



# City of Chicago



SO2017-6224

Office of the City Clerk

## Document Tracking Sheet

**Meeting Date:** 9/6/2017

**Sponsor(s):** Emanuel (Mayor)

**Type:** Ordinance

**Title:** Amendment of Municipal Code Chapter 2-45 by adding new Section 2-45-117 entitled "Near North/Near West ARO Pilot Area Ordinance" (Affordable Requirements Ordinance)

**Committee(s) Assignment:** Committee on Housing and Real Estate

## SUBSTITUTE ORDINANCE, AS AMENDED

**WHEREAS**, the City of Chicago ("City") is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the City Council of the City (the "City Council") finds that the availability of affordable housing in high opportunity areas is critical to the future of Chicago; and

**WHEREAS**, in the last decade more than fifty companies have moved their corporate headquarters from the suburbs to the city, bringing more high-wage jobs and a workforce attracted to walkable, transit-rich, mixed-use environments; and

**WHEREAS**, this trend has transformed, and continues to transform, neighborhoods close to the city center and along transportation lines leading to downtown; and

**WHEREAS**, with increasing demand for housing near downtown, the pace of development and the value of homes in urban core neighborhoods have escalated and existing low and moderate income residents have been priced out of their communities; and

**WHEREAS**, the City Council finds that this cycle of gentrification and displacement exacerbates historic patterns of racial and economic segregation, deepens the concentration of poverty and wealth, and widens disparities in access to good schools, jobs, healthcare and other amenities; and

**WHEREAS**, the City Council finds that the 2015 Affordable Requirements Ordinance, Section 2-45-115 of the Municipal Code, is insufficient to prevent displacement and broad demographic change in gentrifying neighborhoods, and that additional measures are necessary to increase production of affordable housing, protect vulnerable residents, and create neighborhoods where residents of all incomes can thrive; and

**WHEREAS**, the City Council finds that neighborhoods on the near north and near west sides are undergoing gentrification or are at risk of gentrification; and

**WHEREAS**, the City Council finds that it is in the public interest to establish a Near North/Near West Pilot Area covering neighborhoods on the near north and near west sides in order to test the effectiveness of modified affordable housing requirements; and

**WHEREAS**, the Department of Planning and Development ("DPD") classified the neighborhoods in the Near North/Near West Pilot Area based on their stage of gentrification using a gentrification index developed by Lisa K. Bates, Portland State University, in a report commissioned by the City of Portland Bureau of Planning and Sustainability, titled "*Gentrification and Displacement Study: Implementing an Equitable Inclusive Development Strategy in the Context of Gentrification*" (the "Gentrification Index"); and

**WHEREAS**, the Gentrification Index measures an area's stage of gentrification based on three factors: the vulnerability of the population, demographic change, and housing market

change; and

**WHEREAS**, DPD's gentrification analysis for the Near North/Near West Pilot Area shows that the Near North Zone, as depicted in the map attached hereto as Exhibit A, is characterized primarily by ongoing displacement (as further defined below), while the Near West Zone, as depicted in Exhibit A, is experiencing early displacement (as further defined below) in some parts and is susceptible to displacement (as further defined below) in others; and

**WHEREAS**, this Near North/Near West ARO Pilot Area Ordinance is intended to promote equitable neighborhood development, increase housing choice for residents of all income levels, minimize displacement of long-term residents from gentrifying neighborhoods in the Near North/Near West Pilot Area, and address disparities in social and economic outcomes for the residents of Chicago; and

**WHEREAS**, DPD wishes to issue one or more requests for proposals in connection with the administration of this ordinance in order to ensure that the affordable units created hereunder are effectively marketed and provided to the target populations intended to benefit from such units and to assist vulnerable residents within the Near North/Near West Pilot Area gain access to affordable housing; **now, therefore**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** The foregoing recitals are hereby adopted as the findings of the City Council.

**SECTION 2.** Chapter 2-45 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-45-117, as follows:

**2-45-117 Near North/Near West affordable housing pilot area.**

(A) **Title.** This section shall be known and cited as the "Near North/Near West ARO Pilot Area Ordinance."

(B) **Purpose.** The purpose of this section is to establish modified affordable housing requirements for designated neighborhoods near the central business district that are experiencing gentrification or are at-risk of gentrification. The goals of these modified requirements are to mitigate the displacement impacts associated with gentrification, better protect the interests of the area's economically vulnerable residents from demographic and housing market change, and preserve the economic diversity critical to a healthy economy.

(C) **Relationship to 2015 ARO.** The requirements in this section supplement or modify the affordable housing requirements in Sec. 2-45-115. In the event of a conflict between these requirements and the requirements in Sec. 2-45-115, the requirements in this section will control; provided, however, when a *residential housing project* receives *financial assistance* from *TIF Funds*, the requirements set forth in Sec. 2-45-115 will continue to apply and will control in the event of a conflict, except with respect to the location requirements set forth herein.

(D) **Definitions.** Except as provided below, defined terms shall have the meanings given in Sec. 2-45-115.

"Accelerating" is a term used to describe a census tract that (i) had low to moderate home values in 2015 (i.e., a median home value in the bottom three quintiles of all census tracts in the city), but (ii) experienced a high appreciation rate between 2010 and 2015 (i.e., appreciation rate in the top two quintiles of all census tracts in the city).

"Additional units" means the extra units required to be *affordable* under this section in excess of the units required to be *affordable* under Sec. 2-45-115.

"Affordable unit" means a housing unit required by this section to be affordable, whether located on-site or off-site and whether a rental unit or an owner-occupied unit.

"Adjacent" is a term used to describe a census tract that (i) had low to moderate home values in 2015 (i.e., a median home value in the bottom three quintiles of all census tracts in the city), (ii) experienced a low to moderate appreciation rate between 2010 and 2015 (i.e., appreciation rate in the bottom three quintiles of all census tracts in the city), but (iii) touches the boundary of at least one census tract that had high home values in 2015 (i.e., a median home value in the top two quintiles of all census tracts in the city) or a high appreciation rate between 2010 and 2015 (i.e., appreciation rate in the top two quintiles of all census tracts in the city).

"Appreciated" is a term used to describe a census tract that (i) had low to moderate home values in 2000 (i.e., a median home value in the bottom three quintiles of all census tracts in the city), and (ii) high home values in 2015 (i.e., a median home value in the top two quintiles of all census tracts in the city), and (iii) experienced a high appreciation rate between 2000 and 2015 (i.e., appreciation rate in the top two quintiles of all census tracts in the city).

"Demographic change" means a shift in the demographic conditions of an area in which at least three of the following four population changes have occurred from 2010 to 2015, relative to the citywide median: percentage of homeowners has increased; percentage of minorities (as defined in Sec. 2-92-670) has decreased; percentage of residents with a bachelor's degree or higher has increased; and median household income has increased.

"Early displacement" is a term used to classify census tracts that are showing early signs of gentrification. These census tracts (i) have a *vulnerable population* at risk of displacement from rising housing costs, (ii) have undergone *demographic change* indicative of gentrification, and (iii) have *adjacent, accelerated* or *appreciated* market conditions, as determined by the commissioner based upon published data regarding Chicago or area median income, the cost of housing, or other data indicative of gentrification or loss of affordable housing.

"First units" means the units required to be *affordable* under Sec. 2-45-115.

"Near North Zone" means a zone within the Near North/Near West Pilot Area that consists mainly of census tracts that are experiencing *ongoing displacement*.

"Near West Zone" means a zone within the Near North/Near West Pilot Area that consists mainly of census tracts that are experiencing *early displacement* or are *susceptible to displacement*.

"Ongoing displacement" is a term used to classify census tracts that are in the midst of gentrification. These census tracts (i) no longer have a *vulnerable population*, (ii) have undergone *demographic change* indicative of gentrification, and (iii) have an *appreciated* market condition, as determined by the commissioner based upon published data regarding Chicago or area median income, the cost of housing, or other data indicative of gentrification or loss of affordable housing.

"Susceptible to displacement" is a term used to classify census tracts that are at-risk of gentrification. These census tracts (i) have a *vulnerable population* at risk of displacement from rising housing costs, (ii) have not undergone *demographic change* indicative of gentrification, but (iii) have *accelerating* or *adjacent* market conditions, as determined by the commissioner based upon published data regarding Chicago or area median income, the cost of housing or other data indicative of gentrification or loss of affordable housing.

"Vulnerable population" means a population with at least three of the following four characteristics based on 2015 data: percentage of renters is higher than the citywide median; percentage of minorities (as defined in Sec. 2-92-670) is higher than the citywide median; percentage of residents without a bachelor's degree is higher than the citywide median; and median household income is lower than the citywide median.

(E) **Boundaries.** The Near North/Near West Pilot Area is divided into two zones: the Near North Zone and the Near West Zone. A map of the Near North/Near West Pilot Area and its two zones is published in Coun. J. 10-\_\_-17, p. \_\_\_\_, and on file in the office of the city clerk and made a part hereof. The boundary lines of the Near North/Near West Pilot Area follow streets, and such boundary lines are to be construed as the center lines of said streets.

(F) **Stage of displacement.** The Near North Zone is characterized primarily by *ongoing displacement*. The Near West Zone is characterized primarily as either *susceptible to displacement* or by *early displacement*.

(G) **Modified ARO requirements.** The requirements of Sec. 2-45-115 shall apply in the Near North/Near West Pilot Area, except as modified below:

(1) **No in lieu fee option.** The option to pay a fee in lieu of the establishment of *affordable units* is eliminated in the Near North/Near West Pilot Area.

(2) **Required percentage of affordable units.** The percentage of units required to be *affordable* in a *residential housing project*, whether rental or for-sale, is increased (i) from 10% to 20% in the Near North Zone, and (ii) from 10% to 15% in the Near West Zone, except that projects receiving city *financial assistance* must continue to provide 20% of the units in the *residential housing project* as affordable units in accordance with Sec. 2-45-115.

(3) **Option to substitute owner-occupied units for rental units.** In the Near North/Near West Pilot Area, developers may substitute owner-occupied units for rental units where the developer would otherwise be required to provide rental units.

(4) **Specific standards for first units.** The following standards apply to *first units* only:

(i) Substitution of rental units for owner-occupied units. In the Near North Zone, and in the case of *first units* only, developers may substitute rental units for owner-occupied units where the developer would otherwise be required to provide owner-occupied units.

(ii) Location requirements. In the Near West Zone, *first units* may be located *on-site* or *off-site* (subject to the commissioner's approval under subsection (V) of the 2015 ARO), but if located *off-site* must be provided within two miles of the *residential housing project* and either (a) in a *higher income area* or *downtown district*, or (b) within the Near North/Near West Pilot Area, regardless of the income area in which the *residential housing project* is located. Notwithstanding the foregoing, when a *residential housing project* receives *financial assistance* from *TIF Funds*, all *affordable units* must be provided *on-site*.

(5) **Specific standards for additional units.** The following standards apply to *additional units* only:

(i) Income eligibility for rental projects. Developers may lease *additional units* to households earning up to one hundred percent (100%) of the *area median income* at prices *affordable* to households at such income level, provided, however, the forgoing income eligibility and affordability limit may be decreased to eighty percent (80%) of the *area median income* if the commissioner, in consultation with the alderman of the ward in which the *affordable units* will be located, determines that there is a greater need for affordable housing at this income level in the subject location based on factors established by rule.

(iii) Location requirements. *Additional units* may be located *on-site* or *off-site* (subject to the commissioner's approval under subsection (V) of the 2015 ARO), but if located *off-site* must be provided within the Near North/Near West Pilot Area. Such *off-site* units may be located anywhere in the Near North/Near West Pilot Area, regardless of distance from the *residential housing project* or income area in which the *residential housing project* is located. Notwithstanding the foregoing, when a *residential*

*housing project receives financial assistance from TIF Funds, all affordable units must be provided on-site.*

(H) **Pending Applications.** This section shall apply to all *residential housing projects* subject to the affordable housing requirements of Sec. 2-45-115, unless: (1) an ordinance authorizing a city land sale or *financial assistance*, as described in Sec. 2-45-115(C), has been introduced to city council prior to November 1, 2017; or (2) an ordinance authorizing a *rezoning of property*, as described in Sec. 2-45-115(C), has been introduced to city council and (i) in the case of projects that are subject to *planned development review*, the Chicago Plan Commission has adopted a resolution recommending approval of the *planned development* prior to November 1, 2017, or (ii) in the case of any other *rezoning of property*, the Committee on Zoning, Landmarks and Buildings Standards has voted to approve the rezoning prior to November 1, 2017.

(I) **Rules and Regulations.** The commissioner is authorized to adopt such rules and regulations as the commissioner may deem necessary for the proper implementation, administration and enforcement of this section. The commissioner shall provide an annual report to the City Council Committee on Housing and Real Estate detailing the outcomes of the pilot program.

(J) **Commissioner's authority to enter into service agreements for marketing, income qualification and other services.** In furtherance of administering this section, the commissioner shall have the authority to enter into service agreements with outside providers selected by the commissioner to market affordable housing created hereunder and pursuant to other city programs to residents of the Near North/Near West Pilot Area, assist developers of *residential housing projects* in the Near North/Near West Pilot Area with income qualification of tenants and purchasers of *affordable units* created hereunder, conduct educational programs for residents of the Near North/Near West Pilot Area regarding the purchase or lease of affordable housing, provide counseling and disseminate information regarding eligibility for affordable housing to residents of the Near North/Near West Pilot Area, and provide other services to ensure that the *affordable units* created hereunder are effectively marketed and provided to the target populations intended to benefit from such *affordable units*. Such service agreements may contain terms and conditions that the commissioner deems appropriate, and the commissioner shall have the authority to perform any and all acts as shall be necessary or advisable in connection with such service agreements and any renewals thereto, including the expenditure of Affordable Housing Opportunity Fund monies, or other duly appropriated funds, for such agreements.

**SECTION 3.** To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago, or any portion thereof, is in conflict with any provision of this ordinance, the provisions of this ordinance shall control. The provisions of this ordinance are declared to be separate and severable. The invalidity of any provision of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

**SECTION 4.** This ordinance shall take effect immediately upon its passage and approval,

and shall remain in effect for a period of three years or until December 31, 2020, whichever is later, at the conclusion of which it shall be repealed of its own accord. During the effective period of this ordinance, the City Council may evaluate the efficacy of the modified affordable housing requirements.

Attachments: Exhibit A – Depiction of Near North/Near West Pilot Area

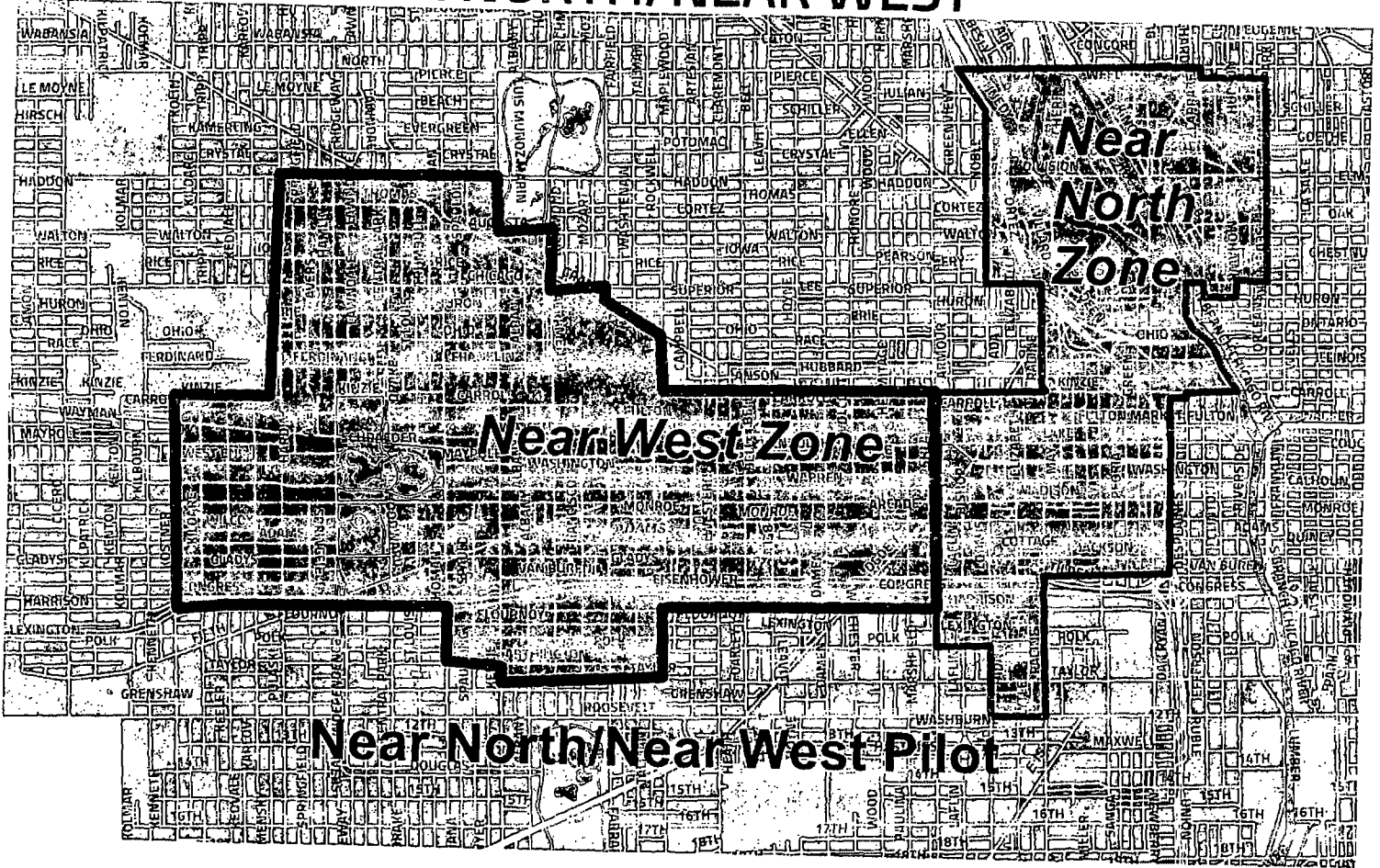


EXHIBIT A

DEPICTION OF NEAR NORTH/NEAR WEST PILOT AREA

(ATTACHED)

*AFFORDABLE REQUIREMENTS ORDINANCE*  
**ARO PILOT: NEAR NORTH/NEAR WEST**





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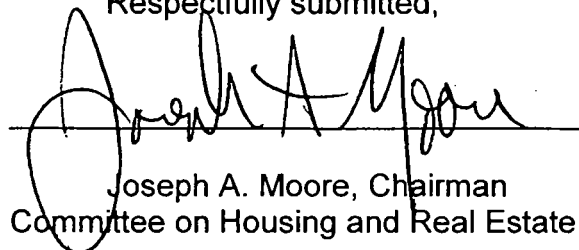
October 10, 2017

To the President and Members of the City Council:

Your Committee on Housing and Real Estate, for which a meeting was held on October 10, 2017, having had under consideration the substitute ordinance introduced by Mayor Rahm Emanuel on October 10, 2017, this being the amendment of Municipal Code 2-45 regarding the Affordable Requirements Ordinance for the Near North/Near West ARO Pilot, begs leave to recommend that Your Honorable Body Approve said ordinance transmitted herewith.

This recommendation was concurred in by a voice vote of all committee members present with no dissenting votes.

Respectfully submitted,



Joseph A. Moore, Chairman  
Committee on Housing and Real Estate