Amended Affordable Requirements Ordinance Frequently Asked Questions

What is the Amended Affordable Requirements Ordinance?

It is a proposed ordinance designed to strengthen the existing Affordable Requirements Ordinance (ARO). Crafted by a diverse mayoral Task Force, it passed out of a joint City Council committee (Housing and Real Estate; and Zoning) in January. A vote by the full Council to approve the amendments was deferred until March.

What does the existing ARO do?

The ARO requires market-rate residential projects with 10 or more units to set-aside 10% as affordable. This only applies to developers who seek a public benefit (i.e. a zoning change, City land, financial assistance, or are in a downtown planned development). The set-aside goes up to 20% if the City grants financial assistance. Currently, developers may opt-out of producing affordable units by paying an in-lieu fee of $100,000 per unit. The City divides this between two funds that support affordable and low-income housing. The fee is the same in every neighborhood, regardless of the local market.

Why does the existing ARO need enhancement?

Currently, the ARO allows 100% opt-out. Developers routinely pay the in-lieu fee rather than develop affordable units. This means the fee is too low for neighborhoods with robust development. It also means that few affordable units have actually been produced. Strengthening and targeting the ARO will produce new affordable units, generate funds for the production of new affordable units, and incentivize balanced development in all neighborhoods.

What are some key enhancements of the amended ARO?

The amended ARO:

Recognizes Distinct Development Environments in Different Neighborhoods. The ordinance designates three zones throughout the city with different housing markets and priorities: 1) downtown; 2) higher-income areas; and 3) low- to moderate-income areas.

Adjusts In-Lieu Fees to Better Fit Neighborhoods. Downtown developers will pay $175,000 for each affordable unit that they opt-out of building. Developers in higher-income areas will pay $125,000. Developers in low- to moderate-income areas will pay $50,000.

Requires Development of Actual Units. Market-rate developers will no longer be able to simply pay fees and avoid producing affordable units. They must build, buy or rehab at least X of the required affordable units. Developers of rentals in higher-income areas and downtown, and of "for sale" projects in higher-income areas, must produce these affordable units either on-site or within two miles of the subject property and within the same zone.

Leverages Downtown For-Safe Projects. Developers of "for sale" residential units downtown must also produce at least 25% of the required affordable units, although they may do so in any neighborhood. Such developers may only opt-out of actually developing the required units by paying a $225,000 in -lieu fee per unit.

Closes the Downtown Density Loophole. Presently, downtown developers have the option to honor the *lesser* of the ARO or Density Bonus obligation. This has cost the City $20 million in funding for affordable housing over the last six years. The amended ARO requires downtown developers to meet the greater of their ARO or Density Bonus obligations.

Provides a Density Bonus for Affordable Units Near Transit. Projects in a Transit Served Location (via the TOD ordinance) could provide 50% of required affordable units on-site in exchange for additional density and reduced parking requirements.

Incentivizes Developers to Work with the CHA. The Chicago Housing Authority (CHA) or other authorized agencies could purchase or lease ARO units; in exchange, developers would pay a reduced in-lieu fee for remaining unit obligations.

Increases Funding to Increase Low Income Housing Stock. The Chicago Low Income Housing Trust Fund would receive 50% of in-lieu fees collected via the Affordable Housing Opportunity Fund (AHOF), up from 40%.

Increases Funding for Affordable Housing. The remaining 50% of in-lieu fees will go into the AHOF, which in turn will be used to help finance affordable housing development in Chicago.

Will the amended ARO fuel real estate speculation in low- or moderate-income neighborhoods or accelerate gentrification?

No. The lower in-lieu fee in low- to moderate-income zones will jumpstart development that will also produce affordable units in the communities that need it most. The required production of units either on-site or within two miles protects against gentrification by guaranteeing that market-rate projects also produce nearby affordable units. The Voorhees Center at UIC has added inclusionary zoning such as the ARO to its tool kit for communities fighting gentrification.

Will the amended ARO slow development or cost jobs?

No. Market-rate developers often claim that any new regulation will slow development and cost jobs. That is what they said during the battle to pass the original ARO. Since then Chicago saw phenomenal growth in higher-priced residential development. Any slowdown after 2008 was related to the recession and to factors in the U.S. housing market and not to the ARO. Additionally, the ARO Advisory Task Force staff conducted a modeling exercise to determine a revised fee structure that would have a manageable impact on development. History has shown that the market will adjust and development will continue.