

MEMORANDUM



VILLAGE OF DEERFIELD

TO: Plan Commission

FROM: Andrew Lichterman, Director of Community Development,
Jeff Ryckaert, Principal Planner and Dan Nakahara, Planner

DATE: October 16, 2020

RE: Inclusionary Zoning and Affordable Housing

The Plan Commission held a workshop meeting on September 10 to discuss the framework of an inclusionary zoning ordinance and to begin to formulate a recommendation to the Village Board. The Plan Commission discussed the Scale of Development that would mandate affordable units in a development, the percentage of Area Median Income that would define eligibility for an affordable unit, prioritizing an eligibility list and balancing incentives that would have the least impact on residents. This staff memo is constructed in three parts:

- Part 1 - areas where consensus was believed to be reached at the September 10 Plan Commission meeting,
- Part 2 - list of questions raised by the Plan Commission; and,
- Part 3 - areas that need further input, discussion and consensus

Part 1 - Consensus Reached at September 10, 2020 Plan Commission Meeting:

- The Plan Commission agreed to continue the discussion of an Inclusionary Zoning Ordinance and make a recommendation to the Village Board.
- The Plan Commission agreed that achieving housing diversity and variety is a good objective.
- Meeting the objectives of the State's 2003 Affordable Housing Planning and Appeal Act (AHPAA) recognized by the Illinois Housing Development Authority (IHDA) is not an objective of a proposed Deerfield Inclusionary Zoning Ordinance. The Village prefers to set its own thresholds for Area Median Income (AMI) on what is considered an affordable unit.
- The Plan Commission is open to a breakdown of two or more tiers of AMI percentage calculations when determining an affordable unit.

- The Plan Commission agrees that there is value in offering developers incentives to not stifle development.
- The Plan Commission reached a consensus to keep the affordable units indistinguishable from the market rate units.
- The Plan Commission is interested in incentives for affordable units including, but not limited to, impact fee waivers, building permit fees, expedited permit review, and parking relief particularly for a TOD.
- Prioritize eligibility list to those who live and work in Deerfield. No priority for public over private sector employees and no preference to Village of Deerfield employees.

Part 2 – Questions and Responses from September 10, 2020 Plan Commission Meeting

Q: Why does the Village want an Inclusionary Zoning Ordinance?

A. At the July 20, 2020, Board of Trustees meeting, the Village Board voted in favor of moving forward with the framework of an inclusionary zoning ordinance to advance the Village Board policy intentions to mandate affordable housing units be provided in new developments over a particular size.

Q: What does the Village Comprehensive Plan say about affordable housing?

A: 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.

Q: What is inclusionary zoning?

A: Inclusionary zoning are programs and policies that require or offer incentives for the creation of affordable housing when new development or redevelopment occurs. Inclusionary zoning is distinct from other affordable housing programs in that;

- largely depends on private sector development,
- does not necessitate a direct government subsidy,
- integrates affordable units directly into market-rate developments; and
- disperses households of different income levels throughout the municipality, instead of concentrating affordable housing in a single area.

Q: What is the framework of an inclusionary zoning ordinance?

A: The structure of inclusionary zoning policies can vary considerably in design and application. Policies can:

- be mandatory or voluntary;
- require different shares of affordable housing per development;
- apply to rental and for sale properties;
- vary in terms of occupant eligibility;
- have different term limits;
- apply to an entire jurisdiction or to specific housing types or locations;
- allow developers to opt out of constructing on-site units by providing in lieu payments or off-site units; and
- offer development incentives including density bonuses

Q: What is the area median income or AMI?

A: A number based on a specific area income or regional area income, and calculated annually by HUD that determines income limits for a specific area or region. The AMI is the "middle" number of all of the incomes for the given area; 50% of people in that area make more than that amount, and 50% make less than that amount. The income levels are percentages of that AMI number.

As an example of how the percentage of AMI relates to classifying household incomes, the City of Lake Forest Inclusionary Housing Ordinance¹ defines a low income household as households that have incomes that do not exceed 80 percent of the AMI for owner occupied units and households that have incomes that do not exceed 60% of the AMI for rental units. The ordinance also defines moderate income households as households earning between

¹ City of Lake Forest City Code, Chapter 158 Inclusionary Housing

80% and 120% of the area median income without having to devote more than 30% of their gross income to monthly housing expenses. (Sec 158.01)

Q: What area/region is being used to calculate AMI?

A: The Chicago-Joliet-Naperville HUD Metro Area is used to calculate AMI. The Chicago-Joliet-Naperville, IL HUD Metro FMR Area contains the following areas: Cook County, IL; DuPage County, IL; Kane County, IL; Lake County, IL; McHenry County, IL; and Will County, IL. (HUD.gov)

Q: Why are we starting with 120% of AMI?

A: In previous negotiations, the Village has used 120% of AMI when addressing an affordable unit. Most recently, the Village negotiated 18 affordable units with the developer in the REVA residential development based on 120% AMI of the Chicago-Joliet-Naperville AMI Metro Area as defined by HUD.

As an example, in the Highland Park Inclusionary Housing Ordinance², residential for-sale development must contain at least one affordable housing unit and no less than 50 percent of the affordable housing units must be sold to households with an annual income that is 65 percent of AMI. Any remaining for-sale affordable units shall be sold to households with an annual income that is 100 percent of AMI. (Sec. 150.2155.A)

For rental units, the City of Highland Park uses a three-tiered system when determining the AMI for rental units. The first tier or 1/3 of the units cannot exceed 50% of AMI, the second tier or 1/3 of the units cannot exceed 80% of AMI and the third tier or 1/3 of the units cannot exceed 120% of AMI. (Sec 150.2155.B)

The City of Lake Forest targets income levels at 80% and 120% of AMI for owner occupied units and at 60% and 80% of AMI for rental units. For sale developments have to contain at least one affordable unit and no less than 50 percent of the affordable units must be sold at a price that is affordable to a household making no more than 80% of AMI and any remaining affordable units to households making no more than 120% of AMI. Rental units in a covered development must contain at least one affordable unit, no less than

² Highland Park Zoning Code, Chapter 150, Article XXI Inclusionary Housing

50 percent of the affordable units must be rented or leased at a price that is affordable to a household making 60% of AMI, and any remaining affordable units must be rented or leased at a price affordable to a household making no greater than 80% of AMI. (Sec 158.09 A. & B.)

Q: What are objectives of an inclusionary zoning ordinance?

A: 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

Q: Are inclusionary zoning ordinances effective?

A: Some argue that inclusionary zoning policies harm the housing markets by reducing the developer’s ability to fully profit from a new development, which could unintentionally reduce construction and investment in municipalities. Proponents of inclusionary zoning maintain that, rather than limiting housing markets, applying local control over the regulation of land use through inclusionary policies can actually encourage developers to produce less conventional, lower priced homes, thereby expanding emerging segments of the housing market.

Overall, studies on the effectiveness of inclusionary zoning have been mixed. Inclusionary policies may be best evaluated from a local perspective with an

understanding of the various motives that prompted jurisdictions to adopt the given policy in the first place³.

Q: In 2013, the State of Illinois captured affordable units in Deerfield at 4% and in 2018, 7.3%. How are Affordable Units Determined Under the 2003 Affordable Housing Planning and Appeal Act⁴ (AHPAA)?

A: The Illinois Housing Development Authority determines affordable units based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.) See Appendix

Q: If the Village were to impose an inclusionary zoning ordinance, could this only apply to attached housing?

A: An inclusionary zoning ordinance could apply to both detached (single-family) and attached units (apartments, condos, and townhomes), or it could apply to only attached housing.

As an example, The City of Lake Forest Inclusionary Zoning Ordinance applies to all residential development that result in or contain 5 or more dwelling units excluding any single family detached dwellings. (Sec. 158.01)

The City of Highland Park's Inclusionary Zoning Ordinance applies to all residential development that result in or contain five or more residential dwelling units. (Sec. 150.2105.A)

Q: How do we calculate the number of required affordable units in a residential development?

³ Pathways to Affordability: Municipal Strategies to Increase Affordable Housing Supply in Illinois - C. Scott Smith and Kyle Smith, the Chaddick Institute for Metropolitan Development at DePaul University and the Metropolitan Mayors Caucus

⁴ Affordable Housing Planning and Appeal Act: 2018 Non-Exempt Local Government Handbook (310 ILCS 67/20) Sec. 20. Determination of exempt local governments.

A: There are many different ways to determine this calculation, the percentage of units could vary depending on the number of total units being built or it could be one percentage based on the total number of units built that has to be set aside as affordable units. The report sent to the Village Board dated July 13, 2020, recommended the below sliding scale that would set the number of affordable units required for residential development.

Total # of Units to be Constructed*	Required # of Affordable Units
1-10 units	No requirement but encouraged and incentivized
11-20 units	1 unit required to be affordable
21-49 units	5% of units required as affordable
50 units or more	10% of units required as affordable

In another example, the City of Lake Forest uses 15 percent to calculate the number of affordable housing units required in a covered development project (the total number of proposed units multiplied by 15 percent). If 15 percent of the number of proposed units results in a fraction, a fraction of 0.5 or more shall be rounded up, and a fraction of less than 0.5 shall be rounded down. (Sec 158.04)

Under the City of Highland Park ordinance, 20 percent of a covered development must be designated as affordable units. (Sec 150.2115A.2.)

Note: Both Lake Forest and Highland Park offer a cash payment in lieu of an affordable unit.

Q: Can there be a different sliding scale for calculating required affordable rental units and affordable owner occupied units?

A: It is not advisable to treat affordable rental units and affordable owner occupied units differently with regard to the number of affordable units required in a given development. This could have unintended consequences and could be taken advantage of if owner occupied units were later rented on a secondary market.

Q: Can you have a different AMI for owner occupied and rental?

A: Yes, a different AMI can be used for an owner occupied unit and a rental unit. Keep in mind that the AMI calculation for a rental unit includes rent and utilities.

In the definitions section of their inclusionary zoning ordinance, the City of Lake Forest recognizes low-income household as household incomes that do not exceed 80% of AMI for owner occupied units and for rental units, household incomes which do not exceed 60% of AMI. They also recognize moderate-income households as household incomes that do not exceed 120% of AMI for owner occupied units and for rental units, households with incomes that do not exceed 80% of AMI. (Sec 158.01)

Q: What percentage calculation of AMI is used for the proposed Zion Woods units?

A: The proposed Zion Wood residential development is funded through federal money so limits for eligibility are 60% of AMI and below.

Q: How would a density bonus work if the Plan Commission is inclined to offer a density bonus as an incentive to developers?

A: The following are 2 examples of how a Density Bonus could work:

One example is for an apartment development of 50 units, and another example is an apartment development of 250 units:

Proposed Development of 50 Apartments:

A 50-unit apartment development would require 3 affordable units based on the sliding scale presented earlier in this memo:

50 units would require 5% affordable units which is 3 affordable units ($50 \times 5\% = 2.5 = 3$ units). Therefore, the 50-unit development would have 47 market rate units and 3 affordable units.

A density bonus of 1.5 market rate units for each affordable unit provided would allow the developer 5 more market rate units (3 affordable units \times 1.5 density bonus $= 4.5 = 5$ units), bringing the total apartment units to 55 (52 market rate rental units and 3 affordable rental rate units).

Proposed Development of 250 Apartment:

A 250-unit apartment development would require 25 affordable units based on the sliding scale presented earlier in this memo:

250 units would require 10% affordable units which is 25 affordable units (250 x 10% = 25 units). Therefore, the 250-unit development would have 225 market rate units and 25 affordable units.

A density bonus of 1.5 market rate units for each affordable unit provided would allow the development 38 more market rate units (25 affordable units x 1.5 density bonus = 37.5 = 38 units), bringing the total apartments units to 288 (263 market rate rental units and 25 affordable rental rate units).

A possible consideration by the Plan Commission could be the density bonus of the extra market rate units are only applicable when affordable units at the lower tier are provided (at or below 80% AMI).

It is important to recognize that the increase in total units as a result of a density bonus may require additional floors to be constructed in a multi-tenant building resulting in a height increase. As previously discussed with the Plan Commission a density bonus could result in increased neighbor impacts but they are also recognized as one of the most valuable incentive tools available to a developer so they warrant consideration.

Q: How can we prioritize eligibility for affordable units?

A: The following are two examples of how eligibility can be prioritized.

Using the Lake Forest ordinance, priority is intended to low- and moderate-income households in the following order: (1) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 75 years of age or older; (2) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 65 years of age or older; (3) former Lake Forest residents that are age 65 and older; (4) parents of Lake Forest residents who are age 65 and older; (5) households in which the head of the household or the spouse or domestic partner works in Lake Forest.(Sec. 158.10)

Using the Highland Park ordinance, priority is first 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. (Sec. 150.2160)

Q: How is eligibility controlled?

A: Eligibility, maintenance and audit could be done through a third party consultant such as Community Partners for Affordable Housing (CPAH) or Housing Opportunity Development Corporation (HODC).

Q: What happens when an eligible renter's income improves and they no longer qualify for the unit?

A: This would mostly likely only apply to rental units because once a person qualifies for a for-sale affordable unit they do not have to requalify unless they sell the affordable for-sale unit and want to purchase another affordable for-sale unit. For a rental unit, this could be written into the ordinance and as to how often an applicant has to requalify. Staff spoke to a third party consultant and they noted that they would not remove someone from an affordable unit. They do find that if a person's income substantially increases the renters tend to move out. If the renter does stay in the unit and it is found that their income increase usually there would be a restructuring of their rent.

Q: What happens if someone changes employment and no longer works in the Village?

A: If the person changes employment, they may still qualify to remain in the unit if they are under the required income limits.

Q: What if someone purchases an affordable condominium and rented it?

A: If someone purchases an affordable unit, they would be required to live in the unit and would not be able to rent the unit if it is written into a restrictive covenant approving the development.

Q: If someone purchased a condominium or single family home and wanted to later sell the property, would there be an incentive to maintain the unit/dwelling?

A: Staff spoke with a third party consultant who handles affordable housing units. The third party consultant has not seen this as an issue in the past. Purchasers are homeowners and like all homeowners, there is pride in home ownership and maintaining ones property. In addition, homeowners are held accountable to code violations by a municipality's code enforcement division.

Q: How are affordable units marketed or offered publically? How the applicants are told the units are available and how are they approved?

A: The third party consultant would handle marketing of the available affordable units, maintain the waiting/eligibility list and approve tenants.

Q: What would be an estimation of a third party cost – do we want to take that on? Is it worth it?

A: Staff spoke with an experienced third party consultant regarding cost of maintaining an eligibility list, qualifying residents and marketing properties. The third party consultant noted that they do not make money on this type of work, as it is their mission. An approximation of cost would be a few hundred dollars per unit per year. The third party consultant would maintain a waiting/eligibility list, and requalify participants as written in the ordinance. The third party consultant does not often see requalification of residents on a yearly basis.

Q: If an affordable for sale unit is purchased, do you have to sell to someone who qualifies for the affordable unit?

A: Yes. This would be written into a restrictive covenant as well as how much you could sell the unit for. The restrictive covenant would define the length of the term the unit would remain affordable such as 25 year or in perpetuity. It

is not uncommon for the future sale of the owner-occupied property to be capped at annual CPI increases.

Q: What are fees in lieu? How are fees in lieu amounts determined? What guidelines should the Plan Commission be thinking of if this is something, they are interested in recommending?

In inclusionary zoning, a fee in lieu is (a fee to pay) may be offered by developers as an alternative to building an affordable unit. In lieu-fees are generally paid into a housing trust fund and used to finance the development of affordable housing units.

Each jurisdiction must determine how to set their fee level. There are several common approaches, and no single “right” formula. A key factor that shapes the decision about which formula to use is whether a jurisdiction wants to encourage on-site development of affordable units or collect the revenue to leverage other sources of funding to build affordable units off site.

Two methods for setting fees in lieu⁵ are below:

Affordability Gap Method

The in-lieu fee is based on the typical difference in price (or rent) between market rate and affordable units. For example if a typical market rate home sold for \$300,000 and the affordable price was \$200,000 the fee would be \$100,000.

The per unit fee in lieu amount for an affordable unit in Lake Forest is set at an amount determined by ordinance of the City Council. (Sec. 158.08) In Highland Park, the per unit fee in lieu amount for an affordable unit is \$125,000. (Sec. 150.2102 C.2. and 2020 Annual Fee Resolution).

Production Costs Method

The in-lieu fee is based on the average amount that the public has historically invested to actually produce each additional off-site affordable unit. For example if it generally cost \$250,000 to build a new unit and qualified low-

⁵ <https://inclusionaryhousing.org/designing-a-policy/off-site-development/in-lieu-fees/setting-the-in-lieu-fee/>

income buyers could generally afford \$200,000, then the fee would be \$50,000.

As previously discussed with the Plan Commission the Village Board expressed concern with accepting fee-in-lieu payments and the associated staff oversight and management required such as the formation of a Housing Trust Fund and the associated responsibility to identify and spend those funds on affordable properties for purchase.

Q: If the Village were to form a housing authority would it be a volunteer board or would they be paid? Would there be staff and if so what would be the cost?

A: Although the Village has not contemplated this, a housing authority within the Village would have to be enacted by Village Ordinance, staffed with Village residents and require a village employee as staff liaison. The mission, duties and responsibilities, number of Commission and makeup of the Commission would be determined by the Village Board and written into an ordinance.

Q: How would thresholds be applied to someone building a development like Coromandel today because it is a mix of single family, townhomes and condominiums? What would the break down look like?

A: This would be based on the definition of a covered residential development and whether or not the required affordable units would apply to detached structures or attached units only, such as in Lake Forest.

Using the scale recommended in the July 13, 2020, report to the Village Board, the 400 unit Coromandel project would require a 10% set aside for affordable units because the development is more than 50 units, therefore it would require 40 affordable units (316 condos + 68 townhomes + 16 single family X 10% = 40).

Using the Lake Forest inclusionary zoning ordinance, 15% of only the attached units would need to be made affordable or 58 units (316 condos + 68 townhomes X 15% = 57.6 or 58 units).

Using the Highland Park inclusionary zoning ordinance, 20% of all of the units would need to be made affordable or 80 units (316 condominiums + 68 townhomes + 16 single family X 20% = 80).

Part 3. Points for Further Input, Discussion and Consensus

- Define scale on when the Inclusionary Zoning Ordinance would take effect in a residential development and if it applies to attached structures only or if it applies de-attached single-family home structures as well.
- Should the AMI be tiered? And if so, how many tiers? 1, 2 or 3? And at what percentages?
- Should AMI be different for owner occupied units and rental units or should they be the same?
- Is the proposed top end of 10% affordability for developments over 50 units appropriate or should it be a higher/lower percentage?
- How is the eligibility list defined?
- Should affordable for-sale and rental units be in perpetuity?
- Should there be restrictions on interior appearance and finishes between affordable units and market rate units, such as including a restriction on how much smaller an affordable unit is allowed to be compared to a market rate unit? For example, affordable units could be restricted to a gross floor area no less than 75% smaller than the market rate units. Affordable units could also be required to be dispersed throughout a multi-tenant building and constructed at the same time as the market rate units so that the affordable units are not congregated into a specific area of a given development.

Conclusion

The Village has discussed affordable housing and inclusionary zoning on many occasions throughout the years. The Village Board has determined that now is the appropriate time to attempt to codify an inclusionary zoning ordinance to provide clarity to developers while attempting to achieve policy goals associated with housing in the Village. One of the barriers over the years has been the complexity

of the topic and the variety of nuance that an ordinance could contain. Therefore, the Village Board has afford a framework, which was previously sent to the Plan Commission for consideration, with the hopes of drafting an inclusionary zoning ordinance that is able to achieve the policy objectives of the Village but does not over complicate the program and require additional staff or significant contracted oversight costs.

Accordingly, as the Plan Commission considers the details of the ordinance and the myriad of options available at their disposal they are encouraged to find a streamlined approach that achieves the policy objectives in the most efficient manner.

Staff and a representative from the Village Attorney's office will be available at the October 22, 2020, workshop meeting to review this memo with the Plan Commission.

Appendix

2003 Affordable Housing Planning and Appeal Act⁶ (AHPAA)

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of 7 owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.)

(b) The Illinois Housing Development Authority shall make this determination by: (i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area; (ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area; (iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and (iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau, and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination once every 5 years. The data shall be shown for each local government in the state and for the

⁶ Affordable Housing Planning and Appeal Act: 2018 Non-Exempt Local Government Handbook (310 ILCS 67/20)
Sec. 20. Determination of exempt local governments.

state as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) Communities which develop affordable housing plans and meet one of the three statutory goals (see page 13) are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.

temperature checks at departure, as well. They will also be doing extra cleaning and sanitizing and will have a strict sick policy that will require children to stay home for 72 hours if sick and monitor coughs, colds and flu symptoms closely. If flu symptoms persist for more than 72 hours, children may only return back with a doctor's note saying either that their symptoms are not COVID related, not enough symptoms for a test, or with a negative COVID test result. They will also follow the Chicago guidelines stating that if a family has traveled to a red state or been on an airplane, that they must stay home for two weeks before returning. They will also follow the DCFS COVID guidelines stating that plush toys or stuffed animals will not be allowed. They will also minimize parents being in the home by offering virtual tours. Ms. Schultz added that if Illinois goes back to Phase 3 they will communicate with their DCFS representative on the process needed and will work with parents to lower number of children in their care if they need to. The Petitioner will work with the conditions they are presented.

Chairman Berg confirmed with staff that the Petitioners need to be licensed through DCFS in order to operate. Ms. Grafman added that any in-home day care with more than three children is required to be licensed. Mr. Ryckaert stated that per the Zoning Ordinances under home occupation, any applicable State licensing requirements must be adhered to as well as any additional Village requirements which in this case requires a Special Use as they are planning to have over four children in their care.

Chairman Berg asked staff if there are any parking restrictions in this area on Pine or an adjoining street. Mr. Ryckaert replied that he is not aware of any but will double check. Commissioner Bromberg stated that he lives in the area and other than no overnight parking there are no special restrictions.

Chairman Berg agreed with the suggestion that Ms. Schultz park elsewhere to accommodate clientele as best possible and keep the traffic flow uncongested. Chairman Berg also agreed that garbage is an issue to consider. Mr. Lichterman informed the Petitioners that they can rent an additional garbage can from the garbage provider. Chairman Berg stated that he agrees that there is no need for a traffic and parking study.

Commissioner Bromberg asked what happens in the event of Ms. Grafman's family going on vacation. Ms. Grafman replied that per the DCFS guidelines, they will have a school policy stating when they will be closed for vacations. And although the licensee who is Ms. Grafman must always be there, they are allowed a certain number of days to have a substitute for her which will be Ms. Schultz.

Mr. Ryckaert reported that the Public Hearing on this matter will be October 8, 2020.

2) Workshop Meeting to Discuss the Framework for an Affordable Housing Inclusionary Ordinance

For this agenda item Mr. Nakahara shared some basic definitions relative to inclusionary zoning. Inclusionary zoning may be programs and policies that require or offer incentives for the creation of affordable housing. Inclusionary zoning may come into effect when new development or redevelopment occurs. Some of the benefits of an inclusionary zoning ordinance are that they deal mainly to private sector development, which does not necessitate a direct government subsidy, integrate affordable housing into market rate development and do not concentrate affordable housing in one area.

Mr. Nakahara defined area median income (AMI) as the income limits that are determined by the specific area income or regional area income as calculated annually by Housing and Urban Development (HUD). The AMI is the median or middle number of all of the incomes for the given area. Meaning that 50 percent of the people in that area make more than that amount, and 50 percent make less. The income levels are percentages of that AMI number. Household income at or below 80 percent of the AMI is considered low-income, household income from 80 percent to 120 percent of the median income is considered moderate income, and above 120 percent of the AMI is considered middle income.

Mr. Lichterman discussed the memo presented to the Village Board on July 20, 2020. This memo is in response to the January 2020 Committee of the Whole Meeting in which the Board directed staff to further look into an affordable housing inclusionary zoning ordinance. At the January 2020 meeting, the Village Board had a favorable view to take some legislative action and recommended that an inclusionary zoning ordinance may be a method to drive affordable housing. Mr. Lichterman stated that they looked back at Village files pertaining to affordable housing or workforce housing and learned that this issue has been discussed since 2009. In the past there have been ideas of forming a task force. At this time, the Village Board is ready for action and Mr. Lichterman provided an overview of the staff memo to the Board with a framework and recommendations for a possible inclusionary housing ordinance. Mr. Lichterman added that the Board did not get into the details of a recommendation and their hope is that the Plan Commission would dive into deeper detail of an inclusionary ordinance. The Board liked the general guidelines but would like to dig deeper into what the thresholds are for when the ordinance would apply as it may not make sense for all developments.

Mr. Lichterman stated that these policy objectives will drive later decisions and specifically some of the definitions for AMI. The objectives offered for inclusionary zoning include increasing the supply of affordable housing, dispersing the supply of affordable housing, and making low and moderate income families indistinguishable from each other. An inclusionary zoning ordinance would provide better access to employment and education in Deerfield to a great demographic and the surrounding area as well as encourage racial and economic integration.

Mr. Lichterman stated that the State of Illinois has non-binding affordable housing guidelines with different objectives than these. When the Village Board asked staff to come up with thresholds that would trigger the inclusionary ordinance, staff offered a sliding scale so that any development with over 51 units will offer 10 percent of the units as affordable. Developments with one to 10 units would be encouraged to offer affordable housing but would not be mandated. Staff suggested that affordable housing be 120 percent of AMI. This does not satisfy what the State of Illinois defines as affordable housing in the Affordable Housing Planning and Appeals Act (Act). As Deerfield is a Home Rule community, the State act is not binding to Deerfield; it is only viewed as a guideline. At this time, staff is not offering to be bound to the Act as an objective, but if the Plan Commission disagrees, this can be part of their recommendation. Staff suggests that 120 percent of AMI be used (while the State defines that 80 percent of AMI for owner occupied units and 60 percent of AMI for rental occupied units) when defining affordable housing units. Affordable housing can be owner occupied or rental occupied and an ordinance must apply to both.

Commissioner Bromberg asked if the suggested sliding scale is the same for rental and owner occupied units or if staff suggests two different scales. Mr. Lichterman responded that they are suggesting one scale, but they believe they can use two different ones if this body or the Board suggest so, as the State has.

Commissioner Bromberg commented that 120 percent of AMI is an important factor to consider for Deerfield. He understands that this does not meet Illinois requirements, but would like to know if it will allow Deerfield to meet their other goals of allowing low income families to live there. Mr. Lichterman agreed that this is an important question and it is the decision of the Commission. Staff is of the mind that this number starts the ball moving and will not be too off-putting for developers, as the Village does not want to discourage development. The question is whether this percentage along with incentives will be feasible for developers. The Village Board is looking to the Plan Commission to help make this determination. Commissioner Bromberg commented that the Zion Woods affordable housing proposal is below this percentage of AMI. Mr. Lichterman commented that this is correct, as their number is dictated by the funding and programs they are using, and that this ordinance would not apply to them as they are already offering affordable housing to low income families. Mr. Ryckaert commented that he believes Zion Woods plans to use 60 percent of AMI. Commissioner Bromberg suggested looking into 100 percent and 120 percent of AMI.

Mr. Lichterman showed a State report shows that in 2012 Deerfield had 4 percent affordable housing and in 2018, 7.3 percent affordable housing. It is not clear what drove this increase as these numbers are dependent on the housing market at the time. He shared that one reason staff is recommending that 120 of AMI be used is that the approved REVA development agreed to offer 10 percent of their apartments at 120 percent AMI, which will be 18 out of the 180 apartment units.

Mr. Lichterman reviewed what the rent and sale prices would be for 120 percent of AMI using a household of four AMI of \$109,000. Rent for a three bedroom unit would at 120 percent of AMI would be \$2,730 including utilities. Currently there are 12 three bedroom units for rent in Deerfield with an average rent of \$2,839, however this does not include utilities. 100 percent of AMI would be a significant difference in rent. And the sale price of a three bedroom unit at 120 percent of AMI would be \$369,500 for a household of four. The median value of homes in Deerfield is \$385,000. Mr. Lichterman added that the Village would need to partner with a third party housing authority to administer this program if this were put into place. The housing authority partner would audit applications and determine who would be eligible.

Commissioner Schulman asked how much utilities might be a month. Mr. Lichterman replied that rent often includes waste, water and sewer and tenants are responsible for gas and electric which can be upwards of \$100 a month. Mr. Lichterman added that internet is not considered a utility and tenants will likely need internet service.

Commissioner Bromberg commented that another key part of the income grid is for the one-person household because when affordable housing has been discussed in the past, they have talked a lot about someone newly out of college, such as a teacher or firefighter in the community who would also like to live in the community close to their job. He thinks that this is an important to consider and asked if the starting salary for teachers or firefighters would qualify.

Commissioner Stolman commented that the rent for a one-bedroom unit would still be over \$2,000 using 120 percent of AMI and one bedroom units already had an average rent of \$1,200 which is well within that range.

Commissioner Schulman asked if this would only apply to new homes being built. Mr. Lichterman replied that it would only be for new developments with ten or more homes or other types of units. Commissioner Schulman commented that the ordinance would mostly be for new construction rental apartments and very rarely if ever townhomes or single family homes. Mr. Lichterman agreed that this is true in today's market but that could change in the future.

Commissioner Keefe asked if a unit is purchased through this affordable housing program and is later being sold, does it have to remain as affordable housing for the sale. Mr. Lichterman replied that the unit would be held in perpetuity with a restrictive covenant to keep it affordable even when it turns over.

Commissioner Stolman asked if this only applies to units in multi-unit housing or if it also applies single family home developments. Mr. Lichterman replied that it would apply to all new developments and all units are viewed as the same, whether apartments or condos or single family homes. However, it would not be very common that there would be a development of more than ten single family homes.

Commissioner Stolman asked how this program would be marketed and if it would be offered publicly as well as whether the third party partner would accept tenants or if the owner or landlord would. Mr. Lichterman replied that the third party partner would handle all of the marketing and applications. Commissioner Stolman asked what the potential annual cost would be of this partner. Mr. Lichterman replied that they believe it would be between \$20,000 and \$30,000 per year to help administer a program like this. He added that there is a selection of reputable companies that do this that have been used throughout Lake Forest to Evanston.

Commissioner Bromberg asked how would this apply to a large development similar Coromandel. Mr. Lichterman responded that Coromandel is 400 units total a mix of townhomes, apartments, and condominiums. If this potential ordinance were to apply to a development like Coromandel, the Village would say that 40 housing units need to be affordable. Commissioner Bromberg asked if what types of units those 40 could be. Mr. Lichterman replied that this is something for this body to deliberate and perhaps the 10 percent could be across the board so that 10 percent of each apartments, condos and townhomes would need to be made affordable.

Chairman Berg asked Mr. Lichterman to expound on the possible advantages or disadvantages of condos only being made affordable and not single family homes. Mr. Lichterman replied that applying an ordinance like this to all types of new development units provides for more diversity. And there is value in having a variety of housing stock if they really want to achieve affordability and diversity. The whole point of inclusionary zoning is to not differentiate and to comingle the affordable housing. In this example, a Coromandel-type development in the future would be indistinguishable.

Mr. Lichterman next discussed developer incentives being proposed. He stated that setting the right AMI and incentives will determine if the Village stifles development or not. Developers focus on economic outcomes to stay in a project and the Village hopes to offer certain incentives that are valuable.

One commonly used significant incentive is a developer fee which allows the developer to pay a fee in lieu of adhering to the affordable housing requirements. Mr. Lichterman stated that the Village Board is opposed to accepting fees in lieu of offering affordable housing. The Board is

also opposed to forming a Housing Commission as they are looking for a more efficient way to do this without additional bureaucracy.

Mr. Lichterman stated that another possible incentive is density waivers. This would allow developers to build above and beyond the density restrictions in the Zoning Ordinances and would often trade one for one with more units and affordable units which can be a valuable incentive to developers. Additional incentives include impact fee waivers, building permit fees waivers and expedited building permits, and other fees waivers on just the affordable units but not the entire development.

Mr. Lichterman next discussed eligibility. A common policy objective is for low and moderate-income families to live in the community. The question is how to allow this when there will only be so many affordable units with possibly many eligible applicants. When the Village Board discussed this, their reaction was that giving priority to people that live and work in Deerfield. However, they are opposed to giving priority to employees of the Village as this seems self-serving. The Village Board discussed the importance of this ordinance to benefit the broader community. Mr. Lichterman asked the Commission to consider whether we exclude library and park district employees from getting priority, as well. Chairman Berg clarified that Village employee applicants would not be excluded, just not prioritized.

Chairman Berg asked what would happen if someone is accepted and ceases to be employed there during the term of their occupancy. Mr. Lichterman replied that he is not sure, but that as long as that person still qualifies they can remain.

Mr. Lichterman stated that when the Village Board discussed incentives and eligibility they stayed very broad and it is their hope that the Plan Commission would dig into the nuances more in these areas. The Board discussed just a basic framework to move the ball forward. Mr. Lichterman informed the Commissioners that they can let staff know what they need more information on and can discuss what feels right and wrong and what they need more time or information on. At this time staff is looking for that basic reaction and how to move forward.

Commissioner Bromberg asked if Trustee Jester felt that this was not necessary and was against inclusionary zoning referring to Trustee Jester commenting (at the July 20th Board meeting) that the Village already has many homes that meet these requirements. Mr. Lichterman confirmed that this is accurate. He added that some trustees believed that 120 percent of AMI is a good starting place and better than nothing and others wanted to further explore 100 percent or 80 percent of AMI.

Chairman Berg asked each Commissioner for their input.

Commissioner Bromberg stated that he is not sure about the 120 percent of AMI and he needs time to mull that over as he is considering lowering that number. Mr. Ryckaert replied that the Commission could consider recommending that half of the required units be at 100 percent of AMI and half at 120 percent at AMI, or a third at 80 percent, a third at 100 percent, and a third at 120 percent of AMI. Commissioner Bromberg liked this suggestion. He added that it is his preference for people who work in the Village to have priority, but not Village employees and not public sector over private sector employees. He also agrees that the Village should not accept a fee in lieu of affordable units, and he likes the idea of other waivers as incentives. He also added that if someone's income goes up there should be a way for them to age out of the program and pay market rate. He does not think that once someone qualifies and is accepted

that they should never leave the unit or always have the same rent. Mr. Lichterman responded that if someone no longer qualifies for affordable housing then the unit can go to market rent and another unit in the development can be made affordable in return. A tenant would not necessarily have to leave the unit. Commissioner Bromberg also commented that in the Highland Park Ordinance, an owner occupied unit has to meet the requirements of perpetuity for 25 years and he'd like to give more thought to this. Mr. Lichterman stated that the Village Board had the opinion that a unit for sale should remain in perpetuity and that ten percent of units in a development need to remain affordable in perpetuity.

Chairman Berg asked how this might be governed and overseen in a multi-unit establishment. Mr. Lichterman replied that the third party housing authority would audit program participants on an annual basis and generally act as an arm to the Village to manage the entire program.

Commissioner Schulman asked if a new development has 50 units and five need to be made affordable, if it can it be any five units. Mr. Lichterman replied that yes it can be any units the developer would assign. Often times it may be units with poor views or some downside to them. Or they may choose different countertops or fixtures for the affordable units.

Chairman Berg confirmed that the affordable units would have to be indistinguishable from full market rate. Mr. Lichterman confirmed that this an objective of the potential ordinance. He added that for comparison, Highland Park's ordinance states that affordable units cannot be less than 75 percent of the square footage of a market rate unit. They can place limits such as these on it. The objective is to be affordable and indistinguishable from the others.

Commissioner Keefe commented that he wants to be sure that if someone purchased an affordable condo that they cannot rent it out for a higher rate. He also commented that there could be concern about people not upgrading or property maintaining affordable units because know they know they will not get market value when they sell. Mr. Lichterman stated that staff can look into this as owner occupied affordable housing is more rare and not as well understood. Mr. Nakahara stated that if a unit is purchased as an affordable unit then it would not be eligible to be rented out and it must be owner occupied.

Commissioner Schulman commented overall it is a good policy and he understands why the Village would want to have it on the record. However he is not sure how applicable it would be in Deerfield as there is not very much new development of large scale. He added that he likes Mr. Ryckaert's idea of splitting the AMI and that without incentives for developers they could curb development. He stated that waivers could be enticing and meaningful for developers. Regarding eligibility, he asked how multiple applicants that live or work in Deerfield could be prioritized at the same time. And regarding perpetuity for rental or owner occupied units, if the unit is only affordable for 25 years it would be hard to have to cycle people out in year 24 if they could not afford to pay market rent.

Commissioner Stolman agreed that he liked the idea of splitting AMI levels in halves or thirds. And regarding incentives, maybe the Village could consider requiring less than ten percent of units be made affordable so as to not scare developers away. He also questioned the cost and efficiency of the third party contractor versus the Village managing the program themselves. And regarding eligibility he would like to know if essential workers and educators will receive priority.

Chairman Berg asked the Commissioners whether this matter should be continued, as there has been quite a bit of meaningful dialogue at this point. He stated that the Village Board has requested that the Plan Commission study this issue and make necessary recommendations and he believes it is incumbent upon them to provide information and support if they wish to adopt something.

Commissioner Bromberg agreed to continue the discussion and stated that he believes that they should have an ordinance in place but that they first need more information to inform their recommendations. Commissioners Keefe, Schulman and Stolman agreed to continue the matter to a later date. Chairman Berg asked staff to look further into the cost of potentially forming a housing authority.

Mr. Ryckaert suggested continuing the matter at the October 22, 2020 Plan Commission meeting, Chairman Berg confirmed.

Document Approval

- 1) September 1, 2020 Plan Commission Meeting Minutes

Commissioner Bromberg moved, seconded by Commissioner Keefe to approve the minutes with the corrections provided by Commissioner Bromberg. The motion passed with the following vote.

Ayes: Stolman, Bromberg, Keefe, Schulman, Berg (5)

Nays: None (0)

Items from the Staff

Mr. Ryckaert reported on upcoming Plan Commission agenda items.

Public Comment

Mr. Ryckaert reported that there was no public comment via email received during the meeting. Mr. Lichterman reported that no one was present at Village Hall for public comment. Mr. Nakahara reported that there were no Zoom participants requesting oral public comment.

Adjournment

There being no further discussion, Commissioner Bromberg moved, seconded by Commissioner Stolman to adjourn the meeting at 9:27 P.M. The motion passed the following vote.

Ayes: Stolman, Bromberg, Keefe, Schulman, Berg (5)

Nays: None (0)

Respectfully Submitted,
Laura Boll

BACKGROUND INFORMATION

1. July 13, 2020 Staff Memo to Village Board of Trustees
2. January 27, 2020 Committee of the Whole Minutes regarding Affordable Housing

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

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~~

REFERENCE

1. 2010 City of Lake Forest Inclusionary Housing Ordinance
2. 2019 City of Highland Park Amended Inclusionary Housing Ordinance

THE CITY OF LAKE FOREST

**AN ORDINANCE AMENDING THE LAKE FOREST
ZONING CODE AND THE LAKE FOREST CITY CODE
TO ESTABLISH INCLUSIONARY HOUSING
REQUIREMENTS**

WHEREAS, the State of Illinois has enacted the Affordable Housing and Appeal Act, 310 ILCS 67/1 *et seq.*, to encourage counties and municipalities to incorporate Affordable Housing within their housing stock sufficient to meet the needs of their county or community; and

WHEREAS, under the Affordable Housing and Appeal Act, the General Assembly found that there exists a shortage of affordable, accessible, safe, and sanitary housing in the State to serve local workforces and retired persons within localities; and

WHEREAS, The City of Lake Forest is a home rule unit and therefore is not subject to the terms and requirements of the Affordable Housing and Appeal Act; and

WHEREAS, the City nevertheless has identified an unmet need for Affordable Housing among the residents of the City, and the City has therefore adopted an Affordable Housing plan; and

WHEREAS, the City has had a rich history of housing diversity, including Affordable Housing Units for persons of low- and moderate-incomes; and

WHEREAS, increasing land values resulting from the increased scarcity of undeveloped land and the conversion of existing Affordable Housing Units into more expensive units have placed additional pressures on the availability of Affordable Housing in the City; and

WHEREAS, new developments in the City also increase the need for a readily available workforce in or near the City that requires Affordable Housing; and

WHEREAS, as new developments are constructed in the City, the gap between the availability of Affordable Housing Units and the need for Affordable Housing Units increases; and

WHEREAS, in addition, as new developments utilize land otherwise available for Affordable Housing or convert existing units from Affordable Housing Units, the opportunity for the development of Affordable Housing Units decreases; and

WHEREAS, new development projects that do not provide Affordable Housing increase the direct and indirect cost to the City and its residents in providing and obtaining needed services; and

WHEREAS, the Mayor and City Council of the City have determined that it is necessary and appropriate to ensure that the impact of new developments on the need for and relative availability of Affordable Housing be borne by the developers of such new developments; and

WHEREAS, the Mayor and City Council have also determined that providing proper incentives (including without limitation density bonuses and cost off-sets) neutralizes the financial impact of providing Affordable Housing Units on such developers; and

WHEREAS, in furtherance of the City's Affordable Housing plan, and consistent with the Affordable Housing and Appeal Act, the Mayor and City Council have determined that it is in the best interests of the City and its residents to adopt this Inclusionary Housing Ordinance to require developers of new residential projects and conversion projects to provide a quantum of Affordable Housing Units in addition to the number of units otherwise allowable under the City's Zoning Code; and

WHEREAS, the Mayor and City Council have further determined that, in light of the density bonuses and cost set-offs provided for in this Ordinance, the net impact of this ordinance

on affected developers is negligible and, to the extent there is any such impact, it is specifically and uniquely attributable to the effects of such development on the City's demand for and availability of Affordable Housing within the City; and

WHEREAS, the Mayor and City Council have considered this ordinance following notice duly published and a public hearing before the City's Plan Commission, which Commission recommended the adoption of inclusionary housing provisions consistent with the terms of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of The City of Lake Forest, County of Lake, State of Illinois, as follows:

SECTION ONE: Recitals. The foregoing recitals are hereby adopted as the findings and determinations of the City Council and are hereby incorporated into and made a part of this Ordinance as if fully set forth.

SECTION TWO: Amendment to Zoning Code. The Lake Forest Zoning Code, being Chapter 46 of the City Code of The City of Lake Forest (the "City Code"), is hereby amended as follows:

(a) Section 46-36, entitled "General Requirements," of Article VII, entitled "Residence and General Residence Districts," of the Zoning Code is hereby amended by adding a new Subsection J, which new Subsection shall hereafter be and read as follows:

J. INCLUSIONARY HOUSING.

In addition to the requirements of this Section and the respective district requirements, certain developments shall be subject to the Inclusionary Housing requirements of Chapter 20A of the City Code, which requirements shall be satisfied in addition the provisions of this Chapter.

(b) Section 46-48, entitled “General Requirements,” of Article VIII, entitled “Office and Business Districts,” of the Zoning Code is hereby amended by adding a new Subsection I, which new Subsection shall hereafter be and read as follows:

I. INCLUSIONARY HOUSING.

In addition to the requirements of this Section and the respective district requirements, certain developments shall be subject to the Inclusionary Housing requirements of Chapter 20A of the City Code, which requirements shall be satisfied in addition the provisions of this Chapter.

SECTION THREE: Amendment to City Code. The City Code of The City of Lake Forest shall be, and is hereby, amended to include a new Chapter 20A, entitled “Inclusionary Housing,” which new Chapter shall hereafter be and read as follows:

**CHAPTER 20A
INCLUSIONARY HOUSING**

Section 20A-1. Definitions.

(A) In General. The words and phrases used in this Chapter shall be interpreted to have the meanings ascribed to them in this Section. To the extent that words or phrases used in this Chapter are not defined in this Section, but such words or phrases are defined in the Zoning Code (Chapter 46), such words or phrases shall be deemed to have the meanings set forth in the Zoning Code. Otherwise, words and phrases shall be interpreted in their commonly used sense as set forth in the Webster’s Third International Dictionary (Ed.), unless the context reasonably requires another construction.

(B) Definitions. The following words and phrases, when used in this Chapter, shall have the following meanings:

AFFORDABLE HOUSING: Decent, safe, sanitary, and appropriate housing that Low- and Moderate-Income Households can own or rent without having to devote more than approximately 30 percent of their gross income to monthly Housing Expenses.

AFFORDABLE HOUSING TRUST FUND: A trust fund to be established by the City with the central purpose of providing financial resources to address the Affordable Housing needs of individuals and families of Low- and Moderate-Income Households who live in the City.

AFFORDABLE HOUSING UNIT: A dwelling unit that meets the criteria for Affordable Housing.

AREA MEDIAN INCOME: The median income level for the Chicago area, as established and defined in the annual schedule published by the Secretary 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 provisions of this Chapter. Projects at one location undertaken in phases, stages, or otherwise developed in distinct parts shall be considered a single Covered Development Project.

ELIGIBLE HOUSEHOLD: For purposes of this Chapter, a Low- or Moderate-Income Household.

HOUSING EXPENSES: (1) For rental housing – rent and utilities; (2) For home ownership – principal and interest of any mortgages placed on the unit, property taxes, condominium or homeowner’s association fees, if applicable, and insurance.

LOW-INCOME HOUSEHOLDS: For owner occupied units, households that have incomes that do not exceed 80 percent of the Area Median Income. For rental units, households that have incomes that do not exceed 60% 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 Chapter.

MODERATE-INCOME HOUSEHOLDS: For owner occupied units, 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. For rental units, households that have incomes that do not exceed 80% of the Area Median Income.

Section 20A-2. Policy

The purpose of this Chapter is to promote the public health, safety, and welfare by encouraging high quality housing throughout the community sufficient to meet the needs of all Lake Forest residents. Throughout its history, the City has offered a diverse housing stock that permitted families of varying income levels and with various housing needs to own homes in the community. In recent years, property

values have escalated to the point of discouraging a diverse housing stock. A certain percentage of residents who currently live in Lake Forest are unable to meet or maintain the household income level necessary to support home ownership and, therefore, must look to other communities for housing. 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; 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 making Affordable Housing available in the City. With the exception of housing developed in partnership with the City and the Lake Forest Senior Cottages Foundation, 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 alternative housing opportunities in order to maintain the diversity of population that has historically characterized Lake Forest.

While this Chapter provides specific alternatives to the production of on-site Affordable Housing Units, the intent and preference of this Section is to provide permanent Affordable Housing Units that are constructed on the site of the Covered Development Project. Ownership and management of the units by the Lake Forest Senior Cottages Foundation, or a similarly qualified not-for-profit agency, is encouraged.

Section 20A-3. Covered Development Projects.

The provisions of this Chapter shall apply to all residential developments that result in or contain 5 or more dwelling units (excluding any single-family detached dwellings). The types of development subject to the provisions of this Code include without limitation the following:

(A) A development consisting of new residential construction or new mixed-use construction with a residential component;

(B) A development consisting of the renovation or reconstruction of over 50% of the total square footage of an existing multiple family residential structure and 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 in whole or in part from non-residential to residential;

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

Section 20A-4. Percentage of Affordable Housing Units Required.

(A) General Requirement. Except as otherwise provided in Section 20A-8, (Cash Payment In-Lieu of Housing Units), at least 15 percent of the total number of dwelling units within any Covered Development Project shall be Affordable Housing Units and shall be located on the site of the Covered Development Project.

(B) Calculation. To calculate the number of Affordable Housing Units required in a Covered Development Project, the total number of proposed units shall be multiplied by 15 percent. For purposes of this calculation, if 15 percent of the number of proposed units results in a fraction, a fraction of 0.5 or more shall be rounded up, and a fraction of less than 0.5 shall be rounded down. For example, a proposed multiple family development containing 15 units would be required to set aside two units as Affordable Housing Units. A similar 20 unit development would be required to set aside three of the units as Affordable Housing Units.

Section 20A-5. Development Cost Off-Sets.

An applicant that fully complies with the requirements of this Chapter (including any administrative rules that may be developed in accordance with Section 20A-14) shall, upon written request, receive from the City with regard to only the Affordable Housing Units in the Covered Development Project, 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, impact fees, and other development fees and costs which may be imposed by the City. The fees charged for the total development shall be adjusted proportionately to reflect this waiver of fees for the Affordable Housing Units. In the event that an applicant has paid any development costs that might otherwise be subject to a waiver, such applicant may, upon satisfaction of the requirements of this Chapter, seek reimbursement of such development costs.

Section 20A-6. Density Bonuses.

(A) For all Covered Development Projects that are located in the B-2, B-3, or B-4 zoning districts, the maximum floor area ratio for the zoning district may be increased an additional 0.25 if the Affordable Housing Units are constructed on the site of the Covered Development Project.

(B) For all Covered Development Projects that are located in all other zoning districts, a density bonus shall be provided equal to one Market Rate Unit for each Affordable Housing Unit required under this Code if the Affordable Housing Units are constructed on the site of the Covered Development Project; provided, however, that the maximum number of dwelling units in a Covered Development Project shall not, pursuant to the provisions of this Chapter, exceed

115% of the total number of dwelling units otherwise authorized under the applicable zoning district regulations under the Zoning Code. For example, a proposed multiple family development containing 20 units would be required to provide three Affordable Housing Units in the development and would be permitted to construct three additional Market Rate Units; resulting in a total of 23 units in the development.

Section 20A-7. 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 Project.

(B) Phasing of Construction. Where possible, Affordable Housing Units shall be constructed concurrent with the development of market-rate units. Construction phasing of Affordable Housing Units shall not be delayed beyond the schedule noted below, unless authorized by the Director of Community Development when it is demonstrated by the developer to the satisfaction of the City that a delay is necessary in order to account for the different financing and funding requirements, economies of scale, and infrastructure needs applicable to development of the market rate and the Affordable Housing Units:

Construction of Market-rate Units (%)	Required Construction of Affordable Housing Unit (%)
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
75% plus 1 unit	At least 70%
Up to 90%	100%
Fractions of units shall not be counted.	

(C) Exterior Appearance. The exterior appearance of the Affordable Housing Units in any Covered Development Project 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 square footage, provided that:

(1) Interior features and structural elements of Affordable Housing Units shall comply in all respects to the minimum construction standards set forth in the City Code.

(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 bedroom mix and aggregate gross square footage of the Affordable Housing Units shall be no less than the minimum requirements outlined in the table below (unless adjusted in accordance with Section 20A-12(B) of this Chapter).

Number of Affordable Housing Units	Number of Bedrooms		Minimum Aggregate Gross Square Footage
	1 Bedroom	2 Bedroom	
1	0	1	1,200
2	1	1	2,000
3	1	2	3,200
4	2	2	4,000
5	2	3	5,200
6	3	3	6,000
7	3	4	7,200
8	4	4	8,000
9	4	5	9,200
10	5	5	10,000
11	5	6	11,200
12	6	6	12,000
13	6	7	13,200
14	7	7	14,000
15	7	8	15,200
16	8	8	16,000
17	8	9	17,200
18	9	9	18,000
19	9	10	19,200
20	10	10	20,000

To the extent that a Covered Development Project is required to provide more than 20 Affordable Housing Units, the mix and aggregate gross square footage of such units shall be determined in a manner consistent with the preceding table.

Section 20A-8. Alternatives to On-Site Affordable Housing Units.

As an alternative to constructing Affordable Housing on the site of the Covered Development Project, the City Council may approve, concurrent with the approval of the overall development, one or more of the three alternatives to constructing Affordable Housing set forth in this Section. 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 on

site requirements of this Chapter. The terms and requirements for utilizing the provisions of this Section shall be specifically set forth in the Development Agreement required pursuant to Section 20A-12(B) of this Chapter.

(A) Cash Payment In Lieu of Affordable Housing Units. A cash payment in lieu of constructing some or all of the required Affordable Housing Units on the site of a Covered Development Project.

(1) Amount and Use of Cash in Lieu. The per unit payment amount for cash in lieu of Affordable Housing Units shall be set at an amount of \$130,000, or such amount as may be determined by ordinance of the City Council. The per unit amount shall be based on an estimate of the cost of providing an Affordable Housing Unit and shall be reviewed periodically by the City Council, with any increase set forth in the City's annual fee ordinance. The cash payment shall be deposited directly into an Affordable Housing Trust Fund established by the City, which shall be used for the purpose of providing financial resources to address Affordable Housing needs within the City by promoting, preserving, and producing long-term Affordable Housing; providing housing-related services; or providing support for not-for-profit organizations that actively address the Affordable Housing needs of residents within the community. The applicant shall execute all documentation relating to such payment as the City Manager (in consultation with the City Attorney) deems to be appropriate.

(2) Calculation. For purposes of determining the total in lieu payment amount, the per unit amount established by the City shall be multiplied by 15 percent of the number of units proposed in the Covered Development Project. For purposes of this calculation, if 15 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.

(B) A dedication of land of a size and location appropriate for the development of Affordable Housing Units as determined by the City Council, which dedication shall be made to the City or, at the City's discretion, a qualified not-for-profit housing agency.

(C) The provision of an equivalent number of Affordable Housing Units at another site within the City.

Section 20A-9. 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 at a price that is affordable to a Low-Income Household. Any remaining Affordable Housing Units shall be sold at a price that is affordable to a Moderate-Income Household.

The owner shall execute and record any documents required by Section 20A-12 or any other provision of this Chapter to ensure compliance with this Section.

(B) Rental of Affordable Housing Units. In Covered Development Projects that contain rental units, at least one Affordable Housing Unit and no less than 50 percent of the Affordable Housing Units shall be rented or leased at a price that is affordable to a Low-Income Household. Any remaining Affordable Housing Units shall be rented or leased at a price that is affordable to a Moderate-Income Household. The owner shall execute and record any documents required by Section 20A-12 or any other provision of this Chapter to ensure compliance with this Section.

Section 20A-10. Eligibility of Households.

(A) For-Sale Affordable Housing Units. Only eligible households shall be permitted to purchase and occupy an Affordable Housing Unit for purposes of satisfying the requirements of this Chapter. In order to address current and anticipated future demands within the City for Affordable Housing, the developer of a Covered Development Project shall establish a plan, which plan shall be subject to the approval of the City Manager (or the Manager's designee). Such plan is intended to give priority to Low- and Moderate-Income Households in the following order (unless adjusted in accordance with Section 20A-12(B) of this Chapter): (1) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 75 years of age or older; (2) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 65 years of age or older; (3) former Lake Forest residents that are age 65 and older; (4) parents of Lake Forest residents who are age 65 and older; (5) households in which the head of the household or the spouse or domestic partner works in Lake Forest. The selection of eligible households for the Affordable Housing Units shall be conducted by the City Manager, or such other person or entity designated by the City Council in accordance with Section 20A-12(B) of this Chapter.

(1) If the gross income of the eligible household increases above the eligible household income levels provided in Section 20A-9, the eligible household may continue to own and occupy the Affordable Housing Unit, subject to the limitations on sale or lease as set forth in Section 20A-11.

(2) The owner of the Covered Development Project shall execute and record any documents required by Section 20A-12 of this Chapter to ensure compliance with this Section.

(B) Rental Affordable Housing Units. Only eligible households shall be permitted to rent and occupy an Affordable Housing Unit for purpose of this Code. In order to address current and anticipated future demands within the City for Affordable Housing, the developer of a Covered Development Project shall

establish a plan, which plan shall be subject to the approval of the City Manager (or the Manager's designee). Such plan is intended to give priority to Low- and Moderate-Income Households in the following order (unless adjusted in accordance with Section 20A-12(B) of this Chapter): (1) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 75 years of age or older; (2) households who live in Lake Forest and the head of the household or the spouse or domestic partner is 65 years of age or older; (3) former Lake Forest residents that are age 65 and older; (4) parents of Lake Forest residents, who are age 65 and older; (5) households in which the head of the household or the spouse or domestic partner works in Lake Forest. The selection of eligible households for the Affordable Housing Units shall be conducted by the City Manager, or such other person or entity designated by the City Council in accordance with Section 20A-12(B) of this Chapter.

(1) If the gross income of the eligible household increases above the eligible household income levels provided in Section 20A-9, during the lease period, the eligible household may continue to lease and occupy the unit and may renew the lease as well, subject to the limitations on lease as set forth in Section 20A-11.

(2) The owner of the Covered Development Project shall execute and record any documents required by Section 20A-12 of this Chapter to ensure compliance with this Section.

Section 20A-11. Period of Affordability.

(A) Sale of Affordable Housing Units. In Covered Development Projects 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 of the Covered Development Project shall execute and record all documents required by Section 20A-12 of this Chapter to ensure compliance with this Section. In each case, the owner of a for-sale Affordable Housing Unit shall occupy such unit, and such unit may not be leased or subleased unless expressly approved by the City and such lease or sublease is to permit occupancy by a Low- or Moderate-Income Household.

(B) Rental of Affordable Housing Units. In Covered Development Projects that contain rental units, Affordable Housing Units shall be rented to Low- and Moderate-Income Households in perpetuity, or as long as permissible by law. The owner of the Covered Development Project shall execute and record all documents required by Section 20A-12 of this Chapter to ensure compliance with this Section. In each case, the rental Affordable Housing Unit shall be occupied by a Low- or Moderate-Income Household, and such unit may not be leased or subleased unless expressly approved by the City and such lease or sublease is to permit occupancy by a Low- or Moderate-Income Household.

(1) In the event that the owner of a Covered Development Project with one or more rental units sells the development, the new owner shall be required to continue to provide the Affordable Housing Units in accordance with this Chapter.

(2) If the owner of a Covered Development Project with one or more rental units converts the development to condominiums, the development shall be subject to the for-sale development requirements of this Chapter.

Section 20A-12. Inclusionary Housing Plan and Development Agreements.

(A) Inclusionary Housing Plan. Prior to the approval of any Covered Development Project by the City (including the issuance of any permits), the applicant shall present to the City Manager (or, in the event that the City Council enters into an agreement with a person or entity to implement provisions of this Chapter, to such person or entity) an inclusionary housing plan that outlines and specifies the Covered Development Project's compliance with each of the applicable requirements of this Code. The plan shall specifically contain, at a minimum, the following information regarding the Covered Development Project;

(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 Housing Units in the development;

(3) The number of bedrooms in each Market Rate Unit and each Affordable Housing Unit;

(4) The gross square footage of each Market Rate Unit and each Affordable Housing Unit;

(5) Site plans showing the location of each Market Rate Unit and each Affordable Housing Unit within the Covered Development Project, and/or floor plans showing the location of each Market Rate Unit and each Affordable Housing Unit within a multiple-family residential structure;

(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 Housing 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 (which shall at least include the priority provisions set forth in Section 20A-10) that the applicant proposes to utilize and implement to promote the sale or rental of the Affordable Housing Units within the development;

(10) A description of the specific efforts that the applicant will undertake to provide Affordable Housing Units to Low- and Moderate-Income Households in accordance with this Chapter;

(11) A description of the documentation deemed necessary or appropriate by the City in accordance with this Chapter to ensure continued affordability of the Affordable Housing Units in accordance with this Chapter.

(B) Development Agreement with Not-For-Profit Agencies. Prior to issuance of a building permit for any Covered Development Project, the applicant shall enter into a development agreement with the City or, at the City's discretion, a qualified not-for-profit housing agency, regarding the specific requirements and restrictions regarding Affordable Housing and the Covered Development Project. The applicant shall execute all documents deemed necessary or appropriate, including restrictive covenants and other related instruments, to ensure the continued affordability of the Affordable Housing Units in accordance with this Chapter. Applicants may also enter into agreements with a not-for-profit housing entity to provide the long-term management, including leasing of the Affordable Housing Units to Low- or Moderate-Income Households, and maintenance of the Affordable Housing Units by the agency.

(C) Additional Documentation. In addition to the requirements of subsections (A) and (B) of this Section (as applicable), the documentation required for Covered Development Projects under this Chapter shall include without limitation:

(1) The identification of target income levels for Affordable Housing Units;

(2) The identification and selection of eligible Low- and Moderate-Income Households for the Affordable Housing Units;

(3) Assurances that, for during the period of affordability, any Covered Development Projects upon which association assessments are imposed are designed to limit such assessments in a manner that will preserve the affordability of the Affordable Housing Units.

(4) Method for marketing of the Affordable Housing Units to eligible Low- and Moderate-Income Households in the community;

(5) The execution and recordation of all documents deemed necessary to ensure the development and continued affordability of the Affordable Housing Units, including without limitation a development agreement between the owner of the Covered Development Project and the City or its designee;

(6) Agreements relating to the long-term management and maintenance of the Affordable Housing Units in a Covered Development Project;

(7) The bedroom mix and aggregate gross square footage of the Affordable Housing Units;

(8) 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 20A-8 of this Chapter.

Section 20A-13. Preservation of Affordability and Restrictions on Resale.

(A) For-Sale Affordable Housing Units. A for-sale Affordable Housing Unit, the unit may be sold to a private party who meets the income level and eligibility requirements established in this Chapter. The parties to the transaction shall execute and record all documentation as required by this Chapter and reviewed by the City (or its authorized designee), including at a minimum each of the following:

(1) The Affordable Housing Unit shall be sold to and occupied by an eligible Low- and Moderate-Income Household.

(2) The Affordable Housing Unit shall be conveyed subject to restrictions that shall permanently maintain the affordability of such Affordable Housing Units for eligible Low- and Moderate-Income Households.

(3) The resale price of any permanently Affordable Housing Unit shall not exceed the purchase price paid by the seller of that unit plus inflation as measured by the Consumer Price Index (All Urban Consumers, All Cities average, residential real estate) for the period of time that the unit owner resided in the unit.

(B) Rental Affordable Housing Units. For Covered Development Projects with that contain Affordable Housing Units for rent, the owner of the development shall execute and record such documentation as required by this Chapter to ensure the provision and continuous maintenance of the Affordable Housing Units. All documents shall be submitted to the City (or its authorized designee) for review to ensure, at a minimum, each of the following:

(1) The Affordable Housing Units must be leased and occupied by eligible Low- and Moderate-Income Households.

(2) The Affordable Housing Units must be leased at rent levels affordable to eligible Low- and Moderate-Income Households.

(3) Preference for the Affordable Housing Units shall be given to eligible households pursuant to the priorities set forth in Section 20A-10, of this Chapter.

Section 20A-14. Implementation.

The City Manager (or the Manager's designee) shall develop appropriate regulations and forms that are consistent with this Chapter and necessary or convenient to effect its efficient and effective administration. Such regulations and rules shall be reported to the City Council and thereafter made available to the public.

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: Effective Date. This Ordinance shall be in full force and effect upon its passage, approval, and publication in pamphlet form in the manner provided by law.

Highland Park Zoning Code, Chapter 150

ARTICLE XXI. - INCLUSIONARY HOUSING⁵¹

Footnotes:

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Editor's note— [Ord. No. O72-2019](#), § 2(Exh. A), adopted Oct. 28, 2019, repealed Art. XXI, §§ 150.2100—150.2115, and enacted a new Art. XXI, §§ 150.2100—150.2185, as set out herein. The former article pertained to similar subject matter and derived from Ord. 52-03, J. 29, p. 174-185, passed Aug. 25, 2003; Ord. No. 45-07, J. 33, p. 251-253, passed June 11, 2007; Ord. No. 16-09, J. 35, p. 32-48, passed Feb. 9, 2009; and Ord. No. 59-15, passed June 8, 2015.

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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 percent, calculated pursuant to Section 150.2115 of this Code.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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 one and one-half 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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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) [All] 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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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;
 - (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

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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).

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)

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.

([Ord. O72-2019](#), § 2(Exh. A), passed 10/28/19)