SUBS T I T U T E ORDINANC K

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

WHEREAS, the City possesses an unfortunate legacy of racial discrimination in housing that has led to decades of disinvestment, lack, of decent, affordable options, wealth-building opportunities and wealth theft in some neighborhoods; and

WHEREAS, decades of exclusion, including by race, class, and disability, make Chicago one of the most segregated cities in the country; and

WHEREAS, the cost of this segregation is high, both for the City's overall economic vitality and for those who find their access, to jobs, grocery stores, transit and other opportunities limited by their zip code; and

WHEREAS, this historic discrimination coupled with the longstanding affordable housing crisis has resulted in a citywide shortage of nearly 120,000 affordable homes; and

WHEREAS, the availability of affordable housing in high opportunity areas is critical to Chicago's socio-economic future; and

WHEREAS, the COVID-19 pandemic has not only been a once-in-a-lifetimc public health threat, but has wrought devastating social and economic damage on Chicagoans, and it is clear that the affordable housing crisis has become even more acute in a post-COVlD-l 9 world; and

WHEREAS, the City Council finds that the ongoing cycle of gentrification and displacement continues to exacerbate historic patterns of racial and economic segregation, deepen the concentration of poverty and wealth, and widen disparities in access to good schools, jobs, healthcare and other amenities; and

WHEREAS, the City Council finds that it is in the public interest to adopt a new Affordable Requirements Ordinance ("ARO") to address entrenched patterns of segregation citywide more directly; and

WHEREAS, the Department of Housing created the Inclusionary Mousing Task Force Io ensure the City heard from a wide range of Chicagoans representing neighborhood organizations, affordable housing builders, market-rate developers, financiers, and other stakeholders, before adopting this reform ordinance; and

WHEREAS, the Inclusionary Housing Task Force acknowledged that the ongoing C JO VID -19 crisis means that now more than ever it is critical to grow Chicago's stock of affordable housing to ensure that every Chicagoan has equitable access to a safe, healthy, accessible, anil affordable home; and

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WHEREAS, since 2007, the ARO has produced more than 1,000 affordable units, and over $124 million in in lieu fees that have been reinvested in affordable housing citywide; and

WHEREAS, the passage of this reform ordinance will result in the creation of more equitable affordable housing units in areas where affordable housing is lacking today, and will more efficiently serve the ARO's inclusionary mission; and

WHEREAS, this ordinance is intended to promote equitable neighborhood development, increase housing choice for residents at lower income levels, minimize displacement of long-term residents from gentrifyingareas, and address disparities in social and economic outcomes for the residents of Chicago; now, therefore,

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

SECTION 1. Section 2-44-070 of the Municipal Code of Chicago is hereby repealed.

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

2-44-080 2015 affordable requirements.

This section shall apply to any residential housing project, or portion thereof, for which (i) the City Council has passed an ordinance approving a rezoning, City land sale, or financial assistance, as described in subsection (C), prior to October 1, 2021, and (ii) a building permit has been applied for prior to October 1, 2025, or in the case of planned developments before the sunset or other date specified in the planned development, unless such residential housing project is subject to the affordable housing requirements in-e4-fe-&t-prior to the effective-date of this sefetion-pH-rsuant to the-prefatory elapse of former Sect ion 2-44-070 as in effect prior to October 1,2021.

(Omitted text is unaffected by this ordinance.)

((i) Affordable Housing Opportunity Fund. The in lieu fees and other fees collected under this section, former Section 2-44-070 as in effect prior to October 1, 2021, and former Section 17-4-1004 as in effect prior to October 12, 2015j_shall be-deposited in the Affordable Housing Opportunity Fund, unless requited to be deposited into another fund pursuant to federal or slate law. All annual rovenues of the Affordable Fl-cusing 0[>po44tm4y4Htn4-s-hall b^-reserved and-Ht-tlk^l-^x-elwHvefy-te-pay the admin-k^rative arxl-fflonitoprogH^s-i^ section, Section 2-45-110, and former Section 17-4-1004 and, aftersubto&kng-^H&h-Gos-hf-arK-l-

(4-)-f-ift-y-peyeent (50%)-shall be used: (i) as previdod iwd-ef-Sec-t-ion 2-44-10(^>);-or-(ii)^W ^he-construction, rehabilitation or-preser-vation of affordablo housings or-(iii) in connection with-sHeh-^tber housing programs as shall bo specifically approvecl-by-fcno City Council for-sneh-re-ve-miosH-tnd-

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(Omitted text is unaffected by this ordinance.)

SECTION 3. Chapter 2-44 of the Municipal Code of Chicago is hereby amended by adding a new Section 2-44-085, as follows:

2-44-085 2021 affordable requirements.

This section shall apply to any residential development covered under subsection (C), unless such residential 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 "2021 Affordable Requirements Ordinance" or "2021 ARO," 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 in all areas of the City and to preserve the long-term affordability of such housing.

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

"Affluent zone" means two or more contiguous census tracts in which the median household income is above 150% of the citywide median household income based upon published data or includes either (a) the Loop community area, or (b) the Hyde Park community area. The Department will publish a map showing the boundaries of the affluent zones, and will update the map at least every five years but no more often than every two years.

"Affordable" means a sales price or monthly rent less than or equal to the amount at which total monthly housing costs, as specified in the rules, would total not more than 30% of household income for a household whose income is the maximum allowable for an eligible household.

"Affordablehousing" means rental or owner-occupied housing, as applicable, which is affordable to eligible households.

"Affordable housing covenant and agreement" means a covenant, lien, regulatory agreement, promissory note, mortgage, deed restriction, right of first refusal, option to purchase or similar instrument recorded against an owner-occupied affordable unit, governing how the initial and subsequent owners of affordable owner-occupied units shall comply with this section.

"Affordable unit" means a dwelling 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.

"Area median income" or "AMI" means the median household income Cor the Chicago Primary Metropolitan Statistical Area as calculated and adjusted for household size on an annual basis by HUD.

"Authorized agency" means the Chicago Housing Authority, the Chicago Low-Income Housing Trust Fund, or

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another non-profit agency acceptable to the City, which administers subsidies under HUD's McKinncy-Vcnto 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 Proceed ings of the City Council of such date, as amended, and having as its primary mission the preservation of long-term affordability of dwelling units, or any successor organization.

"Commissioner" means the Commissioner of Housing, or the Commissioner's 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 Section 4-284-020, of an investor of the entity owns 10% or more of the interest in the property.

"Community area" means one of the official community areas designated under Section 1-14-010.

"Community preservation area" means any community area or portion thereof, as designated by the Commissioner, that:

a) contains (i) one or more existing displacement census tracts or vulnerable displacement census tracts, (ii) is adjacent to an affluent zone, and (iii) in which not more than 30% of the existing rental housing stock is legally restricted affordable housing; or

b) contains an existing displacement census tract that is contiguous with an existing displacement census tract in a community area that meets all criteria in (a) above; or

c) contains two or more existing displacement census tracts and is adjacent to a community area that meets all criteria in (a) above; or

d) contains three or more existing displacement census tracts.

The Department will publish a list of community preservation areas, and will update the list at least every five years but no more often than every two years.

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

"Contiguous parcel" means any parcel of land or lot that is: (a) touching another parcel or lot al any point, (b) separated from another parcel or lot at any point only by a public or private street, road, or other right-of-way, (c) separated from another parcel or lot at any point only by a public or private utility, service, or access easement, or (d) 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 (he obligation to comply with this section or al the lime of application for a building permit.

"Department" means the Department of Housing or any successor department, acting by or through ils Commissioner.

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"Developer" means the owner, as that term is defined in Chapter 14A-2, of the residential development or the property on which the residential development is proposed and, if different from the owner, any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which develops the residential development and, if applicable, provides off-site affordable units, together with their successors and assigns, but does not include any governmental entity.

"Development" or "develop" means, for purposes of determining whether the requirements of this section are triggered, the construction, addition, or substantial rehabilitation of dwelling units or the conversion of any building into residential condominiums.

"Downtown districts" means the "D" zoning districts as now or hereafter designated in the Chicago Zoning Ordinance.

"Dwelling unit" or "unit" has the same meaning as set forth in Section 17-17-0248, provided that a "dwelling unit" docs not include: (a) dormitories that arc owned and operated by or on behalf of an educational institution, (b) hotels as that term is defined in Chapter I4B-2 of the Municipal Code, or (c) mobile homes.

"Eligible household" means u household whose combined annual income, adjusted for household size, satisfies the applicable target income level requirements of subsection (F) for the applicable affordable unit.

"Entitlement" means (a) a zoning map amendment to permit a higher floor area ratio or to increase the number of dwelling units than would otherwise be permitted in the existing zoning district; (b) an administrative adjustment under Section 17-13-1003-A or 17-13-1003-D or variation under Section 17-13-1101-R, to permit a higher floor area ratio or to increase the overall number of dwelling units than would otherwise be permitted in the base zoning district; (c) a floor area premium under Section 17-2-0304-C where the base zoning district does not change; (d)a transit-served location floor area premium or minimum lot area reduction where the base zoning district does not change; (e) an amendment to an existing planned development, or minor change approval, to permit a higher floor area ratio or to increase the number of dwelling units than would otherwise be permitted in the planned development, as specified in the Bulk Regulations and Data Table, even if the base zoning district for the planned development does

not change; (!') a zoning map amendment from a zoning district that does not allow household living uses to a zoning district that allows household living uses; (g) a zoning map amendment from a zoning district that allows, only via special use, residential uses below the second floor to a zoning district which allows residential uses below the second floor by-right; or(h) a zoning map amendment from any zoning district to a planned development, even if the base zoning district for the property does not change. Developers shall not submit piecemeal applications for zoning approval to avoid compliance with this section.

"Existing displacement census tract" means a census tract where displacement is existing, as determined by the Commissioner, based upon published census data demonstrating the following demographic and housing market changes over a maximum period of JO years: (a) an increase of at least 10% in median rent or home values, (b) an increase of at least 10% in the proportion of adult residents with a bachelor's degree or higher, and (c) a loss of at least 100 low-income residents. The Department will publish a map of existing displacement census tracts, and will update the map at least every five years but no more often than every two years.

"Financial assistance" means any financing provided by the City for a residential development, or any portion thereof, or any related infrastructure, including, but not limited to, grants, direct or indirect loans, bond financing, Low-

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Income Housing Tax Credits, Donation Tax Credits, Community Development Block Grant funds, HOME Investment Partnerships Program funds, fax Increment Financing, and the Affordable Housing Opportunity Fund.

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

"In lieu fee" means a fee in lieu of the establishment of on-site or, if applicable, off-site affordable units, adjusted annually, based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Chicago metropolitan area, or some other comparable index selected by the Commissioner in the Commissioner's reasonable discretion if this index no longer exists.

"Inclusionary housing agreement" means an agreement in conformance with subsection (N) of this section between the city and a developer, governing how the developer shall comply with this section.

"Inclusionary housing area" means any community area designated as an inclusionary housing area by the Commissioner based upon published data demonstrating that: (a) less than 10% of the dwelling units in the community area are legally restricted affordable housing, and the average income in the community area exceeds the AMI; or (b) less than 35% of the dwelling units in the community area are either legally restricted affordable housing or naturally occurring affordable housing. The Department will publish a list of inclusionary housing areas, and will update the list at least every five years but no more often than every two years.

"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).

"Legally restricted affordable housing" means housing operated under subsidy programs of government agencies, including programs operated or subsidized by the Chicago Housing Authority and the Illinois Housing Development Authority.

"Low-modcrate income area" means any area that is not designated an inclusionary area or a community preservation area. The Department will publish a list of low-modcrate income areas, and will update the list at least evciy five years but no more often than every two years. I f 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 dwelling unit in a residential development or, if applicable, at an off-site location that is not an affordable unit as that term is defined in this section, and that may be sold or rented at any price.

"Naturally occurring affordable housing" means unsubsidized housing with market rents that are affordable to households earning up to 60% of the AMI.

"Off-site" means a site different from the site of the residential development.

"On-site" means the same site as the residential development.

"Physical needs assessment" means a report by a qualified housing professional identifying those items that are necessary repairs, replacements and improvements at the time of the assessment or that will likely require repairs, replacements or improvements within three years of the assessment, and the estimated cost of all such items. The rules shall set forth standards for qualified housing professionals.

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

"Residential development" or "residential project" means the construction, addition, substantial rehabilitation, or conversion from rental to condominium ownership, often or more dwelling units in one or more buildings on cither a single lot or on contiguous parcels under common ownership or control. A "residential development" or "residential project" may be developed in one or more phases. In determining whether a development constitutes a residential development or residential project, the Department will consider al! 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 development" and "residential project" shall be interpreted broadly to achieve the purposes of this section and to prevent evasion of its terms.

"Substantial rehabilitation" means the rehabilitation, as that term is defined in Chapter 14R-2, of a building or portion thereof requiring a building permit issued by the City, provided the actual cost of the substantial rehabilitation equals or exceeds $75,000 per dwelling unit undergoing rehabilitation. The dollar value in this definition shall be adjusted annually, based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Chicago metropolitan area, or some other comparable index

selected by the Commissioner in the Commissioner's reasonable discretion if this index no longer exists.

"Target income level" means the average affordability of the affordable units in a residential development expressed as a percentage of the AMI.

"TlF Act" means the Tax Increment Allocation Redevelopment Act, 65 1LCS 5/1 1 -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.

"Transit-served location" has the meaning set forth in Section 17-10-0102-B.

"Vulnerable displacement census tract" means a census tract that is vulnerable to displacement, as determined by the Commissioner based upon: (a) its location in a community area that is adjacent to a community area containing an existing displacement census tract or to an affluent zone, and (b) published data demonstrating that at least 33% of the population in the census tract is below 200% of the poverty level. The Department will publish a map of vulnerable displacement census tracts, and will update the map at least every five years but no more often than every two years.

"Zoning Ordinance" means Title 17 of the Municipal Code.

C) Applicability. The requirements of this section apply whenever the City:

1) approves an entitlement for property, and such property is subsequently developed with a residential development; or

2) sells real property to any developer and such property or any portion thereof is (a) subsequently developed with a residential development, or (b) incorporated into a residential development site in order to satisfy minimum off-street parking, minimum lot area, setback or other zoning or Municipal Code requirements or standards; or

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(3) provides financial assistance to any developer in connection with the development of a residential development.

D) Application of ARO to existing projects. In the case of an existing residential or mixed-use project subject to this section pursuant to subsection (C)(1), only the dwelling units permitted by the entitlement are subject to the affordable housing requirements of this section; provided, however, if any existing dwelling units are also being "developed" as that term is defined in this section, then those units shall also be subject to the requirements of this section. The Department is authorized to require that developers provide reasonable evidence showing the existing number of dwelling units and the cost of rehabilitation of existing units, if

applicable. The intent of this provision is to exempt existing dwelling units from the application of this section when the developer preserves the status quo for such existing units.

(11) Exemptions. The requirements of this section do not apply to:

1) residential developments that receive government subsidies with requirements and regulations pertaining to affordability that are stricter than this section requires, as determined by the Commissioner ; or

2) residential developments that are rezoned solely for the purpose of restoring the residential development to a conforming use.

(F) Required percentage of affordable units. The percentage of dwelling units required to be affordable depends on the type of project (rental or owner-occupied), the location of the project, and the target affordability level, as specified below. The developer may provide affordable units at multiple income levels, provided the weighted average of all income levels meets the target affordability level, and further provided that all income levels must be multiples of 10% of the AMI.

1) Rental Projects in Low-Moderate Income Areas. Developers of rental pro jects in low-moderate income areas shall provide 10% of the dwelling units in the project as affordable housing at a weighted average of 60% of the AMI, provided the maximum income level for any affordable unit in a rental project may not exceed 80% of the AMI.

2) Rental Projects in All Other Areas. Developers of rental pro jects in the downtown districts, inclusionary areas, and community preservation areas shall provide 20% of the dwelling units in the project as affordable housing at a weighted average of 60% of the AMI, provided the maximum income level for any affordable unit in a rental project may not exceed 80% of the AMI, and further provided that developers required to provide six or more on-site or off-site affordable units may select from the following additional options for compliance:

Downtown, Inclusionary Areas, and Community Preservation Areas	
Option 1	20%) at a weighted average of 60% of the least one-third of the affordable units mus households al or below 50% of the AMI, affordable to households at or below 40%

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Option 1A Authorized Agency Units	Developers choosing Option 1 may lease an authorized agency. Such units shall cou the purpose of calculating the weighted av developer sells or leases more than one-ha units to the Chicago Low Income Housing authorized agency that provides rent subsi

to landlords, the required percentage of affordable units under Option 1 increases to 25%.

Option 2	16% at a weighted average of 50% of the AMI, provided at least one -third of the affordable units must be affordable to households at or below 40% of the AMI
Opt ion 3	13% at a weighted average of 40% of the AMI
Option 4	10% at a weighted average of 30% of the AMI

(3) Owner-Occupied Projects. Developers of owner-occupied projects shall provide the following minimum percentages of affordable units at the following target affordability levels, provided the maximum income level for any affordable unit in an owner-occupied project may not exceed 120% of the AMI:

Downtown, Inclusionary Areas, and Community Preservation Areas	
Option 1	20% at a weighted average of 100% of th
Option 2	16% at a weighted average of 80% of the
Low-Moderate Income Areas	
Option 1	10% at a weighted average of 100% of th
Option 2	8% at a weighted average of 80% of the A

(G) Methods of compliance.

1) Rental Projects. A developer of a rental project subject to the provisions of subsection (C) must provide at least 25% of the required affordable units on-site, another 25% either on-site or off-site, and may satisfy the balance of its affordable housing obligation through: (a) the establishment of additional on-site or off-site affordable units; (b) payment of a fee in lieu of the establishment of on-site or off-site affordable units in the amounts specified below; or (c) any combination thereof.

2) Owner-Occupied Projects. A developer of an owner-occupied project subject to the provisions of subsection (C) must provide at least 50% of the required affordable units either on-site or off-site, and may satisfy the balance of its affordable housing obligation through: (a) the establishment of additional on-site or off-site affordable units; (b) payment of a fee in lieu of the establishment of on-site or off-site affordable units in the amounts specified below; or(c) any combination thereof, provided that a developer of an owner-occupied project in a downtown district may satisfy its entire affordable housing obligation through the payment of an in lieu fee.
1 f developer of an owner-occupied project in any area, including a downtown district, elects not to provide at least 25% of the required affordable units on-site, the in lieu fee amount per unit shall increase by 25%.

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Location	Option	Amount of in lieu fee per unit
Downtown	Option 1 (20% set-aside)	$187,939
	Option 2 (16% set-aside)	$234,924
	Option 3 (13% set-aside) (Rental only)	$289,137
	10	
	Option 4 (10% set-aside) (Rental only)	5375,878
Inclusionary Areas and Community Preservation Areas	Option 1 (20% set-aside)	$134,242
	Option 2 (16% set-aside)	$157,803
	Option3 (13% set-aside) (Rental only)	$206,526
	Option 4 (10% set-aside) (Rental only)	$268,484
Low-Moderate Income Areas	Option 1 (10% set-aside)	$53,697
	Option 2 (8% set-aside)	$67,121

(II) Requirements for the location of off-site units. If the developer elects to provide affordable units off-site, the following regulations apply:

1) Except as provided in subsection (H)(2) below, each off-site affordable unit must be located in a downtown district, inclusionary area, or community preservation area.

2) If the triggering residential development is located in a community preservation area, each off-site unit must be located within a one-mile radius from the triggering project.

3) In addition to the location requirements set forth in subsections (H)(1) and (2) above, if the triggering project is located in a transit-served location, each off-site unit must also be located in a substantially comparable transit-served location.

4) Each off-site unit must have at least two bedrooms. Where applicable, developments may apply the incentives under subsection (V) in order to meet this requirement.

5) The Commissioner shall have the authority to promulgate rules governing off-site units in order to promote the equitable distribution of off-site units across inclusionary areas and community preservation areas.

(I) Affordable Housing Opportunity Fund. The in lieu fees and other fees collected under this section and Section 2-44-080 shall be deposited in the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or stale 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, Section 2-44-080, former Section 2-44-070 as in effect prior to October 1, 2021, and former Section 17-4-1004 as in effect prior to October 12, 2015, and, after subtracting such costs and expenses, as follows:

(I) fifty percent (50%) shall be used: (a) as provided under Section 2-44-106(o), or (b) for the construction, rehabilitation or preservation of affordable housing, or(c) in connection with such other housing programs as shall be specifically approved by the City Council for such revenues; and

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

(J) Duration of affordability restrictions.

1) In (he case of owner-occupied housing, the affordability period is 30 years after the initial sale, provided that if ownership of the affordable unit is transferred within an existing 30-year term, such units shall be subject to a new affordability period of 30 years beginning on the date of such transfer. The purchasers of affordable owner-occupied units shall record an affordable housing covenant and agreement against the affordable unit , as provided in subsection (O).

2) In the case of rental housing, the affordability period is 30 years after the initial rental; provided that if an affordable unit is converted to a condominium unit within 30 years after its initial rental, such units shall be subject to the provisions of this section that apply to owner-occupied units and a new affordability period of 30 years shall begin on the date of the initial sale of such condominium unit.

3) Notwithstanding subsection (J)(1), if the owner of an affordable unit or qualified heir (as that term is defined in the rules) occupies the affordable unit as the owner's or qualified heir's principal residence for a continuous period of 30 years, the City or its designee shall release the affordable housing covenant and agreement without further obligation on the owner's or qualified heir's part.

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

(L) Tax increment financing.

1) With respect to the development of residential developments assisted by the City with TIF Funds, to the extent that the requirements of this section conflict with any Tl V 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 more than 20% of the units to meet affordability criteria established by the Department (or any successor or predecessor City department), those requirements shall prevail.

(M) Compliance required prior to issuance of building permit. Prior to the issuance of a building permit for any residential development subject to the requirements of this section, including, without limitation, foundation permits, interior demolition permits, and other phased construction permits, but excluding demolition permits issued pursuant to Section I4A-4-407, the developer shall do one or both of the following, as applicable:

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1) pay an amount equal lo the required fee in lieu of establishing on-site or, if applicable, off-site affordable units pursuant to subsection (G); or

2) execute and record an inclusionary housing agreement against the residential development or off-site

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location to secure the requirements of this section relating to the establishment of on-site or, if applicable, off-site affordable units.

The developer must apply for building permits using the same address that was included in the zoning application for the residential development, unless the Department approves a different address in writing.

(N) Inclusionary housing agreement. The inclusionary housing agreement required pursuant to subsection (M)(2) shall be recorded against the residential 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 inclusionary housing agreement from, the market-rate units to permit the sale of such units in accordance with this section. Each inclusionary 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; [1]

2) specify maximum qualifying incomes and maximum affordable rents or sale prices;

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 affordability period;

5) for owner-occupied projects, require the developer to sell affordable units to eligible households subject to an affordable housing covenant and agreement, as provided in subsection (O);

6) for rental projects, require the developer to submit an annual report to the Department including the name, address, income and demographics of each household occupying an affordable rental unit, identifying the monthly rent of each affordable rental unit, and providing such additional information as the Commissioner may request;

7) 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 proced ures set forth in the rules;

8) describe remedies for breach of the agreement; and

9) include any other provisions required by the City to document and secure the obligations imposed by this section.

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(O) Chicago Community Land Trust; Homebuyer execution and recording of affordable housing covenant and agreement. The Department may delegate to the Chicago Community Land Trust the administration and monitoring of owner-occupied affordable units created under this section. Concurrently with the initial sale of an affordable owner-occupied unit to an eligible household, the eligible household shall execute and record an affordable housing covenant and agreement against the unit. Each affordable housing covenant and agreement shall:

1) require owners to occupy the units as their primary residence;

2) prohibit owners from renting the units, unless the Commissioner finds sufficient cause to allow temporary rental of the unit under applicable rules, which may include maximum rental levels;

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3) specify resale and refinancing procedures and limitations, including a formula for limiting equity appreciation to a percentage of the increase in the unit's value, as determined by the difference between a fair market appraisal at the time of purchase of the unit and a fair market appraisal at the time of resale, with such adjustments as the Commissioner may approve; and

4) grant an option to purchase the unit to the City or the CCLT at the maximum price that could be charged to an eligible household whenever the unit is offered for resale.

(P) Enforcem ent pro visions.

1) Failure to comply with any provision of this section, including without limitation, failure to pay the required fee in lieu, or 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, or record the inclusionary housing agreement against the applicable property, or apply for a building permit using the same address that was included in the zoning application (unless the Commissioner approves a different address in writing), shall be a violation of this section punishable by a fine in an amount up to two times the payment of fees in lieu required in subsection (G) and, in the case of a residential real estate developer licensed pursuant to Chapter 4-6-050 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) Mi 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 afford able unit in violation of this section, plus costs and interest at the rate prescribed by law from the date a violation occurred.

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 (1).

(Q) Rules. The Commissioner is authorized to adopt such rules as the Commissioner may deem necessary for the proper implementation, administration and enforcement of this section.

(R) Hair/ship waiver. The Commissioner shall have discretion, in certain limited circumstances as specified in the rules, 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 and who have submitted a feasibility study acceptable to the Commissioner to support their hardship claim. The Commissioner shall exercise the Commissioner's discretion in the best

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interests of the City and with the goal of balancing long-term affordability and private investment. Community opposition may not be a factor considered for a hardship waiver. The rules 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. If a developer of a rental project elects to comply with Option IA under subsection (F)(2), the following requirements shall apply:

1) The rental subsidy provided by the authorized agency to the landlord combined with the rent paid by the eligible household may not exceed an amount affordable to households at 100% of the AMI, unless otherwise required by federal or state law.

2) The authorized agency must sign a 30-year lease, Housing Assistance Payments (HAP) contract or similar instrument, or if the unit is purchased, record a 30-year 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 for a minimum period of 30 years, and prohibiting the authorized agency from selling, transferring, or otherwise disposing of the affordable units during this 30-year affordability period.

. (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, demographics, and gross income, affordable unit operating expenses and revenues received by the authorized agency.

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(T) Applying percentages - Fractional units. Calculations of the number of affordable units required by this section shall be based on the total number of dwelling units in the residential development, including any density bonus units. Where the calculation of affordable housing requirements described in this section results in a fractional dwelling unit equal to 0.5 or greater, the developer shall provide an additional unit to satisfy the fractional obligation. Where such calculation results in a fractional unit that is less than 0.5, the developer shall cither pay an in lieu fee or provide an additional unit to satisfy the fractional obligation. The in lieu fee for any fractional unit will be calculated as follows: [fractional unit] * [applicable in lieu fee].

(U) Projects with both owner-occupied and rental units.

1) When a residential 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, except as permitted under subsection (U)(2) below.

2) With the Commissioner's approval, developers may substitute rental units for owner-occupied units where the developer would otherwise be required to provide owner-occupied units, and vice-versa.

(V) Incentive for family-sized units. The Commissioner may reduce the required number of affordable units in exchange for units with more bedrooms, according to the following equivalency table. Developers who reduce the required number of affordable units pursuant to this incent ive shall give preference in leasing or selling units of two bedrooms or more to multi-person households as specified in the rules.

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	One-bedroom	**Two-bed room**	**Three-bedroom**	**Four-bedroom**
Studio	1 studio	1.25 studios	2 studios	2.5 studios
One-bedroom	-	1.25 one-bedroom units	1.5 one-bedroom units	2 one-bedroom units
Two-bedroom	-	-	1.25 two-bedroom units	1.5 two-bedroom units
Three-bedroom	-	-	-	1.25 three-bedroom units

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

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

2) Except as permitted in subsection (U), residential developments which contain owner-occupied units must comply with the provisions of this section that apply toowner-

occupied projects, and residential developments which contain rental units must comply with the provisions ol"this section that apply to rental projects.

3) Affordable units shall be comparable to the market rate units in the residential development (or off-site location in the case of off-site affordable units) in terms of unit type, number of bedrooms per unit (except as provided in subsection (X)(2)), quality of exterior appearance, energy efficiency, and overall quality of construction; provided, however, with the Commissioner's approval, in a residential 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 residential development (or off-site location in the case of off-site affordable units) which contains attached multi-story dwelling units, affordable units may contain only one story. Affordable units' may also be smaller in aggregate size than the market-rate units, as specified in the rules.

4) Affordable units may have different interior finishes and features than market-rate units in the residential development (or off-site location in the case of off-site affordable units), as long as they arc 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 development (or off-site location in the case of off-site affordable units).

6) Affordable units shall have functionally equivalent parking when parking is provided to the market rate units in the residential 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 residential 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 residential development. The Commissioner may approve an alternative

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timing plan if the Commissioner determines, in the Commissioner's 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 specified in the rules.

9) The rules may specify minimum household sizes for affordable units of different bedroom sizes, and may require thai prospective purchasers complete home buyer education training or fulfill other requirements.

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(10) All on-site alTordable units must be accessible dwelling units, as that term is defined in Section 17-17-0202. The developer shall give preference in leasing or selling such units to people with disabilities as specified in the rules.

(X) Additional standards for off-site affordable units. With the Commissioner's approval and in accordance with subsections (G) and (M), a developer of a residential 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:

1) The developer may either build new affordable units, or purchase and convert existing market-rate units to affordable units. In either case, the construction or acquisition and rehabilitation budget for the off-site affordable units must equal or exceed the in lieu fee that would otherwise be due pursuant to subsection (F). In the case of rehabilitation projects, the developer must submit a physical needs assessments for the off-site units to the Department to ensure the budget is sufficient to rehabilitate the units.

2) Off-site alTordable 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 (W)(l) or (W)(10); (b) each off-site unit must contain at least two bedrooms, and (c) all off-site affordable units for a residential development must receive certificates of occupancy prior to issuance of the first certificate of occupancy for the market-rate units in the residential development, unless the Commissioner, in the Commissioner's sole discretion, permits the developer to contribute funds to an affordable housing project in an approved off-site location to fill a gap in financing, in which event the developer may deposit the off-site funds in escrow, subject to an escrow agreement with the affordable housing project developer in form and substance acceptable to the City. The off-site funds must equal or exceed the in lieu fee that would otherwise be due pursuant to subsection (F). Upon depositing the off-site funds in escrow, the developer shall be deemed to have satisfied its off-site unit obligation.

3) 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 (I).

(Y) Supplemental incentives for on-site affordable units in transit-served locations. Residential developments in transit-served locations, as defined in Section 17-10-0102-B, that qualify for and are granted the floor area premiums set forth in Section 17-3-0403-B (for projects in B clash 3 and C dash 3 districts) or Section 17-4-0405-C (for projects in D dash 3 districts) or the building height increases set forth in Section 17-3-0408-B.l (for projects in B dash 3 and C dash 3 districts), and that provide at least 50% of the required affordable units on-site, arc eligible for supplemental incentives

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under Section 17-3-0403-C (additional FAR increase in B dash 3 and C dash 3 districts), Section 17-3-0408-B.2 (additional building height increase in B dash 3 and C dash 3 districts), and Section 17-4-0405-D (additional FAR increase in D dash 3 districts).

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

(AA) Conflict. If the provisions of this section are inconsistent with one another, the more restrictive provision will control. The more restrictive provision is the one that imposes greater affordability on development as determined by the Commissioner.

SECTION 4. Section 2-44-090 of the Municipal Code of Chicago is hereby amended by inserting the underscored language and deleting the struck-through language, as follows:

2-44-090 Near north/near west affordable housing pilot area.

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

(Omitted text is unaffected by this ordinance.)

(K) ~~Expiration~~ Limited Continuing Application. This section ~~shall expire and bo~~ fepealed-ol-its-ew^-a~~ccord, wi thout f~~urt-her-ast-io~~n by the C~~ity Co~~imeily^M-T-~~June 30, 2021~~ shall apply to any residential housing project in the Near North/Near West Pilot Area for which the City Council has passed an ordinance approving a rezoning, City land sale, or financial assistance, as described in Section 2-44-080(C), prior to October 1, 2021.

SECTION 5. Section 2-44-100 of the Municipal Code of Chicago is hereby amended by inserting the underscored language and deleting the struck-through language, as follows:

2-44-100 Milwaukee corridor affordable housing pilot area.

(A) Title. This section shall be known and cited as the "Milwaukee Corridor ARO Pilot Area Ordinance".

(Omitted text is unaffected by this ordinance.)

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(K) ~~h'xpira/ion~~ Urnitcd Continuing Application. T his section s~~ha~~ll ~~oxpiro and bo repealed of its owivaeeerd, without furthoractien by the City Council, on June 30~~, ~~202~~1- shall apply to any residential housing project in the Milwaukee Corridor Pilot Area lor which the City Council has passed an ordinance approving a rezoning. City land sale, or financial assistance, as described in Section 2-44-080(0, prior to October 1, 2021.

SECTION 6. Section I 7-3-0400 of the Municipal Code of Chicago is hereby amended by inserting the underscored language and deleting the struck-through language, as follows:

(Omitted text is unaffected by this ordinance.)

17-3-0403-C Additional FAR Increase for On-Site Affordable Housing Units in Transit-Served Locations. All projects in B dash 3 and C dash 3 districts subject toSeer-2-45-4-1-5-Sec. 2-44-080 or 2-44-085 that qualify for and are granted a floor area ratio increase of 0.5 under Sec. 17-3-0403-B above are eligible for addit ional floor area ratio increases as follows: (1) projects that provide at least 50% of the required affordable units on-site may increase the maximum floor area ratio standard by an additional 0.25 to 3.75, and (2) projects that provide 100% of the required affordable units on-site may increase the maximum floor area ratio standard by an additional 0.5 to 4.0. These floor area ratio increases are allowed only if the project is reviewed and approved in accordance with the Type I Zoning Map Amendment procedures of Sec. 17-13-0302, or the planned development procedures of Sec. 17-13-0600 (if the project qualifies as a mandatory or elective planned development under Sections 17-8-0500 or 17-8-0600).

SECTION 7. Section 17-4-0400 of the Municipal Code of Chicago is hereby amended by inserting the underscored language and deleting the struck-through language, as follows:

(Omitted text is unaffected by this ordinance.)

17-4-0405-D Additional FAR Increase for On-Site Affordable Housing Units in Transit-Served Locations. All projects in D dash 3 districts subject to See--2-4-g-14-g--Scc. 2-44-080 or 2-44-085 that qualify (brand are granted a floor area ratio increase of 0.5 under Sec. 17-4-0405-C above are eligible for additional floor area ratio increases as follows: (1) projects that provide at least 50% of the required affordable units on-site, may increase the maximum floor area ratio standard by an additional 0.25 to 3.75, and (2) projects that provide 100% of the required affordable units on-site may increase the maximum floor area ratio standard by an additional 0.5 to 4.0. These floor area ratio increases are allowed only if the project is reviewed and approved in accordance with the Type I Zoning Map Amendment procedures of Sec. 17-13-0302, or the planned development procedures of Sec. 17-13-0600 (if the project qualifies as a mandatory or elective planned development under Sections 17-8-0500 or 17-8-0600). Projects that receive a floor area increase under this section are not eligible for additional bonus floor area under Sec. 17-4-1000, nor shall a floor area increase under this section be credited against bonus floor area under Section 17-4-1000.

SECTION S. Within one year from the passage and approval of this ordinance, the Department shall develop policies and procedures to ensure a fair and transparent rental and

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sale process, including but not limited to: creation of an affirmative marketing plan; a tenant or home buyer selection plan that outlines applicant qualification criteria and procedures and waiting list protocols; and a management plan that describes processes for filling vacancies and maintaining the habitability of affordable dwelling units. The Department shall include a public comment period of no less than 30 days as part of the development of these policies anil

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procedures.

SECTION 9. Beginning in June 2022, the Department shall report to the Committee on Housing and Real Estate the demographics of ARO tenants on an annual basis.

SECTION 10. If any section, paragraph or provision of this ordinance shall beheld invalid by any court, that invalidity shall not affect the remaining provisions of this ordinance.

SECTION 11. Following passage and approval, this ordinance shall be in full force and effect on October 1, 2021.

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