

10/23/2006	9/22/2006 ver.1	3/22/2006
10/17/2006	9/21/2006	3/21/2006
10/3/2006	9/14/2006	3/18/2006
9/27/2006	9/12/2006	3/17/2006
9/22/2006 ver.5	5/4/2006	3/14/2006
9/22/2006 ver.4	5/3/2006	3/8/2006
9/22/2006 ver.3	4/28/2006	1/30/2006
9/22/2006 ver.2		

27-O-06

AN ORDINANCE

**Amending the City Code,
by Enacting a New Title 5, Chapter 7,
“Inclusionary Housing”**

WHEREAS, the City of Evanston is a home rule unit of government under Article VII of the 1970 Illinois Constitution; and

WHEREAS, Article VII, Section 6a of the 1970 Illinois Constitution confers certain powers upon home rule units, among which are the powers to regulate for the protection of the public health, safety, morals and welfare, and to tax; and

WHEREAS, the Illinois Municipal Code provides in 65 ILCS 5/11-13-1(11) that the creation and preservation of affordable housing is a proper exercise of the zoning powers of all Illinois municipalities; and

WHEREAS, legislation designed to provide for decent, safe, and sanitary housing for all residents of the municipality is within the powers of the City as a home rule unit of government; and

WHEREAS, the City Council finds that, while the percentage of affordable dwelling units in the City was twenty-five and nine tenths percent (25.9%) in 2000, it had declined to approximately nineteen and one tenth percent (19.1%) in 2005 based on the methodology used for the State's Affordable Housing Planning and Appeals Act ; and

WHEREAS, the City Council finds that home sales prices grew significantly faster than income levels during the period between 1990 and 2000, and that the number of homes sold at a price affordable to households earning the median income in Evanston decreased significantly from 1994 to 2005; and

WHEREAS, as a result of the increasing difference between income levels of Evanston residents and home sales prices, housing affordable to households of moderate income is in short supply; and

WHEREAS, the 2000 census data indicate that over twenty-five percent (25%) of Evanston homeowners spent more than thirty percent (30%) of their income on housing; and

WHEREAS, the trend of increasing housing prices, will, without intervention, result in an inadequate supply of affordable housing for Evanston 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 Evanston and its residents; and

WHEREAS, it is a public purpose of the City of Evanston to achieve a diverse community with a full range of owner-occupied housing options available for households of all income levels; and

WHEREAS, economic diversity fosters social and environmental conditions that enhance the social fabric of Evanston and improve Evanston's climate for economic development; and

WHEREAS, the City has made affordable housing investments using Federal HOME and CDBG dollars, and resources from the Mayor's Special Housing Fund; and

WHEREAS, based upon the City Council's review and consideration of reports and analyses of the housing situation in Evanston, it is apparent that, with the exception of housing developed in partnership with the City of Evanston or with the assistance of public subsidies, new residential development does not provide housing opportunities for low-income households; and

WHEREAS, the Evanston Housing Commission formed the Inclusionary Housing Task Force in February, 2003, to study the gap between the demand and supply of affordable housing in the City, and to explore means to encourage and accomplish private sector investments and development activity to address the affordable housing challenge; and

WHEREAS, the Inclusionary Housing Task Force studied methods, including inclusionary housing, to encourage private sector investors and developers to provide affordable housing opportunities in Evanston; and

WHEREAS, after reviewing the discussions and recommendations of the Inclusionary Housing Task Force, the Housing Commission made recommendations to the Planning and Development Committee of the City Council in April, 2004, and presented a proposed Inclusionary Housing Ordinance based upon those recommendations in November, 2004; and

WHEREAS, an inclusionary housing policy based upon Housing Commission recommendations and Planning and Development Committee discussions were presented to the Planning and Development Committee in July, 2005, November, 2005, and January, 2006; and

WHEREAS, the City Council has found and determined it to be necessary and appropriate for the City to encourage the private sector to help meet the goals of diverse housing opportunities for residents of all income levels, in partnership with City efforts; and

WHEREAS, the City Council has determined that the provisions of this Ordinance would help achieve the availability of decent, safe, and sanitary affordable housing, and promote and enhance stability in all areas of the City; and

WHEREAS, the Planning and Development Committee of the City Council held this Ordinance 27-O-06 at its April 11, 2006 meeting, considered it at the April 24, 2006 meeting, held it at the May 8, 2006 meeting, considered it at the June 12, 2006 September 25, 2006, October 9, 2006, and October 23, 2006 meetings and recommended City Council approval thereof; and

WHEREAS, the City Council held this Ordinance 27-O-06 at its April 11, 2006, April 24, 2006, May 8, 2006, and June 12, 2006, meetings, introduced it and referred it back to Committee at the October 9, 2006 meeting, and adopted the Committee's recommendations at its October 23, 2006 meeting,

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

SECTION 1: That Title 5 of the Evanston City Code of 1979, as amended, is hereby further amended by enacting a new Chapter 7, "Inclusionary Housing", 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 make a payment in accord 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 housing to low- and moderate-income households in order to maintain a diverse population, and to provide owner-occupied 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 owner-occupied 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.

5-7-3: DEFINITIONS:

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

AFFORDABLE DWELLING UNITS: Decent, safe, sanitary housing that is: (1) affordable to "Relevant Households" as defined herein; and (2) 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 Qualified Household's gross annual household income (the total income of all adults over eighteen years of age in the household).

AREA MEDIAN INCOME (AMI): 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.

APPLICANT: Any Developer who applies to the Department to receive approval of a Covered Development pursuant to this Chapter, as well as the Developer's agents, successors, and assignees.

COMMUNITY LAND TRUST: A private, not-for-profit corporation which the City may create, or authorize the creation of, organized exclusively for charitable, cultural, or other purposes to acquire and own land for the benefit of the City, including the creation and preservation of affordable housing.

COVERED DEVELOPMENT: A development containing twenty-five (25) or more owner-occupied Dwelling Units, subject to the planned development requirements of Title 6, Chapter 3 of the Zoning Ordinance, 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 to owner-occupants. 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 or reconstruction of an existing multiple-family residential structure that increases the number of residential units from the number of units in the original structure.
- (C) A development that will change the use of an existing building from non-residential to residential.
- (D) A development built in phases.

DEPARTMENT: The Evanston Community Development Department or any successor agency, unless otherwise indicated.

DEVELOPER: 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.

DIRECTOR: The Director of the Evanston Community Development Department or his designee.

MARKET-RATE DWELLING UNITS: Owner-occupied Dwelling Units that are not Affordable Dwelling Units as defined herein.

QUALIFIED HOUSEHOLD: A household that the Department has verified meets the definition of a "Relevant Household" as defined herein.

RELEVANT HOUSEHOLD: A household whose total income does not exceed one hundred percent (100%) of the AMI.

5-7-4: INCLUSIONARY HOUSING REQUIREMENT:

For all Covered Developments, the Developer shall pay to the Affordable Housing Tax Fund monies equal to forty thousand dollars (\$40,000.00) multiplied by ten percent (10%) of the total number of Dwelling Units, with all fractions of a dwelling unit rounded up to the nearest whole number.

5-7-5: ALTERNATIVE EQUIVALENT PROPOSAL

An Applicant may propose to meet the requirements of Section 5-7-4 by an alternative equivalent action, subject to the review and approval by the Planning and Development Committee. A proposal for an alternative equivalent action may include, but is not limited to, dedication of vacant land, the construction of Affordable Dwelling Units on another site, or acquisition and enforcement of sales price restrictions on existing Market-Rate Dwelling Units so as to render them Affordable Dwelling Units. 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 Planning and Development Committee and may be approved at the Committee's sole discretion, if the Committee 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.

5-7-6: REDUCTION OR WAIVER OF INCLUSIONARY HOUSING REQUIREMENTS

(A) **REDUCTION:** If the Applicant presents clear and convincing financial evidence to the Planning and Development Committee that full compliance with Section 5-7-4 of this Chapter, or alternative equivalent action as per Section 5-7-5 of this Chapter, would render the development financially infeasible, the Applicant may seek a reduction in the required payment as to render the project financially feasible. If such a waiver is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of full compliance with the ordinance requirements.

(B) **WAIVER:** If the Applicant presents clear and convincing financial evidence to the Planning and Development Committee that any compliance with Section 5-7-4 of this Chapter, or alternative equivalent action as per Section 5-7-5 of this Chapter, would render the development financially infeasible, the Applicant may seek a reduction in the required payment as to render the project financially feasible. If such a waiver is requested, a detailed explanation shall be provided which demonstrates the financial infeasibility of any compliance with the ordinance requirements.

5-7-7: COMMUNITY LAND TRUST

The City may create or authorize the creation of a Community Land Trust to effectuate the purposes of this Chapter.

5-7-8: INCENTIVES FOR APPLICANTS:

For any Covered Development project that complies with the requirements of this ordinance, 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 deferred for payment until the issuance of the certificate of occupancy.

5-7-9: ENFORCEMENT: 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.

5-7-10: ADMINISTRATION: In order to ensure compliance with the provisions of this, the City may utilize a maximum of fifteen percent (15%) each year of funds from the Affordable Housing Tax Fund for administration.

5-7-11: 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 2: That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

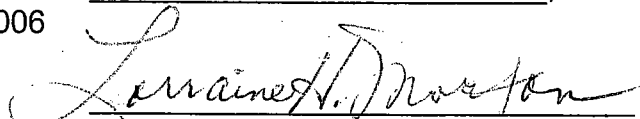
SECTION 3: This Ordinance shall be in force and effect ninety (90) days after its passage, approval, and publication in the manner provided by law, by the City Council, but shall not apply to any development agreement or other agreement specifically authorized by the City Council prior to that date.

Introduced: September 27, 2006

Adopted: October 23, 2006

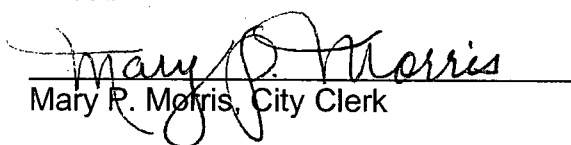
Approved:

December 14, 2006



Lorraine H. Morton, Mayor

Attest:


Mary P. Morris, City Clerk

Approved as to form:


Corporation Counsel

