



Office of the City Clerk

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Legislation Details (With Text)

File #: O2020-5157
Type: Ordinance
File created: 10/7/2020
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In control: City Council
Final action: 5/24/2023
Title: Amendment of Municipal Code Chapter 2-44 by modifying Section 2-44-080 regarding 2015 affordable housing commitment and adding new Section 2-44-085 entitled "Development for All Ordinance"
Sponsors: Sigcho-Lopez, Byron
Indexes: Ch. 44 Dept. of Housing
Attachments: 1. O2020-5157.pdf

Date	Ver.	Action By	Action	Result
5/24/2023	1	City Council	Failed to Pass	
10/7/2020	1	City Council	Referred	

Housing & Real Estate Committee

Ordinance: Equitable Development

WHEREAS, the City of Chicago ("City") is a home rule unit of government under Section 6(a), Article VII of the 1970 Constitution of the 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 year; and

WHEREAS, while many of the City's neighborhoods are benefiting 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 onsite 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, the affordable units under the 2007 ARO and 2015 ARO are set at rents far above what full-time minimum wage workers, households of color, people with disabilities, and seniors can generally afford, and

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

WHEREAS, the DePaul Institute for Housing Studies ("DePaul IHS") has created a systematic manner of classifying the displacement risks for residents in census tracts across the City, categorizing them based on factors such as rising cost of housing and the share of residents that are vulnerable to displacement; and 1

WHEREAS, based on such factors, the DePaul IHS has categorized certain areas of the City as low-risk of displacement, moderate-risk of displacement, and high-risk of displacement and has published its methodology in a 2017 report publicly available on its website (the "2017 DePaul IHS Study"); and

WHEREAS, thousands of Chicago families have been displaced from units of fit and habitable condition in naturally occurring multifamily affordable rental housing due to a practice where developers purchase it, rehabilitate it, steeply increase the rent, and terminate the leases of all tenants (citation) and

WHEREAS, because of the loss of naturally occurring affordable housing, displacement of families from disinvested areas and areas vulnerable to displacement, and other housing-market conditions that do not support the creation of

meaningful affordable housing, the solution to Chicago's ongoing housing affordability crisis requires a more comprehensive inclusionary zoning and development system triggered not just by zoning changes but also through "by right" development in specific and targeted circumstances; 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; and,

WHEREAS, the City of Chicago Department of Housing has released in September 2020 a Report of Recommendations for reform to the ARO; now, therefore,

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

SECTION 1. Section 2-44-080 of the Municipal Code of Chicago is hereby amended by inserting the underscored language, and by deleting the language struck through, as follows:

2-44-Q80 2015 affordable housing commitment This section shall apply to any residential housing project for which: the - city council has passed an ordinance approving a rezoning, city land sale, or financial assistance, as described in Subsection (C), unless such residential housing project is subject to the affordable housing requirement in effect prior to the effective date of this section pursuant to the prefatory clause of of Section 2-45-110.

This section shall apply to any residential housing project for which: (1) the city council has passed an ordinance approving a rezoning, city land sale or financial assistance, as described in subsections (B) or (C) prior to the effective date of Sec. 2-44-085: or (2) an application for rezoning, the sale of city land, or financial assistance, as described in subsections (B) or (C), was submitted prior to the effective date of Sec. 2-44-085. and an ordinance approving the proposed rezoning, city land sale or financial assistance is passed within nine months after the effective date of Sec. 2-44-085. The term "submitted" means (i) with respect to an application for zoning approval or the sale of city land, an ordinance authorizing the rezoning or city land sale has been introduced to city 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 2-44 of the Municipal Code is hereby amended by adding a new Section 2-44-085, as follows:

2-44-085 Development for All.

This section shall apply to any covered development as described in subsection (F), unless such covered development is

subject to the affordable housing requirements in effect prior to the effective date of this section pursuant to the prefatory clause of Section 2-44-080.

(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 equal 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 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 eligible households according to the eligibility criteria defined in Subsection (K).

"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 subsequent owners or occupants of affordable units shall comply with this section.

"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,

"Affordable housing impact fee" means the fee paid by developers of residential or nonresidential development projects to help mitigate the impacts that such developments have on the demand for affordable housing in the city and to support affordable housing development and operation.

"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 city, which administers subsidies under HUD's McKinney-Vento Homeless Assistance Grants program, or the Veterans Administration Supportive Housing program, or another housing assistance program

approved by the city.

"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 of the City 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 the department of housing or any 3 successor department, 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 any 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 any parcel of land or lot that is (1) touching another parcel or lot at any point, (2) separated from another parcel or lot at any point only by a public or private street, road, or other right-of-way, (3) separated from another parcel or lot at any point only by 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 requirements of this section at the time of application for the City approval that triggers the obligation to comply with this section.

"Covered Development" is defined in Subsection (F).

"Department" means the department of housing or any successor department, acting by or through its commissioner.

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

"Development" or "develop" means, for purposes of determining whether the requirements of this section are triggered,

the construction or substantial rehabilitation of housing units or the conversion of any building into residential condominiums.

"Displacement Indicators," is defined in subsection (D).

"Eligibility criteria" is defined in Subsection (K).

"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 as defined in Subsection (K).

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

"Housing Cost Zones," "low cost zone," "moderate cost zone," and "high cost zone" are defined in subsection (D).

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

"Market-rate unit" means a housing unit in a covered development or, if applicable, offsite location that is not an affordable unit as defined in this section, and may sell or rent at any price.

"New Construction" means any building, structure, or any number of buildings or structures constituting a single development. A "new construction" may be developed in one or more phases. In determining whether a development constitutes a new construction, 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 "new construction" shall be interpreted broadly to achieve the purposes of this section and to prevent evasion of its terms.

"Off-site" means on a site different from the site of the covered development. "On-site" means on the same site as the covered development.

"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 City 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 common¹ 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.

"Renovation" means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building or structure ("modifications"), or portion thereof, which contains ten (10) housing units or more prior to or subsequent to any such modifications requiring a building permit issued by the City, provided the cost of the renovation must be \$10,000 or more per housing unit.

"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 requiring a permit issued by the city, provided the cost of the substantial rehabilitation must be \$10,000 or more per housing unit.

"TIF Act" means the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 et seq., 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.

"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 of the Municipal Code.

C) 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 required by this Section.

D) Affordability Zones; Housing Cost Zones; Displacement Indicators; and Rising Cost Indicators

(1) Categorizing and maintaining Zones and Indicators.

The Commissioner shall be responsible for maintaining a regularly updated and accurate classification of all census tracts in the City as to each census tract's Affordability Zone and Displacement Indicator. The Commissioner shall publish an update to the Affordability Zones, Rising Costs Indicators, and Displacement Vulnerability which shall be updated no less than yearly. These categorizations shall be done in a manner consistent with the 2017 DePaul IHS Study. The Commissioner shall categorize the Affordability Zones based on the following criteria, (a) Housing Cost Zones.

All census tracts will be categorized as low-cost zones, moderate-cost zones, or high-cost zones in a manner consistent with the 2017 DePaul IHS Study. 6

b) Displacement Vulnerability.

All census tracts will be categorized if they are vulnerable to displacement in a manner consistent with the 2017 DePaul IHS Study

c) Rising Housing Costs.

All census tracts will be categorized as (i) no rising housing costs, (ii) rising housing costs, or (iii) significant rising housing costs in a manner consistent with the 2017 DePaul IHS Study.

(2) Affordability Zones

. Affordability Zones will be determined by a combination of Housing Cost Zones, Displacement Indicators, and Rising Cost Indicators. All census tracts will be categorized into the following zones: (a) "Low Cost Zones" are those zones that are Low Cost Zones that are not considered as "Low Cost Zones vulnerable to displacement."

(b) "Low Cost Zones vulnerable to displacement" are those zones that are Low Cost Zones and are categorized as vulnerable to displacement and have significant rising housing costs, (c) "Moderate Cost Zones" are those zones that are Moderate Cost Zones that are not considered "Moderate Cost. Zones vulnerable to displacement." (d) "Moderate Cost Zones vulnerable to displacement" are those zones that are Moderate Cost Zones and are categorized as vulnerable to displacement and have either (i) rising housing costs or (ii) significant rising housing costs, (e) "High Cost Zones" are those zones that are High Costs Zones that are not considered as "High Cost Zones vulnerable to displacement." (f) "High Cost zones vulnerable to displacement" are those zones that are High Cost Zones that are categorized as vulnerable to displacement and have either (i) rising housing costs or (ii) significant rising housing costs.

(3) Initial Affordability Zones Map. A map of the Affordability Zones at the time of the passage of this ordinance is on file with the Clerk's Office.

(E) Minimum Percentage of Affordable Units for Covered Developments (1) Minimum

Percentage of Affordable Units.

All Covered Developments as identified in Subsection (F) which are subject to the requirements of this Section shall be required to include the following minimum percentages of affordable units. In cases where the Covered Development is subject to multiple requirements based on the applicable Affordability Zone and Displacement Indicator, the higher requirement for minimum affordable units shall apply, (a) For Low Cost Zones, the minimum percentage of affordable units shall be ten percent (10%). (b) For Low Cost Zones vulnerable to displacement, the minimum percentage of affordable units shall be twenty percent (20%). (c) For Moderate Cost Zones, the minimum percentage of affordable

units shall be twenty percent (20%). (d) For Moderate Cost Zones vulnerable to displacement, the minimum percentage of affordable units shall be thirty percent (30%). (e) For High Cost Zones, the minimum percentage of affordable units shall be thirty percent (30%). (f) For High Cost Zones vulnerable to displacement the minimum percentage of affordable units shall be thirty percent (30%).

2) Certain heightened Minimum Percentage of Affordable Units.

The minimum percentage of affordable units in this subsection shall be applied to all Covered Developments as defined in Subsection (F). Covered Developments which receive TIF Funding shall instead follow the minimum percentage of affordable units identified in Subsection (0).

3) Application and Change in Area Over Time

. The minimum affordability requirements apply at the time the Developer of a Covered Development applies for a building permit. Any change to the Affordability Zones that occurs after such application shall have no effect on the affordability requirements of a Covered Development.

(F) Applicability. The requirements of this section apply in the following circumstances:

(1) Covered Developments. The following developments are subject to the minimum affordability percentage requirements identified in Subsection (E): (a) Rezoning. All residential housing projects which receive a rezoning of a property as defined in this Section and create three (3) or more new or additional housing units, (b) New Constructions. All new constructions of ten (10) or more housing units in moderate cost zones and high cost zones, (c) Renovations. All renovations of buildings of ten (10) units or more shall be considered covered developments in: (i) Moderate Cost Zones that are vulnerable to displacement (ii) High-Cost Zones that are vulnerable to displacement (d) City Financial Aid. Any development which creates any number of new units and receives financial aid from the City of Chicago, (e) City Land. Whenever the city sells real property to any developer and such property or any portion thereof is (a) subsequently developed with a covered development that creates any number of new units, or (b) incorporated into a covered development site which creates any number of new units in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code requirements or standards. (2) Chart showing expanded affordability triggers for covered developments. The following chart represents the minimum affordable requirements for each development type as defined above in Subsections (F)(1) and (E)(1)

Low Cost Zones that are not vulnerable to displacement Moderate Cost Zones
that are not vulnerable to displacement

High Cost Zones that are not vulnerable to displacement

Rezoning 10% 20% 30%

City Financial Aid 10% 20% 30%

City Land 10% 20% 30%

New Constructions

N/A 20% 30%

Renovations N/A N/A N/A

Low Cost Zones that are vulnerable to displacement that have "significant rising housing costs"

Moderate Cost Zones that are vulnerable to displacement that have "rising housing costs"

Moderate Cost Zones that are vulnerable to displacement that have "significant rising housing costs"

High Cost Zones that are vulnerable to displacement and have "rising housing costs" or "significant rising housing costs"

Rezoning 20% 30% 30% 30%

City Financial Aid 20%

30%

30% 30%

City Land 20% 30% 30% 30%

New Construction

N/A

30% 30% 30%

Renovations N/A N/A 30% 30%

(3) Certain Increased Requirements. Covered Developments which receive TIF Funding shall instead comply with the minimum affordability percentage requirements of Subsection (O).

(4) Exemptions. This section shall not apply to substantial rehabs or renovations that are solely for the purposes of (a) repairing building code violations or (b) increasing accessibility.

G) Application of Development for All Ordinance to Existing Buildings. In the case, of existing buildings subject to the requirements of subsection (F), subsection (F) shall apply as follows: (1) for an existing building that contains housing units at the time of the approval of a building permit for a substantial rehabilitation, the entire building is subject to the affordable housing requirement;

(2) for an existing building with respect to which the developer has received financial assistance or has purchased city land, the entire building is subject to the affordable housing requirement.

H) Relationship between Development for All Ordinance and Affordable Housing Density Bonus. For every covered development subject to the requirements of subsection (F), 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 requirements of both provisions.

(I) Required Percentage of Affordable Units on-site; Bedroom Requirements. For every covered development subject to the requirements of subsection (F), the developer shall comply with the following provisions. In cases where the covered development is subject to multiple requirements based on the applicable Affordability Zone and Displacement Indicator, the more restrictive requirement shall apply. In all cases a covered Residential housing project owner may partner with any other non-profit developer or entity to meet all the requirements enumerated in all Subsections of this ordinance.

(1) A developer of a covered development with rental units subject to the provisions of subsection (F) must provide at least fifty percent (50%) of the affordable units on-site. In addition, where there are 10 or more affordable units required, at least sixty percent (60%) of the on-site affordable units must be multi-bedroom units of two or more bedrooms and at least fifty percent (50%) of those multi-bedroom 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 covered development in a High Cost Zone Vulnerable to Displacement or in a Moderate Cost Zone, within a 1 mile radius in a High Cost Zone, and within a 2 mile radius in a Low Cost Zone, in the same or a higher-cost area, and all off-site affordable units must be at least three or more bedrooms. If at least ninety percent (90%) of the on-site affordable units are multi-bedroom units of two or more bedrooms and at least sixty-six percent (66%) of those multi-bedroom units are three or more bedroom units, the minimum percentage of affordable units in covered developments shall be reduced by 5% regardless of cost zone or affordability trigger.

(2) Owner-Occupied Units

. A developer of a Covered Development with owneroccupied units subject to the provisions of subsection (F) must (a) provide at least twenty-five percent (25%) ofthe affordable units on-site. In addition, where there are 10 or more affordable units required, at least sixty percent (60%) of the on-site affordable units must multi-bedroom units of two or more bedrooms and at least

fifty percent (50%) of those multi-bedroom units must be three or more bedroom units. Ifthe developer elects to provide affordable units off-site, the off-site affordable units must be located within a half-mile radius from the covered development in a High Cost Zone Vulnerable to Displacement or in a Moderate Cost Zone, with in a 1 mile radius in a High Cost Zone, and within a 2 mile radius in a Low Cost Zone, the same or higher cost affordability zone as the covered development and all offsite affordable units must be at least three or more bedrooms. If at least ninety percent (90%) of the on-site affordable units are multi-bedroom units of two or more bedrooms and at least sixty-six percent (6%) of those multi-bedroom units are three or more bedroom units, the minimum percentage of affordable units in covered developments shall be reduced by 5% regardless of cost zone or affordability trigger.

(3) Chart showing on-site requirements and bedroom-size requirements. The following chart represents the requirements outlined above in Subsection (I). Minimum Percent of required Affordable Units On-Site Bedroom Size Composition of OnSite Affordable Housing Bedroom Size Composition of Off-Site . Affordable Housing

Minimum Percent multibedroom (2 or more bedroom)

Minimum Percent as 3 or more bedroom

Minimum Percent as 3 or more bedroom

Rental Housing (any zone)

50% 60% of affordable units

30% of affordable units 100% of affordable units

Owner-Occupied Housing (any zone

25% 60% of affordable units

30% of affordable units 100% of affordable units

(J) Affordable Housing Opportunity Fund. Affordable Housing Impact Fees, and any Fines collected under this section, Sec. 2-44-080, Sec. 2-44-070, and Sec. 17-4-1004 shall be deposited in the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law. All annual revenues ofthe Affordable Housing Opportunity Fund shall be reserved and utilized exclusively to pay the administrative and monitoring costs and expenses of this section, Sec. 2-44-080, Sec. 2-44-070, 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 10

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

(K) Eligibility Criteria. Except for those covered developments specified in subsection (L), the following eligibility criteria apply to all covered developments:

(1) Eligibility criteria for affordable rental units.

Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (V), with respect to all affordable rental units required under this Section in covered developments, all affordable rental units will be affordable to households earning up to 50% of the AMI.

(2) Eligibility criteria for affordable owner-occupied units

. Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (V), with respect to all affordable owner-occupied units required under this Section in covered developments, all affordable owner-occupied units will be affordable to households earning up to 100% of the AMI.

(L) Eligibility Criteria for larger buildings; Eligibility Criteria for TIF Funded developments. Notwithstanding subsection (K), the following eligibility criteria will apply in as follows:

1) Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (V), in covered projects with more than ten housing units but do not receive TIF Funds: (a) All of the rental affordable units shall be affordable to households earning up to 50% of the AMI; and (b) At least one half of all rental affordable units shall be affordable to households earning up to 30% of the AMI; and (c) At least one quarter of all rental affordable units will be affordable to households earning up to 20% of the AMI. (d) If all of the rental affordable units are affordable to households earning up to 40% of the AMI, the minimum percentage of affordable units in covered developments shall be reduced by 5% regardless of cost zones.

2) Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (V), in covered projects with more than ten housing units which receive TIF Funds: (a) All of the affordable

units shall be affordable to households earning up to 50% of the AMI; and (b) At least one half of all affordable units shall be affordable to households earning up to 30% of the AMI; and (c) At least one quarter of all rental affordable units will be affordable to households earning up to 15% of the AMI.

(3) Except for the sale or lease of affordable units to an authorized agency pursuant to subsection (V), in covered projects with more than ten housing units that receive TIF Funds: (a) All of the required affordable owner-occupied units shall be affordable for households earning up to 100% of the AMI; and (b) At least half of the required affordable owner-occupied units shall be affordable for households earning up to 80% of the AMI.

(M) Rules for Implementation regarding household eligibility. The Commissioner will implement household eligibility rules within ninety days of the effective date of this 11 Ordinance. The eligibility rules will determine how to calculate a household's AMI, specifically allowing for deductions of medical expenses and accessibility equipment for people with disabilities whose medical expenses and accessibility equipment costs exceed 3% of their annual income. The eligibility rules will also ensure that minor changes in household incomes will not disqualify a household from an affordable rental unit where they currently reside, should a household increase its income above the eligibility criteria during the time the household resides in an affordable unit required by this section. The household eligibility rules shall ensure that maximum income limits do not classify households in affordable housing units such that those households would become rent-burdened.

(N) 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.

0) Tax Increment Financing.

1) With respect to the development of covered developments and planned developments assisted by the city with TIF Funds in redevelopment project areas established pursuant to the TIF Act, to the extent that the requirements of this section conflict with any 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 requirements

of this section shall be deemed to be such affordability criteria and shall supersede all others.

(3) A covered development that receives TIF Funds shall instead require an additional 10% minimum affordable housing percentage than what would otherwise be required by Subsection (F).

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

(Q) Affordable Housing Agreement. The affordable housing agreement required pursuant to subsection (P) shall be recorded against the covered development and, if applicable, the off-site affordable units, and shall run with the land and be binding on successors and assigns; 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 (O);

(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 required as a condition to financing pursuant to procedures set forth in the rules and regulations;

7) describe remedies for breach of the agreement; and

8) include any other provisions required by the city to document the obligations imposed by this section.

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

(S) Enforcement Provisions.

(1) Failure by the developer to provide the on-site or off-site affordable units required by this section, or sell or rent such affordable units in accordance with the requirements 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 equal to one fourth of the market sales price for the unit. In the case of a rental unit, the fine will be equal 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 any successor chapter, the revocation of the developer's residential real estate developer license.

(2) Upon the rental of any 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 any other available remedy, the city may seek an injunction or other equitable relief in court to stop any violation of this section and to recover any 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. 13

4) The city 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 city may exercise them in any order.

5) Any fines or penalties imposed by the city for a violation of this section, and any fees collected under this section, shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law, and shall be used and disbursed in accordance with subsection ~ (J).

(T) 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.

(U) Hardship Waiver The commissioner shall have discretion, in certain limited circumstances as specified in the rules and regulations, to waive, adjust or reduce the requirements 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 requirements. The commissioner shall exercise his discretion in the best interests of the city 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.

(V) Sale or Rental to Authorized Agency. Affordable units required 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 any 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 requirements 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 requirements 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 requested 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. 14

(W) 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 covered development, including any density bonus units. Where the application of the percentage requirements 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.

(X) Projects with Both Owner-Occupied and Rental Units. When a covered development 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 required to provide owner-occupied units, in which event such units shall be subject to the provisions of this section that apply to rental projects.

(Y) 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 covered development, such that no single building or floor therein has a disproportionate percentage of affordable units. The Commissioner may waive this requirement if it best serves the intention of this Section, is done so in a manner that does not overly burden any particular group of renters or purchasers, is done so in a manner that weighs the equitable concerns of affordable housing, and is done so in a manner consistent with any and all applicable laws.

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

3) Except to the extent required by subsection (I), affordable units shall be comparable to the market rate units in the covered development (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 covered development (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 covered development (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 covered development (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 covered development (or off-site location in the case of off-site units).

6) Affordable units shall have functionally equivalent parking when parking is provided to the market rate units in the covered development (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 covered development 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 covered development. The commissioner may approve an alternative timing plan if the commissioner determines, in his or her sole discretion, that there is no economically feasible way to comply with the phasing requirements, in which event the developer shall post a bond or similar security in an amount equal to one and one-half times the required 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.

(Z) Additional Standards for Off-Site Affordable Units; With the commissioner's approval, a developer of a covered development 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 existing market-rate units to affordable units.

2) Off-site affordable units must meet all of the requirements set forth in this section for on-site affordable units, except that: (a) off-site locations are not subject to subsection (Y)(I); and (b) all off-site affordable units for a covered development must receive certificates of occupancy prior to issuance of the first certificate of occupancy for the market-rate units in the covered development.

3) The off-site location shall be appropriately zoned to allow for the proposed project. No increase in density or financial assistance from the city shall be required 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 requirements of this subsection. Any fees collected under this subsection shall be deposited into the Affordable Housing Opportunity Fund and used and disbursed in accordance with subsection (J).

(AA) Universal Per Square Foot Density Fee For All Residential Developments Not Covered By Subsection F. Any New Construction residential or non-residential not covered in Subsection F shall be subject to an affordable housing impact fee to help mitigate the impacts that such developments have on the demand for affordable housing in the city and to support affordable housing development and operation. The fee adopted shall be permissible and reasonable based on an impact fee nexus study conducted and executed within 1 year of the passage of this ordinance. All fees collected shall be deposited according to Subsection J.

(AB) 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 any provision of this ordinance, the provisions of this ordinance control. If any 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.

25th Ward Alderman Byron Sigcho-Lopez