



# Office of the City Clerk

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## Legislation Text

File #: O2020-3879, Version: 1

### **Amendment of Municipal Code Creating New Section Entitled "City of Chicago COVID-19 Public Health Housing Ordinance"**

WHEREAS, the coronavirus pandemic has already resulted in the death of 1,759 Chicagoans, 77% of whom are African American and Latinx; and

WHEREAS, on average, 25% of all residents in homeless shelters are testing positive for the Coronavirus; and

WHEREAS, a large proportion of residents in homeless shelters are medically vulnerable individuals who face permanent disability, impairment, or death if infected with COVID; and WHEREAS, congregate living facilities including homeless shelters, detention centers, jails, and nursing facilities have accounted for at least 19% of the spread of COVID infections and 36% of coronavirus deaths across Illinois; and

WHEREAS, crowded conditions in congregate living facilities intrinsically create an environment that prolongs the curve of COVID-19 cases and functions epidemiologically as a vector for COVID-19 to spread and;

WHEREAS, thousands of Chicagoans are forced to remain in congregate living facilities simply due to lack of access to publicly-supported affordable, accessible rental housing; and WHEREAS, the ability of every Chicago resident to "shelter-at-home" in safe, affordable, accessible, and stable housing is critical to flattening the curve, protecting public health and safety, and restoring the economy; and

WHEREAS, public health experts estimate that it will be at least 18-24 months before a vaccine is available to bring the global pandemic to an end; and

**WHEREAS, the City of Chicago's investments in affordable housing are critical expenditures in the City's coordinated response to control, manage, and end outbreaks of COVID-19 and; WHEREAS, the City's public housing investments must be marshalled to maximize access to affordable housing, and protect human life and public health in this moment; and WHEREAS, minimizing vacancy and adopting swift and efficient leasing and vacant unit turnover procedures for Chicago's affordable housing stock will save lives; now therefore**

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

SECTION 1. A new Chapter 5. Section 25 of the Municipal Code of Chicago is hereby created as follows:

5-25-010 Title and purpose: This section shall be known as the COVID-19 Chicago Public Health Housing Ordinance. The purpose and legislative intent of this Chapter is to protect the public health and save lives during the Novel Coronavirus pandemic by reducing the number of individuals forced to live in unsafe congregate living facilities due to lack of access to affordable, accessible housing. This chapter will help meet the City's goals of protecting human life, safeguarding the public health, controlling and ending new outbreaks, and restoring the economy from the COVID-19 crisis by reducing the scale of exposure to, and transmission of, the Coronavirus.

#### **5-25-020 Definitions**

For purposes of this section, the following definitions shall apply:

"Applicant" means any person, corporation, or entity who is seeking to enter into a loan or grant agreement with the

city to receive City of Chicago funds used for the purpose of housing creation, redevelopment, and preservation.

"At-risk priority population" shall mean individuals defined by the Chicago Department of Public Health (CDPH), Centers for Disease Control, or Continuum of Care under CDPH guidance as being medically-vulnerable to death, disability, long-term impairment, or severe infection if exposed to COVID-19 and who reside in a congregate living facility, including but not limited to individuals who appear on the Homeless Management Information System (HMIS) list or the list of members of the Colbert v. Pritzker, Williams v. Pritzker, and Ligas v. Eagelson consent decrees which mandate the deinstitutionalization of people with disabilities.

"Borrower" means any person or corporation who receives City of Chicago housing funds pursuant to a loan agreement.

"City of Chicago housing funds" shall mean any grant or loan intended to either maintain or develop affordable housing that must be awarded by a vote of the Chicago City Council, including the Low Income Housing Tax Credit Program (LIHTC), Tax Increment Financing (TIF), Community Development Block Grant (CDBG), Low Income Housing Trust Fund (LIHTF), HOME Investment Partnership Program (HOME) Funds, Emergency Shelter Grants (ESG), Housing Opportunities for Persons with Aids (HOPWA), Multi-Family Affordability Upfront Investment (MAUI), City Bond Proceeds, or any other City grant or loan funds for the development or maintenance of affordable housing.

"Commissioner" means the Commissioner of Planning and Development or the Commissioner of Housing, as applicable, and their respective designees.

"Congregate living facility" means any form of homeless shelter, street encampment, detention center, jail, skilled nursing facility, nursing home, or other residential institution in which large groups of people share essential living space such as bedrooms, bathrooms, kitchens, and/or dining halls.

"Grantee" means any person or corporation who receives City of Chicago controlled housing funds pursuant to a grant agreement.

"Occupancy rate" means the number of apartments actually occupied by an individual or set of individuals, regardless of how those apartments are defined or designated otherwise, divided by the total number of apartments in the development. Special use units and apartments appropriately designated as "offline" as defined in 5-25-020 shall not be included in this calculation.

"Offline apartment" means any apartment not currently made available for leasing or occupancy pending substantial rehabilitation or redevelopment, where the contracted rehabilitation-related or redevelopment-related construction will commence within the next 12 months and be completed within the next 36 months.

"Publicly-subsidized apartment" shall mean any apartment that receives a form of a public-operating subsidy where a tenant pays no more than 30% of their income towards rent or units are targeted to households at 30% of AMI, and includes programs such as public housing

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operating funds, project-based section 8 assistance, project-based voucher assistance, property rental assistance, and Low-Income Housing Trust Fund assistance.

"Special use units" means apartments being used for a non-residential purpose such as office space, community space, or employee housing.

"Substantial control" means holding either complete or substantial ownership in a housing asset, or being a signed party either currently or prospectively to a Management Agreement, Annual Contributions Contract, Regulatory and/or Operating Agreement, and/or Land Lease Agreement with the "applicant", "borrower" or "grantee" for the proposed housing development for which the applicant is seeking City of Chicago funds.

"Substantial ownership" means holding a ten percent or more percentage of interest in any borrower or applicant, with ownership to be defined in accordance with the disclosure requirements for city contractors, as set forth in the provisions of Section 2-1 M-1(h), including those shareholders, partners, beneficiaries and principals more specifically described therein; except that where the bidder, potential contractor or contractor is an individual or sole proprietorship, substantial owner means that individual or sole proprietorship.

"Vacancy scofflaw" shall mean any party who has substantial ownership or substantial control over a publicly-subsidized housing development who violates the 97% occupancy rate and 60-day vacant unit turn-around standard established by this code over a period of 6 months or longer, whether prior to or after the enactment of this Ordinance, whose asset management practices demonstrate consistent waste or negligence in the management of public resources

"Vacant unit turn-around time" means the period beginning on the first day for which rent is not charged following completion or termination of occupancy as a publicly-subsidized unit, and ending on the day preceding the first day for which rent is charged for such unit based on occupancy or re-occupancy as a publicly-subsidized housing unit of that or a different unit that was not previously occupied as a publicly-subsidized unit, whichever shall first occur.

#### **5-25-030 Requirement to maintain full occupancy and swiftly re-lease any vacant affordable units across publicly-subsidized housing portfolio**

Any applicant seeking City of Chicago funds, along with each affiliate entity which has or will have substantial ownership or substantial control in the applicant's proposed development must, as a condition of eligibility to receive City of Chicago funds:

- 1) consistently achieve and maintain a 97% occupancy rate for each publicly-subsidized housing development under its substantial ownership or substantial control; and
- 2) consistently achieve and maintain an average vacant unit turn-around time of no more than 60 days for each publicly-subsidized housing development under its substantial ownership or substantial control; and
- 3) submit a certification disclosing the occupancy rates and vacant unit turn-around time for each of the publicly-subsidized affordable housing developments in which they have ownership interest or substantial control for each completed quarter of the 12 month period preceding their application as part of their application for City of Chicago funds.

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#### **5-25-040 Leasing preference for medically-vulnerable populations.**

To help alleviate the great risks of exposure and transmission to COVID-19 in congregate living facilities, reduce the likelihood and scale of future outbreaks, and safeguard the public health, the City of Chicago establishes the following condition of eligibility for any City of Chicago funds to be awarded over the next 24 months, to the extent consistent with obligations under federal law or the terms and conditions of any passthrough funding from the City of Chicago:

- 1) To be eligible to apply for City of Chicago funds, any applicant, including any partners or affiliates who either have an ownership interest or substantial control in the applicant's proposed development, shall no less than 3 months prior to submitting an application for City funds modify their tenant selection plan(s) in order to create a leasing preference that prioritizes at-risk priority populations above all other applicants until such time as 20% of the units in their portfolio are leased to medically-vulnerable households who needed to move from a congregate living facility to escape dangerous or life-threatening exposure to COVID-19.

- 2) Applicants and their partners or affiliates with an ownership interest or substantial control in the development shall apply this leasing preference to the publicly-subsidized apartments in their portfolio.
- 3) Applicants and their partners or affiliates shall continuously implement this leasing preference when turning over vacant apartments, and shall make all best and reasonable efforts to progressively meet the requirement to lease 20% of units in their portfolio to at-risk priority populations.
- 4) Applicants and their partners and affiliates have discretion over which at-risk priority populations they will prioritize in their amended tenant selection plans, and may elect to prioritize different at-risk priority populations in different developments within their portfolios, based on considerations related to their mission, the physical layout of the property, or project funding.
- 5) If an applicant or its partners' current waitlists do not contain enough members of at-risk priority populations to meet the 20% requirement, the applicant and its partners must affirmatively partner with organizations who can help identify at-risk priority populations to add to their waiting lists, and in coordination with these organizations, open their waiting lists to allow at-risk priority populations to apply.
- 3) Applicants and their affiliates seeking City of Chicago funds shall submit a copy of their Tenant Selection Plan(s) and/or admissions criteria in their application along with a description of how their amended leasing practices comply with and operationalize the leasing preference requirements established by this Chapter.
- 4) When deciding which package of applicants to recommend for funding to the Chicago City Council, the Department of Housing shall make its best efforts to select a diversity of applicants that will ensure all different sub-groups identified within the at-

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risk priority population will have improved access to affordable housing due to the City's funding awards.

#### **5-25-050 Regulations implementing this chapter**

The Commissioner of the Department of Housing is authorized to promulgate rules and regulations for the proper administration and enforcement of this chapter, including:

- 1) the development of mechanisms to promote interagency coordination among the many organizations and city departments working on public health and housing issues who must play a vital role in helping vulnerable populations relocate from unsafe congregate settings.
- 2) the development of mechanisms to implement the leasing preference required of applicants for City of Chicago housing funds established in 5-25-04
- 3) the protocols by which a person or entity comes to appear on a list of "Vacancy Scofflaws" that the City shall publish and maintain on its website, and the hearing or appeal process regarding removal of a person or entity from such list.

The Commissioner of the Department of Housing shall develop and publish for public comment proposed regulations implementing this chapter within 30 days of enactment of this Ordinance. The public comment period shall last no more than 15 days. The Commissioner shall finalize the regulations implementing this chapter within 20 days of the end of the

public comment period.

#### **5-25-060 Powers of the Housing Commissioner under this Chapter**

The Commissioner is authorized to: (i) conduct investigations or hearings or other actions or proceedings, consistent with the requirement of due process of law and equal protection under the law, to accomplish the purposes of this section; and (ii) delegate to a designee the commissioner's authority to conduct hearings under this section.

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### **5-25-060 Powers of the Housing Commissioner under this Chapter**

The Commissioner is authorized to: (i) conduct investigations or hearings or other actions or proceedings, consistent with the requirement of due process of law and equal protection under the law, to accomplish the purposes of this section; and (ii) delegate to a designee the commissioner's authority to conduct hearings under this section.

## Legislative Introductions

Submitted by Alderman 7&(taferfa j\*£umt'H~

r {^^/^^ Ward)

	Meeting Date	Subject	Type of Document	Committee Referral	Additional Sponsor(s)	No. of Attachments
1		<i>Covid-t? Chtc^to</i>				
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7						
8						
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### Reference Key

Type of Document: Ordinance, Order, Resolution

Budget Rules

Contracting Oversight Economic Development Education

Environmental Protection Ethics Finance 10. Health

11. Housing
12. Human Relations
13. License
14. Public Safety
15. Special Events
16. Traffic
17. Transportation
18. Workforce Development
19. **Zoning**

For Joint Committees list both committees as follows: Joint Finance/Housing