

MEMORANDUM



VILLAGE OF DEERFIELD

TO: Plan Commission
FROM: Jeff Ryckaert, Principal Planner and Dan Nakahara, Planner
DATE: September 3, 2020
RE: Affordable Housing Inclusionary Ordinance

Background

At their July 20, 2020 Board of Trustees meeting, the Board discussed the issue of affordable housing again and referred the matter to the Plan Commission. The Village Board voted in favor of moving forward with an inclusionary zoning ordinance to advance the Village Board policy intentions from the January 27, 2020 Committee of the Whole (COW). At the January 27, 2020 COW meeting, the Board discussed the possibility of an inclusionary affordable housing ordinance that would mandate affordable housing units to be provided in new developments over a particular size. At that time, the Board directed staff to prepare a report discussing the appropriate scale for when an affordable housing unit would be triggered and the related policy tools and implications (the January 27, 2020 Board of Trustees' COW minutes are attached.)

Process and Policy Considerations

The Board is sending the framework for an inclusionary ordinance to the Plan Commission to discuss and make a recommendation to the Board. The first step for the Plan Commission is to discuss this matter in a pre-filing conference/workshop meeting and for staff to obtain input and direction prior to the Plan Commission public hearing on this matter.

This memo outlines the following 3 items below:

1. An attached staff report from Assistant Village Manager/Director of Community Development dated July 13, 2020 that captures the intent of the Board regarding affordable housing, as discussed on previous occasions. The basic framework for an inclusionary zoning ordinance is discussed in this staff report. The Plan Commission is being asked to review

the framework for an inclusionary ordinance so that the Plan Commission can discuss the matter and send a recommendation back to the Board for the appropriate text amendments to the Zoning Ordinance to address the issue of affordable housing. This memo, dated September 3, 2020, details the feedback from the Board's July 20, 2020 Board meeting (see below). The Board's July 20, 2020 meeting minutes are also attached.

Reaction of the Board (at the July 20, 2020 Board meeting) to the July 13, 2020 Staff Report Outlining Possible Actions on Affordable Housing:

Area Median Income and Scale

The majority of the Board expressed a favorable view of moving forward with an affordable housing ordinance. The Board was in favor of the sliding scale as outlined in the staff report. They were also in favor of using the 120% AMI, or less, of the Chicago region. The 120% AMI number was what was negotiated with REVA last year, and it gets a reasonable requirement on the books for an inclusionary affordable housing ordinance without stifling housing development in the Village. The 120% AMI is used as a starting point and could be adjusted later, if needed.

Eligibility

With respect to who is eligible for affordable housing, the Board is in favor of giving some type of priority to those people that already live and or work in the Village. However, they did not believe that public sector employees, particularly Village employees, should receive a special preference over other private sector workers. The Board was of the opinion that everyone should be eligible for affordable housing who works in the community. For example, employees already working service industry jobs in the Village, such as at hotels, grocery stores or restaurants would be ideal candidates for affordable housing units in Deerfield. The Plan Commission should consider having a discussion with regards to eligibility for affordable housing they would like to see be part of the ordinance.

Incentives

No one on the Board of Trustees was in favor of a developer paying a fee in lieu of affordable housing that goes into an affordable housing fund. The Board felt this defeats the purpose of an affordable housing ordinance and this

fund would require a staff person to administer the funds. Also, Village oversight is needed through a housing commission to spend, manage, and select affordable housing projects to spend funds on.

The Board was in favor of fee waivers, expedited permits, and parking relief (parking relief for transit oriented development) for affordable housing, but also recognized that, while valuable, these are not the most compelling incentives to a developer.

The Board also had some appetite for the possibility of a density bonus for affordable housing. A density bonus results in an increase of housing units on a property. A density bonus compensates a developer for lost revenue associated with producing affordable units. The basic rule of thumb for a density bonus is 1 additional market rate unit is needed for every affordable unit that is provided. This is commonly recognized to be a highly valuable incentive to a developer.

The Plan Commission can also discuss the possibility of a demolition fee for homes that are razed when an older home is making way for a new home on an existing lot. Most of the time the home that is coming down is an affordable smaller home. Some of the adjacent towns have tear down fees that fund affordable housing activities.

For reference purposes, staff is also providing the Highland Park original affordable housing ordinance and the updated 2019 ordinance for background purposes only.

2. The relevant sections of the Deerfield Comprehensive Plan with regards to affordable housing.

Village of Deerfield Comprehensive Plan - Housing

The following section is from the Village's Comprehensive Plan (pages 28 and 29):

3.3 HOUSING

The purpose of this element of Deerfield's Comprehensive Plan is to document the present and future housing needs within the Village of Deerfield, including

affordable and special needs housing. The condition of the local housing stock has been considered in developing the strategies, programs, and other actions to address Deerfield's housing needs, and provide current and future residents with a range of housing options.

AFFORDABLE HOUSING

Given the full development of the Village and the derogation of local land use planning and zoning powers provided by the Affordable Housing Planning and Appeal Act, 310 ILCS 67/1, *et seq.* (the "Act"), it is determined that compliance with the Act is impractical and not in the best interests of the Village; therefore, pursuant to its home rule powers, the Affordable Housing Planning and Appeal Act, 310 ILCS 67/1, *et seq.*, will not apply within the Village of Deerfield and shall be superseded within the Village by the Zoning Ordinance and Comprehensive Plan of the Village of Deerfield.

The Village recognizes the need for affordable housing within the Village and the region in which the Village is located and will give due consideration to those needs and to the opportunity to accommodate new affordable housing options within the Village when opportunities are presented to develop or redevelop significant parcels for residential uses in the Village of Deerfield. The enforcement of federal and state fair housing laws shall be and remain a priority for the Village.

CONTINUED ON NEXT PAGE

Goal: *Maintain the variety of the existing housing stock and supplement it in suitable locations with safe, well-constructed housing of a density*, scale* and character compatible with adjacent housing.*

Objectives	Policies
<p>Help maintain the desirability of Village neighborhoods.</p>	<p>Encourage maintenance of the existing housing stock.</p> <p>Endeavor to increase the variety in the housing stock, so that there will be types and prices of housing to satisfy the needs and preferences of a wider variety of residents, while maintaining the single-family dwelling as the basic form of housing unit in the Village.</p> <p>Protect residential areas from incompatible uses through effective land use controls, proper screening and buffering.</p> <p>Maintain streets, parkway trees, sidewalks, street lighting and other community facilities in good condition.</p> <p>Encourage good architectural and site design, individuality and character in new housing.</p>

* - Term defined in the Glossary.

3. For background purposes, the past discussions on affordable housing can be found on the Village's website at: www.deerfield.il.us → Government → Departments → Community Development → Planning Division → Development Review → Workforce Housing. [Click here for a direct link.](#)

Some of the discussions the Village had in the past has focused on workforce housing. For our purposes, workforce housing has been defined as affordable housing for middle-income people who will fill jobs in fields as diverse as teaching, law enforcement and health care, especially at entry-level salaries. Workforce housing helps people live near their workplaces so they enjoy reduced commuting times and transportation costs. Workforce housing may help local employers attract and retain the people who maintain the health of the business sector, keep the community safe, and who teach at local schools. Providing adequate affordable housing for people so they do not have to expend huge portions of their income on housing, or spend hours commuting to their jobs is a challenge facing many communities across the United States.

Depending on the income limits set for affordable housing (i.e. 120% AMI) the terms workforce housing and affordable housing may be used interchangeable for our discussion purposes.

Assistant Village Manager/Director of Community Development, Andrew Lichterman, author of the July 13, 2020 Affordable Housing staff memo sent to the Village Board will be present at the September 10, 2020 Plan Commission meeting to given an overview of his memo, Village Board feedback to the July 13, 2020 staff memo, and answer questions from the Commission.

Committee of the Whole Meeting Minutes - January 27, 2020

C.O.W; January 27, 2020

~~annual basis when creating the upcoming year's budget. Mayor Rosenthal stated that the Board would not pursue strategic planning at this time but requested that this matter be revisited during budget planning.~~

Affordable Housing Discussion

Mr. Lichterman outlined the memo and highlighted the new affordable housing figures from the State. Trustee Jester noted that the Village is at 8 percent affordable housing. Mayor Rosenthal noted that some of the increase could be due to a depressed real estate market. Trustee Struthers commented that the Village is very close to the State's recommendation for 10 percent affordable housing.

Mayor Rosenthal noted that the focus should be on determining whether the Board finds it necessary to further regulate affordable housing. Trustee Shapiro stated that the Village must separately define affordable housing. Trustee Oppenheim asked if the Village should legislate inclusionary zoning, in which new developments are required to commit a certain number of units to affordable housing. She stated that it is the Village's moral and ethical obligation to pass an ordinance. Trustee Jester disagreed, noting that there are not likely to be additional multi-unit developments built due to the restricted amount of buildable land in the Village. He noted that it would be a waste of money to pay our attorney to write an ordinance that will not likely be utilized.

Trustee Shapiro stated that having an ordinance in place clearly provides developers with all the information and rules from the start, allowing them to better plan. Trustee Struthers stated that she would have liked to see affordable housing on Samantha's Way and Elysian Way and would like these types of developments to consider including affordable housing going forward. Trustee Seiden noted that as a home rule community, the Village is not required to provide affordable housing. He believes that requiring affordable housing is using taxpayer dollars for charity. Mayor Rosenthal commented that the Village should look at size and scale in order to determine the parameters that would best suit Deerfield. Trustee Jester agreed that the starting point should be looking at the scale. There was a consensus for staff to prepare a report discussing the appropriate scale for when an affordable housing requirement would be required.

Adjournment

~~There being no further business or discussion, Trustee Benton moved to adjourn the meeting. Trustee Shapiro seconded the motion. The motion passed unanimously on a voice vote. The meeting was adjourned at 7:10 p.m.~~

~~Respectfully submitted,
Mary Glowacz
Administrative Intern~~

REQUEST FOR BOARD ACTION

20-79

Agenda Item: _____

Subject: Consideration and Action on Report and Recommendation of Staff re: Affordable Housing

Acceptance

Action Requested: _____

Community Development

Originated By: _____

Mayor and Village Board of Trustees

Referred To: _____

Summary of Background and Reason for Request

At the January 27, 2020, Committee of the Whole meeting the Village Board directed staff to prepare a report discussing the appropriate scale for when an affordable housing requirement would be triggered and the related policy tools and implications.

Staff is recommending the framework for an inclusionary zoning ordinance as a direct method to advance the Village Board's policy intentions.

Specifically, staff is recommending that affordable units be defined as those units, which are made available for sale or for rent that are available to households with incomes that do not exceed 120% of the AMI and at mortgage or rental rates that do not exceed 30% of those households' gross annual household income.

Staff is proposing a sliding scale to determine the number of affordable units that must be included in future developments, with a requirement of 10% affordability for developments over 51 units.

Should the Board desire to move forward with an inclusionary zoning program, the Board's recommendation would then be forwarded to the Plan Commission for review.

Reports and Documents Attached:

Staff Memo – Dated July 13, 2020

Density List

July 20, 2020

Date Referred to Board: _____

Action Taken: _____

Memorandum



DATE: July 13, 2020
TO: Kent Street, Village Manager
FROM: Andrew Lichterman, Asst. Village Manager / Dir. of Community Development
SUBJECT: **Affordable Housing**

Purpose

On many occasions, the Village Board discussed affordable housing and debated whether to amend the Village's Comprehensive Plan and establish criteria for an inclusionary zoning ordinance that would mandate affordable housing units to be incorporated into developments over a particular size. Most recently, during the January 27, 2020, Committee of the Whole meeting the Village Board directed staff to prepare a report discussing the appropriate scale for when such an affordable housing requirement would be triggered and the related policy tools and implications. Following a delay caused by COVID-19, this memo offers an outline for an inclusionary zoning ordinance that attempts to capture the most recent discussions of the Village Board.

Inclusionary Zoning Objectives

According to the booklet entitled, *Affordable Housing Toolkit for Communities in the Chicago Region*, produced by Business and Professional People for the Public Interest (BPI), an inclusionary zoning program will:

- Increase the supply of affordable housing in municipalities;
- Disperse the affordable units throughout the community;
- Allow low- and moderate-income families to live in homes indistinguishable from and adjacent to, market-rate housing;
- Allow low- and moderate-income families to live in communities with better access to employment and educational opportunities; and
- Encourage racial and economic integration of our communities,

Staff concurs with the findings of BPI noted above and recommends that the Village Board consider an inclusionary zoning ordinance as a direct method to advance the Village Board's policy intentions.

Scale

In response to the Village Board's directive, staff is recommending the following sliding scale to set the number of affordable units required for residential developments:

Total # of Units to be Constructed*	Minimum Required # of Affordable Units
1-10 units	No requirement, but encouraged and incentivized
11-20 units	1 unit required to be affordable
21-50 units	5% of units required as affordable
51 units or more	10% of units required as affordable

Examples of past developments including their size, scale and density are enclosed with this report.

Affordability Baseline

Staff recognizes that both home ownership and rental rates for occupancy by households with a gross income that is less than 120% of AMI is often a significant reduction from true market value. And while defining “affordable unit” as 120% of AMI may have a meaningful impact towards advancing policy goals, such as those listed at the beginning of this memo, it may not satisfy other non-binding State housing directives, such as the Illinois Affordable Housing Planning and Appeal Act (AHPAA) (310 ILCS 67/).¹

AHPAA (“the Act”) defines “Affordable housing” as:

housing that has a value or cost or rental amount that is within the means of a household that may occupy moderate-income or low-income housing. In the case of owner-occupied dwelling units, housing that is affordable means housing in which mortgage, amortization, taxes, insurance and condominium or association fees, if any, constitute no more than 30% of gross annual household income for a household of the size that may occupy the unit. In the case of dwelling units for rent, the housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.

310 ILCS 67/15.

Moreover, the Illinois House Development Authority (IHDA) is charged with determining which local governments have satisfied the requirements of the Act. IHDA makes the determination by:

- (i) Totaling the number of owner-occupied housing units in the Village that are affordable to households with a gross household income that is less than 80% AMI;
- (ii) Totaling the number of rental units in the Village that are affordable to households with a gross household income that is less than 60% AMI;
- (iii) Adding the number of owner-occupied and rental units in the Village from items (i) and (ii); and
- (iv) Dividing the sum of (iii) above by the total number of year-round housing units in the Village (according in the latest U.S. Census) and reflecting that sum as a percentage of affordable housing units in the Village.

Therefore, IDHA reports do not include owner-occupied housing units in excess of 80% AMI or rental units in excess of 60% AMI.

The following is a summary of IDHA’s most recent reporting related to the Village of Deerfield’s affordability.

¹ The Village is exempt from the AHPAA because it is a home rule municipality.

Village of Deerfield

AHPAA (IDHA) Reporting Year	Population	Year Round Units	Total Affordable Units	Affordable Housing Share
2013	18,458	6,445	259	4.0%
2018	18,686	6,648	486	7.3%

If the AHPAA applied to Deerfield, the Village would be required to have a minimum of 10% affordable housing or otherwise be subject to various requirements of the AHPAA

Recommendation: Area Median Income

The Village also needs to define what constitutes an “affordable unit” so that it accomplishes the Board’s policy objectives and provides clarity to developers.

Recall that the Village Board recently negotiated with REVA to include 10% of the apartments in a 180 unit rental community to be offered to households whose annual incomes do not exceed 120 percent of the Chicago-Joliet-Naperville, IL HUD Metro FMR Area Median Income, as established and defined in the annual schedule published by the U.S. Department of Housing and Urban Development, and adjusted for household size (AMI). The Board placed a restrictive covenant on the land enforcing the affordability for a period of 25 years.

Consistent with the Village Board’s recent determination, staff is recommending that “affordable unit” be defined as those owner-occupied or rental units be available to households with incomes that do not exceed 120% of the AMI and at mortgage (including taxes and other fees) or rental rates that do not exceed 30% of those households’ gross annual household income, and the rentals be retained in perpetuity with restrictive covenants.

Target Income Levels

120% of AMI equals income no greater than \$109,200 for a household of 4.

2020 Gross Income by Percent Area Median Income (AMI) & Expected Occupancy

	% of AMI	Expected Occupancy (# of people in Household)							
		1	2	3	4	5	6	7	8
Gross Household Income	45%	\$28,665	\$32,760	\$36,855	\$40,950	\$44,235	\$47,520	\$50,805	\$54,090
	50%	\$31,850	\$36,400	\$40,950	\$45,500	\$49,150	\$52,800	\$56,450	\$60,100
	60%	\$38,220	\$43,680	\$49,140	\$54,600	\$58,980	\$63,360	\$67,740	\$72,120
	65%	\$41,405	\$47,320	\$53,235	\$59,150	\$63,895	\$68,640	\$73,385	\$78,130
	80%	\$50,960	\$58,240	\$65,520	\$72,800	\$78,640	\$84,480	\$90,320	\$96,160
	100%	\$63,700	\$72,800	\$81,900	\$91,000	\$98,300	\$105,600	\$112,900	\$120,200
	115%	\$73,255	\$83,720	\$94,185	\$104,650	\$113,045	\$121,440	\$129,835	\$138,230
	120%	\$76,440	\$87,360	\$98,280	\$109,200	\$117,960	\$126,720	\$135,480	\$144,240

Source: Based on U.S. Dept. of Housing and Urban Development FY-2020 Income Limits Documentation System, Chicago-Joliet-Naperville, IL HUD Metro FMR Area

Rent Schedule

Household incomes, as described above, can be converted into maximum allowable rents. Below is an example of the rental pricing schedule used by the City of Highland Park:

City of Highland Park, IL Affordable Unit Pricing Schedule*
Effective July 1, 2020

Unit Type / Bedrooms	Income Tier					
	Lowest (0% to 50% AMI)		Low (51% to 80% AMI)		Moderate (81%-120% AMI)	
	Required Avg.	Max**	Required Avg.	Max**	Required Avg.	Max**
	45% AMI	50% AMI	65% AMI	80% AMI	100% AMI	120% AMI
Efficiency	\$716.63	\$796.25	\$1,035.13	\$1,274.00	\$1,592.50	\$1,911.00
One	\$819.00	\$910.00	\$1,183.00	\$1,456.00	\$1,820.00	\$2,184.00
Two	\$921.38	\$1,023.75	\$1,330.88	\$1,638.00	\$2,047.50	\$2,457.00
Three	\$1,023.75	\$1,137.50	\$1,478.75	\$1,820.00	\$2,275.00	\$2,730.00
Four	\$1,105.88	\$1,228.75	\$1,597.38	\$1,966.00	\$2,457.50	\$2,949.00

Source: City of Highland Park Dept. of Community Development, Planning Division pursuant to Code Sec. 150.2155.

* All rents shown include utilities. If your unit rents do not include utilities the above prices must be adjusted downward – please contact the Div. of Planning for details.

** Not all units can be rented at the Max amount please see Code Sec. 150.2155 and Sec. 150.2175 for important limitations.

Deerfield Rental Market

For comparison purposes, a summary of Deerfield’s rental market over the last six months is included below:

Unit Type	Average Rented Price	# of Properties
1 – Bedroom*	\$1,204	6
2 – Bedroom	\$1,959	16
3 – Bedroom	\$2,839	12
4 – Bedroom	\$4,145	6

*12- months of rental data was used due to the low number of rentals that occurred over a 6-month period.
Source: Multiple Listing Service (MLS)

Assuming a household of 4 would need to rent a 3-bedroom apartment, the average rent price for a 3-bedroom unit is below 120% of AMI but that does not include all utility costs. Often scavenger services and water are included in the base rent but the tenant would still need to pay for gas and electric utilities and most likely internet. When accounting for utility costs the average rent price will likely exceed 120% of AMI.

Owner-Occupied Units

The following methodology was used to determine that the potential purchase price of an affordable unit in the Village at 120% of AMI is equal to \$369,500 for a household of 4.

$\$109,200$ (120% AMI) \times 30% (portion of income affordable for housing) / 12 = $\$2,730$ a month.

The estimated median real estate taxes paid in the Village are \$13,247 or \$1,103.91 a month. This amount was subtracted from \$2,730 to reach the final affordable monthly payment of \$1,226.09. Using the present value calculation typical for determining an affordable sales price in mortgage lending and assuming a 3.875% interest rate, a 30-year loan term and a 10% down payment, an affordable home value in Deerfield was determined to be \$369,500.

According to Midwest Real Estate Data, the median home value across all property types in the Village of Deerfield is \$385,000 as of May, 2020.

Recommendation: Eligibility

Since one common policy objective for instituting affordable housing initiatives is to allow for low- to moderate-income families that work in the community to also live in the community, municipalities often establish eligibility requirements that support this outcome. For instance, staff encourages the Village Board to consider establishing eligibility requirements for the purchase or rental of affordable housing units that gives first priority to families that live and/or work in the Village.

Recommendation: Incentives

In previous Board discussions, there has been little interest expressed for granting developers of affordable units density bonuses or fees in-lieu of affordability. Staff recalls the Board did not favor allowing density bonuses primarily due to added impact it can have on neighboring property owners. Staff also recalls that fees in-lieu of affordability were undesirable because of the added oversight and management that a cash acceptance program places on a housing commission or Village resources.

Alternatively, staff is encouraging the Board to consider other incentives that can be managed in-house such as impact fee waivers, building permit fee waivers, plan review and inspection fee waivers or other similar types of development fee waivers that can be granted for the affordable units that are included in a development. Expedited permit processing for affordable housing developments can also be considered. A combination of fee waivers and an expedited review process can help the developer overcome economic challenges when constructing affordable housing developments that include units below market rent.

Additionally, staff suggests the Board also consider providing parking relief for affordable developments on a case-by-case basis, particularly when the development is located proximate to public transportation and is a transit-oriented-development.

Conclusion

Affordable housing initiatives have been considered by the Village Board on several occasions in recent years. Staff is recommending the framework for an inclusionary zoning ordinance to help achieve key policy objectives. Specifically, staff is recommending that affordable units be defined as those units, which are made available for sale or for rent that are available to households with incomes that do not exceed 120% of the AMI and at mortgage or rental rates that do not exceed 30% of those households' gross annual household income.

Staff is proposing a sliding scale to determine the number of affordable units that must be included in future developments, which is capped at 10% for developments over 51 units.

Income levels have been converted into estimated mortgage and rent payments to help illustrate the monthly expenditures that would be associated with occupying an affordable unit. Restrictive covenants or other types of similar legal mechanisms can be imposed on the development to ensure the units remain affordable in perpetuity.

Qualifying eligibility requirements are also proposed to ensure that families that work in the community can also live in the community, which is often a key policy objective associated with affordable housing initiatives.

Various incentives such as fee waivers and an expedited permit review process are being proposed to help developers overcome economic challenges that can be associated with constructing affordable units below market rate.

Should the Board wish to move forward with an inclusionary zoning ordinance, staff anticipates that a third party housing partner, such as Housing Opportunity Development Corporation (HODC) or Community Partners for Affordable Housing (CPAH) be retained to assist with instituting the program and providing on-going oversight related to income verification for eligible applicants.

Also, in the event the report is accepted, the Board's recommendation would then be forwarded to the Plan Commission for review.

Staff will be available at the July 20, 2020, meeting to answer questions.

Gross Densities

Fountains of Deerfield

75 units on approximately 17 acres – 4.4 units per acre

Manor Homes of Deerfield (Ivy Lane)

24 units on approximately 3.5 acres – 6.8 units per acre

Barclay Lane Townhomes

56 units on approximately 6 acres – 9.3 units per acre

Chestnut Station (NW corner of Chestnut Street and Deerfield Road)

20 units on approximately 2 acres – 10 units per acre

Deerfield Senior Housing (One Deerfield Place on Osterman Avenue)

98 units on approximately 1.34 acres – 73.1 units per acre

Deerfield Village Centre (SE corner of Waukegan and Lake Cook Roads)

56 units on approximately 5 acres (bank parcel excluded) – 11.2 units per acre

Deerfield Crossing Condos (Elm Street)

63 units on approximately 3.5 acres – 18 units per acre (result of a lawsuit)

Coromandel (316 Condos, 68 Townhomes, 16 Single-family – 400 Units Total)

400 units on 46 approximately acres – 8.7 units per acre

South Commons (80 Condos, 51 Villas, 22 Rowhomes - 153 Units Total)

153 units on 10.8 approximately acres – 14.2 units per acre

Weinberg Community for Senior Living

161 units on approximately 10 acres – 16.1 units per acre (126 assisted living units in Gidwitz Place at 1151 Lake Cook Road and 35 units in the Friend Center for Memory Care at 1601 Lake Cook Road). The future phase of the assisted living consisting of 138 units on this parcel did not occur.

AML

240 units on approximately 6 acres – 40 units per acre

Continued

Woodview

248 units on 7.68 approximately acres – 32.3 units per acre

Taylor Junction

9 units on approximately .9 acres – 10 units per acre

Tamarisk NorthShore, A CJE Senior Life Managed Community (approved in 2017, under construction and opening summer 2020)

Independent senior apartment community consisting of 240 units approximately 5.2 acres at 1627 Lake Cook Road – 46.2 units per acre

658, 662 and 702 Elm Street Townhomes (going through final approval)

7 units on approximately .89 acres = 7.9 units per acre

Zion Woods (going through final approval)

25 units on approximately 8.85 total acres = 2.82 units per acre. When the storm water detention basins and existing impervious area for the church are removed, the net density is 4.15 units per acre (25 units/6.02 net acres)

Deerbrook (REVA Proposal for TOD for the Back 10.79 acres, not constructed)

246 apartment units on approximately 10.79 acres in the back of Deerbrook = 22.8 units per acre. Lower density of 5.18 units per acre when calculating density using the entire 47.45 acreage of Deerbrook

Last Update: July 13, 2020

Highland Park Inclusionary Zoning Ordinance

1. 2003 Article XXI Inclusionary Housing Ordinance
2. 2019 Article XXI Inclusionary Housing Ordinance Amended

**AN ORDINANCE AMENDING "THE HIGHLAND PARK ZONING CODE OF 1997,"
AS AMENDED, TO ADOPT INCLUSIONARY
ZONING REGULATIONS FOR AFFORDABLE HOUSING**

WHEREAS, the City strives to achieve a diverse and balanced community with housing available for households of all income levels; and

WHEREAS, the diversity of the City's housing stock has declined as a result of increasing property values and housing costs and a reduction in the availability of affordable housing; and

WHEREAS, based upon the review and consideration of reports and analyses of the housing situation in the City it is apparent that, with the exception of housing developed in partnership with the City or its Housing Commission, the privately developed new residential housing being built in the City generally is not affordable to low- and moderate-income households; and

WHEREAS, the City recognizes the need to provide affordable housing to low- and moderate-income households in the City in order maintain a diverse population and to provide housing for those who live or work in the City; and

WHEREAS, the trend of increasing housing prices will, without intervention, result in an inadequate supply of affordable housing for City residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the City and its residents; and

WHEREAS, since the remaining land appropriate for new residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low- and moderate-income households and working families; and

WHEREAS, demolition of certain existing dwellings has led to a reduction in the diversity of the City's housing stock and affordable housing opportunities and subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of providing affordable housing in the City; and

WHEREAS, at its January 27, 2003 meeting, the City Council directed the City's Corporation Counsel to prepare this Ordinance amending "The Highland Park Zoning Code of 1997," as amended ("**Zoning Code**") for review and consideration by the Plan Commission and the City Council; and

WHEREAS, a public hearing on zoning amendments for the implementation of an inclusionary zoning program for affordable housing was duly advertised on February 3, 2003, in the *Highland Park News* and was held at the Plan Commission's regular meeting on February 18, March 4, March 18, and April 8, 2003; and

WHEREAS, the Plan Commission determined that the proposed amendments as generally set forth in this Ordinance comply with the standards set forth in Subsection 150.1505(B) of the Zoning Code; and

WHEREAS, the Plan Commission provided its formal recommendation in favor of the text amendments at its regular meeting on April 8, 2003 (Public Hearing No. 03-02-ZTA-002); and

WHEREAS, the City Council has determined that the adoption of the text amendments to the Zoning Code set forth in this Ordinance is in the best interests of the City and its residents and preserves the public health, safety, and welfare of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HIGHLAND PARK, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE: RECITALS. The foregoing recitals are incorporated herein as the findings of the City Council.

SECTION TWO: DEFINITIONS. Section 150.202, entitled "Definitions," of Article II, entitled "Interpretation and Definitions," of the Zoning Code shall be, and it is hereby, amended to incorporate the following new definitions into the existing definitions in Section 150.202, and each definition shall be placed in proper alphabetical order:

"AFFORDABLE HOUSING TRUST FUND: The fund created by the City pursuant to Subsection 33.1133(C) of this Code.

AFFORDABLE HOUSING UNITS: Residential dwelling units that are required under this Article to be "affordable housing," as that term is defined in Subsection 33.1133(A) of this Code.

AREA MEDIAN INCOME: The median income level for the Chicago area, as established and defined in the annual schedule published by the Secretary of the Department of Housing and Urban Development, and adjusted for household size.

CONVERSION: A change in a residential or mixed-use rental development to individual-owner residential condominium units.

COVERED DEVELOPMENT PROJECT: Any development project in the City that is required to provide affordable housing units under the provisions of this Code. Projects at one location undertaken in phases, stages, or otherwise developed in distinct sections shall be considered a single covered development project.

ELIGIBLE HOUSEHOLD: For purposes of Article XXI of this Code, a household of low- or moderate-income.

HOUSING EXPENSES: (1) For rental housing -- rent and utilities; (2) for home ownership -- principal, interest, property taxes, condominium or homeowners' association fees, if applicable, and insurance.

LOW INCOME HOUSEHOLDS: Households that have incomes that do not exceed 80 percent of the area median income.

MARKET RATE UNITS: Residential dwelling units that are not required to be affordable housing units under the requirements of this Code.

MODERATE INCOME HOUSEHOLDS: Households that have incomes that do not exceed 120 percent of the area median income, or such higher income limit as may be established for a local, county, state, or federal housing program.

RENOVATION: Physical improvement that adds to the value of the real property. Painting, ordinary repairs, and other normal maintenance do not constitute a renovation."

SECTION THREE: The Zoning Code shall be, and it is hereby, amended to add a new Article XXI, which new Article XXI shall hereafter be and read as follows:

"ARTICLE XXI. INCLUSIONARY HOUSING

Sec. 150.2100 Policy.

The purpose of this Article is to promote the public health, safety, and welfare by promoting housing of high quality located in neighborhoods throughout the community for households of all income levels, ages and sizes in order to meet the City's goal of preserving and promoting a culturally and economically diverse population in the City. Based upon the review and consideration of reports and analyses of the housing situation in the City, it is apparent that the diversity of the City's housing stock has declined as a result of increasing property values and housing costs and a reduction in the availability of affordable housing; that demolition of certain existing dwellings has led to a reduction in the diversity of the City's housing stock and affordable housing opportunities, and that subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of providing affordable housing in the City; and that, with the exception of housing developed in partnership with the City or its Housing Commission, the privately developed new residential housing that is being built in the City generally is not affordable to low- and moderate-income households. The City recognizes the need to provide affordable housing to low- and moderate-income households in order to maintain a diverse population and to provide housing for those who live or work in the City. Without intervention, the trend toward increasing housing prices will result in an inadequate supply of affordable housing for City residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the City and its residents. Since the remaining land appropriate for new residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low- and moderate-income households and working families.

While this Article provides specific alternatives to the production of on-site affordable housing units, the intent and preference of this Article is for the provision of

permanently affordable housing units constructed on-site and privately produced, owned, and managed.

Sec. 150.2101 Covered Development Projects.

The provisions of this Article shall apply to all developments that result in or contain five or more residential dwelling units. The types of development subject to the provisions of this Article include, without limitation, the following:

(A) A development that is new residential construction or new mixed-use construction with a residential component.

(B) A development that is the renovation or reconstruction of an existing multiple family residential structure that increases the number of residential units from the number of units in the original structure.

(C) A development that will change the use of an existing building from non-residential to residential.

(D) A development that includes the conversion of rental property to condominium property.

Sec. 150.2102 Percentage of Affordable Housing Units Required.

(A) General Requirement. Except as otherwise specifically provided in Subsection (C) below and Section 150.2108 of this Article, 20 percent of the total number of residential units within any covered development shall be affordable housing units and shall be located on the site of the covered development.

(B) Calculation. To calculate the number of affordable housing units required in a covered development, the total number of proposed units shall be multiplied by 20 percent. If the product includes a fraction, a fraction of .5 or more shall be rounded up, and a fraction of less than .5 shall be rounded down.

(C) Cash Payment In-Lieu of Housing Units.

(1) General Applicability. The applicant may make a cash payment in lieu of constructing some or all of the required affordable housing units if, and only if, the covered development is a single-family detached development that has no more than nineteen units

(2) Amount and Use of Cash in Lieu. The per unit payment amount shall be determined by the City Council and set forth in the City's annual fee resolution. The per unit amount shall be based on an estimate of the cost of providing an affordable housing unit and shall be reviewed and modified periodically by the City Council. All cash payments received pursuant to this Article shall be deposited directly into the Affordable Housing Trust Fund for purposes authorized under Section 33.1133 of this Code.

(3) Calculation. For purposes of determining the total in lieu payment amount, the per unit amount established by the City pursuant to Paragraph (C)(2) of this Section shall be multiplied by 20 percent of the number of units proposed in the covered development. For purposes of such calculation, if 20 percent of the number of proposed

units results in a fraction, the fraction shall not be rounded up or down. If the cash payment is in lieu of providing one or more but not all of the required units, the calculation shall be prorated as appropriate.

Sec. 150.2103 Application and Inclusionary Housing Plan.

(A) Application. For all covered developments, the Applicant shall file an application for approval on a form provided and required by the City. The application shall require, and the Applicant shall provide, among other things, general information about the nature and scope of the covered development, as well as such other documents and information as the Director of the City's Department of Community Development, or his or her designee ("**Director**"), may require. The Director shall also have the authority to require, as part of the application submittal, such portions of the inclusionary housing plan required under Subsection (B) of this Section as the Director shall deem necessary to properly evaluate the proposed covered development under the requirements and provisions of this Article.

(B) Inclusionary Housing Plan. As part of the approval of a covered development project, the Applicant shall present to the City an inclusionary housing plan that outlines and specifies the covered development's compliance with each of the applicable requirements of this Article. The plan shall be subject to approval by the City and shall be incorporated into the development agreement between the Applicant and the City as required pursuant to Section 150.2104 of this Article. The plan shall specifically contain, at a minimum, the following information regarding the covered development;

(1) A general description of the development, including whether the development will contain rental units or individually owned units, or both.

(2) The total number of market rate units and affordable units in the development.

(3) The number of bedrooms in each market rate unit and each affordable unit.

(4) The square footage of each market rate unit and each affordable unit.

(5) The location within any multiple-family residential structure and any single-family residential development of each market rate unit and each affordable unit.

(6) The pricing for each market rate unit and each affordable housing unit.

(7) The phasing and construction schedule for each market rate unit and each affordable unit.

(8) Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the development and each of its individual units.

(9) A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development.

(10) A description of the specific efforts that the applicant will undertake to provide affordable housing units to households pursuant to the priorities set forth in Section 150.2110 of this Article.

Sec. 150.2104 Development Agreement and Other Documents.

Prior to issuance of a building permit for any covered development, the applicant shall have entered into a development agreement with the City regarding the specific requirements and restrictions regarding affordable housing and the covered development. The applicant shall execute any and all documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article. The development agreement shall set forth the commitments and obligations of the City and the applicant and shall incorporate, among other things, the inclusionary housing plan. The development agreement shall also contain the agreements and decisions regarding the applicability of any one or more of the alternatives to the provision of on-site affordable housing units as set forth in Section 150.2108 of this Article.

Sec. 150.2105 Development Cost Off-Sets.

An applicant that fully complies with the requirements of this Article shall, upon written request, receive from the City, with regard to the affordable housing units in the covered development, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, the demolition tax, and such other development fees and costs which may be imposed by the City. To the extent that there are impact fees attributable to the affordable housing units, those impact fees shall be paid from funds in the Affordable Housing Trust Fund.

Sec. 150.2106 Density Bonuses.

(A) By-Right. For all covered developments under this Article, a density bonus shall be provided equal to one market rate unit for each affordable housing unit required under this Article.

(B) PUD Discretionary Bonus. If an applicant is required or chooses to utilize the Planned Unit Development process as outlined in Article V of this Code and provides affordable housing units on the site of the covered development in accordance with this Article, then the applicant may, as part of the Planned Unit Development process, seek a density bonus in addition to the density bonus authorized under Subsection (A) of this Section. The additional density bonus under this Subsection may be authorized up to 0.5 market rate units for each affordable housing unit required under this Article.

Sec. 150.2107 Integration of Affordable Housing Units.

(A) Location of Affordable Housing Units. Affordable housing units shall be dispersed among the market rate units throughout the covered development.

(B) Phasing of Construction. The inclusionary housing plan and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the covered development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the covered development project based upon the phasing plan. The phasing plan may be adjusted by the Director when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable housing units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.

(C) Exterior Appearance. The exterior appearance of the affordable housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.

(D) Interior Appearance and Finishes. Affordable housing units may differ from market rate units with regard to interior finishes and gross floor area, provided that:

(1) The bedroom mix of affordable units shall be in equal proportion to the bedroom mix of the market rate units.

(2) The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

(4) The gross floor area for the affordable housing units shall be no less than the lesser of (a) 75 percent of the gross floor area of market rate units with a comparable number of bedrooms or (b) the minimum size requirements outlined in the table below.

Number of Bedrooms	Unit Type	
	Attached	Detached Single Family
Studio	450 square feet	--
1	625 square feet	--
2	825 square feet	1,000 square feet
3	1,175 square feet	1,350 square feet
4	1,350 square feet	1,475 square feet

Sec. 150.2108 Alternatives to On-Site Affordable Housing Units.

(A) Applicability. In lieu of the provision of affordable housing on the site of the covered development as otherwise required by Section 150.2102 of this Article, the City Council, following consideration by and a recommendation from the Housing Commission, may approve one or more of the three alternatives for affordable housing as set forth in Subsection B of this Section. Utilization and the requirements of the provisions of this Section shall be specifically set forth in the affordable housing development agreement for the covered development. This Section shall not be utilized unless the applicant demonstrates to the satisfaction of the City Council that the alternate means of compliance will further affordable housing opportunities in the City to an equal or greater extent than compliance with the otherwise applicable on site requirements of this Article.

(B) Any one or more of the following affordable housing alternatives may be utilized in lieu of all or part of the otherwise applicable on site requirements of Section 150.2102 of this Article:

(1) A cash payment to be deposited directly into the Affordable Housing Trust Fund for purposes authorized under Section 33.1133 of this Code. The per unit amount may not be less than the per unit payment established pursuant to Section 150.2102(C)(2) of this Article.

(2) A dedication of land to the Highland Park Housing Commission or the Commission's not-for-profit designee.

(3) The provision of affordable housing units at another site within the City.

Sec. 150.2109 Target Income Levels for Affordable Housing Units.

(A) For-Sale Affordable Housing Units. In covered development projects that contain for-sale units, at least one affordable housing unit and no less than 50 percent of the affordable housing units shall be sold to low-income households at a price, as determined pursuant to Subsection (C) of this Section, that, on average, is affordable to a household with an annual income that is 65 percent of area median income. Any remaining affordable units shall be sold to moderate-income households at a price, as determined pursuant to Subsection (C) of this Section, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. The owner shall execute and record any documents required by Section 150.2104 of this Article to ensure compliance with this Subsection.

(B) Rental of Affordable Housing Units. In covered development projects that contain rental units, (i) no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes from zero percent to 50 percent of the Chicago area median income at a price, as determined pursuant to Subsection (C) of this Section, that, on average, is affordable to a household with an annual income that is 45 percent of area median income; no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 51 percent and 80 percent of the Chicago area median income at a price, as determined pursuant to Subsection (C) of

this Section, that, on average, is affordable to a household with an annual income that is 65 percent of area median income; and (iii) no more than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 81 percent and 120 percent of the Chicago area median income at a price, as determined pursuant to Subsection (C) of this Section, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. If fewer than three affordable units will be provided, such units shall be rented or leased to low-income households at a price, as determined pursuant to Subsection (C) of this Section, that does not exceed what is affordable to a household with an annual income that is 65 percent of area median income.

(C) Pricing Schedule. The City, through the Director, shall publish a pricing schedule of rental and sales prices for affordable housing units in accordance with the following provisions, which schedule shall be updated at least annually:

(i) In calculating the rental and sales prices of inclusionary units, the following relationship between unit size and household size shall apply:

Efficiency units:	1-person household
One-bedroom units:	2-person household
Two-bedroom units:	3-person household
Three-bedroom units:	4-person households
Four-bedroom and larger units:	5-person households

(ii) With respect to affordable units offered for sale, prices will be calculated on the basis of:

- (a) An available fixed-rate thirty-year mortgage, consistent with the average rate published from time to time by Freddie Mac;
- (b) A down payment of no more than 5 percent of the purchase price;
- (c) A calculation of property taxes;
- (d) A calculation of homeowner insurance; and
- (e) A calculation of condominium or homeowner association fees.

(iii) With respect to affordable units offered for rent, rental prices will be calculated on the basis of 30 percent of gross monthly income, adjusted for household size, minus a utility allowance.

Sec. 150.2110 Eligibility of Households.

(A) For-Sale Affordable Housing Units. Only eligible households shall be permitted to purchase an affordable housing unit for purposes of this Article. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Library District, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, the North Shore Sanitary District, or the South Lake

County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If the gross income of the eligible household increases above the eligible income levels, provided in Section 150.2109, the eligible household may continue to own the affordable housing unit. Subleasing an affordable unit shall not be permitted without the express written consent of the Director. The owner shall execute and record any documents required by Section 150.2104 of this Article to ensure compliance with this Subsection.

(B) Rental Affordable Housing Units. Only eligible households shall be permitted to rent an affordable housing unit for purpose of this Article. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Library District, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, or the South Lake County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If the gross income of the eligible household increases above the eligible income levels, provided in Section 150.2109, during the lease period, the eligible household may continue to lease the unit and may renew the lease as well. The owner shall execute and record any documents required by Section 150.2104 of this Article to ensure compliance with this Subsection.

Sec. 150.2111 Marketing of the Affordable Housing Units.

At the applicant's request, the City shall assist the applicant in marketing the affordable housing units to eligible households for an additional charge to be determined by the City.

Sec. 150.2112 Period of Affordability.

(A) Sale of Affordable Housing Units. In covered developments that contain for-sale units, affordable housing units shall be resold to low- and moderate -income households in perpetuity or as long as permissible by law. The owner shall execute and record any documents required by Section 150.2104 of this Article to ensure compliance with this Subsection.

(B) Rental of Affordable Housing Units. In developments that contain rental units, affordable housing units shall be rented to low- and moderate -income households in accordance with Section 150.2110 of this Article for 25 years from the date of the issuance of the certificate of occupancy for the respective unit. The owner shall execute and record any documents required by Section 150.2104 of this Article to ensure compliance with this Subsection.

(1) In the event that the owner of a covered rental development sells the development before the end of the 25-year affordability period, the new owner shall be required to continue to provide the affordable housing units in accordance with Section 150.2110 of this Article for the remainder of the 25-year period.

(2) If the owner of a covered rental development converts the development to condominiums, the development shall be subject to the for-sale development requirements of Subsection 150.2109(A) of this Article.

(3) The Housing Commission or its designee shall have the right, but not the obligation, to purchase any for-sale affordable housing units in the development pursuant to Section 150.2113 of this Article.

Sec. 150. 2113 Affordability Controls.

(A) For-Sale Affordable Housing Units.

(1) Housing Commission Purchases. The Housing Commission, or a not-for-profit agency designated by the Housing Commission, shall have the pre-emptive option and right, but not an obligation, to purchase each of the for-sale affordable housing units prior to any sale of any such unit. If the City, or the designated not-for-profit, exercises the option and purchases the affordable housing unit, the affordable housing unit shall be subject to such documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article.

(2) Private Party Purchases. In all other sales of for-sale affordable housing units, the parties to the transaction shall execute and record such documentation as required by Section 150.2104 of this Article to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Article and shall provide, at a minimum, each of the following:

(a) The affordable housing unit shall be sold to and occupied by an eligible household.

(b) The affordable housing unit shall be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units for eligible households.

(B) Rental Affordable Housing Units. For covered rental developments that contain affordable housing units, the owner of the development shall execute and record such documentation as required by Section 150.2104 of this Article to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Article and shall provide, at a minimum, each of the following:

(1) The affordable housing units must be leased and occupied by eligible households.

(2) The affordable housing units must be leased at rent levels affordable to eligible households for a period of 25 years from the date of the initial certificate of occupancy.

(3) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in Section 150.2110 of this Article.

(4) Subleasing of affordable units shall not be permitted without the express written consent of the Housing Commission.

SECTION FOUR: SEVERABLE. In the event any part or parts of this Ordinance shall be found to be unlawful or unconstitutional by a court of competent jurisdiction, such unlawfulness or unconstitutionality shall not affect the validity of the remaining parts of this Ordinance.

SECTION FIVE: PUBLICATION. The City Clerk shall be, and is hereby, directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION SIX: EFFECTIVE DATE. Following its passage, approval, and publication in the manner provided by law, this Ordinance shall take full force and effect on October 1, 2003.

AYES: Mayor Belsky, Councilmen Silberman, Mandel, Kirsch, Brenner,
Councilwoman Barnes and Councilman Levenfeld

NAYS: None

ABSENT: None

PASSED: August 25, 2003

APPROVED: August 25, 2003

PUBLISHED IN PAMPHLET FORM: August 26, 2003

ORDINANCE NO. 52-03

Michael D. Belsky, Mayor

ATTEST:

Shirley Fitzgerald, City Clerk

CHI1 #205514 v8



CITY OF HIGHLAND PARK

1707 ST. JOHNS AVENUE
HIGHLAND PARK, ILLINOIS 60035
(847) 432-0800



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Page 1 of 16
Fees: \$50.00
Lake County IL Recorder
Mary Ellen Vanderventer Recorder
File **7611510**

CITY OF HIGHLAND PARK
COUNTY OF LAKE
STATE OF ILLINOIS

} SS

I, Ashley Palbitska, Deputy City Clerk of the City of Highland Park, in the County of Lake, State of Illinois, do hereby certify that I am keeper of the records, ordinances, files and seal of said City, and;

I HEREBY CERTIFY that the attached records are a true and correct copy of ORDINANCE O72-2019, titled "AN ORDINANCE AMENDING ARTICLE XXI OF "THE CITY OF HIGHLAND PARK ZOING ORDINANCE OF 1997," AS AMENDED, REGARDING INCLUSIONARY HOUSING", passed and approved by the City of Highland Park City Council on OCTOBER 28, 2019, all as appears from the records in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said City of Highland Park, this 14th day of November, 2019.

Ashley Palbitska, Deputy City Clerk



Return To:

City of Highland Park
Deputy City Clerk
1707 St Johns Avenue
Highland Park, IL 60035



16

CITY OF HIGHLAND PARK

ORDINANCE NO. 072-2019

AN ORDINANCE AMENDING ARTICLE XXI OF
"THE CITY OF HIGHLAND PARK ZONING ORDINANCE OF 1997," AS
AMENDED, REGARDING INCLUSIONARY HOUSING

WHEREAS, Article XXI of the "City of Highland Park Zoning Ordinance of 1997," as amended ("*Zoning Code*"), regulates the provision of inclusionary housing in the City; and

WHEREAS, the City Council desires to comprehensively amend Article XXI of the Zoning Code in order to update and modify the provisions concerning: (i) payment of fees in lieu of provision of inclusionary housing units; (ii) bonus market-rate units allowed within developments that include inclusionary housing units; (iii) amenities to be provided for inclusionary housing units; (iv) proportional requirements for the provision of inclusionary housing units; and (v) other miscellaneous requirements of the City's inclusionary housing program (collectively, the "*Proposed Amendments*"); and

WHEREAS, public hearings by the Plan and Design Commission to consider the Proposed Amendments to the Zoning Code were duly advertised in the Highland Park News on several dates between December 21, 2018, and April 1, 2019, opened on March 19, 2019, continued on April 16, 2019, and concluded on May 21, 2019, and findings of fact in support of the Proposed Amendments were approved by the Plan and Design Commission on May 21, 2019 (Public Hearings No. 17-10-ZTA-004 and 19-02-ZTA-001) in accordance with and pursuant to Section 150.1506 of the Zoning Code; and

WHEREAS, the City Council has considered the Proposed Amendments and the recommendation of the Plan and Design Commission, and has determined that adoption of the Proposed Amendments, as set forth in this Ordinance, will serve and be in the best interest of the City and its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HIGHLAND PARK, LAKE COUNTY, ILLINOIS, as follows:

SECTION ONE: RECITALS. The foregoing recitals are incorporated into, and made a part of, this Ordinance as findings of the City Council.

SECTION TWO: INCLUSIONARY HOUSING. Article XXI, titled "Inclusionary Housing," of the Zoning Code is hereby amended in its entirety, and will hereafter read as set forth in Exhibit A attached to and, by this reference, made a part of this Ordinance.

SECTION THREE: PUBLICATION. The City Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION FOUR: EFFECTIVE DATE. This Ordinance will be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

[SIGNATURE PAGE FOLLOWS]

AYES: Mayor Rotering, Councilmen Stolberg, Stone, Kaufman, Blumberg, Knobel

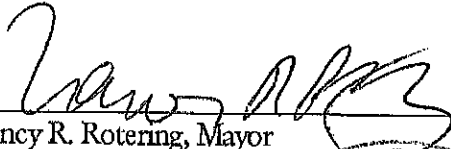
NAYS: Councilman Holleman

PASSED AS AMENDED: October 28, 2019

ADOPTED AS AMENDED: October 28, 2019

PUBLISHED IN PAMPHLET FORM: October 29, 2019

ORDINANCE NO. 072-2019



Nancy R. Rotering, Mayor

ATTEST:



Ghida S. Neukirch, City Clerk

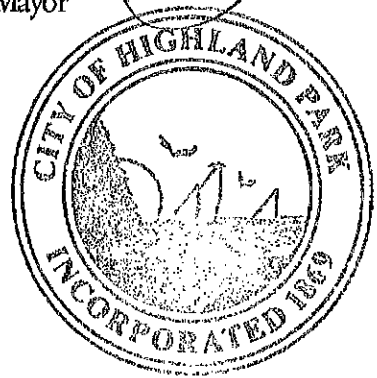


EXHIBIT A

ARTICLE XXI. - INCLUSIONARY HOUSING

Sec. 150.2100. - Policy.

The purpose of this Code is to promote the public health, safety, and welfare by promoting housing of high quality located in neighborhoods throughout the community for households of all income levels, ages and sizes in order to meet the City's goal of preserving and promoting a culturally and economically diverse population in the City. Based upon the review and consideration of reports and analyses of the housing situation in the City, it is apparent that the diversity of the City's housing stock has declined as a result of increasing property values and housing costs and a reduction in the availability of affordable housing; that demolition of certain existing dwellings has led to a reduction in the diversity of the City's housing stock and affordable housing opportunities, and that subsequent redevelopment has in many cases contributed to property value increases that further the difficulty of providing affordable housing in the City; and that, with the exception of housing developed in partnership with the City or its Housing Commission, the privately developed new residential housing that is being built in the City generally is not affordable to low- and moderate-income households. The City recognizes the need to provide affordable housing to low- and moderate-income households in order to maintain a diverse population and to provide housing for those who live or work in the City. Without intervention, the trend toward increasing housing prices will result in an inadequate supply of affordable housing for City residents and local employees, which will have a negative impact upon the ability of local employers to maintain an adequate local work force and will otherwise be detrimental to the public health, safety, and welfare of the City and its residents. Since the remaining land appropriate for new residential development within the City is limited, it is essential that a reasonable proportion of such land be developed into housing units affordable to low- and moderate-income households and working families.

While this Article provides specific alternatives to the production of on-site affordable housing units, the intent and preference of this Code is for the provision of permanently affordable housing units constructed on-site and privately produced, owned, and managed.

The provisions of this Code may be supplemented by a set of Administrative Guidelines adopted pursuant to Section 150.2185 of this Code.

Sec. 150.2105. - Covered Development Projects.

(A) *General.* The provisions of this Code shall apply to all developments that result in or contain five or more residential dwelling units. The types of development subject to the provisions of this Code include, but are not limited to, the following:

(1) A development that is new residential construction or new mixed-use construction with a residential component.

(2) A development that is the renovation or reconstruction of an existing multiple family residential structure that increases the number of residential units from the number of units in the original structure.

(3) A development that will change the use of an existing building from non-residential to residential or that will change the type of residential use.

(4) A development that includes the conversion of rental property to private ownership of individual housing units.

(B) *Development on Multiple Parcels.* For purposes of this Code, a development that occurs on adjacent parcels under common ownership shall be considered one development.

Sec. 150.2110. – General Affordable Housing Requirements.

All covered development projects within the City shall provide affordable residential units within the covered development, in accordance with Section 150.2115 of this Code, unless and to the extent the City approves an exception to allow either: (A) the provision of affordable residential units at an off-site location, in accordance with Section 150.2120 of this Code; (B) a cash payment in lieu of providing affordable housing units, in accordance with Section 150.2125 of this Code; or (C) the dedication of land to the Highland Park Housing Commission, in accordance with Section 150.2130 of this Code. The percentage of residential units within the covered development project that are affordable residential units must not be less than approximately 15%, calculated pursuant to Section 150.2115 of this Code.

Sec. 150.2115. – Provision of Affordable Housing Units.

(A) *Calculation of Units Required.* Unless an exception is approved pursuant to Sections 150.2120, 150.2125, or 150.2130 of this Code, the applicant for a covered development project must satisfy the requirements of this Article XXI by providing affordable housing units within the development, calculated as follows:

(1) The applicant must identify the number of dwelling units proposed to be constructed as part of the covered development project, which quantity must comply with the applicable regulations set forth in Article VII of this Chapter 150 and the other applicable building and zoning regulations of this Code.

(2) Of the quantity of dwelling units identified pursuant to Section 150.2115(A)(1) of this Code, 20 percent must be designated as affordable housing units. If the 20 percent calculation performed pursuant to this Section 150.2115(A)(2) yields a fractional number, the applicant must either: (a) provide a full affordable housing unit; or (b) pay a fee-in-lieu for that fractional unit, in the corresponding fractional amount of the per unit payment amount established pursuant to Section 150.2125(B) of this Code.

(3) The applicant may then incorporate 1.5 additional dwelling units into the covered development project for each affordable unit provided pursuant to this Section 150.2115 (i.e. the applicant may incorporate the additional dwelling units, notwithstanding the number identified pursuant to Section 150.2115(A)(1) of this Code or any maximum density regulation set forth in another provision of this Code).

(B) *Compliance with Requirements.* Affordable housing units provided by the applicant must comply with the requirements set forth in Sections 150.2150 through 150.2175 of this Code.

Sec. 150.2120. – Off-Site Affordable Housing Units in-Lieu of On-Site Affordable Housing Units.

(A) *General Applicability.* In lieu of providing the affordable housing units required pursuant to Section 150.2115(A) of this Code within the covered development, the applicant may provide some or all of the required units at an alternate off-site location within the City, but only upon the approval of the City Council, after consideration of a recommendation from the Housing Commission, and after making a determination that provision of the required units at an alternate off-site location will further affordable housing opportunities in the City to an equal or greater extent than through provision of affordable units within the covered development.

(B) *Compliance with Requirements.* Affordable housing units provided by the applicant must comply with the requirements set forth in Sections 150.2150 through 150.2175 of this Code.

Sec. 150.2125. - Cash Payment in-Lieu of Affordable Housing Units.

(A) *General Applicability.* The applicant may make a cash payment in lieu of constructing some or all of the required affordable housing units otherwise required pursuant to Section 150.2115 of this Code, but only if either: (1) the covered development consists solely of 19 or fewer single-family detached dwelling units; or (2) the City Council approves such payment, after consideration of a recommendation from the Housing Commission, and after making a determination that such a payment will further affordable housing opportunities in the City to an equal or greater extent than through provision of affordable units pursuant to Section 150.2115 of this Code.

(B) *Amount and Use of Cash in Lieu.* For covered developments consisting solely of 19 or fewer single-family detached dwelling units, the per unit payment amount shall be in the amount set forth in the Annual Fee Resolution. For all other covered developments, the per unit payment amount shall be not less than the amount set forth in the City's Annual Fee Resolution. The minimum per unit amount shall be determined by the City Council, based upon an estimate of the cost of providing an affordable housing unit, and shall be reviewed and modified periodically by the City Council. All cash payments received pursuant to this Article shall be deposited directly into the Affordable Housing Trust Fund for purposes authorized under Section 33.1133 of this Code.

(C) *Calculation.* The total in lieu payment amount shall be equal to the per unit amount established by the City pursuant to Section 150.2125(B) of this Code multiplied by 20 percent of the number of units proposed in the covered development, less the per unit amount multiplied by the number of affordable housing units actually provided by the applicant pursuant to Section 150.2115 of this Code.

(D) *Timing of Payment.* No building permits will be issued for a covered development project that utilizes the provisions of this Section 150.2125 prior to the payment

of that percentage of the required total in lieu payment that is equal to the percentage of the dwelling units in the covered development project for which building permits have been or are being issued.

Sec. 150.2130. - Dedication of Land.

In lieu of providing affordable units pursuant to Section 150.2115 of this Code, and in lieu of making a cash payment pursuant to Section 150.2125 of this Code, the applicant may dedicate land to the Highland Park Housing Commission, or the Commission's not-for-profit designee, but only if: (a) the City Council approves such dedication, after consideration of a recommendation from the Commission and after making a determination that dedication of land will further affordable housing opportunities in the City to an equal or greater extent than through provision of affordable units pursuant to Section 150.2115 of this Code; and (b) the applicant dedicates a quantity of land sufficient for developing a quantity of dwelling units equal to 20 percent of the number of units in the covered development project.

Sec. 150.2135. - Application and Inclusionary Housing Plan.

(A) *Application.* For all covered development projects, the Applicant shall file an application for approval thereof on a form provided and required by the City. The application shall require, and the Applicant shall provide, among other things, general information about the nature and scope of the covered development, as well as such other documents and information as the Director of the City's Department of Community Development, or his or her designee ("Director"), may require. The Director shall also have the authority to require, as part of the application submittal, such portions of the inclusionary housing plan required under Section 150.2135(B) of this Code as the Director shall deem necessary to properly evaluate the proposed covered development under the requirements and provisions of this Code.

(B) *Inclusionary Housing Plan.* As part of the approval of a covered development project, the Applicant shall present to the Housing Commission and the City Council an inclusionary housing plan that outlines and specifies the covered development's compliance with each of the applicable requirements of this Code, in accordance with the following:

(1) *Required Submittals for Inclusionary Housing Plan.* The plan shall specifically contain, at a minimum, the following information regarding the covered development project;

- (a) *Preliminary Plan.*
 - (i) A general description of the development, including whether the development will contain rental units or individually owned units, or both;
 - (ii) The total number of market rate units and affordable units in the development;
 - (iii) The total number of attached and detached residential units;

- (iv) The number of bedrooms in each market rate unit and each affordable unit;
- (v) The area of each market rate unit and each affordable unit;
- (vi) The location within any multiple-family residential structure and any single-family residential development of each market rate unit and each affordable unit.
- (vii) Floor plans for each affordable unit;
- (viii) The amenities that will be provided to and within each market rate unit and affordable unit; and
- (ix) The pricing for each market rate unit and each affordable housing unit.

(b) *Final Plan.*

(i) All of the information required for the preliminary Inclusionary Housing Plan pursuant to Section 150.2135(B)(1)(a) of this Code;

(ii) The phasing and construction schedule for each market rate unit and each affordable unit;

(iii) Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the development and each of its individual units;

(iv) A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development; and

(v) A description of the specific efforts that the applicant will undertake to provide affordable housing units to households pursuant to the priorities set forth in Section 150.2155 of this Code.

(2) *Review Procedure.*

(a) *Preliminary Plan.*

(i) **Housing Commission Review.** Within 60 days after the filing of a complete preliminary Inclusionary Housing Plan, the Housing Commission shall review the Inclusionary Housing Plan, and shall recommend either the approval (with or without modifications) or the rejection of the Inclusionary Housing Plan. The Housing Commission shall transmit its findings of fact and recommendation to the City Council. The failure of the Housing Commission to provide a recommendation within such 60 day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the Inclusionary Housing Plan.

(ii) City Council Consideration.

(A) Upon receipt of the Housing Commission recommendation pursuant to Section 150.2135(B)(2)(a)(i) of this Code, the City Council may, by resolution duly adopted, approve or reject the Preliminary Inclusionary Housing Plan.

(B) Approval of the preliminary Inclusionary Housing Plan by the City Council shall neither: (1) be deemed or interpreted as obligating the City Council to approve a final Inclusionary Housing Plan; nor (2) vest any right to the applicant other than the right to submit a final Inclusionary Housing Plan for the proposed Covered Development Project.

(b) *Final Plan.*

(i) **Housing Commission Review.** Within 60 days after the filing of a complete final Inclusionary Housing Plan, the Housing Commission shall review the Inclusionary Housing Plan, and shall recommend either the approval (with or without modifications) or the rejection of the Inclusionary Housing Plan. The Housing Commission shall transmit its findings of fact and recommendation to the City Council. The failure of the Housing Commission to provide a recommendation within such 60 day period, or such further time to which the applicant may, in writing, agree, shall be deemed a recommendation against the approval of the Inclusionary Housing Plan.

(ii) **City Council Consideration.** Upon receipt of the Housing Commission recommendation pursuant to Section 150.2135(B)(2)(b)(i) of this Code, the City Council may, by ordinance duly adopted, approve or reject the Inclusionary Housing Plan. Any ordinance approving a final Inclusionary Housing Plan shall include, without limitation, the following:

(A) All standards, conditions, or restrictions deemed necessary or applicable by the City Council to effectuate the proposed development and protect the public interest, health, safety and welfare; and

(B) A provisions requiring the execution and recordation by the applicant of a development agreement, as required pursuant to Section 150.2140 of this Code.

(c) *Concurrent Review of Preliminary and Final Plans.* Notwithstanding any provision of this Code to the contrary, for all Covered Development Projects that are not planned developments, and for all planned developments for which a concurrent review procedure has been approved pursuant to Section 150.550 of this Chapter, the Housing Commission and City Council shall review the preliminary and final Inclusionary Housing Plans concurrently, pursuant to the final Inclusionary Housing Plan review procedure set forth in Section 150.2135(B)(2)(b) of this Code.

(3) *Standards of Review.* The Housing Commission shall not recommend the approval of a preliminary or final Inclusionary Housing Plan, and the City Council shall not approve a preliminary or final Inclusionary Housing Plan, except upon making the following findings:

(a) That the applicant has demonstrated that the proposed affordable housing units are designed to accommodate the needs of the target households;

(b) That the location, floor plan, fixtures and finishes, and amenities of each proposed affordable housing unit satisfy the applicable provisions of this Code and are suitable for the needs of the target households;

(c) That each affordable housing unit is designed to accommodate family living needs for common space and dining areas; and

(d) That the proposed affordable housing units, and the development as a whole, conform to the applicable standards and requirements of this Chapter.

Sec. 150.2140. - Development Agreement and Other Documents.

Prior to issuance of a building permit for any covered development, the applicant shall have entered into a development agreement with the City regarding the specific requirements and restrictions regarding affordable housing and the covered development. The applicant shall execute any and all documents deemed necessary by the City, including without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article. The development agreement shall set forth the commitments and obligations of the City and the applicant and shall incorporate, among other things, the inclusionary housing plan. The development agreement shall also contain the agreements and decisions regarding the applicability of any one or more of the alternatives to the provision of on-site affordable housing units as set forth in Sections 150.2120, 150.2125, and 150.2130 of this Code.

Sec. 150.2145. - Development Cost Off-Sets.

An applicant that fully complies with the requirements of this Code shall, upon written request, receive from the City, with regard to the affordable housing units in the covered development, a waiver of all of the otherwise applicable application fees, building permit fees, plan review fees, inspection fees, sewer and water tap-on fees, demolition permit fees, the demolition tax, and such other development fees and costs which may be imposed by the City; provided, however, that this waiver shall not apply to third-party legal, engineering, and other consulting or administrative fees, costs, and expenses incurred or accrued by the City in connection with the review and processing of plans for the covered development. The waiver and discount of fees and costs under this Section shall only apply to the affordable units, and shall be calculated as the percentage of units within the covered development that are affordable units. All applicable fees and costs under this Code shall apply to all market rate units. To the extent that there are impact fees attributable to the affordable housing units, those impact fees shall be paid from funds in the Affordable Housing Trust Fund.

Sec. 150.2150. - Integration of Affordable Housing Units.

(A) *Location of Affordable Housing Units.* Affordable housing units shall be dispersed among the market rate units throughout the covered development.

(B) *Phasing of Construction.* The inclusionary housing plan and the development agreement shall include a phasing plan that provides for the timely and integrated development of the affordable housing units as the covered development project is built out. The phasing plan shall provide for the development of the affordable housing units concurrently with the market rate units. Building permits shall be issued for the covered development project based upon the phasing plan. The phasing plan may be adjusted by the Director when necessary in order to account for the different financing and funding environments, economies of scale, and infrastructure needs applicable to development of the market rate and the affordable housing units. The phasing plan shall also provide that the affordable housing units shall not be the last units to be built in any covered development.

(C) *Exterior Appearance.* The exterior appearance of the affordable housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.

(D) *Unit Amenities.* Amenities that are provided with a market rate unit shall also be provided with the affordable units. For purposes of this Section 150.2150(D), "amenities" shall include, without limitation, basements, front porches, storage lockers, balconies, roof decks, outdoor patios, off-street parking, enclosed parking, appliances, and similar unit features and additions. Specially, and without limitation of the foregoing, the development must comply with the following:

(1) *Parking Amenities.* One parking space per affordable unit must be included in the rent and without any additional charge to the tenant. Additional parking spaces must be made available in the same manner and using the same method for allocation for the market rate units. Premium parking spaces, such as indoor parking, shall not be required to be allocated to the affordable units free of charge, provided that required parking is provided elsewhere on the site.

(2) *Storage Amenities.* To the extent that storage is allocated to all market rate units within a development, similar storage space must be allocated to all affordable units and included in the rent without additional charge to the tenant. If storage space is not allocated to all units due to insufficient ratio of storage space to residential units, then the affordable units should have access to storage in the same manner as do the market rate units, at a cost discounted by the ratio of the affordable unit's rent to the equivalent size unit's market rent.

(E) *Interior Appearance and Finishes.* Affordable housing units may differ from market rate units with regard to interior finishes and gross floor area, provided that:

(1) The bedroom mix of affordable units shall be in equal proportion to the bedroom mix of the market rate units.

(2) The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

(3) The interior gross floor area for the affordable housing units shall be no less than the lesser of: (a) 75 percent of the gross floor area of market rate units with a comparable number of bedrooms; or (b) the minimum size requirements outlined in the table below; provided, however, that interior gross floor area shall not include areas devoted to vertical circulation, basements, off-street parking, lockers and similar storage areas, and mechanical rooms.

Number of Bedrooms	Unit Type	
	Single Story Dwelling Units	Multi-Story Dwelling Units
Studio	450 square feet	—
1	750 square feet	—
2	950 square feet	1,000 square feet
3	1,175 square feet	1,350 square feet
4	1,350 square feet	1,600 square feet

Sec. 150.2155. - Target Income Levels for Affordable Housing Units.

(A) *For-Sale Affordable Housing Units.* In covered development projects that contain for-sale units, at least one affordable housing unit and no less than 50 percent of the affordable housing units shall be sold to low-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 65 percent of area median income. Any remaining affordable units shall be sold to moderate-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2155(A).

(B) *Rental of Affordable Housing Units.* In covered development projects that contain rental units: (i) no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes from zero percent to 50 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 45 percent of area median income; (ii) no less than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 51 percent and 80 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 65 percent of area median income; and (iii) no more than 33 percent of the affordable housing units shall be rented or leased to households with gross incomes between 81 percent and 120 percent of the Chicago area median income at a price, as determined pursuant to Section 150.2155(C) of this Code, that, on average, is affordable to a household with an annual income that is 100 percent of area median income. If fewer than three affordable units will be provided, such units shall be rented or leased to low-income households at a price, as determined pursuant to Section 150.2155(C) of this Code, that does not exceed what is affordable to a household with an annual income that is 65 percent of area median income.

(C) *Pricing Schedule.* The City, through the Director of Community Development, shall publish a pricing schedule of rental and sales prices for affordable housing units ("Pricing Schedule"), which Pricing Schedule shall be updated at least once every 12 months. The Director of Community Development may, in his or her discretion, include the Pricing Schedule within administrative guidelines adopted pursuant to Section 150.2185 of this Code.

Sec. 150.2160. - Eligibility of Households.

(A) *For-Sale Affordable Housing Units.* Only eligible households shall be permitted to purchase an affordable housing unit for purposes of this Code. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Public Library, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, the North Shore Sanitary District, or the South Lake County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If, during possession, the gross income of the eligible household increases above the eligible income levels, set forth in Section 150.2155 of this Code, the eligible household may continue to own the affordable housing unit. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2160(A).

(B) *Rental Affordable Housing Units.* Only eligible households shall be permitted to rent an affordable housing unit for purpose of this Code. Priority will be given first to households who live in Highland Park or households in which the head of the household or the spouse or domestic partner works in Highland Park as part of employment by the City of Highland Park, the Highland Park Public Library, the Park District of Highland Park, the Lake County Forest Preserve District, the County of Lake, Moraine Township, West Deerfield Township, School Districts 112 or 113, the Northern Suburban Special Education District, or the South Lake County Mosquito Abatement District, and then to households in which the head of the household or the spouse or domestic partner works in Highland Park for any other employer. At the applicant's request, the City or its not-for-profit designee shall select eligible households for the affordable housing units at an additional charge to the applicant at an amount to be determined by the City. If, during possession, the gross income of the eligible household increases above the eligible income levels, set forth in Section 150.2155 of this Code, the eligible household may continue to lease the unit and may renew the lease as well. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2160(B).

Sec. 150.2165. - Marketing of the Affordable Housing Units.

(A) *Good Faith Marketing Required.* All sellers and lessors of affordable units are responsible for marketing the affordable units, and shall engage in good faith marketing efforts to inform members of the public who are qualified to purchase or rent affordable units

of the availability of such units for sale or rent. Prior to the initiation of public marketing efforts to sell or lease an affordable housing unit, the seller or lessor thereof shall submit to the Director of Community Development a description of the marketing plan that the applicant proposes to utilize and implement to promote the sale or rental of the affordable units within the development to the appropriate income groups.

(B) *City Assistance with Marketing.* At the applicant's request, the City or its designee shall assist the applicant in marketing the affordable housing units to eligible households, for an additional charge to be determined by the City.

Sec. 150.2170. - Period of Affordability.

(A) *Sale of Affordable Housing Units.* In covered developments that contain for-sale units, affordable housing units shall be resold to low and moderate income households for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2170(A).

(B) *Rental of Affordable Housing Units.*

(1) In developments that contain rental units, affordable housing units shall be rented to low and moderate income households in accordance with Section 150.2160 of this Code for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law. The owner shall execute and record any documents required by Section 150.2140 of this Code to ensure compliance with this Section 150.2170(B). In the event that the owner of a covered rental development sells the development, the new owner shall be required to continue to provide the affordable housing units in accordance with this Article XXI.

(2) If the owner of a covered rental development converts the development to condominiums or other form of individual unit ownership, the development shall be subject to the for-sale development requirements set forth in Section 150.2155(A) of this Code. The Housing Commission or its designee shall have the right, but not the obligation, to purchase any for-sale affordable housing units in the development pursuant to Section 150.2175 of this Code.

Sec. 150.2175. - Affordability Controls.

(A) *For-Sale Affordable Housing Units.*

(1) *Housing Commission Purchases.* The Housing Commission, or a not-for-profit agency designated by the Housing Commission, shall have the pre-emptive option and right, but not an obligation, to purchase each of the for-sale affordable housing units prior to any sale of any such unit. If the City, or the designated not-for-profit, exercises the option and purchases the affordable housing unit, the affordable housing unit shall be subject to such documents deemed necessary by the City, including, without limitation, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable housing units in accordance with this Article. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:

(a) The calculated maximum resale price is an upper limit, but shall not be construed as a guarantee that the unit will be resold at that price.

(b) Market conditions, and characteristics of the affordable housing unit, may result in the sale of an affordable housing unit at a price lower than the calculated maximum resale price.

(2) *Private Party Purchases.* In all other sales of for-sale affordable housing units, the parties to the transaction shall execute and record such documentation as required by Section 150.2140 of this Code to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:

(a) The affordable housing unit shall be sold to and occupied by an eligible household.

(b) The affordable housing unit shall be conveyed subject to restrictions that shall permanently maintain the affordability of such affordable housing units for eligible households.

(c) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in Section 150.2160 of this Code.

(d) The calculated maximum resale price is an upper limit, but shall not be construed as a guarantee that the unit will be resold at that price.

(e) Market conditions, and characteristics of the affordable housing unit, may result in the sale of an affordable housing unit at a price lower than the calculated maximum resale price.

(B) *Rental Affordable Housing Units.* For covered rental developments that contain affordable housing units, the owner of the development shall execute and record such documentation as required by Section 150.2140 of this Code to ensure the provision and continuous maintenance of the affordable housing units. Such documentation shall include the provisions of this Code and shall provide, at a minimum, each of the following:

(1) The affordable housing units must be leased and occupied by eligible households.

(2) The affordable housing units must be leased at rent levels affordable to eligible households for so long as the units are used for residential purposes, in perpetuity or as long as permissible by law.

(3) Preference for the affordable housing units shall be given to eligible households pursuant to the priorities set forth in Section 150.2155 of this Code.

(4) The calculated maximum rental price is an upper limit, but shall not be construed as a guarantee that the unit will be rented at that price.

(5) Market conditions, and characteristics of the affordable housing unit, may result in the rental of an affordable housing unit at a price lower than the calculated maximum rental price.

(C) *Subleasing Prohibited.* Subleasing of affordable units shall not be permitted without the express written consent of the Director.

Sec. 150.2180. - Departures from Requirements.

The Housing Commission may recommend, and the City Council may approve, departures from any of the standards set forth in this Article, upon making each of the following findings:

(A) Due to specific and unique circumstances, undue hardship would be caused by the literal enforcement of the standards and requirements set forth in this Article;

(B) By virtue of excellence in design, the proposed departure from the standards does not result in a diminished or lower quality affordable dwelling unit, but provides a functionally equivalent dwelling unit; and

(C) The proposed affordable housing units otherwise meet the purpose and intent of this Code.

Sec. 150.2185. - Administrative Guidelines.

The City Director of Community Development shall have the right, but not the obligation, to adopt, and to amend from time to time, administrative guidelines to assist in the effective implementation of this Code by participants in the Inclusionary Housing Program; provided, however, that any administrative guidelines adopted or amended pursuant to this Section 150.2185 shall not be inconsistent with this Article, and that in the event of a conflict between the administrative guidelines and this Article, this Article shall control.