



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Inclusionary Housing Ordinance (General Amendment to City Code Title 17, Zoning Ordinance, Ch. 17.18 “Inclusionary Housing”): Recommendation to accept Illinois Housing Development Authority’s determination of St. Charles’ affordable housing share; approve amendments to the Inclusionary Housing Ordinance; and reinstate the Inclusionary Housing Ordinance
Presenter:	Ellen Johnson

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development – (11/9/15)		City Council
	Public Hearing		

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Proposed are several amendments to the Inclusionary Housing Ordinance (Ch. 17.18 of the Zoning Ordinance). The purpose of the amendments are to bring the provisions in line with Illinois Housing Development Authority’s determination of St. Charles’ affordable housing share under the Affordable Housing Planning and Appeal Act, and to make the Inclusionary Housing Ordinance less onerous for the development community and simpler to administer.

The primary amendments, as proposed by the Housing Commission, are as follows:

- State that the city’s affordable housing share is as determined by Illinois Housing Development Authority (11.2% affordable).
- Adjust the applicability sliding scale so that the Inclusionary Housing Ordinance is in effect when less than 20% of housing units in the city are considered affordable. Per the proposed sliding scale, 75% of the affordable unit requirement/fee in-lieu requirement would currently apply, when the city is at 11.2% affordable.
- Reduce the percentage of affordable units that are required, so that developments under 15 units require 5% of units to be affordable, and developments over 15 units require 10% of units to be affordable.
- Accept fee in-lieu of providing units for any size development.
- Reduce the fee in-lieu amount from \$104,500 to \$72,819.50 per unit.

The Inclusionary Housing Ordinance is currently suspended, meaning that no affordable unit or fee in-lieu payments are required. The Ordinance will be reinstated as a result of the proposed amendments.

Plan Commission Review

The Plan Commission held a public hearing for the General Amendment on 9/22/15 and 10/20/15. The Commission voted 7-1 to recommend approval of these specific amendments. (The Plan Commission voted separately on whether to remove the Inclusionary Housing Ordinance from the Zoning Ordinance, which is listed as a separated item on the agenda.)

Attachments: *(please list)*

Plan Commission Resolution, Staff Report, General Amendment Application

Recommendation / Suggested Action *(briefly explain):*

Recommendation to accept Illinois Housing Development Authority’s determination of St. Charles’ affordable housing share; approve amendments to the Inclusionary Housing Ordinance; and reinstate the Inclusionary Housing Ordinance

<i>For office use only:</i>	<i>Agenda Item Number: 4a-1</i>
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City of St. Charles, Illinois
Plan Commission Resolution No. 18-2015

**A Resolution Recommending Approval of a General Amendment to Chapter 17.18 “Inclusionary Housing”, Sections 17.18.020, 17.18.030, 17.18.040, 17.18.050, 17.18.060, 17.18.065, and 17.18.090
(Changes to the Inclusionary Housing Ordinance)**

Passed by Plan Commission on October 20, 2015

WHEREAS, it is the responsibility of the St. Charles Plan Commission to hold public hearings and review requests for amendments to Title 17, “Zoning”; and

WHEREAS, the Plan Commission held a public hearing and has reviewed the petition for a General Amendment to Chapter 17.18 “Inclusionary Housing”, Sections 17.18.020, 17.18.030, 17.18.040, 17.18.050, 17.18.060, 17.18.065, and 17.18.090 (changes to the Inclusionary Housing Ordinance); and

WHEREAS, in accordance with Section 17.04.320.C, the Plan Commission has considered the following criteria for General Amendment:

1. The consistency of the proposed amendment with the City’s Comprehensive Plan

The Comprehensive Plan states the following as a Residential Land Use Policy: “Maintain a diverse and affordable mix of housing types to allow St. Charles to continue to attract and retain facilities and residents.” The Inclusionary Housing Ordinance (IHO) is referenced as a means to “ensure that an adequate stock of affordable housing is, and remains, available in the City of St. Charles.” The Inclusionary Housing Ordinance will continue to require developers to provide a proportionate share of affordable housing or fee in-lieu thereof.

2. The consistency of the proposed amendment with the intent and general regulations of this Title.

The proposed amendment will result in reinstatement of the Inclusionary Housing Ordinance, thereby helping to further affordable housing in the community. The provision of affordable housing is consistent with the intent of the Zoning Ordinance.

The purpose and intent of the IHO, as stated in Section 17.18.010, will remain the same when the provisions are relocated to a separate title in the City Code. Developers will continue to be required to provide a proportionate share of affordable housing in new residential developments, or pay a fee in-lieu of providing units.

3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change of policy.

The proposed amendment to the Inclusionary Housing Ordinance is both more workable than the existing text, as it will reduce the financial burden imposed on housing developers, and adds clarification to existing requirements.

4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.

The proposed amendment will result in reinstatement of the IHO, meaning that either affordable units or fee in-lieu thereof must be provided for all new residential developments. The affordable units created as a result of the IHO will serve income-eligible households who may otherwise have difficulty obtaining housing in St. Charles. The fee in-lieu collected will be deposited into the Housing Trust Fund and will be used for eligible activities aimed at furthering housing affordability for residents.

5. The extent to which the proposed amendment creates non-conformities.

The amendment will not create nonconformities. The IHO does not impact existing development and does not regulate the physical development of property.

6. The implications of the proposed amendment on all similarly zoned property in the City.

The IHO provisions will continue to apply to all new residential development regardless of the zoning district in which the development is located.

NOW, THEREFORE, be it resolved by the St. Charles Plan Commission to recommend to City Council approval of a General Amendment to Chapter 17.18 "Inclusionary Housing", Sections 17.18.020, 17.18.030, 17.18.040, 17.18.050, 17.18.060, 17.18.065, and 17.18.090 (changes to the Inclusionary Housing Ordinance), with the condition that "Director" be replaced with "Director of Community and Economic Development" in Section 17.18.130.

Roll Call Vote:

Ayes: Wallace, Kessler, Doyle, Holderfield, Spruth, Schuetz, Macklin-Purdy

Nays: Pretz

Absent: Frio

Motion Carried: 7-1

Resolution 18-2015
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PASSED, this 20th day of October 2015.

Chairman
St. Charles Plan Commission

Community & Economic Development
Planning Division

Phone: (630) 377-4443

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Staff Report

TO: Chairman Todd Bancroft
And the Members of the Planning & Development Committee

FROM: Ellen Johnson, Planner

RE: Amendments to the Inclusionary Housing Ordinance (General Amendment to City Code Title 17, Zoning Ordinance, Ch. 17.18 “Inclusionary Housing”)

DATE: November 3, 2015

I. GENERAL INFORMATION

Project Name: General Amendment – Inclusionary Housing

Applicant: City of St. Charles

Purpose: Amend the Inclusionary Housing chapter of the Zoning Ordinance to reflect Illinois Housing Development Authority’s determination of St. Charles’ affordable housing share and to make the ordinance less onerous and simpler to administer.

II. BACKGROUND

The Inclusionary Housing chapter of the Zoning Ordinance (Ch. 17.18), known as the Inclusionary Housing Ordinance (IHO), was adopted in 2008. The IHO requires developers of new residential developments to provide a proportionate share of affordable housing units, or a fee in-lieu of providing units.

Affordable Housing Share & Implications

Per the City’s current ordinance, the applicability of the IHO is tied to St. Charles’ share of affordable housing. When the city reaches 25% of housing that is considered affordable (i.e. housing that costs no more than 30% of the gross annual income for a household earning 80% of the area median income), then no affordable unit requirement or fee in-lieu thereof applies; the IHO is essentially suspended. In order for the IHO to be turned back on, the city’s affordable housing share must drop to 15%.

The Illinois Housing Development Authority (IHDA) administers the Affordable Housing Planning and Appeal Act (AHPAA), which was enacted in 2003. Under AHPAA, communities that have an affordable housing share under 10% are “non-exempt” from the requirements of AHPAA. These communities must submit an Affordable Housing Plan to IHDA which identifies goals for adding affordable housing. Non-exempt communities are also subject to developer

appeals to the State Housing Appeal Board. Appeals can be made by developers of affordable housing who believe they have been treated unfairly by a municipality in which they proposed to build affordable housing. Communities that exceed 10% affordable housing are “exempt” from AHPAA. *(See document attached for information regarding Affordable Housing Plan requirements and the State Housing Appeals Board)*

IHDA released its first list of Exempt and Non-Exempt communities in 2004. At that time, IHDA found that St. Charles was at 16.3% affordable, and therefore exempt from AHPAA. IHDA did not provide an updated list until 2013.

Because IHDA had not provided an updated list of Exempt and Non-Exempt communities as of 2009, after the City adopted the IHO, the City began conducting its own annual analysis of the affordable housing share. Staff utilized the methodology used by IHDA in its 2004 report to create the annual affordability analysis, as a basis for applying the “sliding scale” which determines the applicability of the IHO.

The City’s 2013 analysis found St. Charles’ housing stock to be 25.56% affordable. As a result, the IHO was suspended because the 25% threshold specified in the IHO had been exceeded.

In 2014, staff became aware that IHDA had released an updated list of Exempt and Non-Exempt Local Governments in 2013. IHDA used a different methodology to calculate each community’s affordable housing share than it had for the 2004 report. IHDA found St. Charles to be at 11.2% affordable. Staff conducted the annual affordability analysis using the same methodology as in years past and found the City to be at 23.1% affordable. The table below compares staff’s findings with IHDA’s findings. *(See document attached describing the differences between staff’s and IHDA’s methodologies)*

	Staff’s Findings	IHDA’s 2013 Findings
Affordable Owner-Occupied Unit Price	\$180,999	\$145,639
% of Owner-Occupied Units that are Affordable	27.9%	3.3%
Affordable Rent	<i>Range of rents, adjusted for bedroom count (range from \$760 for studio to \$1,390 for 5-bedroom unit)</i>	\$916
% of Rental Units that are Affordable	11.9%	31.9%
Total % of Affordable Units	23.1%	11.2%

Housing Commission Discussion

The Housing Commission discussed the discrepancy between staff’s and IHDA’s affordability share findings in depth. If the City were to continue using staff’s/IHDA’s previous methodology for calculating our affordable housing share, the IHO would continue to be suspended because the City would be at 23.1%, and affordability must drop to 15% to reinstate the IHO. If the City were to adopt IHDA’s finding of St. Charles’ affordable housing share, the City would be at 11.2% and the ordinance would be turned back on and in full force.

The Housing Commission came to the conclusion that because according to IHDA St. Charles is at 11.2% affordable and IHDA's finding is used to determine Exempt vs. Non-Exempt status from AHPAA, our IHO should be brought in line with IHDA's determination.

Because adopting IHDA's finding of 11.2% affordable would result in turning the IHO back on, the Housing Commission felt it an opportune time to revise the IHO to both bring the ordinance in line with AHPAA requirements and to make the IHO less onerous for the development community.

The Commission has spent several months discussing the amendments to the IHO that are proposed for this General Amendment.

City Council Direction

At the Council retreat in June, City Council discussed preliminary recommendations from the Housing Commission on changes to the IHO. Aldermen expressed support for the Housing Commission's direction towards simplifying the ordinance, and offered further input to amend the ordinance in the interest of making it easier to understand and administer, and to ensure the requirements are not overly burdensome on the development community. As a result of Council's direction, the Housing Commission has proposed a lower fee in-lieu than was presented in June.

Housing Commission Recommendation

At its August meeting, the Housing Commission unanimously recommended approval of the amendments as proposed, with the exception of the following:

- Number 1.b below was made at the request of the Housing Commission chairman after the August meeting.
- Number 6.a below is proposed by staff in order to simplify administration-related language.

III. PROPOSAL & ANALYSIS

The following amendments are proposed:

1. Section 17.18.030 Applicability

- a. Adjust the sliding scale to reflect the percentages at which the City is exempt and non-exempt from AHPAA. 100% of the affordable unit requirement applies when the City is 10% affordable or less. No affordable units are required when the City is 20% affordable or over. The City's affordable housing share will be determined by IHDA in the most recent Report on Statewide Local Government Affordability (i.e. exempt/non-exempt list).

Analysis:

- St. Charles will use the affordable housing share as determined by IHDA. The City's share is currently 11.2% affordable. IHDA has stated that they will release an updated list of Exempt and Non-Exempt Local Governments every five years.
- The sliding scale will reflect the fact that the city is "Exempt" from AHPAA when it is above 10% affordable, and "Non-Exempt" when it is below 10% affordable. Communities are considered "at risk" when they are between 10-20% affordable.
- Per the proposed sliding scale, upon adoption of the proposed amendment, 75% of the affordable unit requirement will apply since the City is at 11.2% affordable. This means that a developer will have to provide 75% of the total number of units/fee in-

lieu required. 100% of the affordability requirement will apply if the City falls below 10%, and is therefore Non-Exempt from AHPAA.

- b. Relocate the provision from Section 17.18.020 which states that the IHO requirements will not apply when a dwelling units is demolished and the new dwelling unit is intended to be occupied by the same household that occupied the unit that was demolished, if the demolition occurred more than one year after the date of purchase. Add that the IHO will not apply in cases where a dwelling unit is destroyed and must be reconstructed.

Analysis:

- Part of this provision already exists in Section 17.18.020 under the definition of Residential Development. The proposed relocation is a more logical location for this provision because it already lists other instances in which the IHO provisions do not apply.
- The one year time limit has been added so that an individual who purchases a home with the intention of immediately tearing it down to construct a larger home will be required to pay a fee in-lieu.
- If a unit is destroyed by fire or other means outside of the control of the property owner or tenant and the unit must be rebuilt, fee in-lieu will not be required.

2. **Section 17.18.040 Affordable Units Required** – The required affordable unit set-aside will be 5% for developments of 1-15 units and 10% for developments over 15 units.

Analysis:

- Currently, developments of 1-10 units require 5% of the units to be affordable; developments of 11-50 units require a 10% set-aside; and developments over 50 units require a 15% set-aside.
- The proposal will simplify the required set-asides to two tiers rather than the existing three tiers and will help to prevent fee in-lieu requirements that are overly onerous.

3. **Section 17.18.050 Fee In-Lieu of Affordable Units**

- a. Remove language limiting when fee in-lieu is accepted. Fee in-lieu will be accepted for all residential development, regardless of size.

Analysis:

- Currently, full payment of fee in-lieu is only permitted for small developments of 1-10 units. For developments of 11-50 units, a maximum of 50% of the unit requirement may be met by fee in-lieu. For developments over 50 units, only units are accepted; fee in-lieu is not accepted unless City Council finds that this would place a significant hardship on the developer.
- The proposed revision would allow fee in-lieu to be acceptable for all residential development, regardless of size. This gives the developer flexibility in choosing how to comply with the IHO.

- b. The proposed amount of per unit fee-in lieu is equal to the cost of providing a 25% down payment for two affordable units. The calculation is: (affordable home price x 2 x 0.25)
1. The 2015 fee in-lieu per unit will be: $(\$145,639 \times 2 \times 0.25) = \underline{\$72,819.50}$
 2. The fee will be recalculated when IHDA releases an updated list of Exempt and Non-Exempt Local Governments.

Analysis:

- The current fee in-lieu is \$104,500. In an effort to make this fee less burdensome, a fee of \$72,819.50 is proposed.

- The proposed calculation is based on providing a down payment for two affordable units, based on the affordable home price for St. Charles from IHDA's 2013 list of Exempt and Non-Exempt communities.
- The Housing Commission suggested this formula in order to equate the fee in-lieu to what could theoretically be done with the funds.
- One of the comments expressed by City Council was that the fee in-lieu should be lower than Housing Commission's initial suggestion of \$78,700.
- *See attached document for example fee-in lieu calculations.*

4. **Section 17.18.060 Density Bonus** – Remove limitations on applying the density bonus, including limitations on reducing the minimum lot area, reducing the minimum lot width, and increasing building coverage. If zoning district bulk requirements are met, the total number of units can exceed up to 120% of base density.

Analysis:

- The Density Bonus is meant to provide an offset to the developer for providing affordable units.
- Currently, one bonus unit is permitted for each affordable unit constructed, but the total number of dwelling units within the development cannot exceed 120% of the permitted base density. However, the additional restrictions for implementing the Density Bonus prove difficult to administer and make it less likely for the Density Bonus to be feasible.

5. **Section 17.18.065 Alternative Affordable Housing Plan** – A recommendation from the Housing Commission will be required before an Alternative Affordable Housing Plan can be approved by City Council. In order for a developer to be able to provide an Alternative Plan instead of units/fee in-lieu, at least one of the specified criteria must be met. These criteria are not proposed to change. Note that Council will not have the ability to waive the requirements of the IHO altogether; rather, they will continue to have the ability to allow for an alternate proposal, per this section. (See Section 17.18.065 for the existing criteria for when an Alternative Affordable Housing Plan is allowed).

Analysis:

- Currently, the IHO does not specify that the Housing Commission must review and make a recommendation on proposed Alternative Affordable Housing Plans. This change specifies that the Housing Commission must consider and make recommendations to City Council on such requests.

6. **Section 17.18.090 Maximum Price of Affordable Units**

- a. The explanation of this section (part A) has been simplified.

Analysis:

- The current language is unnecessary and complicates the explanation of this section related to staff-level administration.

- b. The length of the deed restriction requiring for-sale affordable units to remain affordable will be 15 years.

Analysis:

- Currently, affordable for-sale units must remain affordable and be sold to income-eligible buyers for seven years after the initial sale of the property to the first income-eligible buyer. The suggested period of 15 years will increase the amount of time that the unit must remain affordable.
- Rental units created as a result of the IHO will continue to be required to stay affordable in perpetuity.

- c. The “deferred payment mortgage lien” term will be replaced with “promissory note” and specify that the promissory note should not bear interest, and shall only be due upon sale of the affordable unit if the unit is not sold at the affordable price.

Analysis:

- The City Attorney suggested that the existing terminology of “deferred payment mortgage lien” is not appropriate, and should be changed to “promissory note”.
- The proposed language also clarifies the intent of this section; that if the affordable unit is not sold to an income-eligible buyer, the difference between the affordable purchase price and the fair market value of the unit must be returned to the City, although the promissory note shall not bear interest.

Legal Opinion

The City Attorney has reviewed the proposed amendments and has stated the amendments as proposed are acceptable.

VI. PLAN COMMISSION RECOMMENDATION

The Plan Commission held a public hearing on the General Amendment on 9/22/15 and 10/20/15. The Commission voted 7-1 to approve the proposed changes to the Inclusionary Housing Ordinance. (The Plan Commission voted separately on whether to remove the Inclusionary Housing Ordinance from the Zoning Ordinance, which is listed as a separated item on the agenda.)

VII. ATTACHMENTS

- Affordable Housing Plan requirements and State Housing Appeals Board conditions for developer appeals from the *Affordable Housing Planning and Appeal Act: 2014 Non-Exempt Local Government Handbook*
- Q & A on the 2014 St. Charles Housing Affordability Analysis
- Example Fee-in Lieu Calculations
- Application for General Amendment, filed by staff 9/1/15

Affordable Housing Plan Requirements from IHDA's *Affordable Housing Planning and Appeal Act: 2014 Non-Exempt Local Government Handbook*

Affordable Housing Plans

From the date on the letter/email notifying a Non-Exempt Local Government of its status under AHPAA, the local administrators have 18 months from the date the Non-Exempt Local Government list was published to develop, approve and submit an Affordable Housing Plan to IHDA, consisting of at least the following components:

- Statement of the total number of affordable housing units that are necessary to exempt the local government from the operation of the Act, as defined in Section 15 and Section 20, and based on the numbers included in AHPAA Local Government Exemption Report, published by IHDA.
- Identification of lands within the jurisdiction that are most appropriate for the construction of affordable housing, and of existing structures most appropriate for conversion to, or rehabilitation for, affordable housing, including a consideration of lands and structures of developers who have expressed a commitment to provide affordable housing and lands and structures that are publicly or semi-publicly owned.
- Incentives that the local government may provide for the purpose of attracting affordable housing to their jurisdiction.
- Selection of one of the following goals for increasing local affordable housing stock:
 - a minimum of 15% of all new development or redevelopment within the local government that would be defined as affordable housing in this Act;
 - a minimum of a 3 percentage point increase in the overall percentage of affordable housing within its jurisdiction, as defined in Section 20 of this Act;
 - a minimum of a total of 10% of affordable housing within its jurisdiction.

According to the law, Non-Exempt Local Governments must submit their Affordable Housing Plan to IHDA within 60 days of the initial local approval of the plan or approval of revisions.

State Housing Appeals Board conditions for developer appeals from IHDA's *Affordable Housing Planning and Appeal Act: 2014 Non-Exempt Local Government Handbook*

State Housing Appeals Board

AHPAA also assigns IHDA the responsibility of staffing the State Housing Appeals Board. The State Housing Appeals Board may hear appeals once the following conditions are met:

- A developer, believing there is a market for such housing, must obtain site control in a Non-Exempt Local Government and voluntarily come forward with a proposal that includes at least 20% of the dwelling units being subject to covenants or restrictions that require that the dwelling units be sold or rented at prices that preserve them as affordable housing for a period of at least 15 years, in the case of for-sale housing, and at least 30 years, in the case of rental housing.
- The developer's proposal must be denied, or approved with conditions that rendered the project infeasible.
- The developer must file an appeal with the State Housing Appeals Board within 45 days of the local government decision they wish to appeal. Initial pleadings filed by the developer must include the following (in paper or electronic copies):
 - a. a clear and concise statement of the prior proceedings (related to the proposed development) before all Approving Authorities, including the date of notice of the decision that the Affordable Housing Developer is appealing;
 - b. a clear and concise statement of the Affordable Housing Developer's objections to the Approving Authority's decision, indicating why the Affordable Housing Developer believes the application to develop Affordable Housing was unfairly denied, which may include an appeal of IHDA's determination of the exempt status of the Local Government as set forth in Section 395.401, or what conditions, if any, were imposed that the Affordable Housing Developer believes were unreasonable;
 - c. a clear and concise statement setting forth the relief sought;
 - d. the complete name and address of the Affordable Housing Developer for the purpose of service of papers in connection with the appeal;
 - e. the name and address of the attorney or attorneys representing the Affordable Housing Developer, if any; and
 - f. a complete copy of the application for the Affordable Housing Development, as it was submitted to the Approving Authority, including sufficient information to determine whether the proposal that is the subject of the appeal is Affordable Housing.

State Housing Appeals Board (Continued)

During the appeals process the developer must convince the State Housing Appeals Board that:

- the proposed Affordable Housing Development complies with all Non-Appealable Local Government Requirements*. The Affordable Housing Developer must prove these elements with respect to only those aspects of the project that are in dispute; or
- Non-Appealable Local Government Requirements have been applied differently to proposals that do not include Affordable Housing; or
- the Approving Authority has a pattern of denying applications to develop Affordable Housing; or
- the Approving Authority changed the zoning of an area regarding a specific Affordable Housing Development that, but for the change in zoning, is otherwise able to proceed, or has a pattern of changing zoning of an area in regards to Affordable Housing Developments that, but for the change in zoning, are otherwise able to proceed; or
- the Approving Authority unreasonably or intentionally delayed its decision regarding a specific Affordable Housing Development that, but for the lack of timely decision by the Approving Authority, is otherwise able to proceed, or has a pattern of unreasonably or intentionally delaying its decisions on applications for Affordable Housing Developments that, but for the lack of timely decisions of the Approving Authority, are otherwise able to proceed; or
- IHDA's determination that the Local Government is exempt from the Act is incorrect based on the counting protocols set forth in Section 20 of the Act and any written guidance published by IHDA; or
- any other unreasonable denial of the application for the Affordable Housing Development.

* "Non-Appealable Local Government Requirements": All essential requirements that protect the public health and safety, including any local building, electrical, fire or plumbing code requirements or those requirements that are critical to the protection or preservation of the environment. Zoning, density and bulk restrictions may count as Non-Appealable Local Government Requirements if the Board finds that they qualify under the Act's definition of Non-Appealable Local Government Requirements.

The local government, or approving authority, has equal opportunity to present evidence and defend itself against claims made by the appealing developer.

Q&A on the 2014 St. Charles Affordability Analysis

1. Why is City staff's affordable housing share determination different than IHDA's?

There are multiple reasons for the difference between City staff's finding of 23.1% affordable and IHDA's finding of 11.2% affordable, all of which are related to the data used for the calculations. These reasons include:

- **Median income:** Staff used median income adjusted for a four-person household (\$72,375), while IHDA used the overall area median income (\$61,045).
- **Home prices and rents:** Staff used Township Assessor data to determine the assessed market value of individual owner-occupied homes in St. Charles and actual collected rents from each apartment complex in the city. IHDA used 2011 US Census American Community Survey (ACS) 5-year estimates to determine home prices and rents.
- **Housing unit count:** Staff used Township Assessor data for this information, while IHDA used 2011 ACS 5-year estimates.
- **Property taxes:** Staff used a formula provided by IHDA in the 2004 AHPAA report to determine the affordable owner-occupied housing price. The property tax rate is built into this formula. IHDA used the median real estate taxes per month for all houses within St. Charles, based on 2011 ACS 5-year estimates, resulting in a monthly tax that is higher than would be expected for a house valued at a price affordable to a household at 80% AMI.

**Find an explanation of ACS 5-year estimate data at the end of this document.*

2. Why did City staff use this methodology?

Staff has utilized the same methodology to determine the City's affordable housing share since first performing the annual analysis in 2009. This methodology was derived from the **2004 Report on Affordable Housing Planning and Appeals Act** and was the methodology used by IHDA at that time to determine the affordable housing share for each community in Illinois.

3. What will happen if St. Charles falls below 10% affordable units?

If IHDA determines that St. Charles has less than 10% of housing units that are affordable, the City will be non-exempt from the Affordable Housing Planning and Appeals Act. As such, the City will be required to adopt and submit an Affordable Housing Plan within 18 months from the date the list is published. The Plan must consist of the following:

1. The number of affordable units needed to increase the affordable housing stock to 10%.
2. Identification of land and existing structures that are appropriate for the construction of affordable units.
3. Incentives the municipality may provide to attract affordable housing.
4. Selection of *one* of the following goals to increase the local affordable housing stock:
 - a. Minimum of 15% of all new development must be affordable
 - b. Minimum of a 3 percentage point increase in the overall percentage of affordable housing
 - c. Minimum of a total of 10% of affordable housing.

Also, the City will be subject to developer appeals to the State Housing Appeals Board (SHAB) should the City deny an affordable housing development. There are several conditions that must be met in order for the SHAB to hear appeals. In addition, the SHAB cannot hear an appeal until 60 months (5 years) have passed since a municipality is notified of its non-exempt status.

4. When will IHDA recalculate St. Charles' affordable housing share?

IHDA has stated that an updated listing of Exempt and Non-Exempt Local Governments will be released every five years, which will include each municipality's affordable housing share. We can expect the next update in 2018.

5. What implications does this information have for the Inclusionary Housing Ordinance?

In 2013, City Council determined that the Inclusionary Housing Ordinance could essentially be "turned off" based on staff's analysis that the City's affordable housing percentage was above 25%, as provided for in the ordinance. This means that currently, the City does not require new residential developments to create affordable units or provide a fee-in-lieu. Based on the current ordinance, the Inclusionary Housing requirements will be "turned on" when the percentage of affordable units has fallen below 15%.

If City Council continues to use staff's determination of the affordability share, the ordinance will remain "turned off" unless the percentage falls below 15%. However, City Council may consider using IHDA's affordable housing percentage for St. Charles (11.2%), resulting in the ordinance being "turned on" and in full effect.

Information on American Community Survey (ACS) Data:

IHDA utilized 2011 ACS 5-year estimates as the primary data source for their affordability share calculations.

Unlike Decennial Census data which provides an official count of the population and demographic information, ACS data is collected from a sample population every year to provide more up-to-date information on the social and economic characteristics of a community. Because ACS makes estimates based only on a sample of the population, ACS data has a greater margin of error than Decennial Census data.

ACS data relies on self-reported figures. The accuracy of this method may be particularly problematic for housing value data. Individuals provide what they think their house is worth. This data is likely less accurate than the local Township Assessor data used by City staff, which provides the actual assessed value of each owner-occupied housing unit in St. Charles.

Example Fee In-Lieu Calculations: Current Fee and Ordinance vs. Proposed Fee and Ordinance

Current fee in-lieu of \$104,500 per unit and current IHO provisions (assuming 11.2% affordable):

1-unit development:

Required set-aside is 5% of 1 units: $(1 \times .05) = 0.05$ unit

Fee in-lieu per unit = \$104,500

100% of the fee in-lieu is required based on sliding scale

$(1 \times .05) \times (\$104,500) = \mathbf{\$5,225}$

25-unit development:

Required set-aside is 10% of 25 units: $(25 \times .10) = 2.5$ units

Fee in-lieu per unit = \$104,500

100% of the fee in-lieu is required based on sliding scale

$(25 \times .10) \times (\$104,500) = \mathbf{\$261,250}$

100-unit development:

Required set-aside is 15% of 100 units: $(100 \times .15) = 15$ units

Fee in-lieu per unit = \$104,500

100% of the fee in-lieu is required based on sliding scale

$(100 \times .15) \times (\$104,500) = \mathbf{\$1,567,500}$

Proposed fee in-lieu of \$72,819.50 per unit & other proposed revisions to the IHO (assuming 11.2% affordable)

1-unit development:

Required set-aside is 5% of 1 units: $(1 \times .05) = 0.05$ unit

Fee in-lieu per unit = \$72,819.50

75% of the fee in-lieu is required based on sliding scale

$(1 \times .05) \times (\$72,819.50) \times (.75) = \mathbf{\$2,730.73}$

25-unit development:

Required set-aside is 10% of 25 units: $(25 \times .10) = 2.5$ units

Fee in-lieu per unit = \$72,819.50

75% of the fee in-lieu is required based on sliding scale

$(25 \times .10) \times (\$72,819.50) \times (.75) = \mathbf{\$136,536.56}$

100-unit development:

Required set-aside is 10% of 100 units: $(100 \times .10) = 10$ units

Fee in-lieu per unit = \$72,819.50

75% of the fee in-lieu is required based on sliding scale

$(100 \times .10) \times (\$72,819.50) \times (.75) = \mathbf{\$546,146.25}$

CITY OF ST. CHARLES
TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984



COMMUNITY & ECONOMIC DEV./PLANNING DIVISION

PHONE: (630) 377-4443 FAX: (630) 377-4062

GENERAL AMENDMENT APPLICATION

CITYVIEW	
Project Name:	<u>GA-Inclusionary Housing</u>
Project Number:	<u>2015</u> -PR- <u>020</u>
Application Number:	<u>2015</u> -AP- <u>032</u>



Instructions:

To request an amendment to the text of the St. Charles Zoning Ordinance (City Code Title 17), complete this application and submit it with all required attachments to the Planning Division.

City staff will review submittals for completeness and for compliance with applicable requirements prior to establishing a meeting or public hearing date for an application.

The information you provide must be complete and accurate. If you have a question please call the Planning Division and we will be happy to assist you.

Applicant:	Name	City of St. Charles	Phone	630-377-4443
	Address	2 E. Main St. St. Charles, IL 60174	Fax	630-377-4062
			Email	ejohnson@stcharlesil.gov

Attachment Checklist

If multiple zoning or subdivision applications are being submitted concurrently, do not submit duplicate checklist items or plans. Fee must be paid for each application.

- APPLICATION FEE:** Application fee in accordance with Appendix B of the Zoning Ordinance (\$500)
- REIMBURSEMENT OF FEES AGREEMENT:**
An original, executed Reimbursement of Fees Agreement and deposit of funds in escrow with the City, as provided by Appendix B of the Zoning Ordinance.
- REIMBURSEMENT OF FEES INITIAL DEPOSIT:**
Deposit of funds in escrow with the City. (For a General Amendment application only: \$1,000 deposit.)
- FINDINGS:** Fill out the attached form or submit responses on a separate sheet.

□ **WORDING OF THE REQUESTED TEXT AMENDMENT**

What is the amendment regarding?

Changes to Ch. 17.18 Inclusionary Housing, including relocation of Ch. 17.18 from the Zoning Ordinance to a stand-alone Title of the City Code.

What sections are proposed for amendment?

Chapters(s): 17.18; 17.04; Appendix A

Section(s): Sections 17.18.010-17.18.140; Section 17.04.400.C; Sections 1, 5, 6, 7

The wording of the proposed amendment: Insert below or attached wording on a separate page.

See attached.

I (we) certify that this application and the documents submitted with it are true and correct to the best of my (our) knowledge and belief.

Ellen Johnson
Applicant

9-1-15
Date

FINDINGS OF FACT – GENERAL AMENDMENT



The St. Charles Zoning Ordinance requires the Plan Commission to consider factors listed below in making a recommendation to the City Council.

As an applicant, the “burden of proof” is on you to show why the proposed amendment is appropriate. Therefore, you need to “make your case” by explaining how the following factors support your proposal. If a factor does not apply to the amendment in question, indicate “not applicable” and explain why it does not apply.

See attached.

Amendment Description/Ordinance Section Number _____
Date

From the Charles Zoning Ordinance, Section 17.04.320.C:

In making its recommendation to grant or deny an application for a Zoning Text Amendment, the Plan Commission shall consider:

1. The consistency of the proposed amendment with the City’s Comprehensive Plan.

2. The consistency of the proposed amendment with the intent and general regulations of this Title.

3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.

4. The extent to which the proposed amendment would be in the public interest and would not serve solely the interest of the applicant.

5. The extent to which the proposed amendment creates nonconformities.

6. The implications of the proposed amendment on all similarly zoned property in the City.

Ch. 17.18 Inclusionary Housing

1. See attached for proposed revisions to Ch. 17.18 (revisions are proposed to Sections 17.18.020, 17.18.030, 17.18.040, 17.18.050, 17.18.060, 17.18.065, and 17.18.090)
2. Remove entire chapter from the Zoning Ordinance, Title 17 of City Code in order to place all Inclusionary Housing provisions in a stand-alone title of the City Code.

Ch. 17.04, Section 17.04.400.C

Remove this section, which states:

Limitations to Relief from the Minimum Requirements of the Zoning Ordinance. The provisions and requirements established in Chapter 17.18, entitled “Inclusionary Housing” are not eligible deviations through a proposed PUD.

Appendix A, Sections 1, 5, 6, 7

Under the Inclusionary Housing Summary checklist item, delete reference to “Ch. 17.18, Inclusionary Housing” and “section 17.18.050”. The appropriate chapter/section will be referenced once established.

Findings of Fact – General Amendment

1. The consistency of the proposed amendment with the City’s Comprehensive Plan.

The Comprehensive Plan states the following as a Residential Land Use Policy: “Maintain a diverse and affordable mix of housing types to allow St. Charles to continue to attract and retain facilities and residents.” The Inclusionary Housing Ordinance (IHO) is referenced as a means to “ensure that an adequate stock of affordable housing is, and remains, available in the City of St. Charles.” The Inclusionary Housing Ordinance will continue to require developers to provide a proportionate share of affordable housing or fee in-lieu thereof.

2. The consistency of the proposed amendment with the intent and general regulations of this title.

The proposed amendment will result in reinstatement of the Inclusionary Housing Ordinance, thereby helping to further affordable housing in the community. The provision of affordable housing is consistent with the intent of the Zoning Ordinance.

The purpose and intent of the IHO, as stated in Section 17.18.010, will remain the same when the provisions are relocated to a separate title in the City Code. Developers will continue to be required to provide a proportionate share of affordable housing in new residential developments, or pay a fee in-lieu of providing units.

3. Whether the proposed amendment corrects an error or omission, adds clarification to existing requirements, is more workable than the existing text, or reflects a change in policy.

The proposed amendment to the Inclusionary Housing Ordinance is both more workable than the existing text, as it will reduce the financial burden imposed on housing developers, and adds clarification to existing requirements.

The proposal regarding removal of the IHO from Title 17 will result in a more streamlined process for future changes to the IHO and reviewing Alternative Affordable Housing Plans. The Plan Commission will continue to advise Council on matters related to physical development, while the Housing Commission will be the only citizen advisory commission that makes a recommendation to Council regarding Alternative Affordable Housing Plans and changes to the IHO.

4. The extent to which the proposed amendment would be in the public interest and would not serve the interest of the applicant.

The proposed amendment will result in reinstatement of the IHO, meaning that either affordable units or fee in-lieu thereof must be provided for all new residential developments. The affordable units created as a result of the IHO will serve income-eligible households who may otherwise have difficulty obtaining housing in St. Charles. The fee in-lieu collected will be deposited into the Housing Trust Fund and will be used for eligible activities aimed at furthering housing affordability for residents.

Regarding removal of the IHO from the Zoning Ordinance, the Housing Commission is comprised of citizens that have expertise and familiarity in housing related issues. The Commission will continue to serve the public interest by working to maintain and increase the availability of affordable housing in the community and advising City Council in efforts to do so. Members of the public in attendance at

Housing Commission meetings are granted the right to address the Commission under the Open Meetings Act.

5. The extent to which the proposed amendment creates nonconformities.

The amendment will not create nonconformities. The IHO, no matter its location within the City Code, does not impact existing development and does not regulate the physical development of property.

6. The implications of the proposed amendment on all similarly zoned property in the City.

The IHO provisions will continue to apply to all new residential development regardless of the zoning district in which the development is located.

Chapter 17.18
Title & Chapter TBD

INCLUSIONARY HOUSING

Sections:

- 17.18.010 Purpose and Intent
- 17.18.020 Definitions
- 17.18.030 Applicability
- 17.18.040 Affordable Units Required
- 17.18.050 Fee in Lieu of Affordable Units
- 17.18.060 Density Bonus
- 17.18.065 Alternative Affordable Housing Plan
- 17.18.070 Development Cost Offsets
- 17.18.080 Location, Phasing and Design
- 17.18.090 Maximum Price of Affordable Housing Units
- 17.18.100 Ownership and Occupancy of Affordable Units
- 17.18.110 Development Applications
- 17.18.120 Affordable Housing Agreement and Documents
- 17.18.130 Implementation
- 17.18.140 Enforcement

17.18.010 Purpose and Intent

To provide Affordable Dwelling Units 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 City of St. Charles. While this Chapter provides specific alternatives to the production of on-site affordable Dwelling Units, the intent and preference of this Chapter is for the provision of affordable Dwelling Units constructed on site and privately produced, owned, and managed.

17.18.020 Definitions

The following words and phrases shall have the meanings set forth in this Section. Words and phrases not defined in this Section, but defined elsewhere in the St. Charles Municipal 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 Chapter, in the event there is a conflict between a definition in this Section and one found elsewhere, the definition in this Section shall apply.

- A. Affordable Housing: Housing that has a sales price or rental amount that is within the means of an “Eligible Household” as defined herein. In the case of Dwelling Units for sale, housing that is affordable means housing in which mortgage, amortization, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit. In the case of Dwelling Units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of the gross annual household income for a household of the size that may occupy the unit.
- B. Affordable Unit: A Dwelling Unit of Affordable Housing that satisfies the requirements of this Chapter.
- C. Affordable Housing Agreement: Any agreement between the City and an Applicant as required by Section 17.18.120 of this Chapter.

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- D. Applicant: Any Developer who applies to the City to receive approval of a Residential Development pursuant to this Chapter.
- E. 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 U.S. Department of Housing and Urban Development, and adjusted for household size.
- F. Base Density: The number of Dwelling Units permitted to be constructed on a parcel in conformance with the requirements of the Zoning District in which it is located, prior to applying any applicable density bonus.
- G. Developer: Any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that develops a dwelling or units, not including any governmental entity or a Housing Provider as defined herein.
- H. Director: The Director of the Community and Economic Development Department, or his or her designee.
- I. Dwelling Unit: A Dwelling Unit as defined in Chapter 17.30, "Definitions", of the St. Charles Zoning Ordinance. For purposes of this Chapter, the term Dwelling Unit includes Affordable Units and Market Rate Units.
- J. Eligible Household: A household with an income at or below eighty percent (80%) of the Area Median Income (AMI) for for-sale units and at or below sixty percent (60%) of the AMI for rental units, based on the size of the household.
- K. Housing Provider: An entity approved by the City of St. Charles to develop, manage or own Affordable Dwelling Units.
- L. Market Rate Units: All Dwelling Units in a Residential Development that are not Affordable Units as defined herein.
- M. Residential Development: The establishment of one or more Dwelling Units in any of the following instances:
 - 1. Construction of one or more Dwelling Units pursuant to a final Plat of Subdivision, where the Preliminary Plan is approved by the City Council after the effective date of this Chapter.
 - 2. Construction of one or more Dwelling Units within a Planned Unit Development, where the Preliminary PUD Plan is approved by the City Council after the effective date of this Chapter.
 - 3. Construction of one or more Dwelling Units on a lot created after February 15, 2008 by means other than a Plat of Subdivision or Planned Unit Development, including but not limited to a division conforming to the Statutory Plat Act Exemptions.
 - 4. Issuance of a building permit for a new Dwelling Unit following demolition of a Dwelling Unit on the lot, when: ~~a) the new Dwelling Unit is not intended to be occupied by the same household or individual that occupied the Dwelling Unit that was demolished, and b) [Moved to 17.18.030.C] the last sale price prior to demolition of the Dwelling Unit was at or below the price of an Affordable Unit with the same number of bedrooms; if the last sale occurred more than two years prior to demolition, then the equalized market value assigned by the Township Assessor as of the date of demolition shall be used.~~
 - 5. Issuance of a building permit for alteration of an existing building, in whole or in part, that increases the number of Dwelling Units from the number that existed prior to its alteration.

17.18.030 Applicability

- A. The provisions of this Chapter shall apply to any Residential Development, as defined herein. Residential Developments undertaken in phases, stages, or otherwise constructed in distinct parts by one or more developers, but which are located within the same Planned Unit Development or Subdivision, or which are otherwise approved as a whole, shall be considered a single Residential Development.
- B. Notwithstanding the preceding paragraph, the construction of new Affordable Units and the payment of fee in-lieu of Affordable Units shall be adjusted to account for the percentage of affordable housing in St. Charles as determined by the Director of Community and Economic Development. The rates of adjustment shall be as follows:

INCLUSIONARY HOUSING

Percentage of Affordable Housing	Percentage of Affordable Units Required
13.75% - 10% or less	100%
13.76% to 17.5% 10.01% to 13.33%	75%
17.51% to 21.25% 13.34% to 16.66%	50%
21.26% to 24.99% 16.67% to 19.99%	25%
25% or greater 20% or greater	0%

No Affordable Units shall be required for any new Residential Development following a determination by the Director that the percentage of the total number of Dwelling Units within the City of St. Charles that are Affordable Units is ~~25% - 20%~~ or greater. Thereafter, the provisions of this Chapter shall apply following a determination by the Director that the percentage of Dwelling Units within the City of St. Charles that are Affordable Units has fallen below ~~15% - 20%~~. The Director shall utilize the affordable housing share provided by the Illinois Housing Development Authority (IHDA) in the most recent Affordable Housing Planning and Appeal Act: Report on Statewide Local Government Affordability to determine the percentage of Dwelling Units within the City that are Affordable Units.

(Ord. 2013-Z-3 § 3.)

- C. The requirements of this Chapter shall not apply in ~~either of~~ the following instances:
1. Moving a building containing one or more Dwelling Units from one location to another within the City.
 2. Construction of a single Dwelling Unit on a lot that was of record prior to February 15, 2008 and upon which no Dwelling Unit or part thereof has existed for a period of ten years or more prior to issuance of a building permit.
 - ~~3. Upon issuance of a building permit for a new Dwelling Unit following demolition of a Dwelling Unit on the lot, when the new Dwelling Unit is intended to be occupied by the same household or individual that occupied the Dwelling Unit that was demolished, and the demolition occurred more than one (1) year after the date of purchase by said household or individual.~~
 - ~~4. When a Dwelling Unit is destroyed by fire or other casualty or act of God, by any means not within the control of the property owner or tenant.~~

17.18.040 Affordable Units Required

- A. General requirement. Affordable Units, and/or a fee in lieu thereof, shall be required for every Residential Development. The number of Affordable Units required for a Residential Development shall be a percentage of the total number of Dwelling Units to be constructed within the Residential Development, but not including any bonus Market Rate Units permitted by Section 17.18.060. The minimum requirement shall be calculated as follows:
- ~~* 1 to 10 Dwelling Units: 5 percent~~
 - ~~* 11 to 50 Dwelling Units: 10 percent~~
 - ~~* More than 50 Dwelling Units: 15 percent~~
 - * 1 to 15 Dwelling Units: 5 percent
 - * More than 15 Dwelling Units: 10 percent
- B. Calculation. In the event that the calculation of the number of required Affordable Units results in a fraction, the following rules shall apply: For that portion of the requirement that is to be satisfied by the construction of Affordable Units, the fraction shall be rounded to the nearest whole number; a fraction of exactly ½ shall not be counted as a required Affordable Unit. For that portion of the

requirement that is to be satisfied by payment of a fee in-lieu, any fraction shall be used in calculating the total fee in lieu to be paid by the Developer.

17.18.050 Fee In-Lieu of Affordable Units

- A. General Applicability. The City Council may permit the Applicant to pay a fee in-lieu of constructing some or all of the required Affordable Units within a Residential Development. ~~in conformance with the following criteria:~~
 - ~~* For a Residential Development with 1 to 10 Dwelling Units: Fee in lieu is acceptable.~~
 - ~~* For a Residential Development with 11 to 50 Dwelling Units: A minimum of fifty percent (50%) of the requirement (but not less than one Dwelling Unit) shall be met by constructing Affordable Units on-site and a maximum of fifty percent (50%) of the requirement may be met by payment of a fee in-lieu of Affordable Units.~~
 - ~~* For a Residential Development with 50 or more Dwelling Units, the entire requirement shall be met by constructing Affordable Units on-site, except that up to a maximum of fifty percent (50%) of the requirement may be met by payment of a fee in-lieu of Affordable Units if the Applicant demonstrates to the satisfaction of the City Council, following a review and recommendation by the Housing Commission, that developing 100% of the Affordable Units on-site would create a significant hardship or that the alternate means of compliance will afford a comparable level of affordable housing opportunities in the City.~~
- B. Amount of Fee In-Lieu Per Unit. The amount of the per-unit fee in-lieu of Affordable Units shall be determined ~~annually~~ by the City Council. ~~The amount of the per unit fee in-lieu shall be related to the cost of providing an Affordable Unit. Commencing October 1, 2010 the fee shall be one hundred four thousand five hundred dollars (\$104,500.00) for each required Affordable Unit. Said fee shall remain in effect until the City Council passes a new determination. The amount of the per unit fee in-lieu shall be related to the cost of providing a downpayment of 25% for two Affordable Units. The amount of the per unit fee in-lieu shall be calculated as the affordable home sale price for St. Charles as determined by IHDA to calculate St. Charles' affordable housing share in the most recent Affordable Housing Planning and Appeal Act: Report on Statewide Local Government Affordability, multiplied by two (2), multiplied by 0.25. Commencing [date of ordinance adoption] the fee shall be \$72,819.50 for each required Affordable Unit. The calculation of this fee is as follows: \$145,639 x 2 x 0.25 = \$72,819.50. Said fee shall remain in effect until IHDA releases an updated Report on Statewide Local Government Affordability.~~ (Ord. 2010-Z-16 § 2.)
- C. Calculation of Total Fee In-Lieu. For purposes of determining the total fee in-lieu payment amount, the per unit fee in-lieu shall be multiplied by the required number of Affordable Units, including any fractional units, as provided in Section 17.18.040.
- D. Payment of Fee In-Lieu. All fee in-lieu payments due under the provisions of this Chapter shall be paid at the time of issuance of the first building permit for the Residential Development, or as otherwise approved by the City Council in the Affordable Housing Agreement.

17.18.060 Density Bonus

- A. When Density Bonus is Allowed. A density bonus shall be permitted when Affordable Units are constructed within the Residential Development in accordance with Section 17.18.040 (A). One bonus Dwelling Unit shall be permitted for each Affordable Unit constructed within the Residential Development; however, in no event shall the total number of Dwelling Units constructed within the Residential Development exceed one hundred twenty percent (120%) of the Base Density.
- ~~B. Implementation of Density Bonus. In implementing any density bonus allowed by this Chapter, the following requirements of the Zoning Ordinance may be varied without additional justification, but not by more than the specified percentages:~~
 - ~~1. Reduction of required minimum lot area by not more than 20%, or the percentage by which the total number of Dwelling Units constructed within the Residential Development exceeds the Base Density, whichever is less.~~

- ~~2. Reduction of required minimum lot width by not more than 20%, or the percentage by which the total number of Dwelling Units constructed within the Residential Development exceeds the Base Density, whichever is less.~~
- ~~3. Increase of the allowable building coverage on a lot by not more than 20%, or the percentage by which the total number of Dwelling Units constructed within the Residential Development exceeds the Base Density, whichever is less.~~

17.18.065 Alternative Affordable Housing Plan

A. Alternative Affordable Housing Plan Criteria

As an alternative to compliance with the provisions of Section 17.18.040 or Section 17.18.050, the Developer may request the City Council to approve, concurrent with the approval of the overall development and after receiving a recommendation from the Housing Commission, one or more of the alternatives listed in Section 17.18.065.B. The City Council shall not approve an Alternative Affordable Housing Plan unless the Developer demonstrates and the City Council finds in the affirmative that the Alternate Affordable Housing Plan is justified based on one or more of the following criteria:

1. A demonstrated financial hardship exists that is not of the developer’s own making. Items to be considered shall include but shall not be limited to:
 - a. The financial hardship must be equal to or greater than 10% of the total project cost and purchase price, but cannot include any costs incurred as part of the normal and orderly development of the property.
 - b. Environmentally sensitive or natural areas to be protected are equal to or greater than 20% of the total development site area (not including stormwater retention/detention facilities or park sites related to the construction of the project).
2. The development site does not allow for the density bonus as stated in Section 17.18.060 due to limitations on development capacity. Items to be considered shall include but shall not be limited to:
 - a. Insufficient water or sewer utility capacities.
 - b. Unique parcel configurations shall include but shall not be limited to steep slopes above an 8% grade or irregular shaped parcels that create unbuildable areas equal to or greater than 20% of the development site.
3. The development will fulfill an alternative City Policy or goal such as redevelopment of a vacant, underutilized, or blighted parcel that cannot otherwise be readily redeveloped and comply with all other applicable requirements.
4. The creation of the Alternative Affordable Housing Plan represents an equal or greater opportunity to create Affordable Housing in the City. Examples of these greater opportunities shall include but shall not be limited to:
 - a. Providing units below the maximum affordability thresholds established by Illinois Housing Development Authority for rental or owner-occupied units. (Example: Pricing rental units at or below 50% of area median income)
 - b. Providing offsite affordable units in vacant or foreclosed homes.
 - c. Providing affordable units for a period of time longer than the seven year minimum affordable period stated in Section 17.18.090 Maximum Price of Affordable Units.

B. Alternative Affordable Housing Plan

For instances in which the Developer is requesting to utilize an Alternative Affordable Housing Plan, the Developer shall submit the proposed Alternative Affordable Housing Plan. This plan shall detail the Developer’s course of action chosen to create Affordable Housing opportunities in St. Charles. This plan is required to be submitted in writing and must detail how the Alternative Affordable Housing Plan fulfills the criteria listed in Section 17.18.065.A.

One or more of the following options shall be utilized by the Developer:

1. External Funding Sources – The Developer will apply for grants, tax credits, and/or any other applicable funding mechanism each year that the project is under construction. These funds

INCLUSIONARY HOUSING

will be used to subsidize the costs associated with the construction of onsite or offsite Affordable Housing Units.

- 2. Purchase Offsite Units – The Developer shall purchase for-sale or foreclosure properties and then sell or rent them at the established Affordable Housing price.
- 3. Construction of a portion of the required Affordable Units onsite and/or payment of a portion of the required fee in-lieu, and any combination of the two options listed above.

(Ord. 2013-Z-3 § 4.)

17.18.070 Development Cost Offsets.

An Applicant that fully complies with the requirements of this Chapter, including any rules or regulations promulgated thereunder, shall, upon written request to the City, receive a waiver of all building permit, demolition, and plan review fees required by Title 15 of the St. Charles Municipal Code, sewer and water connection fees required by Title 13 of the St. Charles Municipal Code, and cash contributions (when required in lieu of park and school land dedications) as required by Title 16 of the St. Charles Municipal Code, but only relative to the required Affordable Units constructed within the Residential Development.

17.18.080 Location, Phasing and Design.

Affordable Units shall be integrated into the Residential Development by location, construction phasing, and design as described below. Waivers or variances as to the location, construction phasing, or appearance of Affordable Units may be granted by the City Council following a review and recommendation by the Housing Commission, based on supporting evidence that demonstrates that said waiver(s) or variance(s) will further affordable housing opportunities to an equal or greater extent than compliance with otherwise applicable requirements, or that integrating the Affordable Units will create a hardship.

- A. Location of Affordable Units. Affordable Units shall be dispersed among the Market-Rate Dwelling Units throughout the Residential Development
- B. Phasing of Permits. The Affordable Units shall be constructed concurrently with the Market-Rate Units within the Residential Development. Building and occupancy permits for Market-Rate Units shall be issued only if building and occupancy permits, respectively, for the required Affordable Units have been issued in accordance with the following schedule:

Market-Rate Units (%)	Affordable Units (%)
Up to 50%	At least 30%
Up to 75%	At least 60%
100%	100%

- C. Exterior Appearance. The exterior appearance of the Affordable Units in any Residential 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 Units as for Market-Rate Units.
- D. Interior Appearance and Finishes. Affordable Units may differ from Market-Rate Units with regard to interior finishes and gross floor area, provided that:
 - 1. Bedroom Mix. The number of bedrooms per Dwelling Unit in the Affordable Units within the Residential Development shall be in equal proportion to the number of bedrooms per Dwelling Unit in the Market-Rate Units within the Residential Development. This provision is not intended to require the same floor area in Affordable Units as compared to Market-Rate Units.

2. Energy Efficient Improvements. Affordable Units and Market-Rate Units shall have the same type and quality of improvements related to energy efficiency, including plumbing, insulation, windows, and heating and cooling systems.

17.18.090 Maximum Price of Affordable Units

- A. Affordability Controls; Waivers. All Affordable Units developed in accordance with this Chapter shall be subject to ~~affordability controls and resale~~ restrictions as provided in this section herein; ~~unless the property owner is granted a waiver by the City Council based upon supporting market-related evidence of undue hardship on the owner of the Affordable Unit or rental property~~ [Moved to 17.18.090.B.2]. ~~The Director of Community and Economic Development shall prepare or cause to be prepared detailed requirements, procedures, forms and documents to implement this Section. These requirements, procedures, forms and documents shall be subject to the approval of the City Council.~~
- B. For-Sale Affordable Units. Affordable Units shall be offered for sale in conformance with the following principles:
 1. The ~~initial~~ sale of Affordable Units to the first purchaser shall be governed by the following:
 - a. Affordable Units shall be offered for sale at a maximum price that is affordable to an Eligible Household based on household size in accordance with paragraph D of this Section, using the limits established annually by the Illinois Housing Development Authority (IHDA).
 - b. The property shall be subject to a deed restriction or other suitable instrument limiting the maximum sale price of the property for a period of seven-fifteen years, and specifying the conditions under which title to the property may be transferred to an entity other than an Eligible Household, including but not limited to transfer of title to heirs.
 - c. ~~The purchaser shall execute a deferred payment mortgage lien in favor of the City, in the amount of the difference between the price paid by the purchaser for the Affordable Unit and its market value, at an interest rate comparable to that which is available for a fixed rate, 30-year mortgage. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the Affordable Unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a Mortgage on the property. Said promissory note shall be due upon the sale of the Affordable Unit, unless the Affordable Unit is sold in accordance with Section 17.18.090.2. The City shall subordinate the Mortgage to that of the primary lender.~~
 2. Subsequent sales of Affordable Units during the first seven fifteen years following the initial sale shall be governed by following, unless the property owner is granted a waiver by the City Council based upon supporting market-related evidence of undue hardship on the owner of the Affordable Unit:
 - a. The maximum sale price shall be the initial sale price plus 1) appreciation in the property's value, but not to exceed the increase in the IHDA affordability limit; 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure.
 - b. The seller shall receive a percentage of the Affordable Unit's appreciation in value up to the IHDA affordability limit, where the percentage is the original purchase price divided by the market value of the Unit at the time of the seller's original purchase, and the amount of appreciation is the difference between the original purchase price and the price at the time of sale. The remainder of the allowable appreciation shall be deposited into the Housing Trust Fund or other fund devoted to providing affordable housing.
 - c. ~~The purchaser shall execute a deferred payment mortgage lien in favor of the City, in the amount of the difference between the price paid by the purchaser for the Affordable Unit and its market value, at an interest rate comparable to that which is available for a fixed rate, 30-year mortgage. The purchaser shall execute a promissory note in favor of the City in an amount equal to the difference between the purchase price for the~~

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Affordable Unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a Mortgage on the property. Said promissory note shall be due upon the sale of the Affordable Unit, unless the Affordable Unit is sold in accordance with Section 17.18.090.2. The City shall subordinate the Mortgage to that of the primary lender.

- 3. Subsequent sales of Affordable Units after the initial ~~seven~~ fifteen -year period shall be governed by the following:
 - a. If the sale price does not exceed the initial sale price plus 1) appreciation in the property’s value, not to exceed the increase in the IHDA affordability limit; and 2) an allowance for the cost of repair and/or replacement of heating, electrical, plumbing, roofs, and structural elements necessary to address safety of the occupants or integrity of the structure, then the seller shall not be required to pay the ~~promissory note deferred payment second mortgage~~, but the buyer shall execute a ~~promissory note deferred payment mortgage lien~~ in favor of the City, in an amount equal to the difference between the purchase price for the Affordable Unit and its fair market value as determined by a licensed appraiser. Said promissory note shall be non-interest bearing and shall be secured by a Mortgage on the property. the amount of the difference between the price paid for the Affordable Unit and its market value.
 - b. If the sale price is at market value or otherwise in excess of that described in the preceding paragraph 3) a), the full amount of the ~~promissory note deferred payment mortgage lien~~ shall be payable to the City, but the Buyer is not required to execute a ~~promissory note deferred payment mortgage lien~~. Once the ~~promissory note mortgage lien~~ is paid, all restrictions of this Chapter applicable to the Affordable Unit, including its designation as such, shall cease.
 - c. So long as the property is designated as an Affordable Unit, the seller shall receive a percentage of the appreciation in the property’s value, whether sold at market value or less than market value. The percentage shall be equal to the seller’s original purchase price divided by the market value of the Unit at the time of the seller’s original purchase, discounted by 50%. The ~~promissory note lien~~ payment, plus the percentage of appreciation not received by the seller, shall be deposited into the Housing Trust Fund or other fund devoted to providing affordable housing.
- C. For-Rent Affordable Units. The maximum gross rent (including a utility allowance for utilities not provided with the rent) for Affordable Units offered for rent shall be calculated using the gross rent limits established annually by the Illinois Housing Development Authority on the basis of thirty percent (30%) of gross monthly income at fifty percent (50%) to sixty percent (60%) of AMI, based on household size in accordance with paragraph D of this Section. The net rent charged by the owner shall not exceed the maximum gross rent minus a utility allowance for any utilities to be paid separately by the tenant. All Affordable Units shall be offered at not more than the maximum rent calculated in accordance with this paragraph in perpetuity or as long as permissible by law.
- D. Household Size. In calculating the maximum sale and rental prices of Affordable Units, the following relationship between the number of bedrooms per unit and household size shall apply:

<u>Size of units:</u>	<u>Affordable for:</u>
Efficiency units:	1-person household
One-bedroom units:	2-person household
Two-bedroom units:	3-person household
Three-bedroom units:	4-person household
Four-bedroom and larger units:	5-person households and larger

- E. Sale or Rental to Housing Providers. Every Affordable Unit required by this Chapter shall be offered for sale or rental to an Eligible Household as a primary resident, except for units purchased by Housing Providers. Housing Providers designated by the City of St. Charles shall have the right, but

not the obligation, to purchase any for-sale Affordable Units, but only for the purpose of reselling to an Eligible Household.

17.18.100 Ownership and Occupancy of Affordable Units.

Owner-occupied Affordable Units shall only be sold to and occupied by Eligible Households. Affordable Units that are rented shall only be rented to and occupied by Eligible Households. Subletting of Affordable Units shall not be permitted. Priority will be given to Eligible Households where one or more members live or work in St. Charles, and to employees of the City of St. Charles, the St. Charles Park District, and Community Unit School District No. 303, regardless of their initial place of residence, to the extent permitted by law.

1. Increase in Annual Income for Owner-Occupied Affordable Units. If a Household's gross income increases above the maximum Eligible Household income level for a household of its size, the Household may continue to own and occupy the Affordable Unit, but the Affordable Unit shall otherwise remain subject to the limitations set forth in Section 17.18.090.
2. Increase in Annual Income for Renter-Occupied Affordable Units. If a Household's gross income increases above the maximum Eligible Household income level for a household of its size, the Household may continue to lease and occupy the Affordable Unit, and renew said lease, but the Affordable Unit shall otherwise remain subject to the limitations set forth in Section 17.18.090.

17.18.110 Development Applications.

As part of the application for approval of a Residential Development, the Applicant shall submit information describing how the Residential Development will comply with the requirements of this Chapter. The Director of Community and Economic Development may require any or all of the following to be submitted for review:

1. The number and rental/for sale status of Market-Rate Units and Affordable Units to be constructed including type of dwelling, number of bedrooms per unit, proposed pricing, and construction schedule, including anticipated timing of issuance of building permits and occupancy certificates.
2. Documentation and plans regarding locations of Affordable Units and Market-Rate Units, and their exterior appearance, materials, and finishes.
3. 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; and,
4. Any proposal to pay fees in lieu of providing the required Affordable Unit, per section 17.18.050.
5. Alternative Affordable Housing Plan Submittal Requirements
 - a. The applicant shall submit a financial statement or pro-forma including the following:
 - i. Purchase price of the property.
 - ii. Identification of the financial hardship and cost estimates associated with absorbing and/or remediating the identified hardship.
 - iii. All non-hardship development costs and expected profits.
 - b. Application for External Funding Sources
 - i. An action plan clearly identifying the external funding sources that will be applied for during the construction phase and frequency of application to each funding source. The Action Plan shall clearly demonstrate that the project is eligible for the funding source that will be utilized.
 - ii. Commit to providing a copy of all grant applications at the same time the application is submitted to the funding authority.
 - iii. State the number of Affordable Units targeted to be affordable.
 - iv. Include documentation and plans regarding locations of Affordable Units and Market-Rate Units onsite or offsite, and their exterior appearance, materials, and finishes should external funding be awarded.
 - c. Purchase and Resale of Offsite Units

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- i. An action plan or market study identifying the number of offsite units planned for purchase, the location of available offsite units, and purchase price of these units.
- ii. Any supplemental information necessary to support the proposed plan such as, anticipated cost of renovations for offsite properties.
- iii. The expected timing for the purchase of offsite units.
- iv. Commit to submitting a copy of the home inspection report to the City for review. This report shall include the following:
 - Identification of the age and condition of all major systems (plumbing, HVAC, electrical, and structural)
 - Identification and condition of all major appliances
 - The Developer shall provide a copy of this inspection report to the affordable household who has signed a contract to purchase the unit
 - As part of this report the Developer shall submit a list of all necessary repairs that the Developer proposed to perform before the offsite unit is resold to an Eligible Household.

(Ord. 2013-Z-3 § 5.)

17.18.120 Affordable Housing Agreement and Documents

Prior to issuance of a building permit for any Residential Development, the Applicant shall have entered into an Affordable Housing Agreement with the City. Said agreement shall set forth the commitments and obligations of the Applicant, including but not limited to the number, timing and location of the required Affordable Units, and/or the amount and payment schedule for any fee in lieu thereof, to ensure that the provisions of this Chapter are met. 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 Units in accordance with this Chapter.

17.18.130 Implementation.

The Director [of Community and Economic Development](#) or Director's designee shall promulgate regulations and forms as may be necessary for the implementation of this Chapter. Said regulations shall be reported to the Housing Commission and City Council.

17.18.140 Enforcement.

- A. The provisions of this Chapter shall apply to all agents, successors and assignees of an Applicant.
- B. The City of St. Charles 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, violating or causing the violation of any of the provisions of this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable for each offense by the payment of a fine of not more than \$750.00 dollars per day. Such person, firm, or entity shall be deemed to be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is commenced, continued, or permitted by such person, firm, or entity, and shall be punishable as herein provided.