# Legislation Details (With Text)

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| **File #:** | O2018-5102 | | |
| **Type:** | Ordinance | **Status:** | Failed to Pass |
| **File created:** | 6/27/2018 | **In control:** | City Council |
| | | **Final action:** | |
| **Title:** | Amendment of Municipal Code Chapter 2-45 by modifying Section 2-45-115regarding 2015 affordable housing commitment and adding new Section 2-45-116 to expand access to housing for low- and moderate-income households | | |
| **Sponsors:** | Sadlowski Garza, Susan, Taliaferro, Chris, Foulkes, Toni, Waguespack, Scott, Pawar, Ameya, Mell, Deborah, Smith, Michele, Osterman, Harry | | |
| **Indexes:** | Ch. 45 Dept. of Housing and Economic Development | | |
| **Attachments:** | 1. O2018-5102.pdf | | |

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 5/29/2019 | 1 | City Council | Failed to Pass | |
| 9/20/2018 | 1 | Committee on Housing and Real Estate | Add Co-Sponsor(s) | |
| 6/27/2018 | 1 | City Council | Referred | |

**ORDINANCE**

WHEREAS, the City of Chicago ("City") is a home rule unit of government under Section 6(a), Article VII ofthe 1970 Constitution ofthe State of Illinois and may exercise any power related to its local governmental affairs; and

WHEREAS, the City has the fastest developing downtown area of any major U.S. city, and the downtown residential housing market is expected to add nearly 5,000 new residential units over the next two years; and

WHEREAS, while many of the City's neighborhoods are benefitting from economic growth, resulting in the displacement of low-income residents, other neighborhoods have still to recover from the recession or the unprecedented downturn in the housing market; and

WHEREAS, the City continues to experience a shortage of affordable housing, especially in high-income and gentrifying neighborhoods; and

WHEREAS, the lack of affordable housing is a critical problem, which threatens the economic and social quality of life in the City; and

WHEREAS, the passage of this reform ordinance will result in the creation of more affordable housing units in all areas of the City, including high-income and gentrifying areas; and

WHEREAS, as part of the City affordable housing program, the commissioner of planning and development will investigate securing non-city resources and incentives for maximizing the creation of affordable housing, including real estate property tax credits for owners of buildings that maintain affordable housing units;

WHEREAS, the 2007 ARO and 2015 ARO have failed to produce a meaningful number of affordable housing units on-site in developing areas, generating only 441 affordable units on-site between 2007 and 2017 and thus failing to achieve the intended effect of inclusionary development; and

WHEREAS, there is a particularly dire shortage of affordable family-sized housing, which threatens the stability and funding of public schools in gentrifying communities as families are displaced; and

WHEREAS, the 2007 ARO and 2015 ARO have cumulatively only generated 22 affordable three-bedroom apartments between 2007 and 2017, and

WHEREAS, only 1% of Chicago's housing stock is physically accessible to people with disabilities; and

WHEREAS, the City has a duty to affirmatively further fair housing by taking meaningful actions that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics; now, therefore,

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

SECTION 1. Section 2-45-115 of the Municipal Code of Chicago is hereby amended by inserting the-underscored language, and by deleting the language struck through, as follows:



**2-45-115 2015 affordable housing commitment.**

~~This section shall apply to any residential housing project for which: tho city council has passed an ordinanco approving a rezoning, city land sale, or financial assistance, as described in cubssction (C), unloss such residential housing project is subject to the affordable housing requirements in effect prior to the effectivo date of this section purs uant to the prefatory clause of Section 2-45-110.~~

This section shall apply to anv residential housing project for which: (1) the citv council has passed an ordinance approving a rezoning. citv land sale or financial assistance, as described in subsections (B) or (C) prior to the effective date of Sec. 2-45-116: or (2) an application for rezoning. the sale of citv land, or financial assistance, as described in subsections (B) or (CO, was submitted prior to the effective date of Sec. 2-45-116. and an ordinance approving the proposed rezoning. citv land sale or financial assistance is passed within nine months after the effective date of Sec. 2-45-116. The term "submitted" means (i) with respect to an application for zoning approval or the sale of citv land, an ordinance authorizing the rezoning or city land sale has been introduced to citv council: or (ii) with respect to financial assistance, a complete application has been received and accepted by the department.

*(A) Title and Purpose.*

*{omitted text is unaffected by this ordinance)*

SECTION 2. Chapter 2-45 of the Municipal Code is hereby amended by adding a new Section 2-45-116, as follows:

**2-45-116 Development for All.**

This section shall apply to any residential housing project for which the citv council has passed an ordinance approving a rezoning. city land sale, or financial assistance, as described in subsection (D). unless such residential housing project is' subject to the affordable housing reguirements in effect prior to the effective date of this section pursuant to the prefatory clause of Section 2-45-115.

A) Title and purpose. This section shall be known and may be cited as the "Development for All Ordinance." and shall be liberally construed and applied to achieve its purpose, which is to expand access to housing for low-income and moderate-income households and to preserve the long-term affordability of such housing.

B) Definitions. For purposes of this section, the following definitions shall apply:

"Affordable" means a sales price or rent less than or egual to the amount at which total monthly housing costs, as specified in the rules and regulations, would total not more than thirty percent (30%) of household income for a



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household whose income is the maximum allowable for an eligible household.

"Affordable housing" means (1) with respect to rental housing, housing that is affordable to households earning up to fifty percent (50%) of the area median income, and (2) with respect to owner-occupied housing, housing that is affordable to households earning up to one hundred percent (100%) of the area median income. Notwithstanding the foregoing, when a residential



housing project receives financial assistance from TIF Funds, "affordable housing" for that project means:

1) with respect to rental housing, at least one-fourth of the housing units reguired to be affordable are affordable to households earning up to fifteen percent (15%) of the area median income, at least three-guarters of the housing units reguired to be affordable are affordable to households earning up to thirty percent (30%) of the area median income, and all of the housing units reguired to be affordable are affordable to households earning up to fifty percent (50%) of the area median income: and

2) with respect to owner-occupied housing, one-half of the housing units reguired to be affordable are affordable to households earning up to one hundred percent (100%) of the area median income, and one-half of the housing units reguired to be affordable are affordable to households earning up to eighty percent (80%) of the area median income.

"Affordable housing agreement" means a covenant, lien, regulatory agreement, promissory note, mortgage, deed restriction, right of first refusal, option to purchase or similar instrument, governing how the developer and subseguent owners or occupants of affordable units shall comply with this section.

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

"Area median income" means the median household income for the Chicago Primary Metropolitan Statistical Area as calculated and adjusted for household size on an annual basis by HUD. In determining the area median income, the deductions listed in 24 CFR 5.611 for elderly and disabled households will be deducted from a household's income calculations before determining eligibility under this Section.

"Authorized agency" means the Chicago Housing Authority, the Chicago Low-Income Housing Trust Fund, or another non-profit agency acceptable to the citv, which administers subsidies under HUD's McKinnev-Vento Homeless Assistance Grants program, or the Veterans Administration Supportive Housing program, or another housing assistance program approved by the citv.

"Chicago Community Land Trust" means the Illinois not-for-profit corporation established by ordinance adopted on January 11. 2006. and published at pages 67997 through 68004 in the Journal of Proceedings ofthe Citv Council of such date, as amended, and having as its primary mission the preservation of long-term affordability of housing units, or any successor organization.

"Commissioner" means the commissioner of planning and development, or his or her designee'

"Common ownership or control" refers to property owned or controlled by the same person, persons, or entity, or by separate entities in which anv shareholder, partner, member, or family member, as that term is defined in Sec. 4-284-020, of an investor of the entity owns ten percent (10%) or more of the interest in the property.

"Condominium" means a form of property established pursuant to the Illinois Condominium Property Act.



"Contiguous parcels" means anv parcel of land or lot that is (1) touching another parcel or lot at any point, (2)



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separated from another parcel or lot at anv point only bv a public or private street, road, or other right-of-way, (3) separated from another parcel or lot at anv point only bv a public or private utility, service, or access easement, or (4) separated from another parcel or lot only by other real property under common ownership or control which is not subject to the reguirements of this section at the time of application for the Citv approval that triggers the obligation to comply with this section.

"Department" means the department of planning and development or anv successor department, acting bv or through its commissioner.

"Developer" means the owner, as that term is defined in Sec. 13-4-010. of the residential housing project and, if different from the owner, any person, firm, partnership, association, joint venture, corporation, or anv entity or combination of entities which develops the residential housing project and, if applicable, provides off-site affordable units, together with their successors and assigns, but does not include a lender, anv governmental entity or the general contractor working for anv developer.

"Development" or "develop" means, for purposes of determining whether the reguirements of this section are triggered, the construction or substantial rehabilitation of housing units or the conversion of anv building into residential condominiums.

"Downtown districts" means the "D" zoning districts as now or hereafter designated in the Chicago Zoning Ordinance, Chapter 17-4 ofthe Municipal Code.

"Eligibility criteria" means (1) with respect to rental housing, the reguirements specified in subsection (I); or (2) with respect to owner-occupied housing, at the time of the purchase of the unit, a household earning up to one hundred twenty percent (120%) of the area median income. Notwithstanding the foregoing, when a residential housing project receives financial assistance from TIF Funds, "eligibility criteria" for that project means:

i) with respect to rental housing, at the time of the first rental by that household, a household earning up to fifteen percent (15%) of the area median income for no less than one-fourth of the affordable units, and a household earning up to thirty percent (30%) of the area median income for no less than three Quarters of the affordable units: and a household earning up to fifty percent (50%) of the area median income for all of the reguired affordable units.

ii) with respect to owner-occupied housing, at the time of purchase of the unit, a household earning up to one hundred percent (100%) of the area median income for one- half of the affordable units, and a household earning up to eighty percent (80%) of the area median income for the other half.

"Eligible household" means a household whose combined annual income, adjusted for household size, does not exceed the maximum income specified in the eligibility criteria for the applicable affordable unit.

"Financial assistance" means anv assistance provided by the city through grants, direct or indirect loans, or allocation of tax credits for the development of residential housing units.

"Higher income area" means anv area that is not a low-moderate income area.'provided that, if any portion of a higher income area is located in a downtown district, that portion of the



area will be treated as a downtown district for purposes of this section.

"Housing unit" or "unit" means a room or suite of rooms designed, occupied or intended for occupancy as a separate living Quarter with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of the occupants of the units; provided that a "housing unit" does not include (1) dormitories that are owned and operated by or on behalf of an educational institution, (2) hotels as that term is defined in Sec. 13-4-010 of the Municipal Code or (3) mobile homes.

"HUD" means the United States Department of Housing and Urban Development or anv successor department.



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"Initial sale" means the first sale of an affordable unit by a developer to an eligible household or an authorized agency pursuant to subsection (S).

"Low-moderate income area" means an area designated by the Commissioner as a low-moderate income area pursuant to published data regarding Chicago or area median income or the cost of housing or other data relating to gentrification or loss of affordable housing, such as Chicago or area median home sale prices or census tract information. The criteria for designating low-moderate income areas will be set forth in the rules and regulations. The department will publish a list of low-moderate income areas, and will update the list every year. If any portion of a low-moderate income area is located in a downtown district, that portion of the area will be treated as a downtown district for purposes of this section.

"Market-rate unit" means a housing unit in a residential housing project or, if applicable, off-site location that is not an affordable unit as defined in this section, and may sell or rent at anv price.

"Off-site" means on a site different from the site of the residential housing project.

"On-site" means on the same site as the residential housing project.

"Planned development" has the same meaning ascribed to that term in Sec. 17-17-02120.

"Publication Date" means the date this ordinance is.published in the Journal of the Proceedings of the Citv Council of the City of Chicago.

"Residential housing project" means one or more buildings that collectively contain three or more new or additional housing units on one or more parcels or lots under common ownership or control, including contiguous parcels. A "residential housing project" may be developed in one or more phases and may consist of new construction, substantial rehabilitation, or the conversion of rental housing to condominiums. In determining whether a development constitutes a residential housing project, the department will consider all relevant factors, including whether the development is marketed as a single or unified project, shares common elements, or is a phase of a larger development. The definition of "residential housing project" shall be interpreted broadly to achieve the purposes of this section and to prevent evasion of its terms.

"Rezoning of property" means a change in the zoning of property in any of the following circumstances: (1) to permit a higher floor area ratio than would otherwise be permitted in the base district, including through transit-served location floor area premiums where the underlying base district does not change: (2) to permit a higher floor area ratio or to increase the overall



number of housing units than would otherwise be permitted in an existing planned development, as specified in the Bulk Regulations and Data Table, even if the underlying base district for the planned development does not change; (3) from a zoning district that does not allow household living uses to a zoning district that allows household living uses; (4) from a zoning district that does not allow household living uses on the ground floor of a building to a zoning district that permits household living uses on the ground floor; or (5) from a downtown district to a planned development, even if the underlying base district for the property does not change.

"Substantial rehabilitation" means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure or portion thereof reguiring a permit issued bv the citv. provided the cost of the substantial rehabilitation must be $75.000 or more per housing unit.

"TIF Act" means the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et sea., as amended from time to time.

"TIF Funds" means incremental ad valorem taxes which, pursuant to the TIF Act, have been collected and are allocated to pay redevelopment project costs and obligations incurred in the payment thereof.



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"Type A Adaptable" refers to the standards for adaptability under the Fair Housing Act, as adopted by HUD under 24 CFR 100.205.

"Uniform Federal Accessibility Standard" or "UFAS" means the Uniform Federal Accessibility Standard as defined under the Architectural Barriers Act, 42 U.S.C. 4151-4157.

"Zoning Ordinance" means Title 17 ofthe Municipal Code.

{CJ - Creation of central housing search portal: To help ensure fair marketing practices and a user-friendly system for end consumers, the Department of Planning and Development, or another entity it designates, shall create a user-friendly web portal that enables those seeking housing to enter search criteria and locate affordable apartments created under this Ordinance. The web portal shall enable individuals seeking housing to search by neighborhood and bedroom size and shall provide the contact information for the leasing agents for affordable units that are reguired bv this Section.

(D) Applicability: Minimum Percentage of Affordable Units for Residential Housing Projects. The requirements of this section apply in the following circumstances:

*(1) Rezoning of a Property.*

(a) Whenever the city approves the rezoning of property in a low-moderate income area or a higher income area, and such property is subseguently developed with a residential housing project, the developer shall be reguired (a) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than thirty percent (30%) of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3); or (b) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than one of the housing units in the residential housing project as



affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3).

(b) Whenever the citv approves the rezoning of property in a downtown district, and such property is subseguently developed with a residential housing project, the developer shall be reguired (a) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than forty percent (40%) of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3); or (b) where there are three to' nine new or additional housing units created in the residential housing project, to establish no less than two of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3). Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section. The provisions of this subsection (D)(1) shall not apply to anv existing residential housing project located on property that was rezoned and thereby converted to a nonconforming use, if the citv council approves a change in zoning solely for the purpose of restoring the residential housing project to a conforming use.

*(2) Citv Land Sales.*

a) Whenever the city sells real property in a low-moderate income area to anv developer and such property or anv portion thereof is (a) subseguently developed with a residential housing project that creates ten or more hew units, or (b) incorporated into a residential housing project site which creates ten or more new units in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code reguirements or standards, the developer shall be reguired (i) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than thirty percent (30%) of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance,



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the developer instead shall comply with the reguirements of subsection (D)(3); or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than one of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3). Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

b) Whenever the city sells real property in a higher income area to any developer and such property or any portion thereof is (a) subseguently developed with a residential housing project that creates ten or more new units, or (b) incorporated into a residential housing project site which creates ten or more new units in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code

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requirements or standards, the developer shall be required (i) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than forty percent (40%) of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the requirements of subsection (D)(3); or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than one of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3). Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

(c) Whenever the citv sells real property in a downtown district to anv developer and such property or anv portion thereof is (a) subseguently developed with a residential housing project that creates ten or more new units, or (b) incorporated into a residential housing project site which creates ten or more new units in order to satisfy minimum off -street parking, minimum lot area, setback or other zoning or Municipal Code reguirements or standards, the developer shall be required (i) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than fifty percent (50%) of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3); or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than two of the housing units in the residential housing project as affordable housing provided that if a developer also receives financial assistance, the developer instead shall comply with the reguirements of subsection (D)(3). Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

*Financial Assistance*.

a) Whenever the city provides financial assistance to anv developer in connection with the development of a residential housing project that is in a low-moderate income area the developer shall be reguired (i) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than thirty percent (30%) of the housing units in the residential housing project as affordable housing; or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than one of the housing units in the residential housing project as affordable housing. Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

b) Whenever the city provides financial assistance to any developer in connection with the development of a residential housing project that is in a higher income area . the developer shall be reguired (i) where there are ten or more new or additional housing units created in the residential

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housing project, to establish no less than forty percent (40%) of the housing units in the residential housing project as affordable housing; or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than one of the housing units in the residential housing project as affordable housing. Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.



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(c) Whenever the citv provides financial assistance to anv developer in connection with the development of a residential housing project that is in a downtown area, the developer shall be required (i) where there are ten or more new or additional housing units created in the residential housing project, to establish no less than fifty percent (50%) of the housing units in the residential housing project as affordable housing; or (ii) where there are three to nine new or additional housing units created in the residential housing project, to establish no less than two of the housing units in the residential housing project as affordable housing-Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

(E) Application of 2018 ARO to Existing Buildings. In the case of existing buildings subject to the requirements of subsection (D), subsection (D) shall apply as follows:

1) for an existing building that contains housing units at the time of the approval of a zoning change, only the additional housing units permitted by the rezoning are subject to the affordable housing reguirement:

2) for an existing building that contains a mixed-use occupancy with one use being residential at the time of the approval of the zoning change, only the additional housing units permitted by the rezoning are subject to the affordable housing reguirement: or

3) for an existing building with respect to which the developer has received financial assistance or has purchased citv land, the entire building is subject to the affordable housing reguirement.

(B Relationship between 2018 ARO and Affordable Housing Density Bonus. For every residential housing project subject to the requirements of subsection (D). and also eligible for an affordable housing floor area bonus pursuant to Sec. 17-4-1004-B. the developer shall be required to comply with the reguirements of both provisions.

(G) Reguired Percentage of Affordable Units- Residential Housing Project. For every residential housing project subject to the reguirements of subsection (D). the developer shall comply with the following provisions.

(1) Low-Moderate Income Areas. In low-moderate income areas, a developer subject to the provisions of subsection (D) must (a) provide at least thirty percent (30%) of the affordable units on-site and (b) where there are 10 or more affordable units required, at least sixty percent (60%) of the on-site units must be two or more bedroom units and at least thirty percent (30%) of the on-site units must be three or more bedroom units.

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2) Higher Income Areas. In higher income areas, a developer subject to the provisions of subsection (D) must fa) provide at least thirty percent (30%) of the affordable units on-site and (b) where there are ten or more affordable units reguired. at least sixty percent (60%) of the on-site units must be two bedroom units or more and at least thirty percent (30%) of the on-site units must be three or more bedroom units. If the developer elects to provide affordable units off-site, the off-site affordable units must be located within a half-mile radius from the residential housing project, in the same or a higher income area or downtown district, and all off-site affordable units must be at least three or more bedrooms.

3) Downtown Districts - Rental Units. In the downtown districts and in planned developments with an underlying downtown district zoning classification, a developer subject to the provisions of subsection (D) must (a) provide at least forty percent (40%) of the affordable units on-site and (b) where there are 10 or more affordable units reguired, at least sixty percent (60%) of the on-site units must be two bedroom units or more and at least thirty percent (30%) of the on-site units must be three or more bedroom units. If the developer elects to provide affordable units off-site, the off-site affordable units must be located within a half-mile radius from the residential housing project, in the same or a higher income area or downtown district, and all off-site affordable units must be at least three or more bedrooms.



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4) Downtown Districts - Owner-Occupied Units. In the downtown districts and in planned developments with an underlying downtown district zoning classification, a developer of owner-occupied units subject to the provisions of subsection (D) may establish affordable housing bv one or more of the following: (a) the establishment of affordable owner-occupied units as part of the residential housing project: (b) the establishment of off-site affordable owner-occupied units: or (c) anv combination thereof. If the developer elects to provide affordable owner-occupied units off-site, the off-site affordable units may be located anywhere in the citv. subject to the department's approval.

(H) Affordable Housing Opportunity Fund. Fines collected under this section. Sec. 2-45-115. Sec. 2-45-110, and Sec. 17-4-1004 shall be deposited in the Affordable Housing Opportunity Fund, unless reguired to be deposited into another fund pursuant to federal or state law. All annual revenues of the Affordable Housing Opportunity Fund shall be reserved and utilized exclusively to pay the administrative and monitoring costs and expenses of this section. Sec. 2-45-115, Sec. 2-45-110. and Sec. 17-4-1004 and, after subtracting such costs and expenses, as follows:

1) fifty percent (50%) shall be used for the construction, rehabilitation or preservation of affordable housing; and

2) fifty percent (50%) shall be contributed to the Chicago Low-Income Housing Trust Fund or a successor organization.

(0 Eligible Households; Rental of Affordable Units. With respect to all affordable rental units reguired under this Section: (1) at least one guarter of the affordable units shall be rented to families earning up to thirty percent (30%) of the area median income; (2) at least half shall be rented to households earning up to fifty percent (50%) of the area median income; and (3) all of the affordable units shall be rented to families earning up to eighty percent (80%^ of the area median income.

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JJ) Duration of Affordability Restrictions. The affordable units required by this section shall continue to be affordable housing in perpetuity, or as long as permissible by law, after the initial sale or rental of the affordable unit. In the case of rental housing, if the affordable unit is converted to a condominium unit, such units shall be subject to the provisions of this section that apply to owner-occupied units and a new restrictive covenant protecting the affordability of the unit at one hundred percent (100%) of the area median income in perpetuity, or as long as permissible by law, shall begin on the date of the initial sale of such condominium unit.

£K) Eligibility Criteria. Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (S). all affordable units reguired under this section shall be leased or sold only to eligible households.

***(L) Tax Increment Financing.***

1) With respect to the development of residential housing projects and planned developments assisted bv the citv with TIF Funds in redevelopment project areas established pursuant to the TIF Act, to the extent that the reguirements of this section conflict with anv TIF guidelines now or hereinafter in effect, the TIF guidelines shall prevail.

2) To the extent that redevelopment plans approved pursuant to the TIF Act provide that developers who receive TIF Funds for market rate housing set aside forty percent (40%) of the units to meet affordability criteria established by the department (or any successor or predecessor city department), the reguirements of this section shall be deemed to be such affordability criteria and shall supersede all others.

(M) Compliance Reguired Prior to Issuance of Building Permit. Prior to the issuance of a building permit for anv residential housing project subject to the affordable housing reguirements of this section, including, without limitation, excavation or foundation permits, the developer shall execute and record an affordable housing agreement against the residential housing project or off-site location to secure the reguirements of this section relating to the establishment of on -site or. if applicable, off-site affordable units.



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MI Affordable Housing Agreement. The affordable housing agreement reguired pursuant to subsection (M) shall be recorded against the residential housing project and, if applicable, the off-site affordable units, and shall run with the land and be binding on successors and assign's; provided, however, in the case of projects with owner-occupied units, the city shall periodically release the agreement from the market-rate units to permit the sale of such units in accordance with this section. Each affordable housing agreement shall:

1) specify the number, type, location, size and phasing of construction of all affordable units and'such other information as the department requires to determine the developer's compliance with this section;

2) specify maximum qualifying incomes and maximum affordable rents or sales prices, and include resale and refinancing procedures and limitations;

3) include provisions for income certification of potential purchasers or renters of affordable units;

4) limit the rental or sale of affordable units for the term according to subsection (J):

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5) for rental projects, require the developer to submit an annual report to the department including the name, address, and income of each household occupying an affordable rental unit and identifying the monthly rent of each affordable rental unit;

6) authorize a release of the affordability restrictions following foreclosure or other transfer in lieu of foreclosure if reguired as a condition to financing pursuant to procedures set forth in the rules and regulations;

7) describe remedies for breach of the agreement; and

[1] (8) include anv other provisions reguired bv the citv to document the obligations imposed by this section.

(CO Chicago Community Land Trust. The department may delegate to the Chicago Community Land Trust the administration of this section.

***(P) Enforcement Provisions.***

1) Failure by the developer to provide the on-site or off-site affordable units reguired by this section, or sell or rent such affordable units in accordance with the reguirements of this section, shall be a violation of this section punishable by a fine. In the case of a for-sale unit, the fine will be egual to one fourth of the market sales price for the unit. In the case of a rental unit, the fine will be egual to the difference between the market-rate rental revenue and the affordable rental rate for the unit calculated over a year period. In addition, in the case of a residential real estate developer licensed pursuant to Chapter 4-40 of the Municipal Code or anv successor chapter, the revocation of the developer's residential real estate developer license.

2) Upon the rental of anv affordable unit at a rental price that is not affordable, or to a household that does not meet the eligibility criteria, the owner shall pay a fee of $500.00 per unit per day for each day that the owner is in noncompliance.

3) In addition to anv other available remedy, the citv may seek an injunction or other eguitable relief in court to stop anv violation of this section and to recover anv funds improperly obtained from any sale or rental of an affordable unit in violation of this section, plus costs and interest'at the rate prescribed by law from the date a violation occurred.

4) The citv may seek such other remedies and use other enforcement powers, as allowed by law. The remedies and enforcement powers established in this section are cumulative, and the citv may exercise them in any order.

5) Anv fines or penalties imposed by the citv for a violation of this section, and any fees collected



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under this section, shall be deposited into the Affordable Housing Opportunity Fund, unless reguired to be deposited into another fund pursuant to federal or state law, and shall be used and disbursed in accordance with subsection (H).

(Q) 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.

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(R) Hardship Waiver. The commissioner shall have discretion, in certain limited circumstances as specified in the rules and regulations, to waive, adjust or reduce the reguirements of this section, including, without limitation, the income eligibility, resale price and other affordability covenants and restrictions, for developers or owners of affordable units who have used good faith efforts to comply with such reguirements. The commissioner shall exercise his discretion in the best interests of the citv and with the goal of balancing long-term affordability and private investment. The rules and regulations shall set forth criteria for granting waivers, adjustments and reductions, such as establishing a minimum time period that developers and owners must market affordable units, establishing criteria related to unusual economic or personal circumstances, and providing a maximum percentage for the increase above the maximum income limit or resale price currently allowed.

(S) Sale or Rental to Authorized Agency. Affordable units reguired to be provided pursuant to this section may be sold or leased to an authorized agency, subject to the following provisions:

1) The initial sale or lease of affordable units to the authorized agency is not subject to the price restrictions set forth in this section. Instead, the developer may sell or rent affordable units to the authorized agency at anv price, similar to market-rate units.

2) The authorized agency must sign a lease guaranteeing that all affordable units will be leased to households that meet the income eligibility reguirements for rental housing under this section in perpetuity, or as long as permissible by law or, if the unit is purchased, record a deed restriction or similar instrument guaranteeing that all affordable units will be leased to households that meet the income eligibility reguirements for rental housing under this section in perpetuity, or as long as permissible by law, and may not sell, transfer, or otherwise dispose of the affordable units.

3) The authorized agency must submit a report on an annual basis to the commissioner that provides the following information and any additional information reguested by the commissioner: number of affordable units currently in the authorized agency's inventory and the monthly rental rate for each affordable unit, information concerning each tenant household's composition and gross income, affordable unit operating expenses and revenues received by the authorized agency.

(~T) Applying Percentages; Fractional Units. Calculations of the number of affordable units required by this section shall be based on the total number of housing units in the residential housing project, including anv density bonus units. Where the application of the percentage reguirements of this section results in a fractional housing unit, the developer shall round up to the nearest whole number for any portion of 0.5 or above and round down to the nearest whole number for any portion less than 0.5.

(Lh Projects with Both Owner-Occupied and Rental Units. When a residential housing project includes both owner -occupied and rental units, the provisions of this section that apply to owner-occupied projects shall apply to that portion of the project that consists of owner- ■ occupied units, while the provisions of this section that apply to rental projects shall apply to that portion of the project that consists of rental units; provided, however, with the commissioner's approval, a developer may provide rental units where the developer would otherwise be reguired to provide owner-occupied units, in which event such units shall be subject to the provisions of this section that apply to rental projects.

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(V) Standards for Affordable Units. Affordable units required to be provided pursuant to this section shall comply with the following standards, as may be detailed further in the rules and regulations:

1) Affordable units shall be reasonably dispersed throughout the residential housing project, such that no single building or floor therein has a disproportionate percentage of affordable units.

2) Affordable units shall comply with adaptability standards under UFAS or Type A adaptability.

3) Except to the extent reguired bv subsection (G). affordable units shall be comparable to the market rate units in the residential housing project (or off-site location in the case of off-site affordable units) in terms of Quality of exterior appearance, energy efficiency, and overall quality of construction provided, however, with the commissioner's approval, in a residential housing project (or off-site location in the case of off-site affordable units) which contains single-family detached homes, affordable units may be attached homes rather than detached homes and lots for affordable units may be smaller than lots for market-rate units (consistent with applicable zoning), and in a residential housing project (or off-site location in the case of off-site affordable units) which contains attached multi-story housing units, affordable units may contain only one story.

4) Affordable units may have different interior finishes and features than market-rate units in the residential housing project (or off-site location in the case of off-site affordable units), as long as they are durable, of good and new Quality, and are consistent with then-current standards for new housing.

5) Affordable units shall have access to all on-site amenities available to market rate units, including the same access to and enjoyment of common areas and facilities in the residential housing project (or off-site location in the case of off-site affordable units).

6) Affordable units shall have functionally eguivalent parking when parking is PXovided to the market rate units in the residential housing project (or off-site location in the case of off-site affordable units).

7) Affordable units shall be constructed, completed, ready for occupancy, and marketed concurrently with or prior to the market rate units in the residential housing project or phase thereof. As used in this section, "concurrently" means that a proportionate share of affordable units shall be completed for each group of market rate units completed at 25%, 50%, 75% and final completion of the residential housing project. The commissioner may approve an alternative timing plan if the commissioner determines, in his or her sole discretion, that that there is no economically feasible way to comply with the phasing reguirements, in which event the developer shall post a bond or similar security in an amount egual to one and one-half times the reguired in lieu fee to secure the completion of such units.

8) The marketing requirements and procedures for affordable units shall be contained in the rules and regulations.

9) The rules and regulations may specify minimum household sizes for



affordable units of different bedroom sizes, and may require that prospective purchasers complete homebuyer education training or fulfill other requirements.

(W) Additional Standards for Off-Site Affordable Units. With the commissioner's approval, a developer of a residential housing.project in a downtown district or higher income area may satisfy part of its affordable housing obligation through the establishment of off-site affordable units, subject to the following standards, as may be detailed further in the rules and regulations:

1) The developer may either build new affordable units, or purchase and convert



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existing market-rate units to affordable units.

2) Off-site affordable units must meet all of the reguirements set forth in this section for on-site affordable units, except that: (a) off-site locations are not subject to (VXD: and (b) all off-site affordable units for a residential housing project must receive certificates of occupancy prior to issuance of the first certificate of occupancy for the market-rate units in the residential housing project.

3) The off-site location shall be appropriately zoned to allow for the proposed project. No increase in density or financial assistance from the citv shall be reguired in order to accommodate the off-site affordable units.

4) **Developers must pay a fee of $5,000 per unit to pay the expenses of the department in connection with monitoring and administering compliance with the reguirements of this subsection. Anv fees collected under this subsection shall be deposited into the Affordable Housing Opportunity Fund and used and disbursed in accordance with subsection (H).**

IX) Severability Clause. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code, or any portion thereof, is in conflict with anv provision of this ordinance, the provisions of this ordinance control. If anv section, paragraph or provision of this ordinance shall be held invalid by any court, that invalidity shall not affect the remaining provisions of this ordinance.

(Y) Effective Date. This ordinance shall be in full force and effect 180 days after its passage and publication.

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## Chicago City Council Co-Sponsor Addition/Change

Document No.: OgK)\&~ S vO^

Subject: _ "Or.\/e\opmtM iof A\\" 0 France, - A<U Co -Sponsor

Please Add Or Change The Co-Sponsor As Shown Below
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Please Remove Or Change The Co-Sponsor As Shown Below.
*Date Filed* *Signature JjAfrM*

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Final copies to be filed with:

- Chairman of Committee to which legislation was referred
- City Clerk



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