

The Rental Waiting List will contain the following information for each applicant listed:

- (1) Pre-applicant name
- (2) Number of persons in household
- (3) Qualified unit size (number of bedrooms household qualifies for under site occupancy standards) (NOTE: applicant may qualify for multiple unit sizes)
- (4) Number of bedrooms preferred
- (5) Date and time application received
- (6) Approximate annual income
- (7) Area Median Income category
- (8) Accessibility requirements

All Rental Pre-Applications will be maintained in order of date and time received.

F. Changes in Income or Household Composition

Rental pre-applicants who are placed on the Waiting List are instructed to notify CPAH when changes occur to:

- (1) Address and/or phone number
- (2) Email address
- (3) Household size
- (4) Desired unit size or location
- (5) Income

If a rental pre-applicant's income changes to an amount which renders the pre-applicant no longer eligible for inclusion on the Rental Waiting List, written notice will be given advising the pre-applicant that (a) he or she is not presently eligible and (b) he or she could once again become eligible if their household income increases or decreases, or the number of household members changes. The rental pre-applicant will be advised to contact CPAH if there are further changes that might affect their eligibility.

G. Ineligible Rental Pre-Applicants

When a rental pre-applicant, based on the self-reported information on the rental pre-application, is not eligible for any of the affordable rental units that are or will be a part of the Inclusionary Housing Program, the rental pre-applicant will not be placed on the Rental Waiting List. The ineligible pre-applicant will be notified and provided a reason for their ineligibility by regular mail and/or email. CPAH will also make every effort to refer the pre-applicant to other potential housing resources. Pre-applicants deemed ineligible may resubmit a pre-application at any time based on updated information. Their position on the waiting list will be based on the date that a new or updated pre-application was received.

H. Annual Rental Waiting List Update

CPAH will update the Rental Waiting List approximately once a year by contacting each rental pre-applicant on the Rental Waiting List via email and/or regular mail and providing a form to be returned with updated contact, household size and income information. If the form is not returned, CPAH will attempt to contact the rental pre-applicant by email and/or phone. If the pre-applicant does not return the form or cannot be reached using the contact information that the pre-applicant provided, the pre-applicant will be removed from the Rental Waiting List after three attempts to contact them using three different methods (e.g., mail, email, and phone). All efforts to contact the pre-applicant will be documented.

I. When a Specific Unit Becomes Available and Full Rental Applications

When CPAH is notified by the Village or the Developer or the Property Manager (PM) that rental unit(s) will become available, CPAH will contact rental pre-applicants on the Rental Waiting List in accordance with the process outlined below.

As described earlier, the Developer/PM must notify the Village and CPAH at least sixty days prior to offering any affordable unit for lease. The notice shall set forth the number of affordable units, location, square footage of units, bedroom and bathroom counts, rents, fees, designated income levels, availability date, a description of each unit, parking, storage, pet policy, other building or unit amenities, and any available photos. This information will be used to distribute information to potential applicants and for CPAH to answer questions.

CPAH will notify persons on the waiting list if they may be eligible for an upcoming available unit. Notification will be sent via email, phone, or mail in the order pre-applicants are listed on the waiting list (based on date/time the pre-application was received). This process will continue until all affordable units are leased.

If a notified pre-applicant is interested in applying for a specific available rental unit, the head of household will be required to submit a full rental application including detailed income and asset documentation for CPAH to determine eligibility.

Full applications include but are not limited to:

- (1) Complete rental application including certification of the accuracy of all information that is provided. The submission of false information will be grounds to find the applicant ineligible for the program.
- (2) For each household member 18 and over (as applicable):
 - (a) 2 months of most recent, consecutive paycheck stubs
 - (b) most recent W2s
 - (c) most recent filed tax returns
 - (d) bank statements including checking (6 months) and savings and retirement (3 months) account statements
 - (e) social security statements
 - (f) business statements/spreadsheets, as needed
 - (g) verification of cash income
 - (h) verification of gift income (only verifiable monthly, consistent income given to the applicant will be counted as income)
 - (i) employment verification forms
 - (j) employment offer letter
 - (k) housing voucher documentation

- (l) child support and/or maintenance agreement
 - (m) documentation of ABLE accounts or special needs trusts
 - (n) other necessary documentation as needed
- (3) Valid photo identification for all household members 16 and over. Acceptable identification may include a driver's license, passport, or state-issued photo identification card.

J. Submitting Full Rental Applications

Full rental applications and supporting documentation may be submitted via CPAH's encrypted email platform (free and available on CPAH's website), fax, mail, or can be submitted in person at the CPAH office in Libertyville or dropped off at CPAH's drop box in Highland Park. Full instructions for submission are on the application. CPAH makes accommodations for persons with disabilities who, as a result of their disability, cannot submit their application via the above application process.

CPAH will contact the applicant if an application is determined to be incomplete or if additional clarification is necessary. An application is deemed complete only when CPAH has determined that all the necessary information and clarification has been provided. Once an application is deemed complete, CPAH will determine eligibility for specific affordable housing units that are available.

K. IHO Eligibility Determination for Specific Available Units

The following information will be used by CPAH to determine eligibility for specific available units.

(1) Income

To be eligible for a specific rental unit, the annual gross household income of the applicant(s) must be less than the relevant income limit as established by the U.S. Department of Housing and Urban Development (HUD) for the appropriate household size, as updated annually. The annual gross household income limits are based on the Chicago-Naperville-Elgin, IL Area Median Income (AMI) as determined by HUD. Income eligibility verifications are valid for 90 days. Updated income documentation and verification of eligibility will be required if it is over 90 days old at the time of lease up.

(2) Rental Housing Payment Ratio

The applicant's housing ratio (total rent plus utilities payment / total monthly household income) cannot exceed 35%.

(3) Assets

Non-retirement household assets must be equal to or less than 100% of AMI for the household size. Retirement restricted assets are not subject to a limit.

(4) Primary Residence

The applicant must use the affordable housing unit as their principal residence. An affidavit that the affordable unit will be tenant's primary residence is required. (Co-signers are not permitted.)

(5) Occupancy Standards

The household size must comply with federal, state and local occupancy standards and/or laws including municipal occupancy requirements, fair housing and civil rights laws, as well as landlord-tenant laws and zoning restrictions.

L. Special Occupancy Category

A rental applicant with disabilities as defined by HUD will be given priority for an accessible unit. If the household determines that the accessible unit is not appropriate for the household's needs, the household's name will be returned to its place on the Rental Waiting List, as applicable.

M. Occupancy Guidelines

Affordable units should not be underutilized, to the extent possible. Preference is given to households that have household sizes equal to at least one more than the number of bedrooms (e.g., 2 person household for a one bedroom unit, 3 person household for a two bedroom unit, etc.). Maximum occupancy will be limited to federal, state and local occupancy guidelines and limits.

N. Rental Applicants Determined to be Eligible for A Specific Unit

If an applicant is determined to be eligible for a specific affordable unit, CPAH will issue a Certificate of Qualification that will be sent via email to the applicant and Developer/PM. The certificate indicates that the applicant is qualified to lease the unit in accordance with the IHO. The Developer/PM will then conduct their own application and screening process and determine whether to offer the applicant a lease. The Developer/PM may require a credit check, background check, or any other legal screening process as long as the same process applies to both market rate units and affordable units (e.g., the PM may not conduct a background check for affordable units but not market rate units). At the applicant's written request, CPAH will provide copies of the supporting documentation to the Developer/PM. The Developer/PM will notify the applicant and CPAH whether the applicant was approved.

The Developer/PM may not lease any affordable rental unit without a valid certificate of qualification from CPAH.

O. Rental Applicants Determined to be Ineligible for Specific Unit

If CPAH determines that an applicant is ineligible for a specific affordable unit due to the rules and requirements of the inclusionary housing ordinance, CPAH will notify the applicant in writing and include the reason(s) for ineligibility. If the applicant is rejected for a specific unit but may qualify for a different unit in the future, the applicant will remain in the same spot on the Waiting List. The rejection notice will advise the applicant that they may, within 7 business days of the date of the notice, submit a written appeal with supporting documentation. The most common reasons for being deemed ineligible are as follows:

(1) Insufficient/Inaccurate Information on Application

Incomplete applications, lack of response in a timely manner, or supplying false information are common reasons for denial

(2) Exceeding Income or Asset Limits

Applications are denied if the total gross household income exceeds the relevant income limit for the specific unit available or if the total gross household assets exceed 100% of the AMI for the household size

(3) Household Size

Households will be rejected if the number of persons in the households exceeds what is allowed by federal, state, or local occupancy codes

(4) Principal Residence

Applications are denied if the applicant does not plan to use the affordable housing units as their principal residence

P. Review of Appeals

CPAH will consider extenuating circumstances when reviewing an appeal, but all applicants must meet the established eligibility criteria. All income calculations are done in accordance with the HUD Part 5 income definition. CPAH will issue a final written determination within 5 days of receiving the appeal. If applicant disagrees with CPAH's written determination, applicant may appeal to the President of CPAH who will issue a determination within 5 days of receiving the appeal. If at any stage of the appeals process it is determined that the applicant is eligible, a Certificate of Qualification will be issued, and the applicant will be offered the next vacant unit in their income tier. If the applicant is still deemed ineligible and the applicant disagrees with the final determination, the applicant can file a complaint with the Director of Development and Planning Services for the Village of Northbrook.

Q. Annual Income Recertification Procedures for Tenants

Tenant household income will be recertified annually as part of the lease renewal process in order to maintain compliance with the IHO. Increases in household income or changes in household size may affect eligibility. Decreases in household income will not affect eligibility. Separate from the recertification process, Developers/PM may choose not to renew a lease for any reason allowed by law.

(1) Income Recertification Process

Annual income recertification for Northbrook inclusionary units will commence 90 days before a tenant's lease is set to expire. CPAH will provide tenants a short form asking for basic information about household members (outlined below) as well as a list of required supporting documents. Tenants will be expected to respond to the request for information and documentation within 15 days of receiving the request in order to give CPAH staff sufficient time to recertify the tenant and for the Developer/PM to renew the lease.

The following documentation will be required at the time of annual income recertification (as applicable):

- (a) 2 months of most recent, consecutive paycheck stubs
- (b) most recent W2s
- (c) most recent filed tax returns
- (d) checking (6 months) and savings and retirement (3 months) account statements
- (e) social security statements
- (f) business statements/spreadsheets, as needed
- (g) verification of cash income
- (h) employment offer letter
- (i) child support and/or maintenance agreement

Employer verification forms are not required for income recertification. Housing ratios are not part of the income recertification process. Tenants will be required to sign a statement indicating that the representations and income verification provided are true. Misrepresenting income or household information will be grounds for program ineligibility.

(2) Procedures When Household Income or Size of Household Changes

- (a) When household income remains in the same or lower AMI bracket (for the tenant's household size) as when the household was originally qualified, then the household maintains its income qualification for the affordable unit. For example, if a tenant household was originally qualified for a unit that was below 80% of AMI, and the household income increases to above the 80% AMI limit but is below the 100% AMI limit, then the household maintains its income qualification.
- (b) When household income increases more than one AMI bracket from the original lease up AMI category, then the tenant household will be notified that the lease may be renewed with a rent adjustment set at 30% of the tenant's gross household income. For example, if a household originally qualified as below 50% of AMI, but now has household income between 81% of AMI to 100% of AMI, then the rent associated with that tenant and lease will be set at 30% of the tenant's gross household income. Similarly, if a tenant's initial lease up income category was 81% of AMI to 100% of AMI and their household income increases above 100% AMI at lease renewal, the lease may be renewed with a rent adjustment reflecting 30% of the tenant's gross household income.

(3) Appeal of Recertification Determination

Tenants may appeal the recertification determination by submitting a written appeal to CPAH within 5 business days of the date of the income recertification determination. CPAH will consider extenuating circumstances when reviewing an appeal, but all applicants must meet the established eligibility criteria. All income calculations are done in accordance with the HUD Part 5 income definition. CPAH will issue a final written determination within 5 days of receiving the appeal. If applicant disagrees with CPAH's written determination, applicant may appeal to the President of CPAH who will issue a determination within 5 days of receiving the appeal. If at any stage of the appeals process it is determined that the applicant is eligible to be re-certified for their affordable unit, the applicant will be so notified. If the applicant is still deemed ineligible and disagrees with the determination, the applicant can file a complaint with the Director of Development and Planning Services for the Village of Northbrook.

(4) Recertification

When a tenant is recertified, CPAH will notify the tenant and the Developer/PM in writing and note any changes in rent. The Developer/PM cannot renew a lease until receiving notice of recertification from CPAH. Being income recertified is not a guarantee that a lease will be renewed. The Developer/PM will make all decisions about lease renewals.

(5) Vacancies

If a unit becomes vacant, CPAH will follow the same procedures above to certify the next eligible applicant on the waiting list.

IV. Inclusionary Affordable Owner Occupied Units in Governed Developments

A. Marketing of Affordable Owner Occupied Units

- (1) Developers are responsible for good faith marketing of the affordable housing units to members of the public who are likely to be eligible households qualified to purchase the affordable owner occupied units. CPAH can assist the Developer in marketing the affordable housing units.
- (2) As soon as possible but no fewer than sixty days prior to offering any affordable unit for sale, the Developer must notify the Village and CPAH in writing. The notice shall set forth the number of affordable units, location, square footage of units, bedroom and bathroom counts, price, HOA fees, designated income levels, availability date, a description of each unit, parking, storage, pet policy, other building or unit amenities, and any available photos. CPAH will post information about the affordable units on its website and notify anyone on the IHO waitlist who might qualify for units that will be available. If requested, CPAH can also assist the Developer in reaching out to the public who are likely to be eligible households.

B. Inquiries about Affordable Owner Occupied Units

Persons interested in learning more about available affordable owner occupied units may contact the Developer or sales agent or CPAH. Prospective buyers must apply to CPAH for a “certificate of qualification” before purchasing a unit in order to verify that the household meets eligibility criteria. The Developer may not sell any affordable owner occupied unit without a valid certificate of qualification from CPAH.

C. Application Process for Owner Occupied Affordable Units

Persons interested in applying for owner occupied affordable units will be required to attend a CPAH information session which educates prospective home buyers of affordable units about the program’s eligibility requirements, resale restrictions, application process and other information related to purchasing an inclusionary housing unit. Interested homebuyers may register for the class on CPAH’s website or by calling CPAH’s office. Developer and the Village can also direct interested parties to CPAH’s website for further information (www.cpahousing.org).

D. Ownership Applications

Once a potential applicant has attended an information session, the Village or CPAH will provide an application form. The application will also be distributed at or before CPAH information sessions. Applications are not available online because of the importance of applicants understanding how the program works including that each

unit is permanently affordable, subject to resale restrictions and a maximum resale price, and other program requirements. CPAH explains the application process in detail at the information session and CPAH staff are available to answer any questions throughout the application process.

E. Owner Occupied Unit Applications

All applicants for owner occupied affordable units are required to submit full applications that include but are not limited to:

- (1)** A complete application including certification of the accuracy of all information that is provided. The submission of false information will be grounds to find the applicant ineligible for the program.
- (2)** For each adult (18 and over) household member (as applicable):
 - (a)** 2 months of most recent, consecutive paycheck stubs
 - (b)** most recent W2s
 - (c)** most recent filed tax returns
 - (d)** bank statements including checking (6 months) and savings and retirement (3 months) account statements
 - (e)** social security statements
 - (f)** business statements/spreadsheets, as needed
 - (g)** verification of cash income
 - (h)** verification of gift income (only verifiable monthly, consistent income given to the applicant will be counted as income. Gifts toward down payment and/or closing costs are limited to \$10,000)
 - (i)** employment verification forms
 - (j)** employment offer letter
 - (k)** child support and/or maintenance agreement
 - (l)** documentation of ABLE accounts or special needs trusts
 - (m)** other necessary documentation as needed
- (3)** Valid photo identification for all household members 16 and over. Acceptable identification may include a driver's license, passport, or state-issued photo identification card.

F. Submitting Full Applications for Owner Occupied Units

Full applications for owner occupied units and supporting documentation may be submitted via CPAH's encrypted email platform (free and available on CPAH's website), fax, mail, or can be submitted in person at the CPAH office in Libertyville or dropped off at CPAH's drop box in Highland Park. Full instructions for submission are on the application. CPAH makes accommodations for persons with disabilities who, as a result of their disability, cannot submit their application via the above application process.

CPAH will contact the applicant if an application is determined to be incomplete or if additional clarification is necessary. An application is deemed complete only when CPAH has determined that all the necessary information and clarification has been provided. Once an application is deemed complete, CPAH will determine eligibility for specific affordable housing units that are available.

G. IHO Eligibility Determination for Specific Available Units

The following information will be used to determine eligibility for specific available units.

(1) **Income**

To be eligible for a specific owner occupied unit, the annual gross household income of the applicant(s) must be less than the relevant income limit as established by the U.S. Department of Housing and Urban Development (HUD) for the appropriate household size, as updated annually. (Gross household income includes income of all household members 18 and over unless they are a full-time student. The annual gross household income is based on the Chicago-Naperville-Elgin, IL Area Median Income (AMI) as determined by HUD.) Income eligibility verifications are valid for 90 days. Updated income documentation and verification of eligibility will be required if it is over 90 days old at the time of sale.

(2) **Owner Occupied Housing Payment and Debt -to-Income Ratios**

The applicant's proposed monthly housing payment, or PITI (principal, interest, property taxes, and insurance, and HOA fees when applicable) payment cannot be greater than 35% of the applicant's total monthly gross household income. The applicant's proposed monthly PITI plus other monthly debt payments (i.e. car payments, student loan payments, credit card payments) cannot be greater than 43% of the applicant's total monthly gross household income.

(3) **Assets**

Non-retirement household assets must be equal to or less than 100% of AMI for the household size. Retirement restricted assets are not subject to a limit.

(4) **Primary Residence**

The applicant must use the affordable housing unit as their principal residence. An affidavit that the affordable unit will be tenant's primary residence is required. (Co-signers are not permitted.)

(5) **Occupancy Standards**

The household size must comply with federal, state and local occupancy standards, and/or laws in connection with occupancy requirements, fair housing and civil rights laws, as well as zoning restrictions.

H. Special Occupancy Category

A rental applicant with disabilities as defined by HUD will be given priority for an accessible unit. If the household determines that the accessible unit is not appropriate for the household's needs, the household's name will be returned to its place on the Owner Occupied Waiting List, as applicable.

I. Occupancy Guidelines

Affordable units should not be underutilized, to the extent possible. Preference is given to households that have household sizes equal to at least one more than the number of bedrooms (e.g., 2 person household for a one bedroom unit, 3 person household for a two bedroom unit, etc.). Maximum occupancy will be limited to federal, state and local occupancy guidelines and limits.

J. Eligible Ownership Applicants

If applicant is approved, CPAH will issue a conditional certificate of qualification. In addition to being approved by CPAH, all applicants must be pre-approved by a participating lender to be eligible to purchase an owner occupied affordable unit. If applicant is approved by CPAH and a participating lender, and an existing unit(s) is available for purchase that falls within the applicant's income range and price range, CPAH will refer the applicant to the Developer or sales agent. If the applicant does not purchase a unit, the applicant will be added to CPAH's Ownership Waiting List.

K. Ineligibility For Program

The most common reasons that applicants for owner-occupied units are ineligible are as follows. This is not an exhaustive list:

- (1) Insufficient/Inaccurate Information on Application**
Refusing to cooperate fully in all aspects of the application process or supplying false information will be grounds for deeming applicant ineligible.
- (2) Household Size**
Household size does not comply with federal, state, or local occupancy codes for the specific unit available.
- (3) Principal Residence**
Unit would not be applicant's principal residence.
- (4) Co-Signers**
Co-signers for a mortgage from a participating lender are not permitted.
- (5) Financial Standing**

- (a) The annual gross household income of the applicant(s) is over the relevant income limit for specific units. The income limit is established by the U.S. Department of Housing and Urban Development (HUD) for the appropriate household size, as updated annually.
- (b) Household assets exceed the asset limit for their household size
- (c) The applicant(s) exceeds the maximum allowable housing payment (principal, interest, property taxes, insurance, and HOA fees when applicable) ratios that are currently 35% for housing payment and 43% debt to income ratio based on applicant(s) total gross household income. As noted above, ratios can be adjusted from time to time.
- (d) The applicant cannot get approved for a permissible mortgage from a participating lender. An applicant may receive a certificate of qualification from CPAH but not be able to secure a pre-qualification for a mortgage from a participating lender. In that case, the applicant will not be able to purchase an owner occupied unit until applicant is able to secure a mortgage from a participating lender. Both are needed to purchase an affordable unit under the IHO. If an applicant is able to secure a mortgage from a participating lender at a later time, updated financial information may be required by CPAH.
- (e) The applicant does not have sufficient assets to cover down payment and required 2 months reserves and closing costs. Applicants may receive up to a \$10,000 gift toward the purchase of an owner-occupied affordable unit.

L. When An Applicant Is Found Ineligible for Specific Ownership Units

(1) Written Notification

Each applicant who submits a full, complete application who is not qualified to purchase a specific unit, as outlined above, will be notified in writing by CPAH of the reason(s) they are ineligible. This notice will advise the applicant that they may, within 5 business days after receipt of the notice, submit a written appeal with supporting documentation that may change the outcome of the eligibility review. Extenuating circumstances will be considered. If applicant disagrees with CPAH's written determination, applicant may appeal to the President of CPAH who will issue a determination within 5 days of receiving the appeal. If at any stage of the appeals process it is determined that the applicant is eligible, a Certificate of Qualification will be issued, and the applicant can elect to purchase an available unit in their income tier. If the applicant is still deemed ineligible and disagrees with that determination, the applicant can file a complaint with the Director of Development and Planning Services for the Village of Northbrook.

(2) Review of Rejected Ownership Applications

If the applicant submits additional information, the applicant will be given a final written determination from CPAH. If the applicant is then eligible to purchase an

available unit, the applicant will be referred to the Developer or sales agent. If a unit is no longer available for purchase, the applicant will be added to CPAH's Ownership Applicant List.

(3) Applicants who are Rejected for a Specific Owner-Occupied Unit

Applicants who do not qualify for a specific unit but may qualify to purchase an owner-occupied affordable unit in the future maintain their place on the waiting list.

M. Ownership Waiting List Procedures

(1) Waiting List

The Ownership Waiting List will contain the following information for each applicant listed:

- (a)** Applicant name
- (b)** Number of persons in household
- (c)** Household unit size (number of bedrooms household qualifies for under site occupancy standards) (NOTE: applicant may qualify for multiple unit sizes)
- (d)** Number of bedrooms preferred
- (e)** Date and time application received
- (f)** Approximate annual income
- (g)** Mortgage pre-qualification amount
- (h)** Area Median Income category
- (i)** Accessibility requirements

All applications will be maintained in order of date and time received.

(2) Changes in Income or Household Composition

Applicants who are placed on the Ownership Waiting List will be requested to notify CPAH when changes occur to:

- (a)** Address and/or phone number
- (b)** Email address
- (c)** Household composition
- (d)** Income

If an applicant's income changes to an amount which renders the applicant no longer eligible for inclusion as a qualified applicant on the Ownership Waiting List, written notice will be given advising the applicant that: (a) he or she is not presently eligible; (b) the applicant could once again be eligible if household income increases or decreases, or the number of household members changes. The applicant will be advised to contact CPAH if there are further changes that might affect the applicant's eligibility.

N. Resale Of Affordable Owner-Occupied Units

(1) When an owner of an owner-occupied affordable unit intends to sell their home

- (a) Homeowner will notify the Village or CPAH in writing of their intent to sell
- (b) CPAH will order an appraisal of the home in accordance with the resale procedures set out in the affordable housing covenant
- (c) In accordance with the resale formula set out in the affordable housing covenant, CPAH will determine the maximum resale price that the seller can receive for their home
- (d) The maximum resale price is an upper limit that the homeowner can receive for the sale. That maximum price is not guaranteed and may be affected by market conditions and characteristics and conditions of the specific unit for sale

(2) The Village First Option to Purchase

The Village will have the first right and option to purchase, at the maximum resale price or mutually agreed upon price, the unit from the homeowner. The Village is under no obligation to exercise that option.

(3) If the Village Does Not Exercise its Option

- (a) If the Village does not exercise its option to purchase, the homeowner will sell the unit to an eligible, qualified household. The transaction will incorporate all restrictions and documentation as required by the IHO. All restrictions and program rules including eligibility and qualification processes and requirements are applicable to the transaction and to the new buyer.
- (b) New buyers will be required to follow the same processes as the initial buyer including but not limited to attending a CPAH information session, providing the required application and supporting documentation, and after being deemed eligible and qualified to purchase the unit by CPAH, receiving a “certificate of qualification” from CPAH or the Village. Applicant will also be required to obtain a mortgage loan from a participating lender.
- (c) All purchasers, whether initial or subsequent purchaser, of affordable owner-occupied units will be subject to the same or similar affordable covenant and the incorporated resale restrictions and other program rules. Purchasers accept all restrictions including but not limited to the Village’s First Option to Purchase, and the restriction that the affordable housing unit shall be permanently affordable for eligible purchasers.

(4) Maximum Re-Sale Price

- (a)** The maximum re-sale price is the most that an owner of an affordable owner-occupied unit can receive for the sale of the owner-occupied affordable home.
- (b)** The price is determined by a formula incorporated into the seller's affordable housing covenant. A sample resale formula is attached as Addendum A.
- (c)** The formula uses the initial market appraised value, current market appraised value, the initial purchase price, the initial investment ratio, and a shared appreciation factor of 15% to determine the maximum re-sale price. Other factors such as improvement credits are included in the affordable housing covenant and can affect maximum re-sale price.
- (d)** While seller cannot receive more than the maximum re-sale price, the seller can accept less than the maximum re-sale price.
- (e)** The Village or CPAH may add a fee to cover their costs of managing the resale.

V. Civil Rights and Nondiscrimination Requirements

A. General

Federal civil rights laws addressing fair housing prohibit discrimination against applicants or tenants on the basis of race, color, national origin, sex, age, disability, religion, and familial status. The Illinois Human Rights Act also prohibits discrimination against applicants or tenants on the basis of race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service.

The remaining paragraphs in this section provide brief descriptions of key federal civil rights laws regarding fair housing and accessibility. The Developer/Owner shall be familiar with and comply with all applicable federal civil rights laws and any state civil rights laws or local ordinance regarding fair housing and accessibility.

B. Fair Housing Act

The Fair Housing Act Amendments of 1988 ("Fair Housing Act") prohibits discrimination in housing on the basis of race, color, religion, sex, disability, familial status and national origin regardless of any federal financial assistance.

Under the Fair Housing Act, the Developer/Owner shall not take any of the actions listed below based on race, color, religion, sex, disability, familial status and national origin:

- (1) Provide anyone housing that is different from that provided to others
- (2) Subject anyone to segregation, even if by floor or wing
- (3) Restrict anyone's access to any benefit enjoyed by others in connection with the Development
- (4) Treat anyone differently in determining eligibility or other requirements for admission, in use of the housing amenities, facilities or programs, or in the terms and conditions of a lease
- (5) Deny anyone access to the same level of services
- (6) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
- (7) Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons
- (8) Retaliate against, threaten, or act in any manner to intimidate someone because he or she has exercised rights under the Fair Housing Act.

The Fair Housing Act provides additional protections for persons with disabilities. It requires that the Developer/Owner make reasonable accommodations in rules, policies, practices, or services as may be necessary to afford disabled persons equal opportunity to use and enjoy a dwelling. Moreover, it contains specific accessibility requirements that apply to the design and construction of new multi-household housing.

The Developer/Owner shall display the Fair Housing poster as required by the Fair Housing Act.

C. Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 prohibits all recipients of federal financial assistance from discriminating based on race, color or national origin.

D. Age Discrimination Act of 1975

The Age Discrimination Act of 1975 (the "Age Discrimination Act") prohibits discrimination based upon age in federally assisted and funded program, except in limited circumstances. It is not a violation of the Age Discrimination Act to use age as screening criteria in a particular program if age distinctions are permitted by statute for that program or if age distinctions are a factor necessary for the normal operation of the program or the achievement of a statutory objective of the program or activity.

E. Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 ("Section 504") prohibits discrimination based upon disability in all programs or activities operated by recipients of federal financial assistance. Although Section 504 often overlaps with the disability

discrimination prohibitions of the Fair Housing Act, it differs in that it also imposes broader affirmative obligations on the Owner to make their programs as a whole, accessible to persons with disabilities. Section 504 obligations include the following:

- (1) Making and paying for reasonable structural modifications to units and/or common areas that are needed by applicants and tenants with disabilities, unless these modifications would change the fundamental nature of the project or result in undue financial and administrative burdens
- (2) Operating housing that is not segregated based upon disability or type of disability, unless authorized by federal statute or executive order
- (3) Providing auxiliary aids and services necessary for effective communication with persons with disabilities
- (4) Performing a self-evaluation of management's programs and policies to ensure that they do not discriminate based on disability
- (5) Developing a transition plan to ensure that structural changes are properly implemented to meet program accessibility requirements.

Section 504 also establishes accessibility requirements for newly constructed or rehabilitated housing, including providing a minimum percentage of accessible units. If the Development employs 15 or more persons, regardless of their location or duties, a Section 504 Coordinator must be designated.

F. Executive Order 13166 – Limited English Proficiency

Executive Order 13166 requires the Developer/Owner to take reasonable steps to ensure meaningful access to the information and services they provide for persons with limited English proficiency. This may include interpreter services and/or written materials translated into other languages.

Appendix 1 – Sample Resale Formula

Initial Purchase

Initial Appraised Value	\$375,000
Minus purchase price reduction	<u>\$175,000</u>
Equals Homebuyer's Purchase Price	\$200,000

¹ Homeowner's Initial Investment Ratio ($\$200,000 / \$375,000$) 53%

Resale – 10 years later

Current Appraised Value	\$450,000
Minus Initial Appraised Value	<u>\$375,000</u>
Equals Market Value Appreciation	\$75,000

Multiplied by Homeowner's Investment Ratio: 53%

Equals \$39,750

This is the share of appreciation attributable to the owner's investment.

² Multiplied by shared appreciation factor 15%

Equals \$5,963

This is the owner's share of Market Value Appreciation (MVA)

Resale Price Equals:

Owner's Initial Purchase Price	\$200,000
Plus Owner's share of MVA	\$5,963
³ Plus Improvements credit, if any	\$3,600
⁴ Equals Resale Formula Price	\$209,563

[1] Homeowner's Initial Investment Ratio is the Purchase Price divided by the Initial Appraised Value.

[2] The shared appreciation factor is established to ensure a fair return to the owner while ensuring the home remains permanently affordable for future buyers. CPAH researched other comparable programs formulas and calculated potential resales in the community to determine an appropriate percentage.

[3] Calculation of Structural and Mechanical Improvements Credit: Assume that homeowner added a new roof in year 4 of ownership at an approved cost of \$6,000. At 15-year straight line depreciation (subtract \$400 each year), the value of the credit after year 10 is \$3,600.

[4] At the time of resale, the Homeowner would have a mortgage balance of approximately \$150,000. Therefore, upon resale ten years later in this example, the Homeowner would walk away with approximately \$59,563 (\$209,563 less \$150,000 mortgage remaining).

ARTICLE 5
INCLUSIONARY HOUSING

SECTION:

12-5-1: Purpose And Intent

12-5-2: Definitions

12-5-3: Requirements

12-5-4: Compliance Procedures

12-5-5: Eligibility And Preference Of Households For Affordable Dwelling Units

12-5-6: Distribution And Attributes Of On Site Affordable Dwelling Units

12-5-7: Cash Payment In Lieu Of Providing Affordable Dwelling Units

12-5-8: Affordability Controls

12-5-9: Density And Height Bonus

12-5-10: Enforcement

12-5-1: PURPOSE AND INTENT:

The purpose of this article is to provide opportunities within the Village for affordable housing, either within new residential developments by requiring developers to provide a proportionate share of affordable housing, or fees in lieu thereof, to ensure that an adequate stock of affordable housing is, and remains, available in the Village. (Ord. 19-26, 3-11-2019)

12-5-2: DEFINITIONS:

The following words and phrases shall have the meanings set forth in this section for purposes of this article. Words and phrases not defined in this section, but defined elsewhere in this Code, shall have the meanings set forth therein. In the event that a word or phrase is not defined, it shall have the common and ordinary meaning ascribed thereto. In interpreting the provisions of this article, if there is a conflict between a definition in this section and one found elsewhere in this Code, the definition in this section shall apply.

AFFORDABILITY PERIOD, OWNER OCCUPIED: The time during which the affordability restrictions imposed by this article shall apply to owner occupied affordable dwelling units. Owner occupied affordable dwelling units covered by this article 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.

AFFORDABILITY PERIOD, RENTAL: The time during which the affordability restrictions imposed by this article shall apply to leased affordable dwelling units. Leased affordable dwelling units covered by this article shall remain affordable for a period of thirty (30) years, after which the requirements of this article cease to be controlling. The affordability period begins at the time of first occupancy of the affected affordable dwelling unit.

AFFORDABLE DWELLING UNIT: All owner occupied or leased dwelling units in a covered development as defined herein.

AFFORDABLE HOUSING AGREEMENT: 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.

AFFORDABLE HOUSING, OWNER OCCUPIED: Decent, safe, sanitary housing that is: a) affordable to "households that meet AMI parameters" as set forth in this article; 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 thirty three percent (33%) of the household's gross annual household income (the total income of all adults over 18 years of age in the household).

AFFORDABLE HOUSING, RENTAL: Decent, safe, sanitary housing that is: a) affordable to households with AMI parameters set forth in this article; and b) to be leased only to "qualified households" as defined herein.

APPLICANT: Any developer who applies to the department to receive approval of a covered development pursuant to this article.

AREA MEDIAN INCOME (AMI): 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.

CERTIFICATE OF QUALIFICATION: A certificate establishing a qualified household's eligibility to purchase or lease an affordable dwelling unit based on income eligibility using the HUD part 5 verification process and asset limits, per the Village's wait list policies and procedures. Certificates of qualification shall be valid for six (6) months.

CONSUMER PRICE INDEX: Consumer price index for all urban consumers as published annually by the United States Department of Labor, Bureau of Labor Statistics.

COVERED DEVELOPMENT: A development containing twenty five (25) or more dwelling units in a TOD area on contiguous land under common ownership or control by an applicant at one location within the Village, when such dwelling units are to be sold or leased to owner-occupants or leased to tenants for which zoning relief is sought under the

Village's Zoning Ordinance. The term "covered development" and the regulations contained in this article shall not apply to a development that is designed to provide primarily affordable dwelling units, to condominium developments or portions of developments that contain condominiums, as that term is defined in section 12-3-1 of this chapter, to detached single-family dwelling unit developments or portions of developments that contain single-family dwelling units, as defined in the Village's Zoning Ordinance or to any property that is the subject of a redevelopment agreement approved by the Village Board prior to March 18, 2019. 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 will change the use of an existing building from nonresidential to residential.

DEPARTMENT: The Development Customer Services Department or any successor unless otherwise indicated.

DEVELOPER: 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.

DIRECTOR: The Director of the Development Customer Services Department or the Director's designee.

INCLUSIONARY HOUSING PLAN: The plan submitted as part of a zoning relief application which details the development's compliance with the affordable housing requirements of this article.

LOW INCOME HOUSEHOLD: For homebuyers: a household with a total income equal to or below one hundred twenty percent (120%) of the AMI. For renters: a household with a total income equal to or below sixty percent (60%) of the AMI in TOD areas.

MARKET RATE DWELLING UNITS: All owner occupied or rental dwelling units in a covered development that are not affordable dwelling units as defined herein.

PRIMARILY AFFORDABLE HOUSING DEVELOPMENT: A residential multi-family building that may have the physical characteristics of a covered development, but will have affordability restrictions that exceed the requirements of this article. This may include a development in which all of the units are restricted to households earning at or below the median income.

QUALIFIED HOUSEHOLD: A household whose income has been verified as meeting the AMI parameters for a household as set forth in this article and has received a certificate of qualification from a developer or a developer's designee pursuant to this article.

TOD AREA: The area that has the designation for an identified Chicago Transit Authority or Metra train station located in the Village and within a quarter (1/4) of a mile from any applicable train station or located contiguous to Madison Street west of Lombard Avenue, excluding the Austin Boulevard Blue Line Train Station and the Austin Boulevard Green

Line Transit Station and the NA North Avenue Commercial District and the RR Roosevelt Road Form-Based District as defined in the Village's Zoning Ordinance. The area provides for development that is compatible with and supportive of public transit and a pedestrian-oriented environment.

TRAIN STATION: The area including the platform which supports train usage and that is owned and/or operated by the applicable transit agency.

TRANSIT ORIENTED DEVELOPMENT OR TOD: A development created around a Chicago Transit Authority Blue Line or Green Line transit station or Metra train station located in the Village that is characterized by higher density, mixed uses, pedestrian environment, reduced parking, and a direct and convenient access to the train station. (Ord. 19-26, 3-11-2019; amd. Ord. 19-30, 3-18-2019)

12-5-3: REQUIREMENTS:

A. An applicant shall provide ten percent (10%) of the total number of dwelling units in a covered development as affordable. The applicant shall provide said dwelling unit(s) for the affordability period, owner occupied, and for the affordability period, rental, as defined in section 12-5-2 of this article.

B. An applicant that meets the requirements of subsection 12-5-3A of this section shall not be charged any Village building permit fees pursuant to chapter 7, article 1, "Building Code", of this Code associated with the initial construction of the affordable unit(s) provided by the applicant. (Ord. 19-26, 3-11-2019)

12-5-4: COMPLIANCE PROCEDURES:

The applicant shall file as part of its zoning relief application an inclusionary housing plan that outlines and specifies compliance with each of the applicable requirements of this article. The inclusionary housing plan shall specifically contain, as a minimum, the following information regarding the covered development:

- A. A general description.
- B. The total number of market rate dwelling units and affordable dwelling units.
- C. The number of bedrooms in each market rate dwelling unit and each affordable dwelling unit.
- D. The square footage of each market rate dwelling unit and each affordable dwelling unit.
- E. The general location of each affordable dwelling unit within the development.
- F. The pricing schedule for each affordable dwelling unit and each market rate dwelling unit.

G. 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 development.

H. Any proposal to make an in lieu of cash payment pursuant to section 12-5-7 of this article in lieu of providing affordable dwelling units. (Ord. 19-26, 3-11-2019)

12-5-5: ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS:

A. Certificate Of Qualification: The applicant shall issue a certificate of qualification to any household whose income has been verified as meeting the AMI threshold requirements set forth in this article.

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. All affordable units must be sold to low income households whose incomes are one hundred twenty percent (120%) AMI 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. For covered developments, all affordable units must be leased to households whose incomes do not exceed sixty percent (60%) AMI adjusted for household size.

C. Preference: Priority for affordable dwelling units will be given first to qualified households who currently live in Oak Park, or who have lived in Oak Park with a member of a household currently living in Oak Park, or to households in which the head of the household or the spouse or domestic partner works in Oak Park.

D. Waiting List: The waiting lists of households for affordable housing may be created in advance of the construction of those units in order to prioritize households pursuant to subsection 12-5-5C of this section. Households may complete a preliminary income screening based on self-reported income to be placed on a waiting list for rental and ownership units. The waiting list will be prioritized with current Oak Park residents or with individuals who have lived in Oak Park with a member of a household currently living in Oak Park, or to households in which the head of the household or the spouse or domestic partner works in Oak Park. (Ord. 19-26, 3-11-2019)

12-5-6: DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS:

A. Location Of Affordable Dwelling Units: Affordable dwelling units shall be within the covered development.

B. 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.

C. Interior Appearance And Finishes: Affordable dwelling units may have different interior appearance and finishes than market rate units, but the interior finish materials shall be contractor grade or higher.

D. 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 or as determined by the Director.

E. 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. (Ord. 19-26, 3-11-2019)

12-5-7: CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS:

An applicant may pay a fee in lieu of building each affordable dwelling unit required by section 12-5-3 of this article for a covered development as set forth below.

A. The fee in lieu amount per affordable dwelling unit shall be one hundred thousand dollars (\$100,000.00). The fee in lieu will be adjusted annually based on the consumer price index.

B. All cash payments received pursuant to this article shall be deposited directly into the Village's Affordable Housing Fund.

C. Unless otherwise preempted by law, any fee in lieu shall be paid at the same time as payment is made for a building permit(s).

D. The in-lieu fee shall be calculated at the time the applicant submits an application for a building permit with the department. The fee as calculated will be valid for two (2) years following the date it is calculated by the department and cannot be reduced within the two-year period for a reduction in the number of units.

E. An applicant that pays a fee in lieu pursuant to this section shall not be eligible for a permit fee reduction set forth in subsection 12-5-3B of this article or to density or height bonuses pursuant to section 12-5-9 of this article. (Ord. 19-26, 3-11-2019)

12-5-8: AFFORDABILITY CONTROLS:

A. Affordable Housing Agreement To Ensure Compliance During The Affordability Period: Prior to issuance of a building permit for any development or conveyance of title of any dwelling unit in any development, the applicant shall have entered into an affordable housing agreement with the Village regarding the specific requirements and restrictions

imposed by the Village Board upon the approved development. The applicant shall agree to execute any and all documents deemed necessary by the Village, 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 article. The affordable housing agreement shall set forth the commitments and obligations of the Village and the applicant, and shall incorporate, among other documents, the inclusionary housing plan. If applicable, the affordable housing agreement shall also detail the fee in lieu or alternative equivalent action of providing on site affordable dwelling units as set forth in section 12-5-7 of this article.

B. Rental Compliance: The developer, or its successor, assignee, or designee, shall submit an annual compliance report to the Village 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 for the affordability period, rental as defined in section 12-5-2 of this article. The developer, or its successor, assignee, or designee shall complete annual re-certifications of tenants renting affordable units to the Village for the affordability period, rental as defined in section 12-5-2 of this article. (Ord. 19-26, 3-11-2019)

12-5-9: DENSITY AND HEIGHT BONUS:

A. A density bonus shall be permitted when affordable units are constructed within a covered development in accordance with section 12-5-3 of this article. One bonus market rate dwelling unit shall be permitted for each affordable unit constructed within the covered development.

B. If the construction of the affordable unit(s) causes the covered development to exceed a height limitation set forth in the Village's Zoning Ordinance, a variation shall automatically be granted for the number of feet that the covered development exceeds the height limitation. (Ord. 19-26, 3-11-2019)

12-5-10: ENFORCEMENT:

A. The provisions of this article shall apply to all agents, successors and assignees of an applicant.

B. The Village may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this article. 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 article 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. (Ord. 19-26, 3-11-2019)

ARTICLE 7
HOUSING TRUST FUND

SECTION:

12-7-1: Purpose and Intent

12-7-2: Definitions

12-7-3: Housing Trust Fund Established

12-7-4: Housing Programs Advisory Committee Responsibilities

12-7-5: Eligibility Requirements

12-7-6: Review and Approval of Applications and Programs

12-7-7: Conditions

12-7-8: Sources of Funds

12-7-1: PURPOSE AND INTENT:

The purpose of this article is to provide sustainable financial resources to address the affordable housing needs of eligible households in Oak Park by preserving and producing affordable housing, providing housing-related financial support and services to eligible households and providing financial support for not-for-profit organizations that actively address the affordable housing needs of eligible households. (Ord. 22-23, 5-2-2022)

12-7-2: DEFINITIONS:

A. The following words and phrases, when used in this article, shall have the following meanings:

**AFFORDABLE
HOUSING:**

Housing that has a sales price or rental amount that is within the means of an "Eligible Household" as defined herein. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than thirty percent (30%) of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than thirty percent (30%) of the gross

	annual household income for a household of the size that may occupy the unit.
APPLICANT:	An applicant is any individual or entity, including but not limited to developers, not-for-profit organizations, housing owner/operators, and units of government that applies for a grant, loan, or other resources from the Housing Trust Fund.
ELIGIBLE ACTIVITIES:	Eligible Activities shall include those activities that are eligible to receive funding or other resources from the Housing Trust Fund, as set forth in section 12-7-5 of this Chapter.
ELIGIBLE HOUSEHOLD:	A household with in income at or below eighty percent (80%) of the Area Median Income (AMI) for for-sale units and at or below sixty percent (60%) of the AMI for rental units.
HOUSING PROGRAMS ADVISORY COMMITTEE:	The Village's Housing Programs Advisory Committee as established by chapter 2 ("Administration"), article 31 ("Housing Programs Advisory Committee") of this Code, as amended.

B. To the extent that words or phrases not defined herein are defined in the Village's Zoning Ordinance, such words or phrases shall be deemed to have the meanings set forth therein. (Ord. 22-23, 5-2-2022)

12-7-3: HOUSING TRUST FUND ESTABLISHED:

A. Creation; Management and Administration: There is established a Housing Trust Fund to be held as a separate fund within the Village for the sole purpose of providing and preserving affordable housing opportunities within the Village. The Village's Chief Financial Officer shall be responsible for the day-to-day investment and fiscal maintenance and management of the Housing Trust Fund. The day-to-day fiscal maintenance and management shall be undertaken pursuant to the approved investment policies and practices of the Village for other similarly held funds. Except for disbursements and other actions taken as part of the day-to-day fiscal maintenance and management of the Housing Trust Fund, the Chief Financial Officer shall not disburse funds held by the Housing Trust Fund except upon the written direction of the Village Board or otherwise pursuant to the provisions of an approved program. The Village's Housing Programs Advisory Committee shall assist the Village Board with the organization, operation, and implementation of the Housing Trust Fund as set forth in this article.

B. Distribution and Use of Housing Trust Fund: Distribution of Housing Trust Fund funds shall be in the form of grants or loans or such other funding mechanisms that support the purposes of the Housing Trust Fund. Any unused Housing Trust Fund funds at the end of a fiscal year shall remain in the Housing Trust Fund for future eligible activities pursuant to the requirements of this article. (Ord. 22-23, 5-2-2022)

12-7-4: HOUSING PROGRAMS ADVISORY COMMITTEE:

The Housing Programs Advisory Committee shall make recommendations to the Village Board regarding the following:

- A. The goals for the use of Housing Trust Fund resources;
- B. The Housing Trust Fund's annual budget, including projected expenditures and revenues;
- C. The procedures for reviewing applications and awarding Housing Trust Fund resources to applicants;
- D. The criteria to be used by the Housing Programs Advisory Committee, the Village Board, and Village staff in reviewing applications and programs that utilize Housing Trust Fund resources;
- E. The procedures to be used for disbursing Housing Trust Fund resources;
- F. The review of applications and programs for Housing Trust Fund awards;
- G. The procedures to be used to monitor eligible activities funded by the Housing Trust Fund to ensure that Housing Trust Fund resources are used in conformance with all applicable requirements; and
- H. The evaluation of Housing Trust Fund activities. (Ord. 22-23, 5-2-2022)

12-7-5: ELIGIBILITY REQUIREMENTS:

A. Purpose of Eligible Activity. An applicant shall be required to demonstrate that the requested eligible activity will advance and support the purpose of the Housing Trust Fund as set forth in this article.

B. Eligible Activities. The use of Housing Trust Fund resources shall be limited to the following which shall be considered eligible activities:

1. Production of affordable housing including, without limitation, new construction, rehabilitation, and adaptive re-use;
2. Acquisition and disposition, including, without limitation, vacant land, single- family homes, multi-unit buildings, and other existing structures that may be used in whole or part to provide affordable housing;
3. Grants or loans to not-for-profit organizations that are actively engaged in addressing the housing needs of eligible households;
4. Financial assistance to eligible households to rent dwelling units;

5. Financial assistance to eligible households to purchase dwelling units;
6. Financial or in-kind assistance to preserve and/or maintain existing affordable housing;
7. Weatherization of dwelling units occupied by eligible households; or
8. Emergency repairs to dwelling units occupied by eligible households.

C. Criteria for Award of Housing Trust Fund Resources. Among applications for funding for eligible activities that otherwise meet established program requirements and eligibility criteria, priority shall be given to:

1. Applications that provide for leveraging of funds for projects, i.e., that yield a larger amount of housing provided or a larger dollar value for the level of funding being sought;
2. Applications that provide the longest term of permanent affordability; and
3. Applications that provide housing to serve the needs of households with the lowest incomes.

D. The Village may approve additional criteria and priorities in connection with a specific program as adopted by the Village Board. (Ord. 22-23, 5-2-2022)

12-7-6: REVIEW AND APPROVAL OF APPLICATIONS AND PROGRAMS:

A. The Village Board shall be solely responsible for the approval of all programs and applications that utilize the expenditure of Housing Trust Fund monies. Applications for Housing Trust Fund awards shall be submitted to the Director of Development Customer Services or the Director's designee. Applications or programs that comply with the applicable requirements shall be forwarded to the Housing Programs Advisory Committee, and any applications or programs that do not comply shall be returned to the applicant with a written explanation of why the application will not be considered. The Housing Programs Advisory Committee shall review and make recommendations to the Village Board as to which applications or programs should be awarded funding.

B. The Village Board may in its discretion approve a program that delegates the approval of applications and the dispersal of Housing Trust Fund monies to the Housing Programs Advisory Committee or Development Customer Services Director or the Director's designee, provided that provisions for the disbursement of Housing Trust Fund monies are specifically set forth within the scope of that program, and the program complies with the provisions of this article. (Ord. 22- 23, 5-2-2022)

12-7-7: CONDITIONS:

As a condition of any Housing Trust Fund award for an eligible activity, an applicant shall execute and record such agreements, conditions, restrictive covenants, and other similar

instruments as may be required by the Village to ensure that Housing Trust Fund resources will be used efficiently and for the intended purposes. Among other requirements, such conditions may bind an applicant and an applicable property to the requirements of this article and provide that an award shall be used in strict compliance with the requirements of the this Code and such conditions. The Village may also include a requirement that if a property or development is no longer being used for affordable housing pursuant to the requirements of the specific award, the applicant or successor owner of the property or development shall be required to reimburse the Housing Trust Fund for up to one hundred percent (100%) of the award, plus applicable interest. (Ord. 22-23, 5-2-2022)

12-7-8: SOURCES OF FUNDS:

The Village Manager or the Village Manager's designee is authorized to accept funds, property, and other resources from all proper and lawful public and private sources including, without limitation, cash payments in lieu of constructing some or all of the on-site affordable units as required by chapter 12 ("Housing"), article 5 ("Inclusionary Housing") of this Code, as amended, for the benefit of the Housing Trust Fund. The Village's Chief Financial Officer shall deposit all funds collected pursuant to the transient occupancy rental unit surcharge tax set forth in section 23A-4-2(B) of this Code into the Housing Trust Fund. The Village Board in its sole discretion may make additional funds available to the Housing Trust Fund from the Village's general fund as it may deem necessary and appropriate. (Ord. 22-23, 5-2-2022; amd. Ord. 24-108, 2-20-2024)

THIS ORDINANCE MAY BE CITED AS
VILLAGE ORDINANCE NUMBER
24-5-C-4684

**AN ORDINANCE AMENDING CHAPTERS 46 AND 58 OF THE SKOKIE
VILLAGE CODE PERTAINING TO AFFORDABLE HOUSING**

1 **WHEREAS**, the Village of Skokie (hereinafter “Village”) as a home rule unit of local
2 government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the
3 authority to exercise any power and perform any function pertaining to its government and
4 affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

5 **WHEREAS**, as a home rule unit, the Village’s powers are construed liberally as held by
6 the Illinois Supreme Court in the case of Scadron v. City of Des Plaines, 153 Ill.2d 164 (1992),
7 including to regulate and to promulgate rules and regulations that pertain to its government
8 affairs; and

9
10 **WHEREAS**, Chapter 46, of the Skokie Village Code contains various fees for Village
11 services, programs and policies and is the appropriate Chapter of the Skokie Village Code to
12 contain provisions concerning the payment of a “fee in lieu” into a Village fund with specific
13 purposes, as part of Affordable Housing; and

14 **WHEREAS**, Chapter 58, of the Skokie Village Code focuses on and addresses Human
15 Relations including requirements and procedures for housing practices and, therefore, is the
16 appropriate Chapter of the Skokie Village Code to contain provisions concerning Affordable
17 Housing, thereby emphasizing the essential interrelationship between human relations, open
18 housing and affordable housing and by amalgamating in one place the Village undertakes to
19 provide and safeguard these fundamental needs; and

20 **WHEREAS**, the Village has a long and admirable history concerning open and fair
21 housing including being the first municipality in the State of Illinois to pass a Fair Housing
22 Ordinance contained in Chapter 58, of the Skokie Village Code and empowering its Human
23 Relations Commission decades ago to aggressively enforce its Fair Housing Ordinance
24 through mediation and public hearings; and

25 **WHEREAS**, the Village has achieved two times the level of affordable housing, as
26 required by the State of Illinois and defined and calculated by the Illinois Housing
27 Development Authority (“IHDA”) through organic housing trends, without any affordable
28 housing regulations or imposition of requirements on new construction, in fact, the most
29 recent published calculations by the IHDA verified that affordable housing in the Village has
30 increased to 21.9% amongst the highest in the North Shore; and

31 **WHEREAS**, while the IHDA identified that the amount of affordable housing in the
32 Village has increased to 21.9%, there is a qualitative value to encourage affordable housing,

1 for: those who have lived in the Village and contributed to its success but are now on reduced
2 or limited incomes as senior residents, for those who work in the Village and would like to live
3 here and for those who seek to come to live in the Village for its opportunities; and
4

5 **WHEREAS**, there is a continuing need to provide renovated and updated affordable
6 housing to ensure that those who obtain affordable housing from older developments in the
7 Village live in property that is safe and habitable and provides dignity for its occupants; and
8

9 **WHEREAS**, there is also the need and interest in the Village to encourage and attract
10 new affordable housing development because housing in our community strengthens the
11 economic vitality of the Village; and
12

13 **WHEREAS**, the Village recognizes that providing affordable housing in our community,
14 both new and restored, increases housing opportunities to maintain a diverse population,
15 including but not limited to: family friendly housing, multi-generational housing, senior housing
16 and accessibility which can be energized by the Village Housing Commission; and
17

18 **WHEREAS**, the Village Plan Commission, as directed by the Village Board at the
19 encouragement of Trustee Keith Robinson, undertook to develop affordable housing
20 recommendations from listening sessions and two (2) Public Hearings beginning in January
21 2023 from local and regional organizations and community members resulting in draft goals
22 which were presented to the Village Board on March 16, 2023; and
23

24 **WHEREAS**, on April 17, 2023, the Plan Commission Report entitled “Affordable
25 Housing Policy Discussion” presented to the Village Board at its regular public meeting by
26 the Plan Commission Chair and thereafter its provisions were included in the Ordinance
27 presented to the Village Board on May 15, 2023; and
28

29 **WHEREAS**, relying on the Affordable Housing Policy Discussion and recommendations
30 from the Village Board, proposed Affordable Housing Ordinances were drafted and submitted
31 to the Village Board for action at 3 duly held regular public meetings on May 15, 2023,
32 September 9, 2023 and November 6, 2023 without approval for various reasons and ultimately
33 on November 20, 2023 at a Village Board meeting, after further discussion, Trustee Khem
34 Khoeun presented additional and adjusted provisions which are set forth and fully incorporated
35 below; and
36

37 **WHEREAS**, as set forth in each of the 3 previous Affordable Housing Ordinances, this
38 Ordinance intends that all fee in lieu payments shall be deposited into a Village segregated
39 account known as the Village of Skokie Housing Fund. The fee in lieu funds in the Housing
40 Fund may be used for housing programs such as affordable owner occupied units and land
41 trust and up to \$300,000 per year to be used for the Affordable Housing Renovation Program
42 as described below, all as established by the Village Board in conformity with the goals set forth
43 in this Ordinance and administered by the Village Manager; and
44

45 **WHEREAS**, the Mayor has appointed a Housing Sub-Committee of the Village Plan
46 Commission, and this Sub-Committee shall be added to the Village Code section concerning
47 Boards and Commissions within 90 days of the effective date of this Ordinance and shall be
48 established in conformity with the other commissions and shall meet quarterly and may issue
49 an annual report.

1
2 **NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Board of Trustees of the
3 Village of Skokie, Cook County, Illinois;

4 **Section 1:** That Chapter 58 of the Skokie Village Code be and the same is hereby
5 amended in the manner hereinafter indicated. The new material is **highlighted in bold.**

6 Chapter 58 - HUMAN RELATIONS **AND AFFORDABLE HOUSING**

7 ARTICLE I. - IN GENERAL...

8 **ARTICLE III. – AFFORDABLE HOUSING**

9 **Sec. 58-39. Intent and Purpose.**

10 This Article shall promote the public health, safety and welfare of existing and future
11 residents of the Village by requiring certain residential developments or mixed-use
12 developments which contain a residential component to incorporate a specified
13 percentage of dwelling units to qualifying as Affordable Housing.

14 **Sec. 58-40. DEFINITIONS**

15 **A. Definitions.**

- 16 - **Affordable Housing. Housing that is affordable for targeted households**
17 **identified in this Article. “Affordable Housing” is divided into tiers based on**
18 **availability to households at distinct income levels.**
- 19 - **Affordable Housing Compliance Plan. A plan submitted by a Developer or**
20 **owner of a Governed Development describing how a development shall**
21 **comply with the requirements of this Article.**
- 22 - **Affordable Housing Fund. A fund to be established by the Village.**
- 23 - **Affordable Housing Unit. A dwelling unit that meets the criteria for affordable**
24 **housing.**
- 25 - **Affordable Owner Occupied Units. Affordable housing units marketed and**
26 **offered for sale to eligible households subject to an affordable unit covenant.**
- 27 - **Affordable Rental Units. Affordable housing units marketed and offered for**
28 **rent to eligible households subject to standard lease terms.**
- 29 - **Area Median Income (AMI). The median income level for the Chicago-**
30 **Naperville-Elgin, IL-IN-WI Metropolitan Statistical Area, as established and**
31 **defined in the annual schedule published by the Secretary of Housing and**
32 **Urban Development, and adjusted for household size.**

- 1 - **Certificate of Qualification.** A certificate establishing a qualified household's
2 eligibility to purchase or lease an affordable dwelling unit based on income
3 eligibility using income and asset limits, in accordance with the Village's
4 policies and procedures.
- 5
- 6 - **Consumer Price Index (CPI).** Consumer price index for the Chicago-
7 Naperville-Elgin area as published annually by the U.S. Department of Labor,
8 Bureau of Labor Statistics.
- 9
- 10 - **Developer.** The party responsible for obtaining approvals from the Village,
11 including zoning, subdivision, and building permit approvals, for a Governed
12 Development.
- 13
- 14 - **Eligible Household.** For purposes of this Article, a household with an annual
15 income less than 60% and 80%, respectively, of the Area Median Income
16 (AMI).
- 17
- 18 - **Governed Development.** Any residential or mixed-use development with a
19 residential component that is required to provide affordable housing units
20 under provisions of this Article. Projects at one location undertaken in
21 phases, stages or otherwise developed in distinct parts shall be considered
22 a single Governed Development.
- 23
- 24 - **Housing Expenses.**
25 a) For affordable rental units - rent and utilities; and
26 b) For Affordable Owner Occupied Units - principal and interest of any
27 mortgages placed on the unit, property taxes, condominium or homeowner's
28 association fees, if applicable, and insurance.
- 29
- 30 - **Maximum Resale Price.** The maximum price, at which an owner occupied
31 affordable unit may be sold to another eligible household, based on a
32 valuation formula incorporating appraisal data, a maximum appreciation
33 factor, and allowances for capital improvements, all as set forth in a
34 schedule to be published by the Village on an annual basis.
- 35
- 36 - **Market Rate Housing Units.** All owner occupied or rental dwelling units in a
37 Governed Development that are not classified as affordable housing units.
- 38
- 39 - **Nursing Facilities.** This means either a Skilled nursing facility or an Assisted-
40 living facility as defined in Section 118-32 of the Code.
- 41

42 **Sec. 58-41. Administration.**

43
44 The provisions of this Article shall be administered by the Village Manager, or
45 designee.

46
47 **Sec. 58-42. Applicability.**

48
49 **A. General.** The provisions of this Article shall apply to all developments that

1 result in the addition of or contain 11 or more residential dwelling units.
2 Developments subject to the provisions of this Article shall be deemed
3 Governed Developments and shall include, but are not limited to, the following:
4

5 1. A development that is new residential construction or new mixed-use
6 construction with a residential component.
7

8 2. A development that is the renovation or reconstruction of an existing
9 multiple family residential building that increases the number of
10 residential dwelling units from the number of dwelling units in the original
11 structure.
12

13 3. A development that shall change the use of an existing building from
14 non-residential to residential or that will change the class of residential
15 use from single family to multi family.
16

17 4. An existing Governed Development that engages in a substantial
18 renovation or remodel where the scope of the work requires the
19 relocation of tenants or permanent end of tenancy for the tenants or when
20 more than 30% of the units in the development are undergoing the
21 renovation or remodel at one time.
22

23 **B. Development on Multiple Parcels.** For purposes of this Article, a development
24 that is constructed across multiple adjacent parcels under common ownership
25 shall be considered a single development.
26

27 **C. Excluded Developments.** The requirements of this Article shall not apply to
28 the following housing types:
29

30 1. The reconstruction of an individual dwelling unit that is rebuilt;
31

32 2. A non-residential development;
33

34 3. Assisted living facilities; and
35

36 4. Nursing facilities.
37

38 **Sec. 58-43. Affordable Housing Requirement for Governed Developments**

39

40 **A. Calculation of Required Affordable Units.** The Developer of a Governed
41 Development must satisfy the requirements of this Article by providing
42 affordable housing units within the physical envelope of the development, in the
43 amounts to be calculated as follows, unless an exception or alternative is
44 approved by the Mayor and Board of Trustees:
45

46 1. Tiered Requirement.
47

48 a. For projects with 11 to 75 total dwelling units in a Governed
49 Development, 5% shall be marketed, offered and maintained as
affordable housing units.

- b. For projects with 76 to 150 total dwelling units in a Governed Development without any Tax Increment Funding, Cook County real estate tax program relief or local government real estate tax relief, 5% shall be marketed, offered and maintained as affordable housing units.
- c. For projects with 76 to 150 total dwelling units in a Governed Development with any Tax Increment Funding, Cook County real estate tax program relief or local government real estate tax relief, 7% shall be marketed, offered and maintained as affordable housing units.
- d. For projects with more than 150 total dwelling units in a Governed Development without any Tax Increment Funding, Cook County real estate tax program relief or local government real estate tax relief, 7% shall be marketed, offered and maintained as affordable housing units.
- e. For projects with more than 150 total dwelling units in a Governed Development with any Tax Increment Funding, Cook County real estate tax program relief or local government real estate tax relief, 10% shall be marketed, offered and maintained as affordable housing units.
- f. For all projects, half the required affordable housing units shall be for applicants with no more than 60% of AMI and half shall be for applicants with no more than 80% of AMI.
- g. When the total number of on-site units is an odd number, applicants shall select which affordable level the additional unit shall be.

2. Fractional Units. When the application of the percentages specified above results in a number of required affordable housing units that includes a fraction, the fraction shall be rounded up to the next whole number if the fraction is greater than 0.5. If the result includes a fraction equal to or less than 0.5, the Developer shall have the option of rounding up to the next whole number and providing the affordable housing units on-site, or providing the Village with a payment in lieu of providing an additional affordable housing unit for that one additional unit.

B. Payment in Lieu of Providing Affordable Units.

- 1. A Developer may make a cash payment in lieu of constructing some or all of the required affordable housing units otherwise required to be constructed pursuant to this Article, but only if the Mayor and Board of Trustees approve such payment as part of a Site Plan Approval or Planned Unit Development.
- 2. Required Payment in Lieu fee. For Governed Developments permitted to satisfy their affordable housing requirement through a payment in lieu, the amount due to the Village shall be pursuant to Section 46-140 of the Code and shall be deposited into a Village segregated account to be used

1 for housing programs such as affordable owner occupied units, land
2 trust and the Affordable Housing Renovation Program.

3
4 **3. Timing of Payment.** A Developer shall be required to submit the
5 permitted payment in lieu for a Governed Development prior to the
6 issuance of any building permits for the Governed Development. In the
7 event that a Governed Development is being constructed in phases, the
8 Developer shall only be required to submit a portion of the payment in
9 lieu corresponding to the proportion of that phase.

10
11
12 **Sec.58-44. Location and Design Attributes of Affordable Housing Units.**

13
14 **Affordable housing units in a Governed Development must comply with the following**
15 **standards, unless granted an exception by the Village Board as part of the affordable**
16 **housing compliance plan.**

17
18 **A. Location of Affordable Housing Units.** Affordable housing units must
19 be dispersed among the market rate housing units throughout the
20 Governed Development and not clustered together or segregated from
21 market rate housing.

22
23 **B. Size of Units.** Affordable housing unit size must be generally
24 representative of and correspond to the size of the market rate housing
25 units within the Governed Development.

26
27 **C. Phasing of Construction.** In a Governed Development to be
28 constructed in multiple phases, each phase of the development must
29 include a number of affordable housing units proportional to the fraction
30 that the phase consists of the entire Governed Development.
31 Construction of affordable housing units may not be delayed or grouped
32 into later phases of a Governed Development.

33
34 **D. Exterior Appearance.** The exterior appearance of affordable housing
35 units in any Governed Development must be visually compatible with the
36 market rate housing units in the Governed Development. External
37 building materials and finishes must be substantially the same in type
38 and quality for affordable housing units as for market rate housing units.
39 Affordable housing units shall be indiscernible from market rate housing
40 units when viewed from interior corridors and other common areas.

41
42 **E. Mix of Bedroom Types of Affordable Housing Units.** The bedroom mix
43 of affordable housing units must be in equal proportion to the bedroom
44 mix of the market rate housing units within the Governed Development.

45
46 **F. Amenities.** Affordable housing units must have similar access to
47 common areas, facilities, and services as that enjoyed by comparable
48 market rate housing units in a Governed Development including but not

1 limited to outdoor spaces, amenity spaces, storage, parking, bicycle
2 parking facilities, and resident services.

3
4 **G. Mixed Occupancy Developments.** If a Governed Development includes
5 both rental housing units and owner occupied units, the ratio of
6 affordable rental to affordable owner occupied units marketed and
7 offered must be equal to the ratio of rental to owner occupied market rate
8 housing units marketed and offered in the Governed Development.

9
10 **Sec. 58-45. Period of Affordability.**

11
12 **The Lease of Affordable Rental Units.** The period of affordability shall be 25
13 years, to commence at the time of six (6) months subsequent to when the Certificate
14 of Occupancy is issued by the Village. The Developer or owner shall execute and
15 record any agreements, covenants, or instruments required by this Part to ensure
16 compliance with this section.

17
18 **Sec. 58-46. Reserved for Affordability Controls for Affordable Owner Occupied Units.**

19
20 **Sec. 58-47. Affordability Controls For Affordable Rental Units.**

21
22 **A. Rental Rates for Affordable Rental Units.** Permitted housing expenses for affordable
23 rental units shall be set according to a schedule published by the Village annually and
24 calculated on the basis of:

25 **1. Housing expenses at or below thirty one percent (31%) of the designated**
26 **eligible income tiers set forth in Section 58-43, with a household size**
27 **corresponding to the size of the unit.**

28
29
30 **2. If the most recent edition of HUD's reporting indicates a lower area median**
31 **income than the previous edition, the maximum housing expenses shall be**
32 **adjusted accordingly.**

33
34 **3. The following relationship between unit size and household size shall be used**
35 **to determine the appropriate income level at which affordable housing expenses**
36 **are calculated:**

37

Unit Size	Income Level for Household Size
Efficiency	1 Person
1 Bedroom	2 Persons
2 Bedrooms	3 Persons
3 Bedrooms	4 Persons
4 Bedrooms	7 Persons

38
39 **B. Lease Term.** No affordable rental unit may be initially leased for a period of less than
40 12 months. All leases must be written and, in a form, approved by the Village. Renewal
41 leases may be less than 12 months based on mutual agreement between the Developer

1 and tenant. Final lease agreements are the responsibility of the Developer and the
2 prospective tenant. Tenants are responsible for application fees, security deposits and
3 the full amount of the rent as stated on the lease. All lease provisions shall comply
4 with applicable laws and regulations. The Developer shall maintain copies of all leases
5 entered into with a certified household (including an income certification) and
6 distribute a copy to the Village or its designated not-for-profit partner organization.

7
8 **C. Rental Compliance.** The Developer, or its designee, shall submit an annual
9 compliance report describing each affordable unit in detail including but not limited to
10 changes in tenancy, turnovers, and income certifications for all new tenants upon
11 request of the Village Manager.

12
13 **Sec. 58-48. Affordable Housing Compliance Plans – Review And Approval Process.**

14
15 **A. Application.** For all Governed Development projects, the Developer shall file an
16 application for approval of the project’s plan to comply with this Article on a form
17 provided and required by the Village Manager or designee.

18
19 **Sec. 58-49. Reduced Parking Requirement For Qualifying Developments.**

20
21 For all Governed Development projects that include the requisite number of Affordable
22 Housing Units without any reduction of on-site Affordable Housing Units pursuant to
23 the payment in lieu provisions of Sec. 58-43 B, off-street parking minimum
24 requirements of the Village Code, are abated and inessential and shall be determined
25 through site plan approval. This may include greater flexibility in the design and
26 allocation of off-street parking within the envelope of the building and on the building
27 property. Site plan approval may also include the availability of alternative forms of
28 transportation, proximity of public transportation and needs of the expected residents
29 of the Affordable Housing Project. Any such relief from off-street parking minimum
30 requirements shall not be upon the approval of the Plan Commission and Village
31 Board.

32
33 **Sec. 58-50. Reserved for Land Trust Provisions and its Administration.**

34
35
36 **Section 2:** That Chapter 46 of the Skokie Village Code be and the same is hereby
37 amended in the manner hereinafter indicated. The new material is **highlighted in bold.**

38 Chapter 46 FEES FOR LICENSES, SERVICES AND PERMITS

39 ...

40
41
42 **ARTICLE IV. - BUILDING PERMITS AND RELATED FEES**

43 ...

44
45
46 **Sec. 46-140. – Affordable Housing Unit – Fee In Lieu.**

1 **The fee in lieu for Affordable Housing Units pursuant to Section 58-43 B shall be**
2 **\$100,000 per Affordable Housing Unit in a Governed Development with 11 to 150 total**
3 **units and shall be \$150,000 per Affordable Housing Unit in a Governed Development**
4 **with 151 or more total units.**

5 **Section 3:** That an Affordable Housing Renovation Grant program shall be
6 established under the direction of the Village Manager or designee. General provisions of the
7 program shall be as follows:

8
9 A. Purpose.

10
11 The purpose and intent of the Affordable Housing Renovation Grant Program shall be to
12 encourage and foster the renovation rental properties consisting of two (2) to four (4) unit
13 buildings in Skokie that qualify as Affordable Housing. The focus shall be on the older housing
14 stock that has not been recently improved, which the receipt of grant funds would advance
15 the livability and safety of the property with renovation. The provisions of this Affordable
16 Housing Renovation Grant Article shall be administered by the Village Manager or designee.

17
18 B. Administration.

19
20 The Village Manager or designee shall promulgate rules, regulations and forms for the
21 Affordable Housing Renovation Grant Program and will administer the program.

22
23 C. Property and Owner(s) Eligibility.

- 24
25 1. Properties eligible for funding under the Affordable Housing Renovation Grant
26 Program shall be existing properties in the Village of Skokie which have satisfied
27 the State of Illinois definition for Affordable Housing for at least 3 consecutive years
28 including the year of application for Affordable Housing Renovation Grant funds.
29 Additionally, a property must be at least a two (2) unit rental building, and no more
30 than a four (4) unit rental building and the property owner or family member cannot
31 be a resident, occupant or tenant in the property at any time during the Term of the
32 Affordable Housing Renovation Grant.
- 33
34 2. Eligible property owners shall own not more than three (3) qualifying rental
35 properties in the Village of Skokie.
- 36
37 3. Funding from this grant shall be used to correct or remediate conditions concerning
38 tenants' health, safety and Americans with Disabilities Act compliance and all
39 grants shall be limited to Village Building Code deficiencies or Village sustainability
40 goals such as electrical, plumbing, door, window, exterior lighting and HVAC.

41
42 D. Applications.

43
44 The owner(s) in title to a prospective property shall submit an application and any additional
45 documents required by the Village Manager or designee, pursuant to the published rules and
46 regulations of the Affordable Housing Renovation Grant Program. Documents to be included
47 with the application may include but are not limited to;

- 1 1. A statement of the scope of work,
- 2 2. Proposals from 3 licensed contractors for the contemplated work, who are licensed
- 3 to perform work in the Village of Skokie, and
- 4 3. A fully executed agreement with the selected contractor, shall be tendered prior to
- 5 the commencement of any construction, demolition or renovation or any material
- 6 change to the structure or prior to the issuance of any required permits, in order to
- 7 qualify for an Affordable Housing Renovation Grant.

8
9 E. Grant Agreement to be Recorded.

10 Applicant(s) shall be required to execute and submit documents which shall be recorded
11 against the property for which the grant funds are to be used, requiring that all units in subject
12 property shall be rented to households with a qualifying household income at or below 80%
13 of the area median income ("AMI") and paying an affordable rent as published annually by
14 the Illinois Housing Development Authority ("IHDA") with an allowance for increases in real
15 estate taxes.
16

17
18 F. Source and Limit of Grant Funds.

19 Affordable Housing Renovation Grant funds shall be allocated from the fee in lieu Fund of the
20 Village accumulated from new development payments. Funds allocated for an Affordable
21 Housing Renovation Grant shall be released to the property owner after the contracted work
22 is completed and inspected by the Village. Any single Affordable Housing Renovation Grant
23 shall be limited to no more than \$50,000 per property and not more than \$300,000 shall be
24 allocated or awarded from the aggregate of the fee in lieu or Affordable Housing Fund for
25 renovations in any calendar year, although it is not required that any Affordable Housing
26 Renovation Grant be awarded each year.
27

28
29 G. Term of Affordable Housing Renovation Grant.

30 All Affordable Housing Renovation Grants shall require that the affordable housing rent
31 remain in place for a minimum of 10 years from the date of the first payment of Affordable
32 Housing Renovation Grant money. The Affordable Housing Renovation Grant runs with the
33 property and is not based on ownership. New property owners shall be required to maintain
34 the existing Affordable Housing rent as established under the Affordable Housing Renovation
35 Grant.
36

37
38 **Section 4:** That this Ordinance shall be in full force and effect from and after its
39 passage, approval and publication in pamphlet form as provided by law.

ADOPTED this 6th day of May, 2024.

Ayes: 4 (Khoeun, Robinson, Sutker, Van Dusen)

Nays: 3 (Johnson, Pure Slovin, Klein)

Absent: 0

Attested and filed in my office
this 7th day of May, 2024;
and published in pamphlet form
according to law from May
7th, 2024 to May 17th, 2024.

Village Clerk

Village Clerk

Approved by me this 7th day of
May, 2024.

Mayor, Village of Skokie

Chapter 19.02 INCLUSIONARY HOUSING ORDINANCE

19.02.010 Purpose and intent.

To provide opportunities within the City for affordable housing, either within new residential developments by requiring developers to provide a proportionate share of affordable housing, or fees in lieu thereof, to ensure that an adequate stock of affordable housing is, and remains, available in the City of St. Charles.

(2016-M-7: § 2)

19.02.020 Implementation.

The Director of Community and Economic Development or Director's designee shall promulgate regulations and forms as may be necessary for the implementation of this chapter. Said regulations shall be reported to the Housing Commission and City Council.

(2016-M-7: § 2)

19.02.030 Enforcement.

- A. The provisions of this chapter shall apply to all agents, successors and assignees of an Applicant.
- B. The City of St. Charles 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, violating or causing the violation of any of the provisions of this chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by the payment of a fine of not more than seven hundred fifty dollars (\$750.00) per day. Such person, firm, or entity shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this chapter is commenced, continued, or permitted by such person, firm, or entity, and shall be punishable as herein provided.

(2016-M-7: § 2)

19.02.040 Definitions.

The following words and phrases shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined elsewhere in the St. Charles Municipal Code, shall have the meanings set forth therein. In the event that a word or phrase is not defined, it shall have the common and ordinary meaning ascribed thereto. In interpreting the provisions of this chapter, in the event there is a conflict between a definition in this section and one found elsewhere, the definition in this section shall apply.

Affordable housing: Housing that has a sales price or rental amount that is within the means of an "eligible household" as defined herein. In the case of dwelling units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than thirty percent (30%) of the gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than thirty percent (30%) of the gross annual household income for a household of the size that may occupy the unit.

Affordable unit: A dwelling unit of affordable housing that satisfies the requirements of this chapter.

Affordable housing agreement: Any agreement between the City and an applicant as required by Section 19.02.140 of this chapter.

Applicant: Any developer who applies to the City to receive approval of a residential development pursuant to this chapter.

Area Median Income (AMI): 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 U.S. Department of Housing and Urban Development, and adjusted for household size.

Base density: The number of dwelling units permitted to be constructed on a parcel in conformance with the requirements of the zoning district in which it is located, prior to applying any applicable density bonus.

Developer: Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops a dwelling or units, not including any governmental entity or a housing provider as defined herein.

Director: The Director of the Community and Economic Development Department, or his or her designee.

Dwelling unit: A dwelling unit as defined in Chapter 17.30, "Definitions," of Title 17 "Zoning." For purposes of this chapter, the term dwelling unit includes affordable units and market rate units.

Eligible household: A household with an income at or below eighty percent (80%) of the Area Median Income (AMI) for for-sale units and at or below sixty percent (60%) of the AMI for rental units, based on the size of the household.

Housing provider: An entity approved by the City of St. Charles to develop, manage or own affordable dwelling units.

Market rate units: All dwelling units in a residential development that are not affordable units as defined herein.

Residential development: The establishment of one or more dwelling units in any of the following instances:

1. Construction of one or more dwelling units pursuant to a final plat of subdivision, where the preliminary plat is approved by the City Council after February 15, 2008.
2. Construction of one or more dwelling units within a planned unit development, where the preliminary PUD plan is approved by the City Council after February 15, 2008.
3. Construction of one or more dwelling units on a lot created after February 15, 2008 by means other than a plat of subdivision or planned unit development, including but not limited to a division conforming to the Statutory Plat Act Exemptions.
4. Issuance of a building permit for a new dwelling unit following demolition of a dwelling unit on the lot, when the last sale price prior to demolition of the dwelling unit was at or below the price of an affordable unit with the same number of bedrooms; if the last sale occurred more than two (2) years prior to demolition, then the equalized market value assigned by the Township Assessor as of the date of demolition shall be used.
5. Issuance of a building permit for alteration of an existing building, in whole or in part, that increases the number of dwelling units from the number that existed prior to its alteration.

(2016-M-7: § 2)

19.02.050 Applicability.

- A. The provisions of this chapter shall apply to any residential development, as defined herein. Residential developments undertaken in phases, stages, or otherwise constructed in distinct parts by one or more developers, but which are located within the same planned unit development or subdivision, or which are otherwise approved as a whole, shall be considered a single residential development.
- B. The requirements of this chapter shall not apply in the following instances:
1. Moving a building containing one or more dwelling units from one location to another within the City.
 2. Construction of a single dwelling unit on a lot that was of record prior to February 15, 2008 and upon which no dwelling unit or part thereof has existed for a period of ten (10) years or more prior to issuance of a building permit.
 3. Upon issuance of a building permit for a new dwelling unit following demolition of a dwelling unit on the lot, when the new dwelling unit is intended to be occupied by the same household or individual that occupied the dwelling unit that was demolished, and the demolition occurred more than one (1) year after the date of purchase by said household or individual.
 4. When a dwelling unit is destroyed by fire or other casualty or act of God, by any means not within the control of the property owner or tenant.
 5. When an application for special use for planned unit development, preliminary plat of subdivision, and/or final plat of subdivision in relation to a residential development was filed with the City on or before February 16, 2016.
 6. When an application for building permit for a residential development was filed with the City on or before February 16, 2016.

(2016-M-7: § 2)

19.02.060 Affordable units and fee in-lieu required.

- A. *General requirement.* Affordable units, and/or a fee in lieu thereof, shall be required for every residential development. The City Council may permit the applicant to provide affordable units or pay a fee in lieu of constructing some or all of the required affordable units within a residential development.
- B. *Number of affordable units required:*
1. *Calculation.* The number of affordable units required for a residential development shall be a percentage of the total number of dwelling units to be constructed within the residential development, but not including any bonus market rate units permitted by Section 19.02.080. The minimum requirement shall be calculated as follows:
 - One (1) to fifteen (15) dwelling units: five percent (5%)
 - More than fifteen (15) dwelling units: ten percent (10%)
 2. *Fractions.* In the event that the calculation of the number of required affordable units results in a fraction, the following rules shall apply: For that portion of the requirement that is to be satisfied by the construction of affordable units, the fraction shall be rounded to the nearest whole number; a fraction of exactly one-half ($\frac{1}{2}$) shall not be counted as a required affordable unit. For that portion of the requirement that is to be satisfied by payment of a fee in-lieu, any fraction shall be used in calculating the total fee in lieu to be paid by the developer.

-
- C. *Amount of fee in-lieu per unit.* The amount of the per-unit fee in-lieu of affordable units shall be determined annually by the City Council. If no fee has been determined by the City Council for the current year, the fee most recently determined by the City Council shall apply.
 - D. *Calculation of total fee in-lieu.* For purposes of determining the total fee in-lieu payment amount, the per unit fee in-lieu shall be multiplied by the required number of affordable units, including any fractional units.
 - E. *Payment of fee in-lieu.* Unless otherwise approved by the City Council in the affordable housing agreement, for residential developments constructed in multiple phases the fee in-lieu payments due under the provisions of this chapter shall be paid for the entire phase to be developed prior to issuance of the first building permit for the applicable phase. For residential developments constructed in a single phase the fee in-lieu payment shall be paid for the entire residential development prior to issuance of the first building permit.

(2016-M-7: § 2)

19.02.070 Alternative affordable housing plan.

- A. *Alternative affordable housing plan criteria.* As an alternative to compliance with the provisions of Section 19.02.060, the developer may request the City Council to approve, concurrent with the approval of the overall development and after receiving a recommendation from the Housing Commission, one or more of the alternatives listed in this Section. The City Council shall not approve an alternative affordable housing plan unless the developer demonstrates and the City Council finds in the affirmative that the alternate affordable housing plan is justified based on one or more of the following criteria:
 - 1. A demonstrated financial hardship exists that is not of the developer's own making. Items to be considered shall include but shall not be limited to:
 - a. The financial hardship must be equal to or greater than ten percent (10%) of the total project cost and purchase price, but cannot include any costs incurred as part of the normal and orderly development of the property.
 - b. Environmentally sensitive or natural areas to be protected are equal to or greater than twenty percent (20%) of the total development site area (not including stormwater retention/detention facilities or park sites related to the construction of the project).
 - 2. The development site does not allow for the density bonus as stated in Section 19.02.080 due to limitations on development capacity. Items to be considered shall include but shall not be limited to:
 - a. Insufficient water or sewer utility capacities.
 - b. Unique parcel configurations, which shall include but shall not be limited to steep slopes above an eight percent (8%) grade or irregular shaped parcels that create unbuildable areas equal to or greater than twenty percent (20%) of the development site.
 - 3. The development will fulfill an alternative city policy or goal such as redevelopment of a vacant, underutilized, or blighted parcel that cannot otherwise be readily redeveloped and comply with all other applicable requirements.
 - 4. The creation of the alternative affordable housing plan represents an equal or greater opportunity to create affordable housing in the City. Examples of these greater opportunities shall include but shall not be limited to:
 - a. Providing units below the maximum affordability thresholds established by Illinois Housing Development Authority for rental or owner-occupied units. (Example: Pricing rental units at or below fifty percent (50%) of area median income)

-
- b. Providing offsite affordable units in vacant or foreclosed homes.
 - c. Providing affordable units for a period of time longer than the fifteen (15) year minimum affordable period stated in Section 19.02.110, Maximum Price of Affordable Units.
- B. *Alternative affordable housing plan.* For instances in which the developer is requesting to utilize an alternative affordable housing plan, the developer shall submit the proposed alternative affordable housing plan. This plan shall detail the developer's course of action chosen to create affordable housing opportunities in St. Charles. This plan is required to be submitted in writing and must detail how the alternative affordable housing plan fulfills the criteria listed in Section 19.02.070(A).

One or more of the following options shall be utilized by the developer:

1. External funding sources. The developer will apply for grants, tax credits, and/or any other applicable funding mechanism each year that the project is under construction. These funds will be used to subsidize the costs associated with the construction of onsite or offsite affordable housing units.
2. Purchase offsite units. The developer shall purchase for-sale or foreclosure properties and then sell or rent them at the established affordable housing price.
3. Construction of a portion of the required affordable units onsite and/or payment of a portion of the required fee in-lieu, and any combination of the two (2) options listed above.

(2016-M-7: § 2; 2013-Z-3: § 4)

19.02.080 Density bonus.

- A. A density bonus shall be permitted when affordable units are constructed within the residential development in accordance with Section 19.02.060(B). One bonus dwelling unit shall be permitted for each affordable unit constructed within the residential development; however, in no event shall the total number of dwelling units constructed within the residential development exceed one hundred twenty percent (120%) of the base density.
- B. In implementing this density bonus, the following requirements of Title 17 of the St. Charles Municipal Code, the St. Charles Zoning Ordinance, may be varied without additional justification:
1. Lot area.
 2. Lot width.
 3. Building coverage.

(2016-M-7: § 2)

19.02.090 Development cost offsets.

An applicant that fully complies with the requirements of this chapter, including any rules or regulations promulgated thereunder, shall, upon written request to the City, receive a waiver of all building permit, demolition, and plan review fees required by Title 15 of the St. Charles Municipal Code, sewer and water connection fees required by Title 13 of the St. Charles Municipal Code, and cash contributions (when required in lieu of park and school land dedications) as required by Title 16 of the St. Charles Municipal Code, but only relative to the required affordable units constructed within the residential development.

(2016-M-7: § 2)

19.02.100 Location, phasing and design.

Affordable units shall be integrated into the residential development by location, construction phasing, and design as described below. Waivers or variances as to the location, construction phasing, or appearance of affordable units may be granted by the City Council following a review and recommendation by the Housing Commission, based on supporting evidence that demonstrates that said waiver(s) or variance(s) will further affordable housing opportunities to an equal or greater extent than compliance with otherwise applicable requirements, or that integrating the affordable units will create a hardship.

- A. *Location of affordable units.* Affordable units shall be dispersed among the market-rate dwelling units throughout the residential development.
- B. *Phasing of permits.* The affordable units shall be constructed concurrently with the market-rate units within the residential development. Building and occupancy permits for market-rate units shall be issued only if building and occupancy permits, respectively, for the required affordable units have been issued in accordance with the following schedule:

Market-Rate Units (%)	Affordable Units (%)
Up to 50%	At least 30%
Up to 75%	At least 60%
100%	100%

- C. *Exterior appearance.* The exterior appearance of the affordable units in any residential development shall be visually compatible with the market-rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable units as for market-rate units.
- D. *Interior appearance and finishes.* Affordable units may differ from market-rate units with regard to interior finishes and gross floor area, provided that:
 - 1. *Bedroom mix.* The number of bedrooms per dwelling unit in the affordable units within the residential development shall be in equal proportion to the number of bedrooms per dwelling unit in the market-rate units within the residential development. This provision is not intended to require the same floor area in affordable units as compared to market-rate units.
 - 2. *Energy efficient improvements.* Affordable units and market-rate units shall have the same type and quality of improvements related to energy efficiency, including plumbing, insulation, windows, and heating and cooling systems.

(2016-M-7: § 2)

19.02.110 Maximum price of affordable units.

- A. *Affordability controls; waivers.* All affordable units developed in accordance with this chapter shall be subject to restrictions as provided in this section.
- B. *For-sale affordable units.* Affordable units shall be offered for sale in conformance with the following principles:
 - 1. The sale of affordable units to the first purchaser shall be governed by the following:

-
- a. Affordable units shall be offered for sale at no more than the maximum price that is affordable to an eligible household based on household size in accordance with paragraph D of this section, using the limits established annually by the Illinois Housing Development Authority (IHDA).
 - b. The property shall be subject to a deed restriction or other suitable instrument limiting the maximum sale price of the property for a period of fifteen (15) years, and specifying the conditions under which title to the property may be transferred to an entity other than an eligible household, including but not limited to transfer of title to heirs.
 - c. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the affordable unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a mortgage on the property. The City shall subordinate the mortgage to that of the primary lender. (Said promissory note shall be due upon sale of the affordable unit after the initial 15-year period if the property is sold at market value in accordance with Section 19.02.110.B.3.b.)
2. Subsequent sales of affordable units during the first fifteen (15) years following the initial sale shall be governed by following, unless the property owner is granted a waiver by the City Council based upon supporting market-related evidence of undue hardship on the owner of the affordable unit:
 - a. The maximum sale price shall be the initial sale price plus 1) appreciation in the property's value, but not to exceed any increases in the IHDA affordability limit since the last sale of the property; 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure.
 - b. The seller shall receive any of the affordable unit's appreciation in value based on the sale price as determined in Section 19.02.110.B.2.a.
 - c. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the affordable unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a mortgage on the property. The City shall subordinate the mortgage to that of the primary lender. (Said promissory note shall be due upon sale of the affordable unit after the initial 15-year period if the property is sold at market value in accordance with Section 19.02.110.B.3.b.)
 3. Subsequent sales of affordable units after the initial 15-year period shall be governed by either subsection (a) or (b) as follows:
 - a. *Resale as an affordable unit.* If the sale price does not exceed the initial sale price plus 1) appreciation in the property's value, but not to exceed any increase in the IHDA affordability limit since the last sale of the property; and 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure, then the property shall be sold as an affordable unit in accordance with Section 19.02.110.B.2.
 - b. *Resale at market value.* The full amount of the promissory note shall be payable to the City and shall be deposited into the Housing Trust Fund or other fund devoted to providing affordable housing. In the event the amount of the promissory note is in excess of the difference between market value and the purchase price paid by the seller, with allowances granted to the seller for any increase in the IHDA affordability limit since the last sale of the property and for the cost of repair and/or replacement of heating, electrical, plumbing, roofs and structural elements necessary to address safety of the occupants or integrity of the structure, then the excess

amount shall be forgiven by the City. Once the promissory note is paid and/or forgiven in accordance with this section, all restrictions of this chapter applicable to the affordable unit, including its designation as such, shall cease.

C. *For-rent affordable units.* The maximum gross rent (including a utility allowance for utilities not provided with the rent) for affordable units offered for rent shall be calculated using the gross rent limits established annually by the Illinois Housing Development Authority on the basis of thirty percent (30%) of gross monthly income at fifty percent (50%) to sixty percent (60%) of AMI, based on household size in accordance with paragraph D of this section. The net rent charged by the owner shall not exceed the maximum gross rent minus a utility allowance for any utilities to be paid separately by the tenant. All affordable units shall be offered at not more than the maximum rent calculated in accordance with this paragraph in perpetuity or as long as permissible by law.

D. *Household size.* In calculating the maximum sale and rental prices of affordable units, the following relationship between the number of bedrooms per unit and household size shall apply:

Size of units:	Affordable for:
Efficiency units:	1-person household
One-bedroom units:	2-person household
Two-bedroom units:	3-person household
Three-bedroom units:	4-person household
Four-bedroom and larger units:	5-person households and larger

E. *Sale or rental to housing providers.* Every affordable unit required by this chapter shall be offered for sale or rental to an eligible household as a primary resident, except for units purchased by housing providers. Housing providers designated by the City of St. Charles shall have the right, but not the obligation, to purchase any for-sale affordable units, but only for the purpose of reselling to an eligible household.

(2016-M-7: § 2)

19.02.120 Ownership and occupancy of affordable units.

Owner-occupied affordable units shall only be sold to and occupied by eligible households. Affordable units that are rented shall only be rented to and occupied by eligible households. Subletting of affordable units shall not be permitted. Priority will be given to eligible households where one or more members live or work in St. Charles, and to employees of the City of St. Charles, the St. Charles Park District, and Community Unit School District No. 303, regardless of their initial place of residence, to the extent permitted by law.

1. *Increase in annual income for owner-occupied affordable units.* If a household's gross income increases above the maximum eligible household income level for a household of its size, the household may continue to own and occupy the affordable unit, and the affordable unit shall otherwise remain subject to the limitations set forth in Section 19.02.110.
2. *Increase in annual income for renter-occupied affordable units.* If a household's gross income increases above the maximum eligible household income level for a household of its size, the household may continue to lease and occupy the affordable unit, and renew said lease, and the affordable unit shall otherwise remain subject to the limitations set forth in Section 19.02.110.

(2016-M-7: § 2)

19.02.130 Development applications that include affordable units.

As part of the application for approval of a residential development, the applicant shall submit information describing how the residential development will comply with the requirements of this chapter. The Director of Community and Economic Development may require any or all of the following to be submitted for review:

1. The number and rental/for sale status of market-rate units and affordable units to be constructed including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.
2. Documentation and plans regarding locations of affordable units and market-rate units, and their exterior appearance, materials, and finishes.
3. A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development; and,
4. Any proposal to pay fees in lieu of providing the required affordable unit, per Section 19.02.060.
5. Alternative affordable housing plan submittal requirements:
 - a. The applicant shall submit a financial statement or pro-forma including the following:
 - i. Purchase price of the property.
 - ii. Identification of the financial hardship and cost estimates associated with absorbing and/or remediating the identified hardship.
 - iii. All non-hardship development costs and expected profits.
 - b. Where the applicant will apply for external funding sources, the following is required:
 - i. An action plan clearly identifying the external funding sources that will be applied for during the construction phase and frequency of application to each funding source. The action plan shall clearly demonstrate that the project is eligible for the funding source that will be utilized.
 - ii. Commitment to providing a copy of all grant applications at the same time the application is submitted to the funding authority.
 - iii. Statement of the number of affordable units targeted to be affordable.
 - iv. Documentation and plans regarding locations of affordable units and market-rate units onsite or offsite, and their exterior appearance, materials, and finishes should external funding be awarded.
 - c. Where the applicant will purchase offsite units, the following is required:
 - i. An action plan or market study identifying the number of offsite units planned for purchase, the location of available offsite units, and purchase price of these units.
 - ii. Any supplemental information necessary to support the proposed plan such as, anticipated cost of renovations for offsite properties.
 - iii. The expected timing for the purchase of offsite units.
 - iv. Commitment to submitting a copy of the home inspection report to the City for review. This report shall include the following:
 - Identification of the age and condition of all major systems (plumbing, HVAC, electrical, and structural)

-
- Identification and condition of all major appliances
 - A list of all necessary repairs that the developer proposes to perform before the offsite unit is resold to an eligible household.

The developer shall provide a copy of this inspection report to the affordable household who has signed a contract to purchase the unit.

(2016-M-7: § 2; 2013-Z-3: § 5)

19.02.140 Affordable housing agreement and documents.

Prior to issuance of a building permit for any residential development in which affordable units are to be provided, the applicant shall have entered into an affordable housing agreement with the City. Said agreement shall set forth the commitments and obligations of the applicant, including but not limited to the number, timing and location of the required affordable units, and/or the amount and payment schedule for any fee in lieu thereof, to ensure that the provisions of this chapter are met. The applicant shall execute any and all documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable units in accordance with this chapter.

(2016-M-7: § 5)