



# City of Philadelphia

City Council  
Chief Clerk's Office  
402 City Hall  
Philadelphia, PA 19107

**BILL NO. 060732  
(As Amended, 11/16/06)**

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**Introduced September 28, 2006**

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**Councilmembers Clarke, Goode, DiCicco, Ramos, Reynolds Brown,  
Blackwell and Miller**

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**Referred to the  
Committee on Rules**

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## **AN ORDINANCE**

Amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning," by adding a new Chapter establishing inclusionary affordable housing, by requiring that certain developments, consisting of a certain number of dwelling units, provide a certain percentage of those units for affordable housing or provide other options for affordable housing, all under certain terms and conditions.

*THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:*

SECTION 1. Title 14 of The Philadelphia Code is hereby amended to read as follows:

**TITLE 14. ZONING AND PLANNING.**

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**CHAPTER 14-2200. INCLUSIONARY AFFORDABLE HOUSING.**

*§14-2201. Declaration of Policy. The purpose of this Chapter is to provide for a full range of housing choices in a suitable environment for households of all income levels by increasing the availability of affordable housing and requiring that residential development projects, consisting of twenty (20) or more dwelling units, that are undertaken or financed by any agency of the City; developed on property owned by the City; entitled to a real estate tax abatement; or that require an ordinance of Council and/or action by the Zoning Board of Adjustment provide at least ten (10) percent of those units as affordable housing or provide other options under this Chapter.*

*§14-2202. Definitions.*

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(1) *Affordable dwelling unit.* A dwelling unit affordable for eligible households based on the affordability levels set forth in Section 14-2207;

(2) *AMI.* The median income for the Philadelphia area adjusted for household size as calculated by the U. S. Department of Housing and Urban Development;

(3) *Applicant.* Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities and any transferee of all or part of the real property at one location which develops a total of twenty (20) or more dwelling units at one location for sale or rent;

(4) *At one location.* All real property of the applicant if:

(a) *The property lines are contiguous or nearly contiguous at any point;*

or

(b) *The property lines are separated only by a public or private street, road, highway, right-of-way or utility right-of-way, at any point;*

(5) *Department.* The Department of Licenses and Inspections;

(6) *Director.* The Director of the Office of Housing and Community Development;

(7) *Dwelling unit.* A room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating but excluding dwelling units developed by or for an educational institution for the exclusive residential use and occupancy by that institution's students;

(8) *Eligible household.* A household where the income of the household is between eighty (80) percent and one hundred fifty (150) percent of the AMI and which holds a valid verification of eligibility from OHCD which entitles the household to buy or rent an affordable dwelling unit;

(9) *Market rate units.* Residential dwelling units that are not required to be affordable housing under this Chapter;

(10) *OHCD.* The Office of Housing and Community Development;

(11) *Planning Commission.* The City Planning Commission.

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§14-2203. *Applicability.*

(1) *This Chapter applies to:*

(a) *Any development project for new construction undertaken or financed by any agency of the City or developed on property owned by the City that proposes to include twenty (20) or more dwelling units at one location for sale or rent;*

(b) *Any development project that is entitled to a real estate tax abatement under Section 19-1303(4) for new construction of residential properties or under Section 19-1303(5) for conversion of deteriorated industrial, commercial or other business property to residential use that proposes to include twenty (20) or more dwelling units at one location for sale or rent; or*

(c) *Any development project that proposes to include twenty (20) or more dwelling units at one location for sale or rent and that, in order to proceed, requires an ordinance of Council and/or action by the Zoning Board of Adjustment in accordance with its powers under Section 14-1801.*

*In calculating whether a development project contains a total of twenty (20) or more dwelling units for the purposes of this Chapter, the development shall be deemed to include all land at one location. An applicant shall not avoid the applicability of this Chapter by submitting piecemeal applications or approval requests for subdivision plats, site or development plans or building permits. Any applicant may apply for approval of a preliminary plan of subdivision, for approval of a site or development plan or for a building permit for fewer than twenty (20) dwelling units at any time; but the applicant must agree in writing that the applicant will comply with this Chapter when the total number of dwelling units at one location reaches twenty (20) or more.*

§14-2204. *Inclusionary Affordable Housing Requirements.*

(1) *Any residential development project to which this Chapter applies must provide affordable dwelling units by complying with one of the following requirements:*

(a) *Making ten (10) percent of the dwelling units in the project affordable dwelling units;*

(b) *Constructing affordable dwelling units on an off-site location within the City in a number equal to or greater than the total number of dwelling units in the*

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*proposed residential development project multiplied by 0.15, provided that the off-site proposal is approved by the Planning Commission; meets all zoning requirements of the district in which such units are proposed to be constructed; is completed no more than one (1) year after completion of the proposed residential development project; and complies with all other requirements of this Chapter; or*

*(c) In lieu of constructing affordable dwelling units, the applicant shall pay a fee to the City. The method used in determining such fees shall be provided by ordinance of Council, and the Director, applying such method, shall determine the cost to the development project. Each year, in the annual operating budget ordinance, Council shall appropriate to the Mayor - Office of Housing and Community Development – Affordable Housing, subject to Section 2-300(2)(d) of the Home Rule Charter, an amount equal to an estimate provided by the Director of Finance of total receipts under this subsection in the fiscal year immediately preceding the year for which appropriations are being made.*

*(2) Any affordable dwelling units created, whether on the same site as the proposed residential development or on an off-site location, shall be comparable in size, bedroom mix and quality of construction to the average market rate unit in the development.*

*(3) No variance shall be granted from the requirements of this Chapter except where the denial of a variance would effect an unconstitutional taking.*

## *§14-2205. Application and Affordable Housing Plan.*

*(1) Application. For all developments covered by this Chapter, the applicant shall file with the Planning Commission an application for approval of the development on a form provided and required by the Planning Commission. The application shall require and the applicant shall provide, among other things, general information about the nature and scope of the development and such other documents and information as the Planning Commission may require to evaluate the proposed development under the provisions of this Chapter. The applicant shall also comply with any other applicable requirements of the Planning Commission under Chapter 14-2100.*

*(2) Affordable Housing Plan. As part of the application process, the applicant shall file with the Planning Commission an affordable housing plan that specifies the development's compliance with each of the applicable requirements of this Chapter. The plan shall be subject to the approval of the Planning Commission and shall be incorporated into the development agreement between the applicant and the City as required by Section 14-2206. At a minimum, the plan shall contain the following information:*

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(a) A general description of the development, whether the affordable dwelling units will be built on the site of the development or on an off-site location, whether the development will contain rental or individually owned units, or both, and if the affordable units are proposed for an off-site location, the specific location and plans for that location;

(b) The total number of market rate dwelling units and affordable dwelling units;

(c) The number of bedrooms in each market rate unit and each affordable unit;

(d) The square footage of each market rate unit and each affordable unit;

(e) The price for each market rate unit and each affordable unit;

(f) The phasing and construction schedule for each market rate unit and each affordable unit; and

(g) Documentation and plans regarding the exterior and interior appearances, materials and finishes of the development and each of the individual units, whether on-site or off-site;

(3) The approval of the Planning Commission shall be required for any development covered by this Chapter and such approval shall become part of the development agreement entered into between the City and the applicant.

## §14-2206. Development Agreement.

Prior to the issuance of a building permit by the Department for any development subject to the provisions of this Chapter, the applicant must execute a development agreement with the City regarding the specific requirements and restrictions for affordable housing. The applicant shall execute any and all documents deemed necessary by the City, including but not limited to, restrictive covenants and other related instruments, to ensure the continued affordability of the affordable dwelling units in accordance with this Chapter. The development agreement shall include, but not be limited to, the commitments and obligations of the applicant and shall incorporate the affordable housing plan and approval of that plan by the Planning Commission. The agreement shall also contain the agreements and decisions regarding any off-site development, if applicable, as an alternative to the development of on-site affordable dwelling units.

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## §14- 2207. *Affordability Levels.*

*The City, through OHCD, is authorized to promulgate regulations to implement this Chapter, including determination of affordability levels based on the criteria set forth below. The Director shall publish a pricing schedule of sales and rental prices for affordable dwelling units to be updated annually.*

*(1) Ownership units. The sales price for each affordable dwelling unit shall be calculated on the basis of: an available fixed rate thirty (30) year mortgage, consistent with the average rate published from time to time by Freddie Mac; a down payment of no more than five (5) percent of the purchase price; property taxes, if applicable; home owners insurance; and condominium or homeowner association fees, if applicable.*

*(2) Rental units. The monthly rent for each dwelling unit in the applicable portion of the development shall be calculated on the basis of thirty (30) percent of gross monthly income, adjusted for household size, less a reasonable allowance for utilities.*

## §14-2208. *Eligible Household Qualifications.*

*(1) Each household seeking to be verified as an eligible household must submit to the Director, on a form provided by the Director, an application for eligibility in which the household provides such information that the Director requests to determine whether the household is eligible.*

*(2) After review, if the Director determines that the household is eligible, the Director shall sign a written verification of eligibility stating that the household qualifies as an eligible household. All such verifications shall be kept on file by OHCD.*

*(3) Appeals. The Director shall, by regulation, provide an appeal process for review of any application by a household that has been denied verification by the Director as an eligible household.*

## §14-2209. *Initial Sale to Eligible Households.*

*(1) Every affordable dwelling unit required under this Chapter shall be offered only to eligible households for sale or rent to be used for the buyer or renter's primary residence.*

*(2) An applicant shall not sell or rent any affordable dwelling unit without first obtaining from the buyer or renter a verification of eligibility issued by the Director.*

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## *§14-2210. Duration.*

*The affordable dwelling units in the applicable portion of the development, whether ownership or rental units, shall remain affordable for ten (10) years from the date of issuance of the certificate of occupancy through the imposition of a declaration of covenants, conditions and restrictions in accordance with Section 14-2211.*

## *§14-2211. Declaration of Covenants, Conditions and Restrictions.*

*(1) Any development subject to the provisions of this Chapter shall also be subject to the following restrictions:*

*(a) The applicable portion of the development shall have recorded against it a Declaration of Covenants, Conditions and Restrictions requiring that the affordable housing units remain affordable for ten (10) years from the date of issuance of the certificate of occupancy. Such covenants shall be recorded by the developer with the Department of Records, shall run with the land for the entire ten (10) years and shall bind any owner of the affordable housing units and any other party with an interest in title to such units.*

## *§14-2212. Enforcement and Penalties.*

*Each violation of this Chapter shall constitute a “Class III” offense, and any applicant who violates this Chapter shall be subject to a fine as set forth in Section 1-109(3). In addition, the City shall have the right to all remedies provided by law or in equity.*

## *§14-2213. Severability.*

*If any provision, sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is the intent of the City Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.*

SECTION 2. This Ordinance shall take effect in 90 days.

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**Explanation:**

*Italics indicate new matter added.*

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