

## **ORDINANCE**

### **AN ORDINANCE AMENDING CHAPTER 12 ("HOUSING")**

#### **ARTICLE 5 ("INCLUSIONARY HOUSING")**

**WHEREAS**, the Village of Oak Park ("Village") as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

**WHEREAS**, pursuant to its Constitutional home rule powers, the Village has authority to "perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals, and welfare," Ill. Const. art. 7 § 6, by adopting ordinances and promulgating rules and regulations that pertain to its government and affairs that protect the public health, safety, and welfare of its citizens; and

**WHEREAS**, the Village has determined to adopt this Ordinance pursuant to its home rule powers to promote the public health, safety, and welfare of the residents of Oak Park by requiring residential developments or developments which contain a residential component within Transit-Oriented Development (TOD) areas to include a certain percentage of dwelling units in a proposed development to be priced affordably for low-income households or to make a payment in accordance with the terms of this Ordinance; and

**WHEREAS**, the Village recognizes the need to provide affordable owner occupied and rental housing to low-income, moderate-income, 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 Village; and

**WHEREAS**, without intervention, the trend toward increasing housing prices and rental rates could result in an inadequate supply of owner occupied and rental affordable housing units for Village 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 Village and its residents; and

**WHEREAS**, since the remaining land appropriate for new residential development within the Village 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-income, moderate-income, and middle-income households, including working families.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

**Section 1. Recitals Incorporated.** The above recitals are incorporated herein as though fully set forth.

**Section 2.** Chapter 12 (“Housing”), Article 5 (“Inclusionary Housing”) of the Oak Park Village Code is amended to read as follows:

**ARTICLE 5  
INCLUSIONARY HOUSING**

**12-5-1: PURPOSE AND INTENT:**

**12-5-2: DEFINITIONS:**

**12-5-3: REQUIREMENTS:**

**12-5-4: COMPLIANCE PROCEDURES:**

**12-5-5: ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS:**

**12-5-6: DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS:**

**12-5-7: CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS:**

**12-5-8: AFFORDABILITY CONTROLS:**

**12-5-9: DENSITY AND HEIGHT BONUS:**

**12-5-10: ENFORCEMENT:**

**12-5-1: PURPOSE AND INTENT:**

The purpose of this article is to provide opportunities within the Village for affordable housing, either within new residential developments by requiring developers to provide a proportionate share of affordable housing, or fees in lieu thereof, to ensure that an adequate stock of affordable housing is, and remains, available in the Village.

**12-5-2: DEFINITIONS:**

The following words and phrases shall have the meanings set forth in this section for purposes of this article. Words and phrases not defined in this section, but defined elsewhere in this Code, shall have the meanings set forth therein. In the event that a word or phrase is not defined, it shall have the common and ordinary meaning ascribed thereto. In interpreting the provisions of this article, if there is a conflict between a definition in this section and one found elsewhere in this Code, the definition in this section shall apply.

**AFFORDABILITY PERIOD, OWNER OCCUPIED:** The time during which the affordability restrictions imposed by this article shall apply to owner occupied affordable dwelling units. Owner occupied affordable dwelling units covered by this article 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.

**AFFORDABILITY PERIOD, RENTAL:** The time during which the affordability restrictions imposed by this article shall apply to leased affordable dwelling units. Leased affordable dwelling units covered by this article shall remain affordable for a period of thirty (30) years, after which the requirements of this article cease to be controlling. The affordability period begins at the time of first occupancy of the affected Affordable Dwelling Unit.

**AFFORDABLE DWELLING UNIT:** All owner occupied or leased dwelling units in a covered development as defined herein.

**AFFORDABLE HOUSING AGREEMENT:** 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.

**AFFORDABLE HOUSING, OWNER OCCUPIED:** Decent, safe, sanitary housing that is: a) affordable to "households that meet AMI parameters" as set forth in this article; 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).

**AFFORDABLE HOUSING, RENTAL:** Decent, safe, sanitary housing that is: a) affordable to households with AMI parameters set forth in this article; and b) to be leased only to "qualified households" as defined herein.

**APPLICANT:** Any developer who applies to the Department to receive approval of a covered development pursuant to this article.

**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.

**CERTIFICATE OF QUALIFICATION:** A certificate establishing a qualified household's eligibility to purchase or lease an affordable dwelling unit based on income eligibility using the HUD Part 5 verification process and asset limits, per the Village's wait list policies and procedures. Certificates of qualification shall be valid for six (6) months.

**CONSUMER PRICE INDEX:** Consumer price index for all urban consumers as published annually by the United States Department of Labor, Bureau of Labor Statistics.

**COVERED DEVELOPMENT:** A development containing twenty-five (25) or more dwelling units in a TOD area on contiguous land under common ownership or control by an applicant at one location within the Village, when such dwelling units are to be sold or leased to owner-occupants or leased to tenants for which zoning relief is sought under the Village's Zoning Ordinance. The term "covered development" and the regulations contained in this article shall not apply to a development that is designed to provide primarily affordable dwelling units or to condominiums developments, or portions of developments that contain condominiums, as that term is defined in section 12-3-2 of this article or to detached single-family dwelling unit

developments, or portions of developments that contain single-family dwelling units, as defined in the Village's Zoning Ordinance. 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 will change the use of an existing building from nonresidential to residential.

DEPARTMENT: The Development Customer Services Department or any successor 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 Development Customer Services Department or the Director's designee.

INCLUSIONARY HOUSING PLAN: The plan submitted as part of a zoning relief application which details the development's compliance with the affordable housing requirements of this article.

LOW INCOME HOUSEHOLD: For homebuyers: a household with a total income equal to or below one hundred twenty percent (120%) of the AMI. For renters: a household with a total income equal to or below sixty percent (60%) of the AMI in TOD areas.

MARKET RATE DWELLING UNITS: All owner occupied or rental dwelling units in a covered development that are not affordable dwelling units as defined herein.

PRIMARILY AFFORDABLE HOUSING DEVELOPMENT: A residential multi-family building 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.

QUALIFIED HOUSEHOLD: A household whose income has been verified as meeting the AMI parameters for a household as set forth in this article and has received a certificate of qualification from a developer or a developer's designee pursuant to this article.

TRANSIT ORIENTED DEVELOPMENT or TOD: A development created around a Chicago Transit Authority Blue Line or Green Line transit station or Metra train station located in the Village that is characterized by higher density, mixed uses, pedestrian environment, reduced parking, and a direct and convenient access to the train station.

**TOD AREA:** The area that has the designation for an identified Chicago Transit Authority or Metra train station located in the Village and within a quarter (1/4) of a mile from any applicable train station or located contiguous to Madison Street west of Lombard Avenue, excluding the Austin Boulevard Blue Line train station and the Austin Boulevard Green Line transit station and the NA North Avenue Commercial District and the RR Roosevelt Road Form-Based District as defined in the Village's Zoning Ordinance. The area provides for development that is compatible with and supportive of public transit and a pedestrian-oriented environment.

**TRAIN STATION:** The area including the platform which supports train usage and that is owned and/or operated by the applicable transit agency.

### **12-5-3: REQUIREMENTS:**

- A. An applicant shall provide ten percent (10%) of the total number of dwelling units in a covered development as affordable. The applicant shall provide said dwelling unit(s) for the affordability period, owner occupied, and for the affordability period, rental, as defined in section 12-5-2 of this article.
- B. An applicant that meets the requirements of subsection A above shall not be charged any Village building permit fees pursuant article 1 ("Building Code") of Chapter 7 ("Buildings") associated with the initial construction of the affordable unit(s) provided by the applicant.

### **12-5-4: COMPLIANCE PROCEDURES:**

**Application.** The applicant shall file as part of its zoning relief application an inclusionary housing plan that outlines and specifies compliance with each of the applicable requirements of this article. The inclusionary housing plan shall specifically contain, as a minimum, the following information regarding the covered development:

- A. A general description.
- B. The total number of market rate dwelling units and affordable dwelling units.
- C. The number of bedrooms in each market rate dwelling unit and each affordable dwelling unit.
- D. The square footage of each market rate dwelling unit and each affordable dwelling unit.
- E. The general location of each affordable dwelling unit within the development.
- F. The pricing schedule for each affordable dwelling unit and each market rate dwelling unit.
- G. 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 development.

- H. Any proposal to make an in lieu of cash payment pursuant to section 12-5-7 of this article in lieu of providing affordable dwelling units.

**12-5-5: ELIGIBILITY AND PREFERENCE OF HOUSEHOLDS FOR AFFORDABLE DWELLING UNITS:**

- A. Certificate of Qualification. The applicant shall issue a certificate of qualification to any household whose income has been verified as meeting the AMI threshold requirements set forth in this article.
- 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. All affordable units must be sold to low income households whose incomes are one hundred twenty percent (120%) AMI 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. For covered developments, all affordable units must be leased to households whose incomes do not exceed sixty percent (60%) AMI adjusted for household size.
- C. Preference. Priority for affordable dwelling units will be given first to qualified households who currently live in Oak Park, or who have lived in Oak Park with a member of a household currently living in Oak Park, or to households in which the head of the household or the spouse or domestic partner works in Oak Park.
- D. Waiting List. The waiting lists of households for affordable housing may be created in advance of the construction of those units in order to prioritize households pursuant to subsection C of this section. Households may complete a preliminary income screening based on self-reported income to be placed on a waiting list for rental and ownership units. The waiting list will be prioritized with current Oak Park residents or with individuals who have lived in Oak Park with a member of a household currently living in Oak Park, or to households in which the head of the household or the spouse or domestic partner works in Oak Park.

**12-5-6: DISTRIBUTION AND ATTRIBUTES OF ON SITE AFFORDABLE DWELLING UNITS:**

- A. Location of Affordable Dwelling Units. Affordable dwelling units shall be within the covered development.

- B. 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.
- C. Interior Appearance and Finishes. Affordable dwelling units may have different interior appearance and finishes than market rate units, but the interior finish materials shall be contractor grade or higher.
- D. 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 or as determined by the Director.
- E. 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.

**12-5-7: CASH PAYMENT IN LIEU OF PROVIDING AFFORDABLE DWELLING UNITS:**

An applicant may pay a fee in lieu of building each affordable dwelling unit required by section 12-5-3 of this article for a covered development as set forth below.

- A. The fee in lieu amount per affordable dwelling unit shall be one hundred thousand dollars (\$100,000). The fee in lieu will be adjusted annually based on the consumer price index.
- B. All cash payments received pursuant to this article shall be deposited directly into the Village's Affordable Housing Fund.
- C. Unless otherwise preempted by law, any fee in lieu shall be paid at the same time as payment is made for a building permit(s).
- D. The in-lieu fee shall be calculated at the time the applicant submits an application for a building permit with the Department. The fee as calculated will be valid for two years following the date it is calculated by the Department and cannot be reduced within the two-year period for a reduction in the number of units.
- E. An applicant that pays a fee in lieu pursuant to this section shall not be eligible for a permit fee reduction set forth in section 12-5-3(b) of this article or to density or height bonuses pursuant to section 12-5-9 of this article.

**12-5-8: AFFORDABILITY CONTROLS:**

- A. Affordable Housing Agreement To Ensure Compliance During The Affordability Period. Prior to issuance of a building permit for any development or conveyance of title of any dwelling

unit in any development, the applicant shall have entered into an affordable housing agreement with the Village regarding the specific requirements and restrictions imposed by the Village Board upon the approved development. The applicant shall agree to execute any and all documents deemed necessary by the Village, 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 article. The affordable housing agreement shall set forth the commitments and obligations of the Village and the applicant, and shall incorporate, among other documents, the inclusionary housing plan. If applicable, the affordable housing agreement shall also detail the fee in lieu or alternative equivalent action of providing on site affordable dwelling units as set forth in section 12-5-7 of this article.

- B. Rental Compliance. The developer, or its successor, assignee, or designee, shall submit an annual compliance report to the Village 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 for the affordability period, rental as defined in section 12-2-2 of this article. The developer, or its successor, assignee, or designee shall complete annual re-certifications of tenants renting affordable units to the Village for the affordability period, rental as defined in section 12-2-2 of this article.

#### **12-5-9: DENSITY AND HEIGHT BONUS:**

- A. A density bonus shall be permitted when affordable units are constructed within a covered development in accordance with section 12-5-3 of this article. One bonus market rate dwelling unit shall be permitted for each affordable unit constructed within the covered development.
- B. If the construction of the affordable unit(s) causes the covered development to exceed a height limitation set forth in the Village's Zoning Ordinance, a variation shall automatically be granted for the number of feet that the covered development exceeds the height limitation.

#### **12-5-10: ENFORCEMENT:**

- A. The provisions of this article shall apply to all agents, successors and assignees of an applicant.
- B. The Village may institute injunction, mandamus, or any other appropriate legal actions or proceedings for the enforcement of this article. 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 article 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.



**Section 3. Severability and Repeal of Inconsistent Ordinances.** If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4. Effective Date.** This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

**ADOPTED** this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2019, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Abu-Taleb				
Trustee Andrews				
Trustee Boutet				
Trustee Button				
Trustee Moroney				
Trustee Taglia				
Trustee Tucker				

**APPROVED** this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Anan Abu-Taleb, Village President

**ATTEST**

\_\_\_\_\_  
Vicki Scaman, Village Clerk

Published in pamphlet form this \_\_\_\_<sup>th</sup> day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Vicki Scaman, Village Clerk