

Staff Report to the Housing Commission

To: The Chairman and Members of the Housing Commission
From: Nora Boyer, Housing Planner
Re: Final Draft Inclusionary Housing Ordinance
Report Prepared: January 29, 2020
Meeting Date: February 4, 2020

Background

On January 13, 2020, the Village of Arlington Heights' Committee of the Whole reviewed and discussed a draft Inclusionary Housing Ordinance. This draft was prepared by Staff and included recommendations of the Housing Commission and Staff and some additional Staff considered important based on its review of other communities' inclusionary housing ordinances. Housing Commission members, developers, and non-profit developers were notified of and welcomed to attend to the Committee of the Whole meeting.

The Committee of the Whole reviewed the draft ordinance and directed staff to make changes as described in the attached Memorandum (dated January 16, 2020) and as reflected in the revised, draft ordinance that is attached to the Memorandum.

Housing Commission Discussion

At the Committee of the Whole meeting, Staff was directed by the Trustees to take this revised, draft ordinance back to the Housing Commission so that the Commission could see it in its final form before it goes back to the Village Board because the Housing Commission has been an integral part of its development. Sending the draft ordinance back to the Housing Commission provides another opportunity for input from the Housing Commissioners and also another opportunity for public comment.

Recommendation

It is recommended that the Housing Commission review the final draft Inclusionary Affordable Housing Ordinance and provide any input and recommendations to the Village Board.

MEMORANDUM

TO: Randy Recklaus, Village Manager

FROM: Charles Witherington-Perkins
Director of Planning and Community Development

DATE: January 16, 2020

SUBJECT: *Revised Inclusionary Housing Ordinance*

Attached, please find a revised inclusionary Housing Ordinance reflecting the consensus recommendations made by the Committee of the Whole on January 13, 2020.

In summary the changes include the following key elements.

1. Removal of Senior Residential Community definition and requirements.
2. Removal of linkage fee requirements for single family additions of 50% or more.
3. Modification of the multi-family linkage fee for developments containing 9 or fewer units from \$7,500 to \$3,500 with the added language for rental developments that a developer may voluntarily provide onsite affordable units and no fee.
4. Modification of the linkage fee for multi-family for sale developments containing 9 or fewer units from \$7,500 to \$3,500.
5. For section 7-1708 there was a consensus of the Board to develop a tiered approach based upon proposed or potential sale price of the units. However, a tiered approach with different percentages for various tiers, could result in significant fee changes between each particular tier. After further review, it is proposed that a percentage based on the value of the unit be included for 10% of units with a cap of \$75,000 as discussed. This approach we believe addresses the Committee of the Whole's desire to have a proportional fee as illustrated in the example below.

The chart below will be included in administrative guidelines as an example, not the ordinance:

Value of Unit	Percent	In Lieu fee/per required affordable unit
\$300,000	12.5%	\$37,500
\$500,000	12.5%	\$62,500
\$600,000	12.5%	\$75,000
\$700,000	12.5%	\$87,500 (pays cap of \$75,000)

e.g. 10 unit development / average sale price \$600,000
10% affordable = 1 unit x 12.5% / \$600,000 = \$75,000

16 unit development / average sale price \$300,000
10% affordable = 1.6 unit x 12.5% / \$300,000 = \$60,000

6. It was requested that a fee waiver repayment provision be included within section 7-1709. After consultation with In-House Counsel, general penalty provisions and enforcement are already covered in the Municipal Code. If a developer received a permit fee waiver and is later found non-compliant with the Inclusionary Housing Ordinance, the Village would likely pursue enforcement of the affordable housing requirements and, if appropriate, penalties pursuant to the general penalty provisions. Requiring repayment of the fees waived will only serve to accept the failure to comply with the ordinance requirements.

It is anticipated that this draft of the proposed Inclusionary Housing Ordinance would be presented to the Housing Commission in February as directed by Committee of the Whole.

C: Robin Ward, In-House Counsel
Nora Boyer, Housing Planner

Attachment

CHAPTER 7 ARTICLE XVII INCLUSIONARY HOUSING ORDINANCE

Section 7-1701 Purpose. The purpose of this Article is to promote the public health, safety, and welfare by encouraging high quality housing throughout the Village sufficient to meet the needs of all Arlington Heights residents. The Village may adopt administrative guidelines to assist in the effective implementation of this Article.

While this Article provides alternatives to the production of on-site affordable units, the preference of this Article is to provide permanent affordable dwelling units that are constructed on the site of all Covered Development Projects. Affordable dwelling units created pursuant to this Article shall remain affordable in perpetuity. All cash payments received pursuant to this Article shall be deposited into the Village's Affordable Housing Trust Fund. Effective January 1, 2021, the fee-in-lieu amounts and linkage fees shall be adjusted in January of each year by the annual percentage change in the Consumer Price Index (CPI-U) for the Chicago-Elgin-Naperville area.

Section 7-1702 Definitions. For purposes of this Article, the following definitions shall apply:

- a. Affordable Dwelling Unit or Attainable Housing. Decent, safe, sanitary, and appropriate housing that households below median income can own or rent without having to devote more than 30 percent of their gross income to monthly housing expenses.
- b. Affordable Housing Trust Fund. A trust fund providing sustainable financial resources to address the attainable housing needs of eligible households in Arlington Heights; and preserving and producing affordable dedicated attainable housing.
- c. Affordability Period. The time during which the affordability restrictions imposed by this Article shall apply to affordable dwelling units.
- d. Applicant. Any developer, individual, non-profit, housing owner/operator who applied to the Village for processing for approval of a covered development pursuant to this Article.
- e. Area Median Income. The median income level for the Chicago-Joliet-Naperville Metro Area, as established and defined in the annual schedule published by the Secretary of Housing and Urban Development, and adjusted for household size.
- f. Base Density. The number of dwelling units permitted to be constructed on a parcel in conformation with the requirements of the zoning district in which it is located, prior to applying any applicable density bonus.
- g. Consumer Price Index. Consumer price index for all urban consumers as published annually by the U.S. Department of Labor, Bureau of Labor Statistics.
- h. Covered Development Project. Any development project in the Village that is required to provide affordable dwelling units, fees in lieu of affordable housing, or linkage fees under provisions of this Article. Projects at one location undertaken in phases, stages, or otherwise developed in distinct parts shall be considered a single Covered Development Project.

- i. Developer. Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops dwelling units, including any successors or assigns, but does not include any governmental entity.
- j. Housing Expenses for Rental Housing. Rent and utilities.
- l. Market Rate Dwelling Units. Residential dwelling units that are not required to be affordable dwelling units under this Article.
- l. Primarily Affordable Dwelling Development. A residential multi-family development that may have the physical characteristics of a covered development, but will have affordability restrictions that exceed the requirements of this Article. This may include a development in which all of the units are restricted to households earning at or below the median income.
- m. Publicly Assisted Development. A residential multi-family development that received some form of public financial assistance, which may include TIF funding or funding from the Village's Affordable Housing Trust Fund.

Section 7-1703 Affordable Housing Plan. All developers of Covered Development Projects as defined in Section 1704c and d shall provide an Affordable Housing Plan at the same time as their first submittal to the Village for any reason related to the Covered Development Project.

Section 7-1704 Covered Development Projects. The provisions of this Article shall apply to the following developments:

- a. all developments that result in new single family (one and two family detached) dwelling units, and
- b. new multi-family dwelling units.

Section 7-1705 Annual Reporting. For all Covered Development Projects as defined in Section 1704c and d, the developer or its successors, assignee, or designee shall submit an annual compliance report to the Village no later than March 1 of each year for the prior year. This report shall describe the status of each affordable unit in detail including, but not limited to, changes in tenancy, turnovers, and income certifications for all new tenants. The reports shall also include annual recertification of all tenants renting affordable units.

Section 7-1706 Single Family Dwelling Units (One and Two Family Detached Dwellings)
The requirement for new single family dwelling units and units built in place of an existing single-family dwelling unit that was torn down is payment of a linkage fee of \$3,500 per dwelling unit. This fee is due as part of the building permit fees. No actual affordable units are required.

Section 7-1707 Multi-Family Rental Developments. The following are the requirements for affordable units and/or cash in lieu of units for multi-family rental developments.

- a. For multi-family rental developments containing nine or fewer dwelling units, no actual affordable units are required to be provided. A linkage fee of \$3,500 per market rate unit

is due as part of the building permit fees. The developer may voluntarily provide actual on-site affordable units, in which case no fee is required.

b. For multi-family rental developments containing ten or more dwelling units, the following are the requirements for affordable units:

1. Downtown (B-5 District) – Market Rate Privately Funded Developments. The affordability requirement is 7.5% of the total number of units. This requirement may be met in one of two ways:

a.) The developer may voluntarily provide 7.5% of the total number of units as actual on-site affordable units, in which case no fee is required.

b.) A minimum of 5% of the total units must be actual affordable on-site units. The remaining percentage to meet the total unit requirement, up to 2.5%, can be met by payment of a fee-in-lieu in the amount of \$25,000 per required affordable unit; or

If the developer can provide information to show that affordable units are not reasonably feasible, in lieu of providing any units, the Village may accept a fee of \$75,000 per unit for 10% of the total number of units.

2. All Zoning Districts other than B-5 - Market Rate Privately Funded Developments. The affordability requirement is 5% of the total number of units in the development must be on-site affordable dwelling units. If the developer can provide information to show that affordable units are not reasonably feasible, in lieu of providing affordable units, the Village may accept a fee of \$75,000 per unit for 10% of the total number of units.

3. All Zoning Districts - Publicly Assisted Developments. The affordability requirement is that 10% of the total number of units in the development must be affordable on-site units. There is no fee-in-lieu option for publicly assisted developments.

c. Maximum Price For-Rent Affordable Units. The maximum gross rent, including a utility allowance for utilities not provided with the rent, shall be the gross rent affordable to households with annual incomes at 60% of area median income as devoting no more than 30 percent of their gross income to monthly housing expenses as calculated annually by the Illinois Housing Development Authority based on number of bedrooms in the unit.

Section 7-1708 Multi-Family For-Sale Developments. There is no requirement for actual affordable units for multi-family for sale developments. There is a fee-in-lieu requirements as follows:

a. For multi-family for sale developments containing nine or fewer dwelling units, there is a linkage fee of \$3,500 per market rate unit due as part of the building permit fees.

- b. For multi-family for sale developments containing ten or more dwelling units, there is a fee-in-lieu of affordable units in the amount of 12.5% of the unit value (projected, list, or sale price) or other calculation method approved by the Village per market rate unit for 10% of the total number of units in the development. The fee-in-lieu shall be capped at \$75,000 per required unit (subject to annual CPI adjustment) and shall be paid at the time of occupancy permit for the first unit.
- c. If affordable units are voluntarily provided, the units must be affordable to households at 80% of area median income for the applicable unit size as calculated annually by the Illinois Housing Development Authority.

Section 7-1709 Development Cost Offsets. The following development cost offsets may apply as set forth below for Covered Development Projects:

- a. **Density Bonuses.** At the discretion of the Village Board, a density bonus may be provided equal to no more than one market rate dwelling unit for each required affordable dwelling unit constructed on the site of the Covered Development Project. No density bonus shall be provided for any affordable units for which a fee-in-lieu is paid instead of construction of an affordable unit.
- b. **Fee Waivers.** An applicant that fully complies with providing actual affordable units in accordance with the requirements of this Article shall, upon written request, receive from the Village a waiver of all of the otherwise applicable application fees and building permit fees imposed by the Village, but only with regard to the affordable units in the Covered Development Project. The fees charged for the total development shall be adjusted proportionally to reflect this waiver of fees for the affordable dwelling units, but in no instance will more than 50% of the permit fees be waived. Under no circumstances will any out-of-pocket fees or impact fees be waived.
- c. **Parking Requirements in the Downtown Only.** Subject to availability, at the discretion of the Village, parking requirements for affordable on-site units may be partially satisfied using parking permits in downtown Village parking garages at a rate not-to-exceed one parking permit per affordable on-site affordable unit at a monthly parking fee to be determined by the Village.

Section 7-1710 Integration of Affordable Housing Units. The following are the requirements for affordable dwelling units in Covered Development Projects:

- a. Affordable units shall be dispersed among the market rate units.
- b. The exterior appearance of the affordable units shall be visually compatible with the market rate dwelling units.
- c. Affordable units may differ from market rate units with regard to interior finishes provided that:

1. Interior features, amenities, and structural elements of affordable units shall be contractor grade or higher. For purposes of this section, “amenities” shall include, without limitation, storage and parking.
2. The affordable units shall have the same improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, as the market rate units.
3. The interior gross area for the affordable shall be no less than the lesser of 75% of the gross floor area (exclusive of utility rooms and garages) of market rate units with comparable number of bedrooms or the minimum size requirements required by the Zoning Code.
4. The bedroom mix of affordable units shall be in equal proportion to the bedroom mix of the market rate units within the covered development project unless otherwise approved by the Village.
5. Affordable units shall be constructed concurrent with the development of market rate units. Construction phasing of affordable units shall not be delayed unless authorized by the Village and only after it has been demonstrated by the developer to the satisfaction of the Village that a delay is necessary in order to account for the different financing and funding requirements, economies of scale and/or infrastructure needs applicable to development of the market rate units and affordable units.

Section 7-1711 Relief from Requirements. The Village Board may grant relief from the strict application of the standards set forth in this Article upon finding that due to specific and unique circumstances which are set forth in writing, undue hardship would be caused by the strict application of the standards and requirements set forth in this Article.