

ORDINANCE NO. 220700, AS AMENDED

Enacting a new Code Section, 74-11, "Affordable Housing Set Aside;" directing the City Manager to develop a pricing sheet, provide priority consideration for certain projects, and provide an annual housing report to the Council; and repealing Ordinance No. 201038.

WHEREAS, on January 28, 2021, the City Council passed Committee Substitute for Ordinance No. 201038, As Amended, requiring residential projects that seek certain economic development incentives to contain a minimum number of affordable units; and

WHEREAS, Committee Substitute for Ordinance No. 201038, As Amended, provided that project developers could, in lieu of providing the required affordable units, make a payment that would be allocated the City's Housing Trust Fund; and

WHEREAS, the Housing Trust Fund has proven an effective tool for supporting housing affordability for extremely and very low-income households, as evinced by Committee Substitute for Ordinance No. 220642, authorizing the expenditure of up to \$7,953,360.00 for affordable housing support and projects; and

WHEREAS, the City has a continued need for additional affordable housing; and

WHEREAS, the Council recognizes the importance of encouraging affordable housing at a range of income levels throughout the City; and

WHEREAS, adjusting the calculation of the in-lieu fee and the definition of affordable housing will clarify the Affordable Housing Set Aside Program requirements and bring them in-line with other City programs; and

WHEREAS, the Council wishes to ensure that the City's Affordable Housing Set Aside Program requirements are easy to access and reference by codifying the process established by Ordinance No. 201038 and the base in-lieu fee; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 74, "Kansas City Redevelopment Ordinance," is hereby amended by enacting a new section, 74 -11, "Affordable Housing Set Aside" to read as follows:

Section 74-11. *Affordable Housing Set Aside.*

(a) The following definitions shall apply to this section:

Affordable housing means housing that a household having an income at or below sixty (60%) of the HUD MFI ("60% MFI") for all households within the Kansas City metropolitan area would be able to afford if they were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including utilities

City incentives means economic incentives granted by the City or any economic development agency created by the City, including Port KC, in the nature of the capture and redirection, abatement, or exemption of taxes or the issuance of bonds or grants by the City or other City-backed financing.

Deeper levels of affordability means housing priced such that households at lower incomes than 60% MFI within the Kansas City metropolitan area would be able to afford it if they were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including utilities.

Affordability offset value means the estimated financial gap between revenues from market-rate units and affordable units. This amount shall be calculated annually by the City Manager's Office, by adjusting the current estimated \$100,000, by an amount equal to any increase in the construction cost index for Kansas City published by the Engineering News Record.

Sources of income means the lawful manner by which an individual supports themselves and their dependents, including tenant-based rental assistance.

(b) For all development projects primarily providing multi-family housing available for rent and including twelve (12) or more residential units across all sites and phases of the development project that are seeking City incentives, at least twenty (20) percent of the total residential units shall be affordable housing.

(c) A project developer may make a payment to the City in lieu of the affordable housing unit provision in an amount equal to the affordability offset value multiplied by the number of units needed to meet the requirements of subsection (b). Such payment shall be deposited into the City's Housing Trust Fund. For the purposes of calculating this payment, in any case where the number of units required by subsection (b) results in a number that is not a whole number, the number of units required shall be rounded down to the nearest whole number.

(d) That for purposes of this ordinance, affordable housing shall comply with the following criteria:

- (1) That all units qualifying as affordable housing shall be on the principal development project site and shall not be off site from the project.
- (2) That affordable housing units shall be mixed with, and not clustered together or segregated in any way, from market-rate units.
- (3) That all units qualifying as affordable housing shall either be at least one-bedroom units in size or be equal to or share the same size as at least 25 percent of units to be constructed on the project site.
- (4) That if the project development contains a phasing plan, the phasing plan shall provide for the development of affordable housing units concurrently with the

market-rate units. No phasing plan shall provide that the affordable housing units built are the last units in a housing development.

- (5) That the quality and cost of in-unit finishes, systems, appliances, and square footage of all units deemed as affordable housing shall be comparable with that of the remaining units on the project site.
- (6) That the exterior appearance of affordable housing units shall be made similar to market-rate units by the provision of exterior building materials and finishes substantially the same in type and quality.
- (7) That the project developer must covenant with the City and successors in interest that the designated units remain affordable for a period of not less than the period of the incentive awarded.
- (8) That the project developer must covenant with the City and successors in interest that the appropriate number of units be rented to individuals or families whose household incomes are at or below 60% MFI, in accordance with subsection (b).
- (9) That the project developer must covenant with the City and successors in interest that the developer will not engage in any discriminatory housing practices as defined in Section 38-105(d) of the City's Code of Ordinances, including discrimination based on lawful sources of income.
- (10) That the project developer must covenant with the City and successors in interest that developer will use a procedure deemed acceptable by the City to determine income eligibility of residents qualifying for the affordable housing units and that the City or its designee shall have the right to audit any such income verification procedure records. Any required determinations of income eligibility shall occur at the time an initial lease with the resident is entered into.

(e) The following shall be exempt from the requirements of this section:

- (1) Any project that has been awarded federal or state Low Income Housing Tax Credits from the Missouri Housing Development Commission; and
- (2) Any project that involves the renovation or rehabilitation of a building that has been designated by a government entity as a local or national historic landmark or has been determined "eligible" for designation by a government entity using the National Register of Historic Places Criterion for Evaluation.

Section 2. That Code Section 74-11 shall not apply to projects that had submitted an application for the abatement, redirection or exemption of taxes prior to April 8, 2021, and shall not be construed in a manner as to apply to any tax abatement or any transaction authorized by the City or any other public entity prior to that date. To the extent Code Section 74-11 differs from Ordinance 201038, the new provisions shall not apply to any projects that submitted an application

for abatement, redirection, or exemption of taxes prior to the effective date of this ordinance. Notwithstanding the foregoing, the requirements of this ordinance shall be imposed on any project that has submitted an application for the abatement, redirection or exemption of taxes prior to its effective date but has not received final approval from the relevant authorizing body by April 8, 2024.

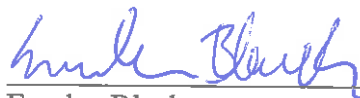
Section 3. That the City Manager is directed to:

- a) Develop a pricing sheet each year designed to assign numeric rent values to the American Community Survey (ACS) percentage income guidelines of the Kansas City metropolitan area within 30 days of HUD's annual publishing of such guidelines;
- b) Provide priority consideration for City-administered housing subsidies for development projects receiving City incentives if they seek to provide deeper levels of affordability; and
- c) Provide an annual report to Council on the number and location of units, both affordable and market-rate, created by development projects receiving City incentives, to assist in the evaluation of the impact of this ordinance.

Section 4. That this ordinance shall be reviewed by the City Council not later than five years from the effective date of this Ordinance to determine its impact on the creation of affordable housing across the city.

Section 5. Ordinance No. 201038 is repealed as of the effective date of this ordinance.

Approved as to form and legality:



Emalea Black
Associate City Attorney

FAILED

AUG 18 2022

COMPARED VERSION
AS AMENDED TO ORIGINAL ORDINANCE

ORDINANCE NO. 220700, AS AMENDED

Enacting a new Code Section, 74-11, "Affordable Housing Set Aside;" directing the City Manager to develop a pricing sheet, provide priority consideration for certain projects, and provide an annual housing report to the Council; and repealing Ordinance No. 201038.

WHEREAS, on January 28, 2021, the City Council passed Committee Substitute for Ordinance No. 201038, As Amended, requiring residential projects that seek certain economic development incentives to contain a minimum number of affordable units; and

WHEREAS, Committee Substitute for Ordinance No. 201038, As Amended, provided that project developers could, in lieu of providing the required affordable units, make a payment that would be allocated the City's Housing Trust Fund; and

WHEREAS, the Housing Trust Fund has proven an effective tool for supporting housing affordability for extremely and very low-income households, as evinced by Committee Substitute for Ordinance No. 220642, authorizing the expenditure of up to \$7,953,360.00 for affordable housing support and projects; and

WHEREAS, the City has a continued need for additional affordable housing; and

WHEREAS, the Council recognizes the importance of encouraging affordable housing at a range of income levels throughout the City; and

WHEREAS, adjusting the calculation of the in-lieu fee and the definition of affordable housing will clarify the Affordable Housing Set Aside Program requirements and bring them in-line with other City programs; and

WHEREAS, the Council wishes to ensure that the City's Affordable Housing Set Aside Program requirements are easy to access and reference by codifying the process established by Ordinance No. 201038 and the base in-lieu fee; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 74, "Kansas City Redevelopment Ordinance," is hereby amended by enacting a new section, 74 -11, "Affordable Housing Set Aside" to read as follows:

Section 74-11. *Affordable Housing Set Aside.*

(a) The following definitions shall apply to this section:

Affordable housing means housing that a household having an income at or below sixty (60%) of the HUD MFI ("60% MFI") for all households within the Kansas City metropolitan area would be able to afford if they were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including utilities

City incentives means economic incentives granted by the City or any economic development agency created by the City, including Port KC, in the nature of the capture and redirection, abatement, or exemption of taxes or the issuance of bonds or grants by the City or other City-backed financing.

Deeper levels of affordability means housing priced such that households at lower incomes than 60% MFI within the Kansas City metropolitan area would be able to afford it if they were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including utilities.

Affordability offset value means the estimated financial gap between revenues from market-rate units and affordable units. This amount shall be calculated annually by the City Manager's Office, by adjusting the current estimated \$100,000, by an amount equal to any increase in the construction cost index for Kansas City published by the Engineering News Record.

Sources of income means the lawful manner by which an individual supports themselves and their dependents, including tenant-based rental assistance.

(b) For all development projects primarily providing multi-family housing available for rent and including twelve (12) or more residential units across all sites and phases of the development project that are seeking City incentives, at least twenty (20) percent of the total residential units shall be affordable housing.

(c) A project developer may make a payment to the City in lieu of the affordable housing unit provision in an amount equal to the affordability offset value multiplied by the number of units needed to meet the requirements of subsection (b). Such payment shall be deposited into the City's Housing Trust Fund. For the purposes of calculating this payment, in any case where the number of units required by subsection (b) results in a number that is not a whole number, the number of units required shall be rounded down to the nearest whole number.

(d) That for purposes of this ordinance, affordable housing shall comply with the following criteria:

- (1) That all units qualifying as affordable housing shall be on the principal development project site and shall not be off site from the project.
- (2) That affordable housing units shall be mixed with, and not clustered together or segregated in any way, from market-rate units.

- (3) That all units qualifying as affordable housing shall either be at least one-bedroom units in size or be equal to or share the same size as at least 25 percent of units to be constructed on the project site.
- (4) That if the project development contains a phasing plan, the phasing plan shall provide for the development of affordable housing units concurrently with the market-rate units. No phasing plan shall provide that the affordable housing units built are the last units in a housing development.
- (5) That the quality and cost of in-unit finishes, systems, appliances, and square footage of all units deemed as affordable housing shall be comparable with that of the remaining units on the project site.
- (6) That the exterior appearance of affordable housing units shall be made similar to market-rate units by the provision of exterior building materials and finishes substantially the same in type and quality.
- (7) That the project developer must covenant with the City and successors in interest that the designated units remain affordable for a period of not less than the period of the incentive awarded.
- (8) That the project developer must covenant with the City and successors in interest that the appropriate number of units be rented to individuals or families whose household incomes are at or below 60% MFI, in accordance with subsection (b).
- (9) That the project developer must covenant with the City and successors in interest that the developer will not engage in any discriminatory housing practices as defined in Section 38-105(d) of the City's Code of Ordinances, including discrimination based on lawful sources of income.
- (10) That the project developer must covenant with the City and successors in interest that developer will use a procedure deemed acceptable by the City to determine income eligibility of residents qualifying for the affordable housing units and that the City or its designee shall have the right to audit any such income verification procedure records. Any required determinations of income eligibility shall occur at the time an initial lease with the resident is entered into.

(e) The following shall be exempt from the requirements of this section:

- (1) Any project that has been awarded federal or state Low Income Housing Tax Credits from the Missouri Housing Development Commission; and
- (2) Any project that involves the renovation or rehabilitation of a building that has been designated by a government entity as a local or national historic landmark or has been determined "eligible" for designation by a government entity using the National Register of Historic Places Criterion for Evaluation.

Section 2. That Code Section 74-11 shall not apply to projects that had submitted an application for the abatement, redirection or exemption of taxes prior to April 8, 2021, and shall not be construed in a manner as to apply to any tax abatement or any transaction authorized by the City or any other public entity prior to that date. To the extent Code Section 74-11 differs from Ordinance 201038, the new provisions shall not apply to any projects that submitted an application for abatement, redirection, or exemption of taxes prior to the effective date of this ordinance. Notwithstanding the foregoing, the requirements of this ordinance shall be imposed on any project that has submitted an application for the abatement, redirection or exemption of taxes prior to its effective date but has not received final approval from the relevant authorizing body by April 8, 2024.

Section 3. That the City Manager is directed to:

- a) Develop a pricing sheet each year designed to assign numeric rent values to the American Community Survey (ACS) percentage income guidelines of the Kansas City metropolitan area within 30 days of HUD's annual publishing of such guidelines;
- b) Provide priority consideration for City-administered housing subsidies for development projects receiving City incentives if they seek to provide deeper levels of affordability; and
- c) Provide an annual report to Council on the number and location of units, both affordable and market-rate, created by development projects receiving City incentives, to assist in the evaluation of the impact of this ordinance.

Section 4. That this ordinance shall be reviewed by the City Council not later than five years from the effective date of this Ordinance to determine its impact on the creation of affordable housing across the city.

Section 5. Ordinance No. 201038 is repealed as of the effective date of this ordinance.

Approved as to form and legality:

Emalea Black
Associate City Attorney

220700

PROCEDURE TO AMEND AN ORDINANCE
USING A PRINTED AMENDMENT

(After the Clerk has read the title of the ordinance)

COUNCIL WOMAN SHIELDS: I move that Ordinance No. 220700 be amended so that it reads as in the document entitled "Ordinance No. 200700, , As Amended," which has been distributed to all Council Members.

COUNCIL MEMBER #2: Second.

MAYOR: It has been moved and seconded that Ordinance No. 220700, As Amended be amended. Is there any discussion on the motion?

COUNCIL WOMAN SHIELDS: This amendment expands the category of historic properties exempt from the affordable housing set aside to those which have been determined "eligible" for historic designation by a government entity using the National Register of Historic Places Criterion for Evaluation.

[further discussion, if any]

MAYOR: If there is no (further) discussion, the Clerk will call the roll on the motion to amend.

(ROLL CALL - requires a majority of votes cast)

MAYOR: The motion passes/fails. The ordinance (as amended) is now before the Council. Is there any discussion on the ordinance (as amended)?

[further discussion, if any]

MAYOR: If there is no (further) discussion, the Clerk will call the roll on the ordinance as amended.

(Roll Call - __ votes required)

MAYOR: The ordinance (as amended) is passed/fails.
