

Metropolitan Planning Commission



Staff Reports

July 21, 2016



Metro Planning Commission Meeting of 7/21/2016

Mission Statement: The Planning Commission is to guide the future growth and development for Nashville and Davidson County to evolve into a more socially, economically and environmentally sustainable community with a commitment to preservation of important assets, efficient use of public infrastructure, distinctive and diverse neighborhood character, free and open civic life, and choices in housing and transportation.



Project No.	Text Amendment
	2016Z-001TX-001
Project Name	Inclusionary Housing
Council Bill	Substitute Ordinance BL2016-133
Council District	Countywide
School District	Countywide
Requested by	Metro Council
Staff Reviewer	Logan
Staff Recommendation	<i>Approve the second substitute.</i>

TEXT AMENDMENT

A request to amend Title 17 of the Metropolitan Code, Zoning Regulations to incentivize Inclusionary Housing with any residential development that seeks additional development entitlements beyond that permitted by the current base zoning district.

HISTORY

In July of 2015, Metro Council adopted BL2015-1139, which required the Executive Director of the Planning Department to submit an ordinance to the Metropolitan Council amending the Metropolitan Zoning Code to implement the rules and regulations for affordable and workforce housing by January 20, 2016. A RFP for an Inclusionary Housing Feasibility and Policy Study was issued and Economic and Planning Systems (EPS) was selected. EPS worked on the feasibility determinations and policy recommendations included in the legislation.

The Planning Department assembled a Stakeholders Group of 50 members, including but not limited to advocates for affordable housing, residents of affordable housing, for-profit and non-profit developers, Planning Commissioners, and Councilmembers. EPS led Stakeholders Group meetings on October 12, 2015, November 10, 2015, and December 9, 2015, as well as a public meeting on November 11, 2015, and a Planning Commission work session on December 10, 2015. The purpose of these meetings was to gather information and feedback throughout the process. Draft recommendations were presented at the December meetings and the recommendations were refined based on the feedback.

These meetings were noticed on the Planning Department website and in Development Dispatch. All presentations and videos of the meetings, as well as the public input gathered at the November 11, 2015, meeting, were posted on the Planning Department’s website at <http://www.nashville.gov/Planning-Department/Inclusionary-Housing.aspx>.

An inclusionary housing text amendment was presented to the Planning Commission on January 14, 2016. That text amendment included recalibrating many of the bonuses that are currently in the Zoning Code. The Planning Commission recommended disapproval of that proposal and requested the staff deliver the text amendment, as required by BL2015-1139, in two separate ordinances filed with the Metro Council. Since January, the Ad Hoc Affordable Housing Committee of the Metro Council has continued the conversation about an Inclusionary Housing ordinance. A substitute for the Inclusionary Housing ordinance, BL2016-133, was introduced on July 5, 2016, and is scheduled for the August 2, 2016, Council public hearing. The ordinance addressing the recalibration of existing bonuses, BL2016-134, has been deferred indefinitely.



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At the time of the staff report, the Inclusionary Housing Feasibility and Policy Study has not been completed, but EPS has been working with staff to make sure the proposed Zoning Code amendments are consistent with the study.

PROPOSED ZONING CODE AMENDMENTS

Substitute Ordinance BL2016-133 revised several elements of the proposal previously presented to the Planning Commission:

- Any recalibration of existing bonuses is in a separate ordinance, BL2016-134, which has been deferred indefinitely by Metro Council. However, the “workforce housing” bonus in the Downtown Code (DTC) is still proposed to be replaced with the “inclusionary housing” bonus, consistent with other proposed changes to the Zoning Code. The DTC amendment is attached as Exhibit A to this report;
- Additional non-residential entitlements have been removed from the ordinance as an incentive;
- As an incentive to provide affordable or workforce housing units, rental developments receive additional residential entitlements through an amendment to the official zoning map. For-sale developments could opt to participate in the program;
- Affordable/workforce units are not required, even if the additional density incentive is granted, if financial incentives are not available from the Metropolitan Government;
- The income metric has changed from the Area Median Income (AMI) to the census data of the Median Household Income (MHI) for Nashville and Davidson County;
- The set asides have been reduced, after sensitivity testing for the Inclusionary Housing Policy and Feasibility Study was completed;
- The set asides are based on the net leasable residential floor area, not total floor area;
- The area for in lieu construction increased to 1 mile from the project site if it is located on a multimodal corridor and decreased to ¼ mile from the project site not on a multimodal corridor;
- A sunset provision has been added; and
- An effective date nine months after the passage of the ordinance has been added.

Staff recommends a second substitute ordinance that clarifies the language of the ordinance and deletes Chapter 17.10, the chapter inserted into the Zoning Code by BL2015-1139. Throughout this report, recommendations for Second Substitute Ordinance BL2016-133 are shown in bold and deletions are shown in strikethrough.

Two exceptions are provided. The first exception is for residential developments, including developments on adjoining sites under common control developed within five years of each other, under five units. The second exception is for a development for which the average unit sale price or rental rate is less than, or within 5% above 100% AMI market prices or rental rates for Nashville and Davidson County and the Inclusionary Housing Plan demonstrates that the census tract market rate prices or rental rates are affordable to a household at 100% AMI. These developments are also prohibited from receiving financial incentives. Unfortunately, staff has not been able to identify a reliable data set to evaluate this exception. Therefore, the second substitute recommends the following edits:



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Inclusionary Housing shall not be ~~required~~ **provided** and no financial incentives shall be granted if the average unit sale price or rental rate is less than, or within 5% above 100% Median Household Income (MHI) market prices or rental rates for Nashville and Davidson County and the Inclusionary Housing Plan demonstrates that the census tract average market rate prices or average rental rates **for comparable units** are affordable to a household at 100% MHI.

The proposed set aside varies based on location, construction type and MHI level:

	Rental at 60% MHI or less	Rental at Greater than 60% MHI to 80% MHI	Rental at Greater than 80% MHI to 100% MHI (available in the UZO only)	For-sale at Greater than 60% MHI to 80% MHI	For-sale at Greater than 80% MHI to 100% MHI (available in the UZO only)
Single-family and Two- family uses	12.5% of total residential units	15% of total residential units	17.5% of total residential units	10% of total residential units	15% of total residential units
Multi-family uses less than 3 stories	12.5% of total residential floor area	15% of total residential floor area	17.5% of total residential floor area	10% of total residential floor area	15% of total residential floor area
Multifamily uses (3 to 6 stories)	10% of total residential floor area	12.5% of total residential floor area	15% of total residential floor area	n/a	n/a
Multifamily uses (≥ 7 stories)	7.5% of total residential floor area	10% of total residential floor area	12.5% of total residential floor area	n/a	n/a

The ~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment with assistance from the Finance Department** may approve a mixture of MHI levels, provided the mixture is equivalent to the set asides above. The equivalency of the mixture of MHI levels and the approval shall be documented in the Inclusionary Housing Plan.

For the purposes of this Article, the residential floor area shall be the net leasable residential floor area.

For example, if a rental project with 100,000 square feet of residential floor area requests another 50,000 square feet of residential uses, the resulting building is greater than seven stories and the developer chooses to provide housing at 80% AMI, then 10% of the 150,000 square feet, or 15,000 square feet, must be provided as housing at 80% AMI. The calculation is based on a square foot



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requirement instead of a unit requirement in order to facilitate the flexibility of unit sizes that can be rented or sold to families.

The proposed legislation allows for in lieu construction within 1 mile from the project site along a corridor if the project is located on a multimodal corridor or ¼ mile from the project site not on a multimodal corridor, or an in lieu contribution at the following rates:

Within the UZO	Outside of the UZO
Per square foot equivalent of 50% of the affordable sales price at 100% MHI for Davidson County for 20% of the total residential floor area in a for-sale project or for 30% 12.5% of the total residential floor area in a rental project.	Per square foot equivalent of 50% of the affordable sales price at 80% MHI for Davidson County for 10% of the total residential floor area in a for-sale project or for 20% 10% of the total residential floor area in a rental project.
The affordable sales price shall be determined by the Metropolitan Housing Trust Fund Commission Office of Economic Opportunity and Empowerment with assistance from the Finance Department annually based on: <ul style="list-style-type: none"> a. A maximum down payment of 5.0%, b. Current Year MHI thresholds adjusted for household size published by HUD, c. Prior six-month average rate of interest based on the Fannie Mae Yield on 30-year mortgage commitments (priced at par) plus one-half point (0.5%) spread, d. 30-year mortgage term, e. Any homeowner fees, taxes and insurance, and f. Typical unit size. 	

The proposed legislation includes standards for construction, occupancy and enforcement. The Owner/Developer is required to submit an Inclusionary Housing Plan with any building permit application that utilizes the Inclusionary Housing incentive and submit compliance reports to the Metropolitan Housing Trust Fund Commission. The second substitute proposes that the reports will be submitted to the Office of Economic Opportunity and Empowerment.

OTHER ACTIONS NECESSARY TO FACILITATE INCLUSIONARY HOUSING

First, Mayor Megan Barry has proposed a grant program to provide financial incentives to rental developments that covers the difference between affordable/workforce rents and market rate rents within the UZO or on a multimodal corridor. This draft ordinance also provides one time subsidies of \$20,000 per unit within the UZO or on a multimodal corridor and \$10,000 per unit outside the UZO for for-sale projects. The draft ordinance is attached to the staff report as Exhibit B.

Mayor Megan Barry has also proposed \$16 million for the Barnes Fund for Affordable Housing in FY17 and announced a workforce housing development through a private-public partnership at the corner of 12th Avenue South and Wedgewood Avenue.



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Additionally, the Ad Hoc Affordable Housing Committee of the Metro Council has discussed the following:

- A resolution to request that the Mayor's Office, through its Office of Economic Opportunity and Empowerment, work with the Council's Ad Hoc Affordable Housing Committee to develop a comprehensive Housing Action plan to address the issue of housing affordability in Nashville.
- An ordinance to expand the options for using PILOT for housing funding.
- An ordinance to expand the responsibilities of the Barnes Fund Commission and provide a process for reporting regularly to the Metro Council.

ZONING ADMINISTRATOR RECOMMENDATION

Approve

OFFICE OF ECONOMIC OPPORTUNITY AND EMPOWERMENT

Accepts the expanded role as indicated in the ordinance.

STAFF RECOMMENDATION

The affordable and workforce housing incentives are designed to increase housing opportunities for low and moderate income families in areas of Nashville that would not otherwise be created by the open market. Since financial incentives have been proposed that would cover that costs of providing affordable or workforce housing, staff recommends approval of the second substitute.

SECOND SUBSTITUTE ORDINANCE NO. BL2016-133

An ordinance to amend various sections of Title 17 of the Metropolitan Zoning Code to incentivize Inclusionary Housing with any residential development that seeks additional development entitlements beyond that permitted by the current base zoning district.

(Proposal No. 2016Z-001TX-001).

WHEREAS, the Metropolitan Government of Nashville and Davidson County has undertaken a Inclusionary Housing Feasibility and Market Study (the Study); and

WHEREAS, the Study found that there has been cost appreciation and housing turnover in central areas of the city; and

WHEREAS, the Study found that 24% of homeowners in the city are cost-burdened and 46% of renters in the city are cost-burdened; and

WHEREAS, cost appreciation and housing turnover in central areas can lead to the displacement of cost-burdened households and gentrification; and

WHEREAS, 29% of all 2015 home sales in Nashville and Davidson County were affordable to a buyer earning 80% AMI for a 2.5 person household; and



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WHEREAS, much of the housing affordable to 80% AMI is outside of the central areas, with poor access to jobs, transit and services; and

WHEREAS, affordable and workforce housing is a primary concern of the citizens of Nashville and Davidson County, as it continues to be a major barrier to economic progress for many in Nashville; and

WHEREAS, increasing the supply of affordable and workforce housing supports economic growth and is an important tool in reducing poverty in Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 17.40 (Administration and Procedures) of the Metropolitan Code is hereby amended by inserting the following Article XVII (Inclusionary Housing):

17.40.780 Purpose and Applicability of Inclusionary Housing Provisions

A. Purpose. The purposes of this Section are to promote the public health, safety and welfare by increasing the production of Inclusionary Housing units to meet existing and anticipated housing and employment needs; mitigating the impacts of increasing housing cost and provide housing affordable to low and moderate income households; providing for a range of housing choices throughout the city to avoid the concentration of poverty; and to provide a mechanism by which residential development can contribute in a direct way to increasing the supply of affordable and workforce housing in exchange for additional development entitlements other than those otherwise permitted as a matter of right.

B. Applicability.

1. **When** ~~Where~~ additional residential development entitlements are **gained through an amendment to the official zoning map or through an adopted bonus height program** ~~sought as specified in this title, including but not limited to, change in uses, height, density or floor area, or~~ **when** ~~where~~ public resources or property is provided **for a residential development**, ~~a development with the~~ rental residential units shall be subject to the provisions of this Section as long as **adequate** financial incentives from the Metropolitan Government of Nashville and Davidson County are available. ~~A development property owner or developer with for-sale residential units may voluntarily comply with the provisions~~ **or developer** participate in the incentives of this Section.
2. For residential uses, developments ~~with~~ fewer than five ~~total~~ units are exempt ~~from this requirement~~. For the purposes of this subsection, “development” shall include any residential or mixed use development at one or more adjoining sites with common ownership or under common control, within a period of five years from the first date of the issuance of a building permit for construction.
3. Inclusionary Housing shall not be ~~required~~ **provided** and no financial incentives shall be granted if the average unit sale price or rental rate is less than, or within 5% above 100% Median Household Income (MHI) market prices or rental rates for Nashville and Davidson County and the Inclusionary Housing Plan



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demonstrates that the census tract average market rate prices or average rental rates **for comparable units** are affordable to a household at 100% MHI.

17.40.790.1 Requirements for Inclusionary Housing

A. Construction. The ~~required~~ set aside for affordable or workforce housing shall be:

	Rental at 60% MHI or less	Rental at Greater than 60% MHI to 80% MHI	Rental at Greater than 80% MHI to 100% MHI (available in the UZO only)	For-sale at Greater than 60% MHI to 80% MHI	For-sale at Greater than 80% MHI to 100% MHI (available in the UZO only)
Single-family and Two- family uses	12.5% of total residential units	15% of total residential units	17.5% of total residential units	10% of total residential units	15% of total residential units
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Multifamily uses (3 to 6 stories)	10% of total residential floor area	12.5% of total residential floor area	15% of total residential floor area	n/a	n/a
Multifamily uses (≥ 7 stories)	7.5% of total residential floor area	10% of total residential floor area	12.5% of total residential floor area	n/a	n/a

The ~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment with assistance from the Finance Department** may approve a mixture of MHI levels, provided the mixture is equivalent to the set asides above. The equivalency of the mixture of MHI levels and the approval shall be documented in the Inclusionary Housing Plan.

For the purposes of this Article, the residential floor area shall be the net leasable residential floor area.

B. In lieu Construction.

1. In lieu of meeting the Inclusionary Housing ~~requirements~~ **incentives** on site, construction at the same rates included in subsection A of this section may be provided within the following distances from the development that is ~~required~~ **to provide providing** Inclusionary Housing:



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- i. One (1) mile **along the corridor**, if the development that is ~~required to provide~~ **providing** Inclusionary Housing is on a Multimodal Corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways and Ramps.
- ii. A quarter mile (1/4) mile, if the development that is ~~required to provide~~ **providing** Inclusionary Housing is not on a Multimodal Corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways and Ramps.
- iii. In lieu construction shall not be permitted at an alternate location if ~~the alternate location's average unit sale price or rental rate is less than, or within 5% above 100% MHI market prices or rental rates for Nashville and Davidson County and~~ the Inclusionary Housing Plan demonstrates that the **alternate location's** census tract market rate prices or rental rates **for comparable units** are affordable to a household at 100% MHI.

2. Use & Occupancy permits for the affordable and/or workforce units shall be issued prior to the issuance of any Use & Occupancy permit for principal project.

C. In lieu Contribution. In lieu of meeting the Inclusionary Housing ~~requirements~~ **incentives** on site, prior to the issuance of building permits, an in lieu contribution may be provided to the ~~Metropolitan Housing Trust Fund Commission~~ **Housing Incentives Fund** as follows:

Within the UZO	Outside of the UZO
Per square foot equivalent of 50% of the affordable sales price at 100% MHI for Davidson County for 20% of the total residential floor area in a for sale project or for 30% 12.5% of the total residential floor area in a rental project.	Per square foot equivalent of 50% of the affordable sales price at 80% MHI for Davidson County for 10% of the total residential floor area in a for sale project or for 20% 10% of the total residential floor area in a rental project.
The affordable sales price shall be determined by the Metropolitan Housing Trust Fund Commission Office of Economic Opportunity and Empowerment with assistance from the Finance Department annually based on: <ul style="list-style-type: none"> a. A maximum down payment of 5.0%, b. Current Year MHI thresholds adjusted for household size published by HUD, c. Prior six-month average rate of interest based on the Fannie Mae Yield on 30-year mortgage commitments (price at par) plus one-half point (0.5%) spread, d. 30-year mortgage term, e. Any homeowner fees, taxes and insurance, and f. Typical unit size. 	



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17.40.800 Standards for Construction and Occupancy of Affordable and/or Workforce Housing

- A. With the building permit application, the Owner/Developer shall submit an Inclusionary Housing Plan, which documents the following:
1. Number of total residential units provided under the site plan.
 2. Whether the development uses public resources or public property.
 3. Number of affordable or workforce housing units provided.
 4. Income levels of targeted families for affordable or workforce housing units.
 5. The proposed rents or sales prices and guarantee of limits on future rent increases or sales prices.
 6. Location of affordable or workforce housing units.
 7. Sizes of affordable or workforce housing units.
 8. Bedroom counts of affordable or workforce housing units.
 9. ~~Census tract n~~Market rate pricing or rental rates **for comparable units within the census tract** for the project site and, if applicable, the in lieu site.
 10. The party responsible for compliance reports, with approval from the ~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment with assistance from the Finance Department.**
- B. To ensure livability, Inclusionary Housing units shall be at least 80% of the average size of market rate units and the breakdown of bedroom counts of Inclusionary Housing units shall be similar to the breakdown of bedroom counts for the market rate units in the project. After the Inclusionary Housing square footage is allocated according to the distribution of market rate units, any remaining square footage too small for construction of a unit shall utilize the in lieu contribution option.
- C. Exteriors of Inclusionary Housing units shall closely resemble the exteriors of other units in a project.
- D. The owner shall ensure to the satisfaction of the Metropolitan Government that the Inclusionary Housing units will:
1. be occupied by eligible households.
 2. be maintained as rental Inclusionary Housing units for a minimum of 15 years from the date of initial occupancy and/or be maintained as for-sale Inclusionary Housing unit for 30 years from the date of initial occupancy.

17.40.810 Enforcement

- A. Prior to the issuance of the first building permit, all Standards for Construction and Occupancy shall be documented on the building permit plans.
- B. Prior to the issuance of the Use & Occupancy permit, all Standards for Construction and Occupancy shall be satisfied and documentation provided to the Codes Department.
- C. During the applicable period, the owner, developer or designee shall provide a compliance report to the ~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment** in the form and manner determined by the



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~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment with assistance from the Finance Department.** The party responsible for compliance reports shall be approved by the ~~Metropolitan Housing Trust Fund Commission~~ **Office of Economic Opportunity and Empowerment** and noted Inclusionary Housing Plan. For for-sale developments, individual owners are not permitted to be the party responsible for compliance reports.

17.40.820 Sunset provisions.

- A. The provisions of Article XVII (Inclusionary Housing) shall expire and be null and void three years after its passage. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this section is reviewed by the metropolitan council after its adoption.
- B. Two (2) years after its passage, the Planning Department shall conduct a study of the impact of Article XVII (Inclusionary Housing) and related incentives. This study shall include an assessment of the economic impact, impact on affordable housing and whether the incentives should be recalibrated. The study shall be delivered to the Metropolitan Council no later than six (6) month before the sunset date.

Section 2. That Section 17.36.090 (Development bonuses.) of the Metropolitan Code is hereby amended by deleting the subsection B.

Section 3. That Chapter 17.37 (Downtown Code (DTC)) of the Metropolitan Code is hereby amended by deleting pages 93, 96 and 99 and replacing with pages 93, 96 and 99 in the attached Exhibit A.

Section 4. That Chapter 17.40 of the Metropolitan Code is hereby amended by inserting the following Section 17.40.055 (Inclusionary Housing Incentive):

As an incentive to encourage developers and property owners to meet the affordable and workforce housing goals set forth in this Title, all proposed residential development that seeks to increase development entitlements beyond that permitted by the current base zoning district shall comply with Section 17.20.780 (Inclusionary Housing).

Section 5. That Section 17.40.105 (Specific plan—Purpose and intent.) of the Metropolitan Code is hereby amended by deleting the last sentence and inserting the following as the last sentence:

The specific plan cannot vary ~~the requirements of~~ Section 17.40.055 (Inclusionary Housing Incentive) and must comply with the building, fire and life safety codes adopted by the metropolitan government.

Section 6. That Chapter 17.10 of the Metropolitan Code is hereby deleted.

Section ~~67~~. That any appropriately filed application that complies with all existing filing requirements and that is filed prior to the effective date of this ordinance shall not be subject to the provisions of this ordinance, ~~unless the~~ **however a developer and/or property owner may participate in the incentives of this Section** ~~voluntarily complies.~~



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Section 78. Be it further enacted that this ordinance take effect nine (9) months from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.



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EXHIBIT A

Section IV: General Standards

Bonus Height Program

The Bonus Height Program (BHP) allows additional building height in Downtown in exchange for contribution to specified programs that provide benefits to the public. The Bonus Height shall be permitted if the proposed development contributes to specific public benefits in the amount and manner set forth herein.

Bonus Height shall be permitted in exchange for the following public benefit contributions: Leadership in Energy and Environmental Design (LEED) certification of individual buildings, LEED for Neighborhood Development, pervious surface, Historic Building Preservation, publicly-accessible Open Space, **Workforce Inclusionary** Housing, Civil Support Space, upper level garage liners, and underground parking.

Bonus Height Standards

- Upon providing a binding commitment for the specified public benefit, the proposed development project shall be allowed to build within the restrictions of the Subdistrict, up to the Bonus Height Maximum as established within this section.
- Multiple height bonuses may be compounded insofar as the total additional height does not exceed the Bonus Height Maximum for the Subdistrict.
- Additional development rights achieved through the BHP may be transferred to another site within the DTC one time to one receiving site, provided the transferred height does not exceed the Bonus Height Maximum of the receiving site. By-right height may not be transferred; only bonus height received through the BHP may be transferred.
- Bonus height transfers shall be based on the square footage of the sending site, not the receiving site.
- No building permit shall be issued for bonus height until the Planning Commission has certified compliance with the provisions of this section, upon referral and assurance of compliance from applicable departments.

Section IV: General Standards

Bonus Height Program

Publicly-Accessible Open Space

Accessible, enjoyable open spaces are essential for vital and functioning neighborhoods. Open space provides the community with opportunities to be in an outdoor setting, while encouraging social interaction. See the BHP Chart for details for a list of Subdistricts in which the Open Space bonus may be utilized.

Open Space must be designed to the open space standards of the DTC. To be eligible for the Height Bonus, open space must be a minimum of ¼ acre in area.

- Plazas are not eligible for the BHP.
- In Open Space deficiency areas (See the Open Space section of the General Standards), the number of square feet of Bonus Height shall be seven times that of the number of square feet in open space. Outside of Open Space deficiency areas, the number of square feet of Bonus Height shall be four times that of the number of square feet in open space. The additional square footage may be used to the Bonus Height Maximum as determined on the BHP Chart.
- Bonuses are available only for publicly accessible (whether publicly or privately owned) open space.

Inclusionary Housing

Bonus Height is available for compliance with section 17.40.780 of the Zoning Code, as shown in the Bonus Height Program (BHP) Chart.

Workforce Housing

Housing encompassing a range of sizes, costs and tenure (both rental and owner-occupied), to accommodate the diverse range of employees and their families, is key to Downtown's continued economic health and to sustainable development patterns for Nashville/Davidson County.

Metro Government shall require the developer to execute an agreement, restrictive covenant, or other binding restriction on land use that preserves affordability and establishes the manner in which the affordability will be monitored for the required period before final site plan review.

As listed below, the specified percentage of total units shall be reserved for ownership or rental by households with

incomes below the specified percentage of the current Average Median Income (AMI) in Davidson County, as determined by MDHA.

Height bonuses are based on a percentage of the Maximum Height allowed on the property as dictated by the Subdistrict. In all cases, fifty percent (50%) of the additional stories shall be dedicated to Workforce Housing with twenty-five percent (25%) of the height bonus provided as housing for persons below one hundred percent (100%) of AMI and twenty-five percent (25%) of the height bonus provided as housing for persons below one hundred-twenty percent (120%) of AMI.

Workforce Housing Height Bonuses are:

- Level 1 - 10% increase in stories
- Level 2 - 20% increase in stories
- Level 3 - 30% increase in stories
- Level 4 - 40% increase in stories

Not all Levels are available in every Subdistrict. See the BHP Chart for details.

When percentage calculations result in a fraction of a story, the number of stories shall be rounded up.

The following shall apply to all construction that utilizes the BHP for Workforce Housing:

- Owner-occupied units shall remain affordable for 30 years.
- Renter-occupied units shall remain affordable for 30 years.
- Units that are converted from renter-occupied to owner-occupied shall remain affordable (as determined above) for 30 years beyond conversion.
- The size of all Workforce Housing units shall be at least 80% of the average size of market rate units.

Section IV: General Standards

Bonus Height Chart

Maximum height within the Subdistrict	LEED	LEED ND	Pervious Surface	Historic Building Preservation	Open Space	Inclusionary-Workforce Housing	Civil Support Space	Upper Level Garage Liner & Underground Parking	Public Parking	Bonus Height Maximum	
Central											
James Robertson	elevation of 560'	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	All Levels to a maximum of elevation above sea level - No bonus of 560'	2 stories below 560' elevation	2 stories below 560' elevation	elevation 560'	
Core											
	30 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	8 stories	8 stories	All Levels Unlimited	8 stories	8 stories	2 stories	Unlimited
Core-historic											
	6 stories on the interior of blocks; 10 stories on the corners	No bonus	No bonus	No bonus	4 stories	No bonus	No bonus 4 stories	No bonus	No bonus	No bonus	10 stories
Upper Broadway											
	100'	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	100'
Second and Broadway											
Second	8 stories within 105'	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	8 stories within 105'
Broadway	5 stories within 65'										5 stories within 65'
SoBro											
General, or 8th Avenue frontage south of roundabout (beyond 100' from frontage)	30 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	8 stories	8 stories	All Levels Unlimited	8 stories	8 stories	2 stories	Unlimited
West side of 1st and East side of 2nd	15 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	5 stories	5 stories	Levels 1, 2, and 3 15 stories	5 stories	5 stories	2 stories	30 stories
8th Avenue frontage south of roundabout (within 100' frontage)	8 stories	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	Levels 1, 2, and 3 3 stories	2 stories	2 stories	2 stories	11 stories
River											
	10 stories	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	10 stories
South											
Lafayette											
General	8 stories	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	Levels 1, 2, and 3 3 stories	2 stories	2 stories	2 stories	11 stories
Transitional Properties	15 stories	Any = 2 stories	2 stories	2 stories	3 stories	3 stories	Levels 1, 2, and 3 3 stories	3 stories	3 stories	2 stories	18 stories
Lafayette Street	12 stories	Any = 2 stories	2 stories	2 stories	3 stories	3 stories	Levels 1, 2, and 3 4 stories	3 stories	3 stories	2 stories	16 stories
Rutledge Hill											
Primary and Secondary	6 stories	Any = 1 story	1 story	1 story	1 story	1 story	Levels 1, and 2 1 story	1 story	1 story	2 stories	7 stories
Tertiary	3 stories	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	3 stories
Rolling Mill Hill											
	65 feet with an SEP of 1:1.5	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	65 feet with an SEP of 1:1.5
Rutledge River											
	9 stories	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	Levels 1, 2, 3 and 4 3 stories	2 stories	2 stories	2 stories	12 stories
West											
Gulch North											
General	7 stories	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	All Levels 3 stories	2 stories	2 stories	2 stories	10 stories below 560' elevation
fronting Herman Street	4 stories	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	2 stories	4 stories
Gulch South											
General	10 stories	Any = 2 stories	2 stories	2 stories	2 stories	2 stories	All Levels 6 stories	2 stories	2 stories	2 stories	16 stories
fronting Church, Broadway, Demonbreun	15 stories	Any = 2 stories	2 stories	2 stories	3 stories	3 stories	All Levels 6 stories	3 stories	3 stories	2 stories	21 stories
at key intersections	20 stories	Silver or Gold = 2 stories; Platinum = 3 stories	2 stories	2 stories	4 stories	4 stories	All Levels 8 stories	4 stories	4 stories	2 stories	28 stories
North											
Hope Gardens											
Primary	7 stories	Any = 1 story	1 story	1 story	1 story	1 story	Level 1 1 story	1 story	1 story	1 story	8 stories
Secondary	4 stories	Any = 1 story	1 story	1 story	1 story	1 story	Level 1 1 story	1 story	1 story	1 story	5 stories
Tertiary	3 stories	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No bonus	No Bonus	3 stories
Sulphur Dell											
Primary	7 stories	Any = 1 story	1 story	1 story	1 story	1 story	Level 1 1 story	Any = 1 story	1 story	1 story	8 stories
Secondary	5 stories	Any = 1 story	1 story	1 story	1 story	1 story	Level 1 1 story	Any = 1 story	1 story	1 story	6 stories
Tertiary	4 stories	Any = 1 story	1 story	1 story	1 story	1 story	Level 1 1 story	Any = 1 story	1 story	1 story	5 stories



Metro Planning Commission Meeting of 7/21/2016

EXHIBIT B

ORDINANCE NO. _____

An ordinance amending Title 2 of the Metropolitan Code to create an affordable and workforce housing grant program.

WHEREAS, affordable and workforce housing is a primary concern of the citizens of Nashville and Davidson County, as it continues to be a major barrier to economic progress for many in Nashville; and

WHEREAS, increasing the supply of affordable and workforce housing supports economic growth and is an important tool in reducing poverty in Davidson County; and

WHEREAS, T.C.A. § 5-9-113 authorizes county legislative bodies to appropriate funds for affordable housing or workforce housing; and

WHEREAS, in the interest of promoting the general welfare of the residents of Metropolitan Nashville and Davidson County, it is appropriate that a grant program be developed whereby the Metropolitan Government may appropriate grant funds to an affordable housing development property owner to assist the funding of the development.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. Title 2 of the Metropolitan Code is hereby amended by adding the following new Chapter 2.213 – Affordable and Workforce Housing Incentive Grants.

2.213.010 Definitions.

As used in this Chapter:

“Affordable housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning sixty percent (60%) or less than the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

“ECD” means the mayor’s office of economic and community development.

“Household” means all people who occupy a housing unit regardless of relationship. A household may consist of a family, a person living alone, or unrelated individuals living together, provided that no more than three unrelated persons shall occupy the same dwelling unit. In order

to be counted as an eligible household for purposes of affordable and/or workforce housing incentive grants, the total household income shall not exceed the median household income for the applicable affordable or workforce income category as defined in this section.

“OEOE” means the mayor’s office of economic opportunity and empowerment (OEOE).

“Qualified developer” means a developer of affordable and/or workforce housing that the metropolitan government determines is willing and able to enhance the affordable and/or workforce housing stock within Nashville and Davidson County by adding rental units at a certain price point.

“Urban Zoning Overlay (UZO)” means the urban zoning overlay district established pursuant to Article XII of Chapter 17.36 of the metropolitan zoning code.

“Workforce housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning more than sixty percent (60%) and not to exceed one hundred twenty percent (120%) of the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

2.213.020 Incentive grants.

- A. The metropolitan government may make incentive grants to qualified developers to assist with the development of affordable and/or workforce housing within the boundaries of the metropolitan government. Incentive grants may be made both for rental developments and owner-occupied units. Such grant funds shall be disbursed on a reimbursement basis.
 1. Rental developments. Owners/developers of new construction rental developments, including developments under construction at the time of application, within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps may apply for a workforce and/or affordable housing incentive grant. The amount of the incentive grant will be the difference between the average rent for an occupied unrestricted rental housing unit and the average rent for an occupied affordable or workforce housing unit multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing as defined in Section 2.213.010. The average rent for an occupied unrestricted rental housing unit will be calculated on a square footage basis using the rental charged for the three unrestricted units within the same development that are most comparable to each individual affordable or workforce housing unit. For purposes of this section, “average rent” includes all ancillary fees charged to all tenants of the development, including parking fees, application fees, associational fees, and charges for amenities.

2. Owner-occupied units. The amount of the incentive grant will be a one-time payment of \$10,000 per unit for properties located outside of the urban zoning overlay (UZO) district, and \$20,000 per unit for properties located within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps. All grants for owner-occupied units shall be conditioned upon the recording of deed restrictions with the Register of Deeds ensuring the units remain designated for affordable and/or workforce housing for the duration provided in the grant agreement.
- B. The amount of a grant to any one qualified developer of affordable or workforce housing rental units shall not exceed fifty (50) percent of the difference between the annual post-development and pre-development real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable.
- C. Incentive grants may be awarded to a qualified developer for either affordable or workforce housing units, or both, provided OEOE shall take reasonable measures to ensure an equitable distribution of grant funds for both affordable and workforce housing.
- D. Any grant made in accordance with the provisions of this section will be memorialized by an agreement between the metropolitan government and the qualified developer. The maximum term for an incentive grant awarded pursuant to this chapter for rental units shall be fifteen (15) years. All owner-occupied units for which one-time incentive grant payments have been made shall be maintained as for-sale affordable/workforce housing for thirty (30) years from the date of initial occupancy. For new developments, the grant agreements shall be finalized prior to a building permit being issued.
- E. All grants awarded pursuant to this chapter shall be approved by the director of the OEOE, metropolitan director of finance, and the metropolitan director of law.

2.213.030 Standards for Construction and Occupancy of Affordable and/or Workforce Housing

- A. To ensure livability, the breakdown of bedroom counts of affordable or workforce housing units shall be similar to the breakdown of bedroom counts for the market rate units in the project.
- B. Exteriors of the affordable and/or workforce housing units shall closely resemble the exteriors of other units within the development, and shall use similar construction materials.

2.213.040 Incentive grants for the optional conversion of existing rental units.

Owners of existing rental housing developments shall be eligible for an annual incentive grant if they voluntarily convert market-based rental units located within the UZO to affordable and/or workforce housing units. Owners of existing affordable and/or workforce rental housing units shall also be eligible to receive an incentive grant if they agree to continue to maintain such units as affordable and/or workforce housing units. The amount of the incentive grant will be the difference between the average rent for market-based rental housing unit and the average rent for an occupied affordable or workforce housing multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing as defined in Section 2.213.010. The average rent for market-based rental

housing unit will be calculated on a square footage basis using the rental charged for comparable unrestricted units within the same census tract that are most comparable to each individual affordable or workforce housing unit, as determined by OEOE. In no event shall the amount of the annual grant be greater than twenty percent (20%) of the real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable.

2.213.050 Administration of grant program.

- A. The affordable and workforce housing grant program shall be administered by OEOE, with assistance from ECD, the finance department, the department of codes administration, and the planning department.
- B. OEOE shall have the authority and responsibility to develop policies, procedures, rules, and/or regulations to implement this chapter. Such policies shall include a mechanism for qualified developers to annually invoice OEOE for payment of the grant upon submission of an audit from an independent CPA firm.

2.213.060 Reimbursement requests.

- A. Not later than February 15 of each year, the grantor shall submit a reimbursement request to the department of finance and OEOE covering the previous calendar year. The reimbursement request shall include at a minimum for each occupied affordable and/or workforce housing rental unit:
 - 1. The number of months and partial months the unit was occupied;
 - 2. The Median Household Income level applicable to the unit;
 - 3. The rent charged for the unit; and
 - 4. The market value rent of the unit calculated based on the three closest comparable units on a square footage basis.
- B. The reimbursement request shall also include the total number of occupied affordable and/or workforce housing units in the development compared to the total number of affordable and/or workforce housing units required pursuant to the grant agreement, and the total reimbursement request for all occupied affordable and/or workforce housing rental units compared to the maximum annual grant allowed based on the property tax liability owed on February 28 of the year following the calendar year covered by the reimbursement request.
- C. The reimbursement request shall include a certification from the chief executive officer of the grantee that the information in the reimbursement request is true, correct and complete and that each occupied affordable and/or workforce housing rental unit was occupied only by eligible household members.
- D. The reimbursement request shall be accompanied by an examination conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants conducted by a reputable and licensed independent accountant giving an opinion that the amount of the incentive being requested represents, in all material respects, the incentive grant payment owed in conformity with the grant agreement. The

independent accountant shall examine, on a test basis, documentation supporting the eligibility of the occupants of the affordable and/or workforce housing units. Additional reporting and audit requirements may be specified in each grant agreement.

- E. The incentive grant payment shall be remitted to the developer by July 31 of each year and after the approval of the audit by the finance department.

2.213.070 Cap on total amount of grant awards.

Beginning with fiscal year 2017-2018, the annual amount of all current and previous grant awarded pursuant to this chapter in the aggregate shall not exceed two million dollars (\$2,000,000). The amount budgeted annually will be based upon audited reimbursement requests received. The director of finance and the director of the OEOE shall review the incentive grant program on an annual basis to determine whether the demand for grant funds significantly exceeds the amount of the cap, and shall make a recommendation to the metropolitan council regarding whether the amount of the cap should be adjusted. Any adjustments to the amount of the cap shall be approved by the council by resolution prior to becoming effective.

2.213.080 Noncompliance.

In the event a grantee developer fails to provide the number of affordable and/or workforce units required for the specified grant term pursuant to the grant agreement, the director of finance shall have the authority to require the grantee to repay the metropolitan government for all grant funds disbursed for affordable and/or workforce housing units in accordance with the provisions of the grant agreement. The director of finance shall have the authority to pursue all other remedies at law or in equity to ensure the availability of the affordable and/or workforce housing units required under the grant agreement.

2.213.090 Grants subject to funding availability.

All agreements for affordable and/or workforce housing incentive grants to be funded by the metropolitan government shall expressly provide that the metropolitan government's financial obligations thereunder are conditioned upon the appropriation of funds by the metropolitan council. The metropolitan government shall have no obligation to make an affordable and/or workforce housing incentive grant if adequate funds are not available. If an incentive grant payment is not made as a result of lack of funding pursuant to this section, the grantee shall be relieved from the obligation to maintain the required number of affordable and/or workforce housing units.

2.213.100 Sunset provision.

The provisions of this chapter shall expire and be of no further force and effect on October 1, 2018, unless extended by resolution of the metropolitan council. If the provisions of this chapter are not extended by resolution of the metropolitan council, no incentive grants shall be awarded

after October 1, 2018. This sunset provision shall not operate to terminate any existing grant agreement in effect on October 1, 2018, except for a lack of available funds in accordance with Section 2.213.090.

Section 2. That this Ordinance shall take effect immediately after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

APPROVED AS TO
AVAILABILITY OF FUNDS:

INTRODUCED BY:

Talía Lomax-O'dneal
Director of Finance

APPROVED AS TO
FORM AND LEGALITY:

Metropolitan Attorney

Members of Council