



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Inclusionary Housing Ordinance (General Amendment to City Code Title 17, Zoning Ordinance, Ch. 17.18 “Inclusionary Housing”): Recommendation regarding a proposal to remove the Inclusionary Housing Ordinance from the Zoning Ordinance for the purpose of placing the provisions in a stand-alone Title of the Municipal Code
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 is relocation of the Inclusionary Housing Ordinance (Ch. 17.18 of the Zoning Ordinance) from the Zoning Ordinance to a stand-alone Title of the Municipal Code. The Inclusionary Housing provisions would continue to apply to all residential development.

Upon a recommendation from the Housing Commission, staff is proposing relocation of the Inclusionary Housing Ordinance based on the following:

- Removing the IHO from the Zoning Ordinance will provide City Council with greater flexibility in determining how a proposed development may meet the requirements.
- The IHO is not directly related to zoning. The Zoning Ordinance governs the physical form of development, while the IHO relates to the cost of residential units.
- The location of the IHO within the Zoning Ordinance requires affordable housing proposals and amendments to the IHO to be reviewed by both the Housing Commission and the Plan Commission, although the Housing Commission is specifically tasked with advising City Council on housing-related policy.

Plan Commission Review

The Plan Commission held a public hearing for the proposal on 9/22/15 and 10/20/15. The Commission voted 7-1 to recommend denial, based on several concerns as detailed in the Staff Memo. In summary:

- A public hearing will no longer be part of the process for amending the IHO.
- The purpose and intent of the Zoning Ordinance includes issues related to affordable housing.
- Since the Plan Commission’s purview is land use, the Plan Commission should be involved in identifying land appropriate for affordable housing, if the City falls below 10% affordable and is required to submit an Affordable Housing Plan to the state.
- Having both the Housing Commission and Plan Commission involved in administration of the IHO provides City Council with two bodies that are well-informed about housing policy.

Attachments: *(please list)*

Plan Commission Resolution, Staff Memo

Recommendation / Suggested Action *(briefly explain):*

Recommendation regarding a proposal to remove the Inclusionary Housing Ordinance from the Zoning Ordinance for the purpose of placing the provisions in a stand-alone Title of the Municipal Code

<i>For office use only:</i>	<i>Agenda Item Number: 4a-2</i>
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City of St. Charles, Illinois
Plan Commission Resolution No. 19-2015

**A Resolution Recommending Denial of a General Amendment to Chapter 17.18 “Inclusionary Housing”, Chapter 17.04 “Administration”, Section 17.04.400 “Planned Unit Developments – Purpose and Requirements” and Appendix A “Application Checklists”
(Removal of Ch. 17.18 “Inclusionary Housing” from the Zoning Ordinance for the purpose of placing the provisions in a stand-alone Title of the Municipal Code)**

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”, Chapter 17.04 “Administration”, Section 17.04.400 “Planned Unit Developments – Purpose and Requirements” and Appendix A “Application Checklists” (Removal of Ch. 17.18 “Inclusionary Housing” from the Zoning Ordinance for the purpose of placing the provisions in a stand-alone Title of the Municipal Code); 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

N/A.

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

The proposed amendment is not consistent with the stated Purpose and Intent of Title 17, the Zoning Ordinance. The Purpose and Intent of the Zoning Ordinance includes issues pertaining to the provision of affordable housing, such as: “Promoting the public health, safety, comfort, convenience and general welfare”; “Preserving and enhancing the quality of life for residents”; and “Implementing the goals of the St. Charles Comprehensive Plan”.

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 Plan Commission does not support the proposed change in policy to remove the Inclusionary Housing Ordinance from the Zoning Ordinance for the reasons stated in the responses to these criteria. In addition, because land use is under the purview of the Plan Commission, the Plan Commission should be involved in creation of an Affordable Housing Plan to assist in identifying locations for construction of affordable housing, if the City is required to submit such a plan to the Illinois Housing Development Authority in the future.

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 would not be in the public interest, because a public hearing would no longer be required for making changes to the Inclusionary Housing Ordinance. The Plan Commission would no longer provide input related to affordable housing considerations, which would eliminate the involvement of a second City commission that could advocate for affordable housing.

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

N/A.

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

N/A.

NOW, THEREFORE, be it resolved by the St. Charles Plan Commission to recommend to City Council denial of a General Amendment to Chapter 17.18 “Inclusionary Housing”, Chapter 17.04 “Administration”, Section 17.04.400 “Planned Unit Developments – Purpose and Requirements” and Appendix A “Application Checklists” (Removal of Ch. 17.18 “Inclusionary Housing” from the Zoning Ordinance for the purpose of placing the provisions in a stand-alone Title of the Municipal Code).

Roll Call Vote:

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

Nays: Holderfield

Absent: Frio

Motion Carried: 7-1

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 Memo

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

FROM: Ellen Johnson, Planner

RE: Proposal to remove the Inclusionary Housing Chapter from the Zoning Ordinance and relocate the provisions to another Title of the City Code

DATE: November 3, 2015

In addition to the proposed amendments to Ch. 17.18 “Inclusionary Housing” (the Inclusionary Housing Ordinance), also proposed is removing the Inclusionary Housing Ordinance from the Zoning Ordinance for the purpose of placing the Inclusionary Housing provisions in a stand-alone title of the City Code.

The basis for removing the IHO from the Zoning Ordinance is as follows:

- City Council provided direction at the Council Retreat in June stating preference for the Inclusionary Housing Ordinance to function similarly to the School and Park District land/cash ordinance, in that City Council would like flexibility in determining how the Inclusionary Housing requirements may be met for a given development. The location of the IHO outside of the Zoning Ordinance would provide more flexibility for doing so.
- The Zoning Ordinance governs the physical form of development. The IHO does not relate to the configuration of development, only to the cost of units.
- Due to the fact that the IHO is located within the Zoning Ordinance, the Plan Commission must review developments for compliance with the IHO as part of the development review process, adding complexity to the development approval process. Also, the Plan Commission’s charge is to review the physical development of property, regardless of the residential unit cost of a particular development.
- Similarly, because the IHO is located within the Zoning Ordinance, in order to amend the IHO, a General Amendment application must be filed. As such, the Plan Commission is required to hold a public hearing and provide a recommendation to City Council regarding amendments to the IHO. The Housing Commission also provides a recommendation to both the Plan Commission and City Council regarding amendments to the IHO.

However, it is the duty of the Housing Commission, as stated in Title2, Ch. 2.25, to provide advice to the City Council on affordable housing and programs and policies, including the IHO. The Housing Commission is made up of community members who have background, knowledge,

and/or advocacy experience related to affordable housing and/or the housing market. They are well-positioned to advise City Council on these matters. However, due to the IHO's location in the Zoning Ordinance, both the Housing Commission and the Plan Commission must advise Council on the IHO. This double citizen advisory committee review process is not particularly efficient.

Planning Advisory Service Response

Staff submitted a Planning Advisory Service (PAS) inquiry to the American Planning Association regarding the location of IHOs in the municipal codes of other communities around the country. The PAS response indicated that, while relatively few communities have inclusionary housing requirements, for those that do, there is not a consistent location of these provisions within municipal codes. Many IHOs are located within zoning ordinances; however others are located within separate housing chapters, or in stand-alone municipal code titles.

Legal Opinion

The City Attorney has provided staff with a legal opinion stating it would be permissible for the IHO to be removed from the Zoning Ordinance and placed in a separate title within the City Code.

Plan Commission Recommendation

At its 10/20/15 meeting, the Plan Commission voted 7-1 to recommend denial of the proposal to remove the IHO from the Zoning Ordinance. Commissioners stated the following concerns:

- The public will not have an opportunity to speak at a public hearing when changes to the IHO are discussed, since the Plan Commission would not be involved in the review of changes to the IHO if it is located outside of the Zoning Ordinance; the Housing Commission would discuss amendments to the IHO and provide their recommendation directly to City Council.

Staff Response:

- Staff conferred with the City Attorney about whether the public has the right to speak at a Housing Commission meeting if it is not a public hearing. The City Attorney confirmed that, under the Open Meetings Act, any public in attendance at any public meeting has the right to speak. Although the Housing Commission does not hold public hearings, anyone in attendance has the right to speak because they are public meetings.
- The purpose and intent of the Zoning Ordinance includes issues beyond physical aspects of development, which are related to affordable housing.
- Per the Affordable Housing Planning & Appeal Act, if the City falls below 10% affordable, it must submit an Affordable Housing Plan to the state that identifies land appropriate for construction of affordable housing. Land use is the Plan Commission's purview.

Staff Response:

- Note that there is no procedure laid out in the Zoning Ordinance, or City Code, stating how an Affordable Housing Plan would be developed by the City. Removal of the IHO from the Zoning Ordinance would not necessarily mean that the Plan Commission would not be involved in recommending locations for affordable housing.
- Having both the Housing Commission and Plan Commission involved in administration of the IHO provides City Council with two bodies that are well informed about housing policy.

Housing Commission Recommendation

At its August meeting prior to the Plan Commission review, the Housing Commission unanimously recommended approval of the proposal to remove the IHO from the Zoning Ordinance. The Housing Commission discussed the Plan Commission's concerns regarding public comment at its October

meeting. The Commission suggested adding a provision to the IHO stating that if an amendment to the IHO is proposed, City Council must hold a public hearing on the amendment.