

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DIRECTOR: The Director of the City's Department of Community Development, or the Director's authorized designee.

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

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

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

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

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

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

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

“ARTICLE XXI. INCLUSIONARY HOUSING

Sec. 150.2100 Policy.

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

developed into housing units affordable to low- and moderate-income households and working families.

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

Sec. 150.2101 Covered Development Projects.

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

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

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

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

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

Sec. 150.2102 Percentage of Affordable Housing Units Required.

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

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

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

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

(2) Amount and Use of Cash in Lieu. The per unit payment amount shall be determined by the City Council and set forth in the City's annual fee resolution. The per unit amount shall be based on an estimate of the cost of providing an affordable housing unit and shall be reviewed and modified periodically by the City Council. All cash

payments received pursuant to this Article shall be deposited directly into the Affordable Housing Trust Fund for purposes authorized under Section 33.1133 of this Code.

(3) Calculation. For purposes of determining the total in lieu payment amount, the per unit amount established by the City pursuant to Paragraph (C)(2) of this Section shall be multiplied by 20 percent of the number of units proposed in the covered development. For purposes of such calculation, if 20 percent of the number of proposed units results in a fraction, the fraction shall not be rounded up or down. If the cash payment is in lieu of providing one or more but not all of the required units, the calculation shall be prorated as appropriate.

Sec. 150.2103 Application and Inclusionary Housing Plan.

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

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

- (1) A general description of the development, including whether the development will contain rental units or individually owned units, or both.
- (2) The total number of market rate units and affordable units in the development.
- (3) The number of bedrooms in each market rate unit and each affordable unit.
- (4) The square footage of each market rate unit and each affordable unit.
- (5) The location within any multiple-family residential structure and any single-family residential development of each market rate unit and each affordable unit.
- (6) The pricing for each market rate unit and each affordable housing unit.
- (7) The phasing and construction schedule for each market rate unit and each affordable unit.

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

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

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

Sec. 150.2104 Development Agreement and Other Documents.

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

Sec. 150.2105 Development Cost Off-Sets.

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

Sec. 150.2106 Density Bonuses.

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

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

Sec. 150.2107 Integration of Affordable Housing Units.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 150.2109 Target Income Levels for Affordable Housing Units.

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

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

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

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

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

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

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

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

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

Sec. 150.2110 Eligibility of Households.

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

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

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

Sec. 150.2111 Marketing of the Affordable Housing Units.

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

Sec. 150.2112 Period of Affordability.

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

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

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

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

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

Sec. 150. 2113 Affordability Controls.

(A) For-Sale Affordable Housing Units.

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

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

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

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

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

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

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

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

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

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

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

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

- AYES:
- NAYS:
- ABSENT:
- PASSED:
- APPROVED:

PUBLISHED IN PAMPHLET FORM:

ORDINANCE NO.

Michael D. Belsky, Mayor

ATTEST:

Shirley Fitzgerald, City Clerk