



City of Philadelphia

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

BILL NO. 130152

Introduced March 7, 2013

**Councilmember Greenlee
for
Council President Clarke**

**Referred to the
Committee on Public Property and Public Works**

AN ORDINANCE

Amending Chapter 7-100 of The Philadelphia Code, entitled "Inclusionary Affordable Housing;" Title 4 of The Philadelphia Code, entitled "The Philadelphia Building Construction and Occupancy Code," by amending Subcode A, entitled "The Philadelphia Administrative Code;" further amending Title 14 of The Philadelphia Code, entitled "Zoning and Planning;" and making conforming amendments to other sections of The Philadelphia Code; by revising requirements, providing incentives for the voluntary development of projects that include affordable housing and making technical changes, all under certain terms and conditions.

WHEREAS, Bill No. 071005-A (approved January 3, 2008) amended Title 7 of The Philadelphia Code, (Housing Code) by creating a new chapter, relating to inclusionary affordable housing, requiring certain development projects to set aside a percentage of dwelling units within the project for affordable housing; and

WHEREAS, Many inclusionary affordable housing ordinances provide for bonuses and offsets to compensate developers for the decrease in revenue realized on inclusionary affordable housing projects; and

WHEREAS, Section 2 of Bill No. 071005-A provided that the ordinance would take effect upon the adoption by Council of legislation certifying that developer incentives were in place for development projects where inclusionary affordable housing was required; and

WHEREAS, Council now wishes to convert the requirement for inclusionary affordable housing from a mandatory to a voluntary program and establish incentives for the

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voluntary development of affordable housing in accordance with the provisions of Chapter 7-100 of The Philadelphia Code (Inclusionary Affordable Housing); now, therefore

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Title 4 of The Philadelphia Code is hereby amended to read as follows:

* * *

TITLE 4. THE PHILADELPHIA BUILDING CONSTRUCTION AND OCCUPANCY CODE

* * *

SUBCODE "A" (THE PHILADELPHIA ADMINISTRATIVE CODE)

* * *

CHAPTER 9. FEES

SECTION A-901 GENERAL.

A-901.1 Reference: All permits, licenses, certificates and services established by the technical codes for which the City has established a fee, shall be subject to such fee as set forth in this Chapter *except that any fee to be paid relating to a development project under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced or waived in accordance with regulations promulgated by the Department.*

* * *

A-901.10 Accelerated plan review: The department is authorized to provide accelerated review of plans associated with the issuance of any permit required under Title 4 or 14 of this Code. The fee for this service shall be in addition to any permit fee set forth in this Chapter. The fee shall be paid at the time an accelerated review is requested, and is not refundable. The fees for accelerated reviews shall be established by the department by regulation and published in appropriate schedules. Upon payment of the fee, the department shall complete its plan review of any zoning application that is subject to civic design review under § 14-304(5) and issue a decision no later than ten business days after submission of a complete application, absent an emergency that would prevent such completion.

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A-901.10.1 Inclusionary Affordable Housing, Accelerated Plan Review. Accelerated plan review shall be provided for a development project under Chapter 7-100 (Inclusionary Affordable Housing), and the Department shall complete its plan review for the development project, no later than ___ business days after submission of a complete application. To achieve this result, a pre-application meeting may be required between the applicant and the Planning Commission. The fee for accelerated plan review under this subsection shall be waived.

* * *

SECTION 2. Chapter 7-100 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 7-100. INCLUSIONARY AFFORDABLE HOUSING

* * *

§ 7-102. Definitions.

* * *

(8) 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)] *five (5)* or more dwelling units at one location for sale or rent;

* * *

§ 7-103. Applicability.

(1) This Chapter applies to any development project *where the applicant voluntarily agrees to* [consisting of the construction or rehabilitation of twenty (20)] *construct or rehabilitate five (5)* or more dwelling units at any one location, including condominium conversions, and regardless whether for sale or for rent, and regardless over what time period the construction or rehabilitation is scheduled; except that this Chapter shall not apply to any development project which, pursuant to a grant of government funding or other governmental financial assistance, provides affordable housing independent of the requirements of this Chapter. [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

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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.]

§ 7-104. Inclusionary Affordable Housing Requirements.

(1) Any development project *shall qualify for the development bonuses provided in this Chapter if the development project satisfies* [to which this Chapter applies must provide affordable dwelling units by complying with] one of the following requirements:

* * *

§ 7-106. Development Agreement.

Prior to the issuance of a building permit by the Department for any development [subject to the provisions of] *that satisfies 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.

* * *

§ 7-109. Initial Sale to Eligible Households.

(1) Every affordable dwelling unit [required] *developed* under this Chapter shall be sold or rented only to eligible households, for the buyer or renter's primary residence. One-half of such sales or rentals shall be to families with incomes at or below 80% of AMI and the median income of such families shall be 40% of AMI; and one-half of such sales or rentals shall be to families with incomes at or below 125% of AMI and the median income of such families shall be equal to AMI.

* * *

§ 7-111. Declaration of Covenants, Conditions and Restrictions.

(1) Any development [subject to] *built in accordance with* the provisions of this Chapter shall [also] be subject to the following restrictions:

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(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, in the case of units for sale, and fifteen (15) years in the case of rental units. Such covenants shall be recorded by the developer with the Department of Records, shall run with the land for the entire ten (10) or fifteen (15) years, as applicable, and shall bind any owner of the affordable housing units and any other party with an interest in title to such units. In the case of units for sale, such covenants shall further require that, upon subsequent sale of such units after ten (10) years, the seller shall pay over to the City an amount equal to twenty (20) percent of the increase in market value. Such increase shall be calculated by subtracting from the sale price (i) any increase in value due to improvements; and (ii) the original sale price when the unit was first sold by the developer. Such payments shall be appropriated and spent by the City in the same manner as any payments pursuant to Section 7-104(1)(b), relating to Affordable Housing Fee.

§ 7-112. Development Assistance Programs.

(1) In recognition that the inclusion of affordable housing in any development will cause the developer to [forego] *forgo* income that otherwise might be available from the development of market rate housing, [it is the intent of Council that certain programs be developed to minimize the burden on developers] *the following bonuses and offsets shall be provided to any developer who proceeds with a development project in accordance with the provisions of this Chapter.* [Such programs may include, but need not be limited to, modifications of Building Code requirements; provision of land for affordable developments, at below-market rates; and the provision of credits against business income and receipts tax. It is the intent of Council that legislation to implement such programs will be introduced into Council on or before the effective date of this Chapter.]

(a) *A reduction or waiver of certain fees by the Department in accordance with subsection A-901.1 of the Administrative Code.*

(b) *Accelerated plan review in accordance with subsection A-901.10.1 of the Administrative Code.*

(c) *Bonuses relating to:*

(.1) Building height in accordance with subsection 14-202(6) of the Zoning Code;

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(.2) Occupied area in accordance with subsection 14-202(12) of the Zoning Code;

(.3) Floor area ratios in accordance with subsection 14-203(131) of the Zoning Code ;

(.4) Setbacks in accordance with subsections 14-203 (269), (270), and (271) of the Zoning Code;

(.5) Front or building setback lines in accordance with subsection 14-203(273) of the Zoning Code; and

(.6) Reduced parking requirements in accordance with subsection 14-800(2)(d) of the Zoning Code.

§ 7-113. 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] *The City* shall have the right to all remedies provided by law or in equity *for any violation of the development agreement executed under this Chapter.*

* * *

SECTION 3. Title 14 of The Philadelphia Code is hereby amended to read as follows:

TITLE 14. ZONING AND PLANNING

* * *

CHAPTER 14-200. DEFINITIONS

* * *

§ 14-202. Rules of Measurement.

* * *

(6) Height, Building or Structure.

Except as expressly provided elsewhere in this Zoning Code, the vertical distance from the average ground level at the base of the structure to the top of the structure,

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provided, that if height is measured on a gable wall of a building, the top of the building shall be considered to be the midpoint height between the eaves and the ridge. *The permitted height of a building or structure for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be increased up to ___ percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

* * *

(12) Occupied Area.

The total of the areas of all buildings on the lot. The area of each building is the area of a horizontal section of such building on any floor at or above ground level taken at its greatest outside dimensions, including all structures, except fences and decks. Architectural recesses or other portions of a building wall at street level that are set back from the street line to create building wall articulation shall count as occupied area. *The permitted occupied area for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be increased up to ___ percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

* * *

§ 14-203. Definitions.

* * *

(269) Setback, Front.

The depth of the front yard. *Front setback requirements for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced up to ___percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

(270) Setback, Rear.

The depth of the rear yard. *Rear setback requirements for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced up to ___percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

(271) Setback, Side.

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The width of the side yard. *Side setback requirements for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced up to ___percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

* * *

(273) Setback Line, Front or Building.

See § 14-202(17) (Setback Line, Front or Building). *Front or building setback lines for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced up to ___percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

* * *

(131) Floor Area Ratio.

A ratio expressed as a percentage of lot area that is determined by dividing the gross floor area of all buildings on a lot by the area of that lot times 100. *For development projects under Chapter 7-100 (Inclusionary Affordable Housing), the floor area ratio may be increased up to ___ percent. The Planning Commission shall determine the appropriate percentage for the development project on the basis of compatibility with the City Plan.*

* * *

CHAPTER 14-800. PARKING AND LOADING

§ 14-801. Purpose, Applicability, and General Standards.

* * *

(2) Applicability.

* * *

(d) Parking for Inclusionary Affordable Housing. Parking for development projects under Chapter 7-100 (Inclusionary Affordable Housing) may be reduced up to ___percent. The Planning Commission shall determine the appropriate

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percentage for the development project that will not adversely impact the surrounding area.

* * *

SECTION 2. This Ordinance shall become effective 90 days after it becomes law.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.

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