

ORDINANCE NO. 2024- 5

AN ORDINANCE AMENDING CHAPTER 9 OF THE CITY CODE RELATED TO HOUSING OPPORTUNITY AND PRESERVATION

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 9 of the City Code is hereby amended by deleting those words that are contained in brackets and ~~stricken through~~ and adding those words that are underlined, to read as follows:

CHAPTER 9

ARTICLE I: GENERAL PROVISIONS

§ 9.04 DEFINITIONS.

AFFORDABLE RENTS. The rent and utilities for the affordable ~~[O] opportunity~~ [H] housing ~~[U] units~~ will be based on ~~[the higher of the Bloomington HRA's Section 8 Payment Standards,]~~ HUD Fair Market Rents for the Metropolitan Statistical Area, which includes Bloomington, Minnesota ~~[, or, if applicable, the Multifamily Tax Subsidy Projects (MTSP) Income Limits are used to determine qualification levels as well as set maximum rental rates for projects funded with tax credits or tax exempt housing bonds authorized under the Internal Revenue Code as adjusted annually].~~

ELIGIBLE HOUSEHOLD. A household with an [yearly] annual income at less than or equal to ~~[60% of]~~ the required AMI of an opportunity housing unit.

~~**GATEWAY AREA.** The location and boundaries of the Gateway Area shall be established by the City Council as a development district. The district description shall be reflected in a district map that shall be kept permanently on file in the Community Development Department of the city and shall be available for public inspection.~~

INCOME. Household income adjusted for household size includes:

- (A) **EXTREMELY LOW INCOME.** Household income at or below 30% of AMI.
- (B) **VERY LOW INCOME.** Household income above 30% to at or below 50% of AMI.
- (C) **LOW INCOME.** Household income above 50% to at or below ~~[8]~~ 60% of AMI.
- (D) **MODERATE INCOME.** Household income ~~[at]~~ above ~~[8]~~ 60% to at or below ~~[one hundred]~~ 115% of AMI.

MARKET RATE UNIT. A residential dwelling unit marketed for sale or lease ~~[at]~~ above 1[20]15% ~~[or more]~~ of AMI.

OPPORTUNITY HOUSING UNIT. A housing unit ~~[affordable to a household with income at or below 60% of AMI]~~ that has income and affordability restrictions pursuant to this chapter.

ARTICLE II: DEVELOPER OPTIONS

§ 9.09 PAYMENT IN LIEU OF AFFORDABLE UNITS.

(b) The opportunity housing requirement in § 9.06 may be satisfied by making a payment to the ~~[city]~~ Affordable Housing Trust Fund established by this chapter in lieu of constructing the opportunity housing units, provided that such payment is received by the city prior to the issuance of the building permit for the project.

(d) If a developer chooses the in lieu payment, the fee in ~~[-]~~ lieu ~~[shall]~~ must be paid to the Affordable Housing Trust Fund, but the developer may assign the in lieu payment to another housing development when it is:

(1) To a development by the same developer that will include at least ~~[20% of the housing units]~~ the sum amount of units that is no less than 9% of the total dwelling units in the developer's original housing development in addition to 11% of the total dwelling units in the proposed development, affordable to households at or below 60% AMI provided the development receives city ~~[site plan]~~ final development plan approval within 24 months of ~~[beginning construction on]~~ issuance of building permit for the market rate ~~[units]~~ development;

(2) To a development by different developer that will include at least ~~[20% of the housing units]~~ the sum amount of units that is no less than 9% of the total dwelling units in the developer's original housing development in addition to 11% of the total dwelling units in the proposed development, affordable to households at or below 60% of AMI provided the development receives city ~~[site plan]~~ final development plan approval within 24 months of ~~[beginning construction on]~~ issuance of building permit for the ~~[developer's original housing]~~ market rate development; or

(3) To a NOAH property in the city to maintain, rehabilitate, and preserve the existing affordable housing units within 24 months provided the developer submits a maintenance repair plan and enters into an affordable housing agreement approved by the city.

(e) The payment amount will be reviewed ~~[annually]~~ by resolution of the City Council when research is conducted in support of this section and pursuant to §§ 9.01 through 9.03 or when otherwise determined necessary by City Council or staff.

(g) Interest earned from in lieu payment held in the Affordable Housing Trust Fund will be exclusively directed to the Affordable Housing Trust Fund. The Affordable Housing Trust Fund will retain, manage, and utilize the earned interest for affordable housing activities.

(h) If the requirements of § 9.09(d) are not met by the stated deadline, in lieu payment will be released to the Affordable Housing Trust Fund for affordable housing activities.

(i) If a housing development pursuant to the requirements of § 9.09(d) receives city final development plan approval but the approval expires or is cancelled by the developer for any reason, in lieu payment will be released to the Affordable Housing Trust Fund for affordable housing activities.

(j) If a NOAH project pursuant to the requirements of § 9.09 subsection (d) enters into an affordable housing agreement approved with the city but loses its status as NOAH, in lieu payment will be released to the Affordable Housing Trust Fund for affordable housing activities.

§ 9.10 DEDICATION OF LAND IN LIEU OF CONSTRUCTION OF OPPORTUNITY HOUSING UNITS.

(b) The city will not be required to construct opportunity housing units on the site(s) dedicated to the city, but may sell, transfer, lease, or otherwise dispose of the dedicated site(s). Any funds collected as the result of a sale, transfer, lease, or other disposition of sites dedicated to the city under this section will be deposited into the [city's a] Affordable [h] Housing [t] Trust [f] Fund and used in accordance with the provisions of § 9.38 and City Charter.

ARTICLE III: AFFORDABLE HOUSING TOOLS AND INCENTIVES

§ 9.16.04 [~~IMPERVIOUS SURFACE AREA INCREASE~~] RESERVED.

- ~~[(a) To incentivize the creation of units affordable to households at or below 50% of AMI, a residential development that includes at least 9% of its total dwelling units affordable to households at or below 50% of AMI may increase the maximum allowed impervious surface area as follows unless the City Council determines that the increase is likely to create a specific adverse public health, safety, or welfare impact or would otherwise conflict with local, state, or federal regulations, rules, or laws:~~
- ~~— (1) A development with at least 9% of its units qualifying as extremely low income affordable housing may increase the maximum allowed impervious surface area by an additional 10% beyond what is required in the zoning district. For example, if the respective zoning district limits impervious surface area to 85%, the incentive would allow up to 95% impervious surface area; or~~
 - ~~— (2) A development with at least 9% of its units qualifying as very low income affordable housing may increase the maximum allowed impervious surface area by an additional 5% beyond what is required in the zoning district. For example, if the respective zoning district limits impervious surface area to 85%, the incentive would allow up to 90% impervious surface area.~~
- ~~— (b) The impervious surface area increases provided in this section are not cumulative. Each qualifying development is eligible for only one impervious surface area increase of 5% or 10% depending on the level of affordability provided.]~~

§ 9.19 PARKING REDUCTION.

- (a) To incentivize the creation of opportunity housing units, a residential development with at least 9% of its total dwelling units affordable to households at or below 50% of AMI qualifies for car parking reductions provided that the [affordable housing] development agreement required pursuant to § 9.3[2]5 affirms that the owner will not charge [the] opportunity housing units in the residential development for access to parking. Potential parking reduction incentives are based upon the level of affordability as follows:

<i>Affordability provided:</i>	<i>Projects located in the Designated Transit Area, Tier I:</i>	<i>Projects located in the Designated Transit Area, Tier II:</i>	<i>Projects located outside a Designated Transit Area:</i>
9% of units qualifying as very low or extremely low income	15%	10%	5%
20% of units qualifying as very low income	25%	20%	10%
50% of units qualifying as very low income or 20% of units qualifying as extremely low income	35%	30%	15%
100% of units qualifying as very low income or 50% of units qualifying as extremely low income	45%	40%	20%

- (c) In mixed use developments, potential parking reduction incentives may only be applied to the parking requirement created by the residential portion of the development.

- (d) Opportunity housing units must have access to parking spaces that are comparable in quality and design to parking spaces accessible to market rate units. For example, if a development has enclosed and unenclosed parking spaces, the development agreement required pursuant to § 9.35 will affirm that the availability of enclosed and unenclosed parking spaces to opportunity housing units will be proportional to the availability of enclosed and unenclosed parking spaces to market rate units.

- (e) If a development seeks a parking reduction incentive at or above 30%, the City Engineer or their designee may require a parking study, prepared by an independent traffic engineering professional, to help the City Council determine if the parking incentive reduction is appropriate for a particular development, or if it should be adjusted, when there is evidence that the proposed parking supply reduction may negatively impact the surrounding public roadway network or adjacent land uses.

§ 9.20 ENCLOSED PARKING SPACE CONVERSION ALLOWANCE.

(c) In mixed use developments, potential enclosed parking space conversion allowance incentives may only be applied to the required enclosed parking spaces created by the residential portion of the development.

(d) Opportunity housing units must have access to parking spaces that are comparable in quality and design to parking spaces accessible to market rate units. For example, if a development has enclosed and unenclosed parking spaces, the development agreement required pursuant to § 9.35 will affirm that the designation of enclosed and unenclosed parking spaces to opportunity housing units will be proportional to the designation of enclosed and unenclosed parking spaces to market rate units.

§ 9.23 STORAGE SPACE REDUCTION.

To incentivize the construction of opportunity housing units, a multiple-family development that includes at least 9% of its total dwelling units affordable to households at or below 60% of AMI may reduce the required number of storage spaces outside the dwelling unit by 50% provided that the ~~[affordable housing] development~~ agreement pursuant to § 9.3[2]5 provides that the owner will make storage space accessible to the opportunity housing units without charge. A multiple-family development that includes at least 20% of its total dwelling units affordable to households at or below 50% of AMI may reduce the required number of storage spaces outside the dwelling unit by 75%. A multiple-family development that includes at least 10% of its total dwelling units affordable to households at or below 30% of AMI may reduce the required number of storage spaces outside the dwelling unit by 90%.

§ 9.26 DEVELOPMENT FEE DEFERMENT.

(b) The interest paid to the city during the deferral will be deposited into the ~~[city's a] Affordable [h] Housing [t] Trust [f] Fund.~~

§ 9.27 EXPEDITED REVIEW OF PLANS.

The developer of a residential development that provides ~~[a minimum of 15%]~~ opportunity housing affordable to households at or below ~~[60]~~ 30% of AMI ~~[located within the opportunity zone or within the Gateway Area]~~ will be eligible to move to the front of the review queue for building permit applications by the Community Development Department.

§ 9.29 AFFORDABLE HOUSING TRUST FUND.

The city may consider awarding funding from the Affordable Housing Trust Fund[s] under Article VIII. § 9.39.

ARTICLE IV: AFFORDABLE HOUSING PLAN

§ 9.32 AFFORDABLE HOUSING PLAN REQUIREMENTS.

(b) The affordable housing plan must include the following:

(10) ~~[Plan to monitor ongoing affordability]~~ Written confirmation that compliance with monitoring and auditing requirements as described in § 9.37 will be met;

§ 9.33 RENTAL PRICE LEVELS FOR AFFORDABLE UNITS AND ECONOMIC STABILITY.

(b) After the signing of the initial lease with an eligible household, to support economic sustainability of the household and the development, and to minimize turnover of an otherwise ~~[qualifying]~~ eligible household due to income growth or loss, the lease may be renewed to the same household as follows:

(1) Unless in conflict with the requirements of other funding, an extremely low, very low, or low income household whose household income rises may remain ~~[in the unit for which the household originally qualified]~~ an eligible household for one additional period of up to five years provided the household income does not exceed 140% of the applicable median income adjusted for family size ~~[30% of AMI for extremely low, 50% of AMI for very low and 60% of AMI for low].~~

(3) As a household transitions out of eligibility for an opportunity housing unit, the next unit of similar size and type that becomes vacant must be assigned an affordable rent and be made available ~~[opportunity housing unit must return]~~ to a household whose income is at or below ~~[60% of AMI]~~ the unit's required AMI as established in the development agreement required pursuant to § 9.35.

(c) Upon the request of the city, a household or property manager must submit documentation in a form acceptable to the city that the household remains eligible for an opportunity housing unit.

ARTICLE VI: DISPERSION, INTEGRATION, DESIGN, PHASING, AND CONSTRUCTION OF OPPORTUNITY HOUSING UNITS OBJECTIVES

§ 9.36 OBJECTIVES.

(b) *Integration.* Opportunity housing units in a housing development must be mixed with, and not clustered together or segregated in any way from market rate units in the housing development. Opportunity housing units in a housing development must be distributed across all unit sizes proposed in the housing development, including: efficiencies, one, two, and three or more bedroom units.

(c) *Design.* Except as otherwise provided in this chapter, opportunity housing units must be comparable in construction quality and exterior design to the market rate units constructed as part of the development. For developments in which in-unit amenities are not included with all dwelling units, the in-unit amenities must be offered to opportunity housing units in a proportionate amount to market rate units.

(d) *Phasing plan.* If the development contains a phasing plan, the phasing plan ~~[shall]~~ must provide for the proportionate development of opportunity housing units concurrently with the market-rate units. ~~[No]~~

The phasing plan ~~shall~~ must not provide that the opportunity housing units are the last built units in a development.

ARTICLE VIII: AFFORDABLE HOUSING TRUST FUND

§ 9.38 ESTABLISHMENT OF TRUST FUND.

The city will establish an [a] Affordable [h] Housing [t] Trust [f] Fund for the purpose of collecting funds related to the city's affordable housing programs pursuant to this chapter. Such funds will include but not be limited to payment of fees in lieu of opportunity housing units and shared appreciation dollars collected at the closing of sales of designated properties. The funds in the [a] Affordable [h] Housing [t] Trust [f] Fund and all earnings from investment of said funds will be expended exclusively to provide rental housing affordable to households at or below 60% of AMI and homeownership opportunities affordable to households at or below 115% AMI ~~[and to moderate income households in the city].~~

§ 9.39 APPLICABLE HOUSING TRUST FUND ELIGIBLE ACTIVITIES.

- (a) The funds collected for deposit in the [a] Affordable [h] Housing [t] Trust [f] Fund may be utilized for the following affordable housing activities:

- (b) The City Council from time-to-time may authorize by resolution additional activities that may be funded through the [a] Affordable [h] Housing [t] Trust [f] Fund.

§ 9.40 FINANCIAL OVERSIGHT OF THE AFFORDABLE HOUSING TRUST FUND.

The City Manager, or designee, will administer and supervise the [a] Affordable [h] Housing [t] Trust [f] Fund account and the city's Finance Department will administer the fund.

ARTICLE IX: IMPLEMENTATION EVALUATION AND ENFORCEMENT

§ 9.43 SEVERABILITY.

If any section, subsection, paragraph, sentence or clause of this chapter is held to be unconstitutional, the remaining portions ~~shall~~ will remain valid and in force. The City Council hereby declares that it would have passed each section, subsection, sentence, paragraph, and clause despite the finding of unconstitutionality of one or more of the sections, subsections, paragraphs, sentences, or clauses.

§ 9.44 PENALTY.

Violation of any provision of this chapter ~~shall~~ will be a misdemeanor. Civil penalties may also be issued pursuant to § 12.15 of the city charter and § 1.19 of this city code. However, nothing in this ordinance ~~shall~~ will be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

Passed and adopted this 18th day of March, 2024.

/s/ Tim Busse
Mayor

ATTEST:

/s/ Safaa Mercer
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied
City Attorney