

## **ORDINANCE**

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

**SECTION 1.** Section 2-44-090 of the Municipal Code is hereby amended by adding the language underscored and by deleting the language struck through, as follows:

**2-44-090 Affordable housing commitment.**

(a) For purposes of this section:

"Affordable housing" means (1) with respect to rental housing, housing that is affordable to households earning up to 60 percent of the Chicago Primary Metropolitan Statistical Area median income and (2) with respect to owner occupied housing, housing that is affordable to households earning up to 100 percent of the Chicago Primary Metropolitan Statistical Area median income.

"The Chicago Community Land Trust" or "CLT" 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, and having as its primary mission the preservation of long-term affordability of housing units.

“Commissioner” means the Commissioner of Housing.

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

“Developer” means any person who develops housing units, but does not include a lender or any governmental entity.

“Development” or “develop” means the construction or substantial rehabilitation of housing units or the conversion of any building into residential condominiums.

“Eligibility criteria” means (1) with respect to rental housing, at the time of the first rental by that household, a household earning up to 60 percent of the Chicago Primary Metropolitan Statistical Area median income and (2) with respect to owner occupied housing, at the time of the purchase of the unit, a household earning up to 100 percent of the Chicago Primary Metropolitan Statistical Area median income.

“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 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 unit; provided that a "housing unit" does not include dormitories or hotels as ~~that term is~~ those terms are defined in Section 13-4-010 of the Code.

“Initial sale” means the first sale of an affordable housing unit by a developer.

“Planned development” has the same meaning as ascribed that term in section 17-17-02120 of the Zoning Code.

“Residential housing project” or “project” means one or more buildings that contain ten or more housing units on one or more tax parcels or lots marketed as a single or unified project or sharing common elements, or comprising a part of a planned development.

“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 for the project must be \$25,000.00 or more per housing unit.

“T.I.F. Guidelines” means those guidelines established pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, et seq. ("T.I.F. Act"), and adopted by the City Council in "An Ordinance Adopting Guidelines for Use of Tax

Increment Financing Revenues for Construction of Affordable Housing" passed on July 31, 2002, and published at pages 90838 -- 90859 of the Journal of the Proceedings of the City Council of the City of Chicago of that date.

“Trust Fund” means the Chicago Low-Income Housing Trust Fund, a not-for-profit organization.

(b) (1) Whenever the city: (i) approves the rezoning of one or more lots to permit a higher floor area ratio than would otherwise be permitted in the base district for the purpose of developing a residential housing project; (ii) approves the rezoning of one or more lots from a zoning district that does not allow household living uses to a zoning district that does allow household living uses for the purpose of developing a residential housing project; or (iii) sells real property to any developer for the purpose of the development of a residential housing project ~~ten or more housing units, and the sale price is less than the fair market value of the property,~~ the developer shall be required to establish at least ten percent of the housing units as affordable housing or the equivalent as provided in subsection (d); provided however, that if a developer also receives financial assistance, the developer instead shall comply with the requirements of subsection (c) of this section.

The provisions of this subsection shall not apply to any residential housing project located on property that was rezoned and thereby converted to a nonconforming use, if

the city approves a change in zoning solely for the purpose of restoring the residential housing project to a conforming use.

(2) In every planned development in which a residential housing project will be developed, the developer shall be required to establish at least ten percent of the housing units as affordable housing or the equivalent as provided in subsection (d); provided however, if a developer also receives financial assistance, the developer instead shall comply with the requirements of subsection (c) of this section.

Every planned development that meets the eligibility requirements of section 17-4-1004-B of the Zoning Code in which a residential housing project will be developed shall be subject to the requirements of this section unless the developer meets his or her affordable housing requirements by complying with the affordable housing floor area bonus provided for in that section.

The provisions of this subsection shall not apply to any planned development for which: (i) a planned development agreement or other agreement was specifically authorized by the City Council prior to effective date of this 2006 amendatory ordinance; or

(ii) an amendment to a planned development agreement or other agreement is specifically authorized by City Council after the effective date of this 2006 amendatory ordinance; provided however if such

amendment authorizes the addition of floor area for the development of 10  
or more housing units, the planned development shall be subject to the  
provisions of this subsection.

(c) Whenever financial assistance is provided to any developer in connection with the development of a residential housing project ~~ten or more housing units~~, the developer shall be required to establish at least 20 percent of the housing units as affordable housing or the equivalent as provided in subsection (d).

(d) A developer subject to the provisions of subsections (b) or (c), who ~~receives financial assistance, or acquires city property for less than fair market value~~ may establish affordable housing by one or more of the following: (1) the ~~development~~ creation of affordable housing units as part of the ~~development~~ residential housing project; (2) payment of a fee in lieu of the ~~development~~ creation of affordable housing units; or (3) any combination thereof. The amount of the fees described in clause (2) shall be \$100,000.00 for each affordable housing unit not ~~developed~~ created as part of the ~~development~~ residential housing project, 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 his reasonable discretion if this index no longer exists. Such fees shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law.

(e) A separate fund is hereby established designated the Affordable Housing Opportunity Fund which shall be supported by the fees collected under this section. The revenues of the Affordable Housing Opportunity Fund shall be disbursed as follows:

(1) Sixty percent of the annual revenues deposited into the fund shall be used for the construction or rehabilitation of affordable housing and subject to appropriation by the city council; and

(2) Forty percent of the annual revenues deposited into the fund shall be contributed to the Trust Fund of which one-half of the forty 20 percent shall be restricted solely for the purpose of deposit into the Trust Fund's corpus, and the remaining one-half of the forty 20 percent shall be used for the Trust Fund's Affordable Rents for Chicago program, or similar successor program.

(f) The affordable housing units required by this ordinance shall continue to be affordable housing for a period of 30 years after the time of the issuance of the certificate of occupancy (or after the first day of the initial lease if no such certificate is issued) in the case of rental housing or after the closing of the initial sale in the case of owner-occupied housing, unless:

(1) The property is foreclosed upon or condemned; ~~or~~

(2) The seller of an affordable housing unit has sold the unit to a household that does not meet the eligibility criteria and has paid the recapture fees required by subsection (i) of this section; or

(3) The affordable housing unit is placed in or administered by the Chicago Community Land Trust, in which case the requirements of subsection (j) of this section shall apply.

(g) Except as provided in ~~subsection~~ subsections (i) and (j) of this section, the rental or sale of an individual affordable housing unit required under this section shall be made only to a household meeting the eligibility criteria.

(h) With respect to developments assisted by the city with tax increment revenues ("T.I.F. Funds") in redevelopment project areas established pursuant to the T.I.F. Act, to the extent that the requirements of subsections (b), (c), (d), ~~and (f)~~ and (j) of this section conflict with the T.I.F. Guidelines, the T.I.F. Guidelines shall prevail.

To the extent that redevelopment plans approved pursuant to the T.I.F. Act provide that developers who receive T.I.F. Funds for market rate housing set aside 20 percent of the units to meet "affordability criteria established by the Department of Housing," the requirements of subsections (b), (c), (d), ~~and (f)~~ and (j) of this section shall be deemed to be the "affordability criteria established by the Department of Housing" and shall supersede all others.



(i) Except as provided in subsection (j) of this section, the ~~The~~ commissioner shall record a lien with respect to each affordable housing unit to recapture the following amounts:

(1) Upon the initial sale of any housing unit required to be affordable housing under this section at a price that renders the housing unit not affordable housing, or to a household that does not meet the eligibility criteria, the developer shall pay an amount equal to the payment of fees in lieu of creating the affordable housing unit as provided in subsection (d)(2) of this section;

(2) Upon the resale or transfer of any housing unit required to be affordable under this section at a price that renders the housing unit not affordable housing, or to a household that does not meet the eligibility criteria, the seller or transferor shall pay an amount equal to the difference, at the time of the initial sale, between the affordable housing unit's market value and its affordable housing price plus three percent per year interest from the date of the initial sale on that difference;

(3) Upon the rental of any housing unit required to be affordable under this section at a rental price that renders the housing unit not affordable housing, 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; provided that prior to the assessment of the penalty, the owner shall have 90 days, after written notice from the commissioner, to cure the noncompliance. If after 90 days the owner fails to cure the noncompliance, the fees shall be assessed from the first day of noncompliance. The 90-day time period to cure the noncompliance may be extended by the commissioner for good cause.

The fees collected under this subsection shall be deposited into the Affordable Housing Opportunity Fund, unless required to be deposited into another fund pursuant to federal or state law.

(j) Subject to approval of the Department of Housing, affordable housing units required to be developed pursuant to this section may be placed in or administered by the CLT. The initial rental or sale of such affordable housing units shall be subject to the income eligibility and price restrictions set forth in this section, but the resale or transfer of such affordable housing units shall be governed by the terms of a restrictive covenant, long-term ground lease, or similar instrument, designed to balance the competing goals of long-term affordability and providing a fair return on the homeowner's investment.

**SECTION 2.** Title 17 of the Municipal Code of Chicago is hereby amended by deleting section 17-4-1004 D, by adding new sections 17-4-1004 F, 17-13-302-D and 17-

13-0613, by adding the language underscored, and by deleting the language struck through, as follows:

**17-4-1004-E Standards**

Buildings that meet the eligibility criteria of section 17-4-1004-B and that provide affordable housing or contribute to the city’s Affordable Housing Opportunity Fund are eligible for floor area bonuses provided they comply with the following standards. ~~These standards also apply to projects that are subject to 17-4-1004-D.~~

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2. Relationship to Mandatory Affordable Housing Standards

Projects that are required to provide affordable housing by other city ordinances are ~~not~~ eligible for affordable housing floor area bonuses; provided that any payment of fees in lieu or the creation of on-site affordable housing units required by such city ordinance shall not count as payment of fees in lieu or the creation of on-site affordable housing units for purposes of the affordable housing area bonus.

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5. Term

The minimum guaranteed term for continued affordability of affordable housing units must be no less than 30 years. Subject to approval of the Department of Housing, the affordable housing units may be placed in or administered by the CLT, as that term is defined in section 2-44-090. The initial rental or sale of such affordable housing units shall be subject to the income eligibility and price restrictions set forth in this section, but the resale or transfer of such affordable housing units shall be governed by the terms of a restrictive covenant, long-term ground lease, or similar instrument, designed to balance the competing goals of long-term affordability and providing a fair return on the homeowner's investment.

#### 6. Timing of Cash Payments and Financial Guarantees

*Property owners* that are subject to the affordable housing standards of this section must pay the required cash contribution or provide a performance bond or other security ensuring construction of the affordable housing units before the issuance of building permits for the construction of the subject buildings. Such bond or security must be:

(a) in an amount equal to the cash contribution required under 17-4-1004-C2 or ~~Sec. 17-4-1004-D2~~, whichever is applicable; and

(b) released when the premises have been inspected and the Zoning Administrator has certified that the affordable housing units have been constructed.

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**17-4-1004 F Affordable Housing Requirement**

Every residential housing project, as that term is defined in section 2-44-090, in a “D” district shall comply with the provisions of section 2-44-090, if applicable.

Every planned development that meets the eligibility requirements of section 17-4-1004-B of the Zoning Code in which a residential housing project will be developed shall be subject to the requirements of section 2-44-090, if applicable, unless the developer meets his or her affordable housing requirements by complying with the affordable housing floor area bonus provided for in section 17-4-1004-B.

**17-13-302-D Affordable Housing Requirement**

Property that is rezoned to a zoning classification that allows a higher base floor area ratio and is subsequently developed with a residential housing project, as that term is defined in section 2-44-090, shall comply with the affordable housing provisions of section 2-44-090, if applicable.

Property that is rezoned to a zoning classification that allows a higher base floor area ratio but which is developed solely for nonresidential use will not be required to comply with section 2-44-090.

### **17-13-0613 Affordable Housing Requirement**

Every planned development in which a residential housing project will be developed, as those terms are defined in section 2-44-090, shall comply with the affordable housing provisions of section 2-44-090, if applicable; provided that every planned development that meets the eligibility requirements of section 17-4-1004-B of the Zoning Code on which a residential housing project will be developed shall be subject to the requirements of section 2-44-090, if applicable, unless the developer meets his or her affordable housing requirements by complying with the affordable housing floor area bonus provided for in section 17-4-1004-B.

**SECTION 3.** Severability. If any provision of this ordinance is held invalid, such provision shall be deemed excised from this ordinance and the invalidity thereof shall not affect any of the other provisions of this ordinance. If the application of any provision of this ordinance to any person or circumstance is held invalid, it shall not affect the application of such provision to other persons or circumstances.

**SECTION 4.** This ordinance shall be in force and effect upon passage and approval but shall not apply to: (1) any residential housing project for which a building permit has been applied for prior to that date; or (2) any residential housing project

developed on land acquired by the developer within 2 years prior to the passage and approval of this ordinance.