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60-O-15

AN ORDINANCE

Amending Portions of City Code Title 5, Chapter 7 to Expand the Application of the Inclusionary Housing Ordinance

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS THAT:

SECTION 1: Legislative Statement.

At the time of the passage of this ordinance, the City of Evanston observed a noticeable decline in the diversity of the City's housing stock as a result of increasing property values and housing costs, and a reduction in the availability of affordable housing. With the exception of housing subsidized by the City or other affordable housing providers, privately developed new residential housing that is being built in the City is generally not affordable to low and moderate income households.

The City determined that, without intervention, the trend toward increasing housing prices would result in an inadequate supply of affordable housing for City residents and local employees, which would have a negative impact on the sustainability of the City, including employers' abilities to maintain a local workforce, and would otherwise be detrimental to the public health, safety and welfare of the City and its residents.

The City has an existing inclusionary housing ordinance within the City Code of 2012, as amended (herein the "City Code"). Adding additional restrictions will bring

more developments within the purview of this affordable housing ordinance and will better address the housing development issue at hand.

The court in *Southwestern Ill. Dev. Auth. v. National City Environmental* found “that a lack of decent housing contributes to urban blight, crime, anti-social behavior, disease, a higher need for public assistance, reduced tax revenues, and the migration of workers and their families away from areas which fail to offer adequate, decent, affordable housing”. 199 Ill.2d 225 at 261 (2002). There is a compelling and legitimate public interest in requiring residential developments or developments which contain a residential component to include a certain percentage of dwelling units in a proposed development to be priced affordably for low and moderate income households or to make a payment in accordance to the terms of this Chapter. The requirements provided in the ordinance will allow the City to maintain a diverse population, provide affordable housing for those who work or live in the City, and will promote the public health, safety, and welfare of the residents of the City of Evanston.

SECTION 2: Title 5, Chapter 7, “Inclusionary Housing,” of the City Code is hereby further amended to read as follows:

5-7-1. TITLE.

This chapter shall be titled and referred to as the *INCLUSIONARY HOUSING ORDINANCE*.

5-7-2. PURPOSE AND INTENT.

The purpose of this Chapter is to promote the public health, safety, and welfare of the residents of Evanston by requiring residential developments or developments which contain a residential component to include a certain percentage of dwelling units in a proposed development to be priced affordably for low and moderate income households or to make a payment in accordance with the terms of this Chapter. 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; and that, with the exception of housing subsidized by the City, 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 owner occupied and rental housing to low and middle-income households in order to maintain a diverse population, and to provide owner occupied and rental housing for those who live or work in the City. Without intervention, the trend toward increasing housing prices and rental rates will result in an inadequate supply of owner occupied and rental affordable housing units 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 owner occupied dwelling units and rental units that are affordable to low and moderate income households and working families.

5-7-3. DEFINITIONS.

For the purposes of administering this Chapter, these definitions shall apply:

<i>AFFORDABILITY PERIOD, OWNER OCCUPIED.</i>	The time during which the affordability restrictions imposed by this Chapter shall apply to owner occupied affordable dwelling units. Owner occupied affordable dwelling units covered by this Chapter shall remain affordable in perpetuity or as long as allowable by law. The affordability period begins at the time of first occupancy of the affected unit.
<i>AFFORDABILITY PERIOD, RENTAL.</i>	The time during which the affordability restrictions imposed by this Chapter shall apply to leased affordable dwelling units. Leased affordable dwelling units covered by this Chapter shall remain affordable for a period of twenty-five (25) years, after which the requirements of this Chapter cease to be controlling. The affordability period begins at the time of first occupancy of the affected Affordable Dwelling Unit.
<i>AFFORDABLE DWELLING UNIT.</i>	All owner occupied or leased dwelling units in a covered development as defined herein.
<i>AFFORDABLE HOUSING AGREEMENT.</i>	The document signed by the purchaser or lessee of an affordable dwelling unit at the time of sale or lease, along with such other legal documents as may be required, detailing the affordability requirements of the affordable dwelling unit.

<i>AFFORDABLE HOUSING, OWNER OCCUPIED.</i>	Decent, safe, sanitary housing that is: a) affordable to "households that meet AMI parameters" as set forth in this chapter; and b) to be sold only to "qualified households" as defined herein. The cost of the mortgage payment and relevant expenses (a calculation of property taxes, homeowner's insurance, and, when applicable, condominium or homeowner association fees) of owner occupied dwelling units shall not exceed thirty three percent (33%) of the household's gross annual household income (the total income of all adults over eighteen (18) years of age in the household).
<i>AFFORDABLE HOUSING, RENTAL.</i>	Decent, safe, sanitary housing that is: a) affordable to households with AMI parameters set forth in this chapter; and b) to be leased only to "qualified households" as defined herein.
<i>APPLICANT.</i>	Any developer who applies to the department to receive approval of a covered development pursuant to this Chapter.
<i>AREA MEDIAN INCOME (AMI).</i>	The median income level for the Chicago primary metropolitan statistical area, as established and defined in the annual schedule published by the secretary of the United States Department of Housing and Urban Development and adjusted for household size.
<i>CERTIFICATE OF QUALIFICATION.</i>	A certificate establishing a qualified household's eligibility to purchase or lease an affordable dwelling unit. Certificates of qualification shall be valid for six (6) months.
<i>COMMUNITY LAND TRUST.</i>	A private, not for profit corporation which the city may create or authorize organized exclusively for charitable, cultural, or other purposes to acquire and own land for the benefit of the city and low to middle income persons, including the creation and preservation of affordable housing.
<i>CONSUMER PRICE INDEX.</i>	Consumer price index for all urban consumers as published annually by the United States department of labor, bureau of labor statistics.

<i>COVERED DEVELOPMENT.</i>	A development containing five (5) or more dwelling units in a TOD area or a development containing ten (10) or more dwelling units outside a TOD area, on contiguous land under common ownership or control by an applicant at one location within the city, when such dwelling units are to be sold or leased to owner-occupants or tenants. The term "covered development" and the regulations contained in this chapter shall not apply to a development that is designed to provide affordable dwelling units. The term "covered development" includes, without limitation, the following:
	(A) A development that is new residential construction or new mixed use construction with a residential component.
	(B) A development that is the renovation, repurposing or reconstruction of an existing multiple-family residential structure that changes the use from rental to owner occupied units or vice versa.
	(C) A development that will change the use of an existing building from nonresidential to residential.
	(D) A development built in phases.
<i>DEPARTMENT.</i>	The Evanston Community Development Department or any successor agency, unless otherwise indicated.
<i>DEVELOPER.</i>	Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops dwelling units, but does not include any governmental entity.
<i>DIRECTOR.</i>	The director of the City of Evanston Community Development department or his/her designee.
<i>HOUSING PROVIDER.</i>	A nonprofit entity designated by the city to own affordable dwelling units.
<i>INCLUSIONARY HOUSING PLAN.</i>	The plan submitted as part of a development application which details the development's compliance with the affordable housing requirements of this chapter.
<i>LOW INCOME HOUSEHOLD.</i>	For homebuyers: a household with a total income equal to or below eighty percent (80%) of the AMI. For renters: a household with a total income equal to or below 50% of the AMI in TOD areas, and equal to or below 60% of the AMI in all other areas.

<i>MARKET RATE DWELLING UNITS.</i>	All owner occupied or rental dwelling units in a covered development that are not affordable dwelling units as defined herein.
<i>MIDDLE INCOME HOUSEHOLD.</i>	For homebuyers: a household with a total income between eighty percent (80%) and one hundred twenty percent (120%) of the AMI in TOD areas, and between 80% and 120% of the AMI in all other areas. For renters: a household with a total income between 50% and 60% of the AMI in TOD areas, and between 60% and 80% of the AMI in all other areas.
<i>PROPERTY, RECEIVING PUBLIC FUNDING</i>	<p>Any residential development or development containing a residential component, existing or new, that receives or has received any public funds.</p> <p>Public funding is any grant, loan, or subsidy from any Federal, State or local agency or instrumentality, including, but not limited to, the disposition of real property for less than market value, purchase money financing, construction financing, permanent financing, the utilization of bond proceeds and allocations of low income housing tax credits.</p> <p>Public funding shall not include the receipt of rent subsidies pursuant to Section 8 of the United States Housing Act of 1937, as amended, or an exemption or abatement of real property taxes or other such other programs of full or partial exemption from or abatement of real property taxation.</p>
<i>PROPERTY, PRIVATELY FUNDED.</i>	Any residential development or development containing a residential component, current or new, that does not and has not received any public funds.
<i>QUALIFIED HOUSEHOLD.</i>	A household whose income has been verified as meeting the AMI parameters for a household as detailed in this Chapter and has received a certificate of qualification from the developer or its designee per section 5-7-6 of this chapter.
<i>TRANSIT ORIENTED DEVELOPMENT or TOD</i>	A development pattern created around a transit station that is characterized by higher density, mixed uses, pedestrian environment, reduced parking, and a direct and convenient access to the transit station.

TOD AREA	The area that has the designation for an identified transit station and the area around it. The area provides for development that is compatible with and supportive of public transit and a pedestrian-oriented environment.
TRANSIT STATION	The area including the platform which supports transit usage and that is owned and/or operated by the transit agency.

5-7-4. REQUIREMENTS.

- (A) *General Requirement:* For privately funded developments, ten percent (10%) of the total number of dwelling units in a covered development shall be affordable dwelling units. For properties receiving public funds, twenty percent (20%) of the total number of dwelling units in a covered development shall be affordable dwelling units.
- (B) *Calculation:* To calculate the number of affordable dwelling units required in a covered development, the total number of proposed dwelling units shall be multiplied by ten or if applicable, twenty percent (10% / 20%). When a requirement of this Ordinance results in a fraction, the following rules apply:
1. Fractions of one-half and more are counted as a whole.
 2. Fractions less than one-half are disregarded.
 3. The above two rules are also applied in the computation of numbers of dwelling units.
- (C) *TOD Areas:* A TOD area may or may not be divided into zones of varying development intensity, as described in this section. Central Street, downtown, Chicago Avenue, etc. The initial boundaries and zones of each TOD area are described in Appendix A.

5-7-5. COMPLIANCE PROCEDURES.

- (A) *Application.* The applicant for approval of a covered development shall file an application for approval of the affordable dwelling unit component of the development on a form provided by the Community Development Department and submit it with the application for approval of the development. The application for development shall not be considered complete without the information required by this chapter for the affordable dwelling unit component. 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 other documents and information as this chapter and the department may require. The application shall include the inclusionary housing plan referred to under subsection (B) of this section.

- (B) *Inclusionary Housing Plan.* The applicant shall submit an inclusionary housing plan on or before time of submission of a building permit that outlines and specifies the covered development's compliance with each of the applicable requirements of this chapter. The inclusionary housing plan shall specifically contain, as a minimum, the following information regarding the covered development:
1. A general description of the covered development.
 2. The total number of market rate dwelling units and affordable dwelling units in the covered development.
 3. The number of bedrooms in each market rate dwelling unit and each affordable dwelling unit.
 4. The square footage of each market rate dwelling unit and each affordable dwelling unit.
 5. The general location of each affordable dwelling unit within the covered development.
 6. The pricing schedule for each affordable dwelling unit and each market rate dwelling unit.
 7. The phasing and construction schedule for each market rate dwelling unit and each affordable dwelling unit.
 8. Documentation and plans regarding the exterior and interior appearances, materials, and finishes of the covered development and each of its dwelling units.
 9. A description of the marketing plan that the applicant proposes to utilize and implement to promote the sale of the affordable dwelling units within the covered development.
 10. Any proposal to make a cash payment, per section 5-7-8 of this chapter, or alternative equivalent action, per section 5-7-9 of this chapter, in lieu of providing affordable dwelling units.

5-7-6. ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS.

- (A) *Certificate Of Qualification.* The developer, or its designee, shall issue a certificate of qualification to any household the developer, or its designee,

has verified meets the AMI threshold requirements for a "relevant household" as set forth in this chapter.

(B) *Eligibility.*

1. The affordable dwelling units within a covered development which are for-sale shall be sold only to owner-occupant qualified households whose primary residence shall be said affordable dwelling unit.
 - a. TOD Area: For covered developments in a TOD Area, 50% of units must be sold to households earning up to 100% AMI and 50% of the units sold to households at 80% AMI, both adjusted for household size.
 - b. Outside of TOD Area: For covered developments outside TOD area, 50% of units must be sold to households earning up to 120% AMI and 50% of the units sold to households at eighty percent (80%) AMI, both adjusted for household size.
2. The affordable dwelling units within a covered development for rent shall be leased only to tenants with qualified households whose primary residence shall be said affordable dwelling unit.
 - a. TOD Area: For covered developments in a TOD Area, 50% of units must be leased to households earning up to 60% AMI and 50% of the units leased to households at 50% AMI, both adjusted for household size.
 - b. Outside of TOD Area: For covered developments outside a TOD Area, 50% of units must be leased to households earning up to 80% AMI and 50% of the units leased to households at 60% AMI, both adjusted for household size.

(C) *Preference.* Priority for affordable dwelling units will be given first to qualified households who currently live in Evanston, or who have lived in Evanston with a member of a household currently living in Evanston, or to households in which the head of the household or the spouse or domestic partner works in Evanston.

(D) *Waiting List.* The City may create, or authorize the creation, of waiting lists of households for affordable housing units in advance of the construction of those units in order to prioritize households pursuant to Section 5-7-6 (C). After the affordable units within the covered development are fully occupied, households may complete a preliminary income screening and request to be placed on a waiting list for rental and ownership units. The waiting list will be prioritized with current Evanston residents or with individuals who have lived in Evanston with a member of

a household currently living in Evanston, or to households in which the head of the household or the spouse or domestic partner works in Evanston.

5-7-7. DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS.

- (A) *Location Of Affordable Dwelling Units.* Affordable dwelling units shall be dispersed among the market rate dwelling units throughout the covered development.
- (B) *Phasing Of Construction.* In a multiphase development, all phases shall include a proportion of affordable dwelling units throughout the covered development. The affordable dwelling units shall never be the last units to be built in any covered development.
- (C) *Exterior Appearance.* The exterior appearance of the affordable dwelling units in any covered development shall be visually compatible with the market rate dwelling units in the covered development. External building materials and finishes shall be substantially the same in type and quality for affordable dwelling units as for market rate dwelling units.
- (E) *Interior Appearance and Finishes.* Affordable dwelling units shall have the same interior appearance and finishes as basic market rate dwelling units.
- (F) *Mix of Bedroom Types of Affordable Units.* The bedroom mix of affordable dwelling units shall be in equal proportion to the bedroom mix of the market rate dwelling units within the covered development. If the bedroom mix creates more options than the number of affordable dwelling units to be built, the affordable dwelling units shall be built with the greater number of bedrooms; e.g., if the bedroom mix provides for four (4) options: efficiency, one bedroom, two (2) bedroom, or three (3) bedroom; but only three (3) affordable dwelling units are to be built, then a one bedroom, a two (2) bedroom, and a three (3) bedroom unit shall be built.
- (G) *Unit Size.* Affordable dwelling units shall be similar to market rate dwelling units with a comparable number of bedrooms and subject to the following minimum standards for square footage size of the affordable dwelling unit:

Studio	500 square feet
1 Bedroom	750 square feet
2 Bedroom	900 square feet
3 Bedroom	1,200 square feet

- (H) *Energy Efficiency.* Standard components related to energy efficiency, including, but not limited to, mechanical equipment and plumbing, insulation, windows, and heating and cooling systems, shall be the same

in market rate dwelling units and affordable dwelling units.

5-7-8. CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS.

As of right, an applicant may pay a fee in lieu of building each affordable dwelling unit required by Section 4 of this chapter for the covered development.

- (A) The fee in lieu amount per affordable dwelling unit shall be either one hundred thousand dollars (\$100,000) for units in a TOD area or seventy-five thousand (\$75,000) per affordable dwelling unit in a non-TOD area. The fee in lieu is subject to annual review and revision by the city council.
- (B) All cash payments received pursuant to this chapter shall be deposited directly into the affordable housing fund.
- (C) Unless otherwise preempted by law, any fee in lieu shall be paid prior to the issuance of a temporary certificate of occupancy for any dwelling unit in the covered development.
- (D) The in-lieu fee will be calculated at the time the applicant submits an application for a building permit to the Community Development department. The fee, as calculated, will be valid for two years following the date it is calculated by the Community Development department and cannot be reduced within the two-year period for reduction in number of units.

5-7-9. ALTERNATIVE EQUIVALENT PROPOSAL.

An applicant may propose to meet the requirements of Section 4 of this chapter by an alternative equivalent action, subject to the review and approval by the City Council. A proposal for an alternative equivalent action may include, but is not limited to, the construction of affordable dwelling units on another site, or acquisition and enforcement of affordability restrictions on existing market rate dwelling units so as to render them affordable dwelling units, or fewer on-site affordable units at prices affordable to households at lower income levels, such as 30% AMI. Any proposal shall show how the alternative proposed will increase affordable housing opportunities in the city to an equal or greater extent than compliance with the express requirements of this chapter. Such proposals for alternatives shall be considered on a case by case basis by the City Council and may be approved at the City Council's sole discretion, if the City Council determines that such alternative will increase affordable housing opportunities in the city to an equal or greater extent than compliance with the express

requirements of this chapter.

5-7-10. REDUCTION OF REQUIREMENTS.

Reduction. If the applicant presents clear and convincing financial evidence to the City Council that full compliance with Section 4 of this chapter, payment in lieu as per Section 8 of this chapter, or alternative equivalent action as per Section 9 of this chapter, or any combination thereof would render the development financially infeasible, the applicant may seek a reduction in the required number of affordable dwelling units and/or payment in lieu as to render the project financially feasible. If such a reduction is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of full compliance with the requirements of this chapter.

5-7-11. AFFORDABILITY CONTROLS.

(A) *Initial Sale Prices For Affordable Owner Occupied Dwelling Units.*

1. Every affordable owner occupied dwelling unit required to be established under this chapter shall be offered for sale or to a good faith purchaser to be used for his or her own primary residence.
2. The affordability period with affordable owner occupied dwelling units shall be for ninety-nine (99) years.
3. In calculating the sales prices of affordable dwelling units, the following relationship between unit size and household size shall be used to determine the income figure at which affordable housing payments are calculated:

Unit Size	Income Level for Household Size
Efficiency	1 Person
1 Bedroom	2 Persons
2 Bedrooms	3 Persons
3 Bedrooms	4 Persons
4 Bedrooms	5 Persons

4. Prices for the sale units shall be calculated on the basis of:
 - a. Housing payments at or below thirty one percent (31%) of the household income for a household at the designated income eligibility level (80%, 100% or 120% of AMI) at the household size corresponding to the size of the unit;

- b. An available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac;
- c. A down payment of no more than five percent (5%) of the purchase price;
- d. A calculation of property taxes;
- e. A calculation of homeowner's insurance;
- f. A calculation of condominium or homeowner association fees; and
- g. A calculation of private mortgage insurance, if applicable.

(B) *Rental Rates for Affordable Dwelling Units*

1. Fifty percent (50%) of the affordable dwelling units within covered development in TOD shall have affordable rental rates at 50% AMI and the remaining fifty percent (50%) of affordable dwelling units shall have affordable rental rates at 60% AMI, pursuant to the annual rental rate schedule published by the Illinois Housing Development Authority. If an uneven number of total affordable units are in the development, the additional affordable unit shall be at 50% of the AMI.
2. Fifty percent (50%) of the affordable dwelling units within a covered development that is not in a TOD area shall have affordable rental rates at 60% AMI and the remaining 50% of affordable dwelling units shall have affordable rental rates at 80% AMI, pursuant to the annual rental rate schedule published by the Illinois Housing Development authority. If an uneven number of total affordable units are in the development, the additional affordable unit shall be at 60% of the AMI.
3. If the most recent edition of the Illinois Housing Development Authority report indicates a lower AMI than the previous edition, the maximum allowable rent shall be adjusted accordingly.
4. The affordability period of an affected leased unit begins at the time of the first occupancy of an affordable unit in the covered development and continues for twenty-five (25) years, after which the affordability requirements of this chapter cease to control the unit.

5. A written lease is required for all leased affordable dwelling units, except for units in an assisted living residence. Final lease agreements are the responsibility of the landlord and the prospective tenant. Tenants are responsible for security deposits and the full amount of the rent as stated on the lease. All lease provisions shall comply with applicable laws and regulations. The landlord shall maintain copies of all leases entered into with a certified household (including an income certification) and distribute a copy to the City upon request.

(C) *Procedure For Initial Sale Or Lease To The General Public.*

1. Sixty (60) days prior to offering any affordable dwelling unit for sale or rent, the applicant shall notify the department in writing of such offering. The notice shall set forth the number, size, price, and location of affordable dwelling units offered, and shall provide a description of each dwelling unit's finishes and availability. The notice shall also include a copy of the inclusionary housing plan, and any such additional information the Director may reasonably require in order to establish compliance with this chapter.
2. The prospective purchaser or lessee shall make application for a "certificate of qualification" on a form provided by the Director. If the developer, or its designee, determines an applicant is qualified pursuant to the requirements of this chapter to purchase or lease an affordable dwelling unit, he/she shall issue a "certificate of qualification" to that applicant. An applicant must provide documents to verify that he or she satisfies these requirements, including an affidavit that the affordable dwelling unit will be his or her primary residence and evidence of income, household size, and residency or employment in Evanston. The developer, or its designee, shall determine whether or not the prospective purchaser or lessee satisfies the requirements of this chapter within ten (10) business days after receiving the completed application. The developer shall, upon request by the Director, furnish documentation to the City to demonstrate compliance with this section (C).
3. The developer shall not sell or lease any affordable dwelling units without a valid certificate of qualification for the prospective purchaser/lessee.

- (D) *Agreement To Ensure Compliance During The Affordability Period.* Prior to issuance of a building permit for any covered development or conveyance of title of any dwelling unit in any covered development, the applicant shall have entered into an agreement with the city regarding the specific requirements and restrictions imposed by the city council upon the approved development. The applicant shall agree to execute any and all documents deemed necessary by the city, including, without limitation, deed restrictions, restrictive covenants, and other related instruments, to ensure the continued affordability of the affordable dwelling units in accordance with this chapter. The agreement shall set forth the commitments and obligations of the city and the applicant, and shall incorporate, among other documents, the inclusionary housing plan. If applicable, the agreement shall also detail the fee in lieu or alternative equivalent action of providing on site affordable dwelling units as set forth in Sections 8 and 9 of this chapter respectively.

Rental Compliance. The developer, or its designee, shall submit an annual compliance report describing each affordable unit in detail including but not limited to changes in tenancy, turnovers, and income certifications for all new tenants upon request of the Director.

- (F) *Control Of Resale Prices.* The maximum sales price, with the exception of foreclosure sales, permitted on resale of an affordable dwelling unit shall be based on the following formula:

1. The original purchase price plus:
 - a. An inflation adjustment of the original purchase price calculated in accordance with the CPI, using the year of the prior sale as the base year;
 - b. Allowances for closing costs and sales commissions paid by the seller; and
 - c. The fair market value of approved improvements made to the unit between the date of original sale and the date of resale, up to an average of five thousand dollars (\$5,000.00) per year. "Approved improvements" are capital improvements which add value to the home, prolong its useful life or adapt it to new uses. Repairs to maintain the home in good condition are not allowable capital improvements. A list of general allowable capital

improvements shall be included in the affordability documents signed by the purchaser.

(G) *First Sale After Affordability Period Ends.*

1. This subsection (G) shall apply in the event an affordability period in perpetuity is unlawful or becomes unlawful. Upon the first sale of an affordable dwelling unit after the affordability period ends, the seller shall pay to the city out of the sale proceeds a percentage of the difference between the actual sales price and the current affordable resale price as determined pursuant to subsection (G) of this section. Such sums shall be deposited into the affordable housing fund. The percentage is based upon the number of years the seller owned and occupied the unit, as follows:

Years of Ownership	Share to Affordable Housing Fund
11 to 15 Years	50 Percent
6 to 10 Years	60 Percent
1 to 5 Years	70 Percent

2. The Director shall determine whether the price and terms of a resale covered by the preceding paragraph meet the requirements of this chapter. Upon a finding of compliance, the Director shall terminate the affordable housing controls and execute a recordable release of all applicable mortgages and restrictions.
3. If an affordable dwelling unit is sold through a foreclosure or other court ordered sale, the affordable restrictions are extinguished, but any remaining net profit shall be returned to the department and deposited into the affordable housing fund.

5-7-12. COMMUNITY LAND TRUST.

The City may create or authorize a community land trust to effectuate the purposes of this chapter. Any established or designated land trusts must be staffed by paid employees and be sufficiently operational, subject to the discretion of the City.

5-7-13. INCENTIVES FOR APPLICANTS.

For any covered development project that complies with the requirements of this chapter, the city shall follow the procedures described below and provide the

described incentives:

- (A) *Expedited Application Process:* All applications shall be processed by all city departments before other residential land use applications regardless of the original submittal date.
- (B) *Fee Deferral:* All city required fees related to the covered development shall be for plan review, building permit fees or other similar development review fees for the non-affordable dwelling units, which are not subject to a fee waiver per subsection 5-7-13(C), shall be deferred for payment until the issuance of the first temporary certificate of occupancy for a non-affordable dwelling unit. The project applicant shall not receive a fee deferral from payment for any other City fees associated with the covered development, including but not limited to right-of-way fees, demolition fees, and fees related to the commercial portion(s) of the development.
- (C) *Fee Waiver:* All projects with a covered development which must comply with the requirements of this Inclusionary Housing Ordinance shall be exempt from all plan review, building permit fees or other similar development review fees for the affordable units. Whenever a project includes a combination of affordable and market rate housing units, fees shall be pro-rated appropriately as determined by the Director and no fees associated with the commercial portion shall be deferred, if applicable. The project applicant shall not receive a waiver from payment of any other fees associated with the covered development, including but not limited to right-of-way fees, demolition fees, or fees related to the commercial portion(s) of the covered development
- (D) *Bonuses:* Density, height, and FAR (floor area ratio) requirements provided in Title 6 are hereby amended for covered developments that provide on-site affordable units, the development is entitled to the following bonuses:

Development Bonus	In TOD Area	Outside TOD Area
Density	20% bonus	10% bonus
Height	10% bonus	5% bonus
FAR	10% bonus	5% bonus

- (E) *Parking:* Parking requirements provided in Title 6 are hereby amended for covered developments that provide on-site affordable units, the parking requirements for entire development provided in Title 6, Zoning Code, shall be reduced to:

Parking Requirements	In TOD Areas	Outside TOD Area

0-1 Bedroom	0.5 parking spaces	0.75 parking spaces
2 Bedrooms	1 parking space	1.25 parking spaces
3+ Bedrooms	1.25 parking spaces	1.5 parking spaces

5-7-14. ENFORCEMENT.

- (A) The provisions of this chapter shall apply to all agents, successors and assignees of an applicant.
- (B) The City may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this chapter. In addition, any person, firm, or entity, whether as principal, agent, employee or otherwise, who violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be fined not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for each offense. Each day such violation or failure to comply is permitted to exist after notification thereof shall constitute a separate offense.

5-7-15. ADMINISTRATION.

In order to ensure compliance with the provisions of this chapter, the City may utilize a maximum of fifteen percent (15%) each year of funds from the affordable housing fund for administration.

5-7-16. SEVERABILITY.

The provisions and sections of this chapter shall be deemed separable, and the invalidity of any portion of this chapter shall not affect the validity of the remainder.

SECTION 3: The findings in this Ordinance, and the Legislative Record, are declared to be prima facie evidence of the law of the City of Evanston, and shall be received in evidence as provided by the Illinois Compiled Statutes, and the courts of the State of Illinois.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect

without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: In the event of any conflict between the terms and conditions of this Ordinance 60-O-15 and the terms of the Zoning Ordinance, Ordinance 60-O-15 shall supersede, prevail and dictate the law of the City of Evanston until such time as the Zoning Ordinance is amended to address the regulations set forth herein. All other regulations not addressed within this Ordinance 60-O-15 shall remain in full force and effect in the City Code.

SECTION 6: This ordinance shall become effective on January 1, 2016. All completed applications for building permit, for developments needing no zoning relief, and all completed applications for a variance or special use permit, received after January 1, 2016 shall be subject to all provisions contained herein. Those completed applications received prior to January 1, 2016 shall be subject to the provisions of the preceding City Code provisions and exempted from the amended and additional provisions provided herein.

Introduced: October 21, 2015

Adopted: November 23, 2015

Approved:

December 2, 2015

Elizabeth B. Tisdahl
Elizabeth B. Tisdahl, Mayor

Attest:

Rodney Greene
Rodney Greene, City Clerk (WB)

Approved as to form:

W. Grant Farrar
W. Grant Farrar, Corporation Counsel