

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 201038

Requiring that projects which are primarily residential in nature and are seeking economic incentives in the nature of the capture and redirection, abatement or exemption of taxes or other City financing contain a minimum number of affordable housing units.

WHEREAS, in November, 2017, the City Council passed unanimously Resolution No. 170825 that directed the City Manager to provide information on the overall state of housing policy at the federal, state and local levels; and

WHEREAS, Resolution No. 170825 also directed the development of a report on the overall state of housing resources, housing policy, programs and funding options for the City, including the role of affordable housing in the development of the City; and

WHEREAS, in May, 2018, the City Council passed Ordinance No. 180370, establishing a definition of “affordable housing” for purposes of implementing the scoring system for certain projects seeking certain economic incentives; and

WHEREAS, the City Council continues to recognize the need for the creation of affordable housing units, particularly for households earning incomes below the median family income (MFI) for all households within the Kansas City metropolitan area as reported by the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, HUD’s MFI is determined using American Community Survey (ACS) 5-Year Estimates; and

WHEREAS, the City Council established a Housing Trust Fund through passage of Committee Substitute for Ordinance No. 180719 to help implement neighborhood revitalization, housing development, and preservation projects; and

WHEREAS, the City Council recognizes that the payment of electricity, natural gas, propane, fuel oil, wood or coal, and water and sewage services (“Utilities”) can be significant for households; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That 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, and that are seeking economic incentives 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 shall be required, subject to Section 3 herein, to contain:

- (a) at least ten (10) percent of the total number of residential units being created as units deemed affordable housing; and
- (b) at least ten (10) percent of the total number of residential units being created as units deemed extremely affordable housing.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 201038

Section 2. That the following definitions shall apply for the purposes of this ordinance:

- (a) *affordable housing* shall be defined as housing that a household having income at or below seventy percent (70%) of the HUD MFI (“70% MFI”) for all households within the Kansas City metropolitan area would be able to afford if it were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including Utilities.
- (b) *extremely affordable housing* shall be defined as housing that a household having income below thirty percent (30%) of the HUD MFI (“30% MFI”) for all households within the Kansas City metropolitan area would be able to afford if it were to expend not more than thirty percent (30%) of such income for the mortgage or rent, including Utilities.

Section 3. A project developer may make a payment to the City in lieu of the affordable housing unit provision in the amount of 110% of the actual cost, determined pursuant to Section 5(b) of this ordinance, of providing an affordable housing unit on the project site multiplied by the number of units needed to meet the amount required in Section 1 of this ordinance. Such payment shall be deposited into the City’s Housing Trust Fund.

Section 4. For purposes of this ordinance, affordable housing shall comply with the following criteria:

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

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 201038

- (g) 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 entire duration of time during which the project developer or its successors in interest receive tax abatements, exemptions, redirections, or other financial incentives from the City or agency granting incentives and related taxing jurisdictions.
- (h) That the project developer must covenant with the City and successors in interest that 10% of the designated units be rented to individuals or families whose household incomes are at or below 70% MFI and that 10% of the designated units be rented to individuals or families whose household incomes are at or below 30% MFI.
- (i) 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.
- (j) 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.

Section 5. That the City Manager is directed to:

- (a) Develop a pricing sheet each year designed to assign numeric rent values to the ACS percentage income guidelines for the Kansas City metropolitan area within 30 days of HUD's annual publishing of such guidelines. Such pricing sheet shall incorporate an allowance for Utilities and shall be reviewed annually and updated as needed; and
- (b) Establish the production costs of market equivalent units to be used in determining the payment to be made in lieu of providing affordable housing units, pursuant to Section 3 of this ordinance; and
- (c) Review City ordinances, regulations, and other policies related to economic incentives to identify those that include an affordable housing definition, and make recommendations for any amendments or modifications necessary to ensure consistency with the definitions provided in this ordinance. The City Manager shall report back to the Council on any recommended modifications within 60 days of the effective date of this ordinance.

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 201038

Section 6. That this ordinance shall be reviewed by the City Council not later than two years from the effective date of this Ordinance to determine its impact on the creation of affordable housing for households having incomes equal to or below seventy percent (70%) and at or below thirty percent (30%) of the median income for all households within Kansas City, Missouri, as estimated and reported by the U.S. Department of Housing and Urban Development.

Approved as to form and legality:

Katherine Chandler
Assistant City Attorney