

**AN ORDINANCE BY CARLA SMITH, CLETA WINSLOW, JOYCE SHEPERD, MICHAEL JULIAN BOND, MATT WESTMORELAND, AND ANDRE DICKENS**

**AN ORDINANCE TO AMEND CITY OF ATLANTA CODE OF ORDINANCES, PART III (LAND DEVELOPMENT CODE), PART 16 (ZONING), CHAPTER 36A (AFFORDABLE WORKFORCE HOUSING - BELTLINE OVERLAY), SECTION 16-36A.001 (SCOPE OF REGULATIONS); SECTION 16-36A.002 (FINDINGS AND STATEMENTS OF INTENT); SECTION 16-36A.003 (DEFINITIONS); AND SECTION 16-36A.004 (ON-SITE AFFORDABILITY REQUIREMENT); AND FOR OTHER PURPOSES.**

**WHEREAS**, Atlanta is facing an affordable housing crisis; and

**WHEREAS**, the greatest unmet need for affordable housing in the City of Atlanta is housing affordable at zero to thirty percent of the Area Median Income (AMI); and

**WHEREAS**, in 2017, the City of Atlanta adopted two inclusionary zoning (IZ) ordinances for the Beltline Overlay District and the Westside Affordable Workforce Housing Overlay District, both which require affordable housing units in new multi-family housing developments; and

**WHEREAS**, those two existing ordinances provide for two options for developers to comply with the affordability requirements: one at 80 percent of the AMI, and one at 60 percent of the AMI; and

**WHEREAS**, earlier this year, the City of Atlanta adopted a new IZ ordinance for the Westside Park Overlay, which included a new compliance option at 30 percent AMI and a requirement for affordable units to be included in new projects containing ten or more residential homes for homeownership; and

**WHEREAS**, the City of Atlanta wishes to provide these three compliance options, and the same new requirements pertaining to new developments of residential homes for homeownership, for the Beltline Overlay going forward,

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA**, as follows:

**SECTION 1:** That Atlanta Code of Ordinances Part III (Land Development Code), Part 16 (Zoning) Chapter 36A (Affordable Workforce Housing - Beltline Overlay), Section 16-36A.001 (Scope of Regulations), which currently reads as follows:

“The provisions of this chapter shall apply to all residential rental developments of ten or more new residential rental dwelling units in the BeltLine Overlay District as defined by Section 16-36.001, et seq.

Whenever the following regulations are at variance with historic district regulations of Part 16, Chapter 20, the more stringent regulations shall apply whereas not to impact designated historic structures or buildings.”

is hereby amended to read as follows:

“The provisions of this chapter shall apply to all developments of ten or more new residential rental dwelling units and/or ten or more residential for sale dwelling units in the BeltLine Overlay District as defined by Section 16-36.001, et seq.

Whenever the following regulations are at variance with historic district regulations of Part 16, Chapter 20, the more stringent regulations shall apply whereas not to impact designated historic structures or buildings.”

**SECTION 2:** That Atlanta Code of Ordinances Part III (Land Development Code), Part 16 (Zoning) Chapter 36A (Affordable Workforce Housing - Beltline Overlay), Section 16-36A.002 (Findings and Statement of Intent), which currently reads as follows:

“Providing a range of affordable housing choices for working persons in the BeltLine Overlay District is a difficult but vital objective. Housing shortages for persons of various income levels are detrimental to the public health, safety and welfare, causing detrimental transportation, environmental, business and social consequences. The purpose of this chapter is to increase the availability of housing choices for individuals and families earning at or below eighty percent (80%) of the area median income ("AMI") or at or below sixty percent (60%) of AMI as calculated and published annually by the U.S. Department of Housing and Urban Development ("HUD") for the Atlanta - Sandy Springs - Marietta metropolitan area.

Therefore, policies to promote these objectives will serve to:

1. Implement the goals, policies, and objectives contained in the City's Comprehensive Development Plan;
2. Ensure diverse housing options continue to be available for persons and/or households at or below AMI;
3. Maintain a balanced community by encouraging the finite supply of developable land to provide housing opportunities appropriate to meet various needs and income levels;
4. Ensure the availability of housing with better access to jobs in the city and thereby promoting household economic mobility through increased access to MARTA and other public transit;
5. Improve the opportunity for working people to elevate their economic status;
6. Encourage the construction of affordable workforce housing by offering zoning incentives for the provision of affordable workforce housing as a portion of residential development to address both existing and anticipated future housing needs in the BeltLine Overlay District;

7. Afford developers of residential development the flexibility to meet the broad objectives of the City's policies to assist in providing a percentage of affordable workforce housing units as a portion of development; and

8. Provide opportunities to have on-site, privately produced, owned and managed, long-term affordable units.”

is hereby amended to read as follows:

“Providing a range of affordable housing choices for working persons in the BeltLine Overlay District is a difficult but vital objective. Housing shortages for persons of various income levels are detrimental to the public health, safety and welfare, causing detrimental transportation, environmental, business and social consequences. The purpose of this chapter is to increase the availability of housing choices for individuals and families earning at or below eighty percent (80%) of the area median income ("AMI"), at or below sixty percent (60%) of AMI, and at or below thirty percent (30%) of AMI, as well as at or below 120 percent (120%) AMI for homeownership opportunities specifically, as calculated and published annually by the U.S. Department of Housing and Urban Development ("HUD") for the Atlanta - Sandy Springs - Marietta metropolitan area.

Therefore, policies to promote these objectives will serve to:

1. Implement the goals, policies, and objectives contained in the City's Comprehensive Development Plan;
2. Ensure diverse housing options continue to be available for persons and/or households at or below AMI;
3. Maintain a balanced community by encouraging the finite supply of developable land to provide housing opportunities appropriate to meet various needs and income levels;

4. Ensure the availability of housing with better access to jobs in the city and thereby promoting household economic mobility through increased access to MARTA and other public transit;
5. Improve the opportunity for working people to elevate their economic status;
6. Encourage the construction of affordable workforce housing by offering zoning incentives for the provision of affordable workforce housing as a portion of residential development to address both existing and anticipated future housing needs in the BeltLine Overlay District;
7. Afford developers of residential development the flexibility to meet the broad objectives of the City's policies to assist in providing a percentage of affordable workforce housing units as a portion of development; and
8. Provide opportunities to have on-site, privately produced, owned and managed, long-term affordable units.”

**SECTION 3:** That Atlanta Code of Ordinances Part III (Land Development Code), Part 16 (Zoning) Chapter 36A (Affordable Workforce Housing - Beltline Overlay), Section 16-36A.003 (Definitions), which currently reads as follows:

“As used in this chapter, unless specifically stated otherwise, the following terms shall have the meanings set forth below:

1. *Actively marketed:* Applicant shall coordinate with the City of Atlanta Office of Housing and Community Development to locate and place Workforce Residents in available affordable workforce housing units. If Applicant coordinates in writing and in a commercially reasonable manner with the City of Atlanta Office of Housing and Community Development for a period of 60 days with respect to any affordable workforce housing unit from the completion of such units or the vacation of any such unit by any Workforce Resident, and despite such coordination, such unit has not been leased to Workforce Resident then such units

shall be counted towards the affordable workforce housing unit requirement if so certified by the City of Atlanta Office of Housing and Community Development.

2. *Affordable workforce housing unit(s)*: A residential rental unit in the BeltLine Overlay District that complies with the affordability requirement in section 16-36A.004.

3. *Applicant*: Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities or affiliated entities and any transferee of all or part of the real property at one location, which after this chapter takes effect develops a total of ten or more new residential rental dwelling units at one location in the BeltLine Overlay District.

4. *At one location*: All real property of the Applicant in the BeltLine Overlay District if:

a. Such properties are contiguous at any point;

b. Such properties are separated only by a public or private right-of-way or utility corridor right-of-way, at any point; or

c. Such properties are separated only by other real property of the Applicant which is not subject to this chapter at the time of any building permit, site plan, and development or subdivision application by the Applicant.

5. *LURA*: A Land Use Restrictive Agreement between the City and the Applicant that shall encumber property in a manner that will require the development and active marketing of a percentage of units as affordable workforce housing units.

6. *Market rate unit(s)*: A residential rental unit that is not an affordable workforce housing unit.

7. *Workforce Resident*: The person or persons occupying an affordable workforce housing unit earning in the aggregate no more than 80 percent of AMI for the Atlanta-Sandy Springs-Marietta area, as published by HUD or no more than 60 percent of AMI depending on the applicable affordability requirement below. The published income limits will be adjusted by household size. The income limits and rent limits will be adjusted annually according to the HUD published limits.”

is hereby amended to read as follows:

“As used in this chapter, unless specifically stated otherwise, the following terms shall have the meanings set forth below:

1. *Actively marketed*:

(a) Rental units. Applicant shall coordinate with the City of Atlanta Office of Housing and Community Development to locate and place Workforce Residents in available affordable workforce housing units. If Applicant coordinates in writing and in a commercially reasonable manner with the City of Atlanta Office of Housing and Community Development for a period of 60 days with respect to any affordable workforce housing unit from the completion of such units or the vacation of any such unit by any Workforce Resident, and despite such coordination, such unit has not been leased to Workforce Resident then such units shall be counted towards the affordable workforce housing unit requirement if so certified by the City of Atlanta Office of Housing and Community Development.

(b) Home Ownership Units. Applicant shall exercise its best efforts, in coordination with the City of Atlanta Office of Housing and Community Development, for a period of six months following the issuance of the Certificate of Occupancy, to market the units at the levels set forth in Sec. 16-36A.004(b) to a qualified administrator as defined in this chapter, unless no qualified administrator can be identified, in which case the Applicant may market to income-qualified buyers at the levels set forth in Sec. 16-36A.004(b), and provide documentation for approval by the City of Atlanta Office of Housing and Community Development of the proposed buyer’s income eligibility prior to the closing.

Upon the expiration date of the six-month period, the developer will have a right to sell any remaining units at a market price provided the developer has provided 1) notice to the City of Atlanta Office of Housing and Community Development of the intent to sell Workforce Owner Housing units at market rate, and 2) documentation to support the failure to sell the Workforce Owner Housing units as evidenced by sales offers declined by the developer and/or buyer's requests to terminate sales contracts at the Workforce Housing Maximum prices, or any other documentation satisfactory to the City of Atlanta Office of Housing and Community Development. In the event the developer obtains the right from the City of Atlanta's Office of Housing and Community Development to sell a unit at a market price pursuant to this section, any obligation to the City of Atlanta created by a land use restrictive agreement with respect that particular unit shall be deemed to be extinguished.

2. *Affordable workforce housing unit(s)*: A residential rental or for-sale unit in the BeltLine Overlay District that complies with the affordability requirement in section 16-36A.004.

3. *Applicant*: Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities or affiliated entities and any transferee of all or part of the real property at one location, which after this chapter takes effect develops a total of ten or more new residential rental or for-sale dwelling units at one location in the BeltLine Overlay District.

4. *At one location*: All real property of the Applicant in the BeltLine Overlay District if:

a. Such properties are contiguous at any point;

b. Such properties are separated only by a public or private right-of-way or utility corridor right-of-way, at any point; or



c. Such properties are separated only by other real property of the Applicant which is not subject to this chapter at the time of any building permit, site plan, and development or subdivision application by the Applicant.

5. *LURA*: A Land Use Restrictive Agreement between the City and the Applicant that shall encumber property in a manner that will require the development and active marketing of a percentage of units as affordable workforce housing units.

6. *Land Use Declaration*: A Land Use Restrictive Covenant that shall encumber property in a manner that will require the development and active marketing of a percentage of homeownership units as affordable workforce housing units.

7. *Market rate unit(s)*: A residential rental or for-sale unit that is not an affordable workforce housing unit.

8. *Qualified administrator*: an organization identified by the City of Atlanta Office of Housing and Community Development demonstrating the necessary capacity to provide long term stewardship of affordable homeownership units by identifying purchasers that meet income requirements, and administering ongoing compliance.

9. *Workforce Resident*: The person or persons occupying an affordable workforce housing unit earning in the aggregate no more than 80 percent of AMI for the Atlanta-Sandy Springs-Marietta area, as published by HUD, no more than 60 percent of AMI, or no more than 30 percent of AMI; or no more than 120 percent of AMI specifically for homeownership, depending on the applicable affordability requirement below. The published income limits will be adjusted by household size. The income limits and rent limits will be adjusted annually according to the HUD published limits.”

**SECTION 4:** That Atlanta Code of Ordinances Part III (Land Development Code), Part 16 (Zoning) Chapter 36A (Affordable Workforce Housing - Beltline Overlay),

Section 16-36A.004 (On-Site Affordability Requirement), which currently reads as follows:

“All improvement of real property in the BeltLine Overlay District, regardless of the number of parcels, upon which ten or more new residential rental dwelling units will be constructed at one location, shall comply with the applicable affordability requirement set forth below. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit. The affordable workforce housing units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units, and shall not be in isolated areas in the development, but shall be interspersed among market rate units. The number of bedrooms in the Affordable Workforce Housing Units (e.g. 1 bedroom, 2 bedroom, 3 bedroom) shall be proportionate to the number of bedrooms in the market rate units.

- (1) At least 15 percent of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 80 percent AMI for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall be no more than 30 percent of the household's monthly gross income as published periodically by HUD; or
- (2) At least ten percent of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60 percent of the AMI for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent

Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall be no more than 30 percent of the household's monthly gross income as published periodically by HUD.

Units actively marketed for lease in accordance with the terms of the LURA shall be considered to be in compliance with the requirements of this Chapter 36A.”

is now amended to read as follows:

“(a) Rental Units. All improvement of real property in the BeltLine Overlay District, regardless of the number of parcels, upon which ten or more new residential rental dwelling units will be constructed at one location, shall comply with the applicable affordability requirement set forth below. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit. The affordable workforce housing units shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units, and shall not be in isolated areas in the development, but shall be interspersed among market rate units. The number of bedrooms in the Affordable Workforce Housing Units (e.g. 1 bedroom, 2 bedroom, 3 bedroom) shall be proportionate to the number of bedrooms in the market rate units.

- (1) At least 15 percent of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 80 percent AMI for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall be no more than 30 percent of the household's monthly gross income as published periodically by HUD; or

(2) At least ten percent of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60 percent of the AMI for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall be no more than 30 percent of the household's monthly gross income as published periodically by HUD; or

(3) At least five percent of the total residential units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 30 percent of the AMI for the family size having the same number of persons as the subject household for the Atlanta-Sandy Springs-Marietta, Georgia HUD Metro Fair Market Rent Area (as published by HUD as of the date of the tenant's application). The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall be no more than 30 percent of the household's monthly gross income as published periodically by HUD.

Units actively marketed for lease in accordance with the terms of the LURA shall be considered to be in compliance with the requirements of this Chapter 36A.

(b) Homeownership units. All improvement of real property in the Beltline Overlay District, regardless of the number of parcels, upon which ten or more new residential homeownership dwelling units will be constructed at one location, shall comply with the applicable affordability requirement set forth below. The affordability requirement shall apply for the greater of 20 years from the date of the issuance of the certificate of occupancy; or such longer period from the date of the issuance of the certificate of occupancy, as permitted by state law at the time of the issuance of the building permit. The affordable workforce housing units

shall be substantially similar in construction and appearance (e.g., square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market rate units, and shall not be in isolated areas in the development, but shall be interspersed among market rate units. The number of bedrooms in the Affordable Workforce Home Ownership Units (e.g. 1 bedroom, 2 bedroom, 3 bedroom, 4 bedroom or greater) shall be proportionate to the number of bedrooms in the market rate units.

1. The developer will ensure that at least 10 percent of the total dwelling units shall be made available for sale to qualified administrators as defined in this section, or, in the event no qualified administrator can be identified, to households having an income as certified by the buyer or buyer's lender and verified by the City of Atlanta Office of Housing and Community Development that does not exceed either 80 percent of AMI or 120 percent of AMI, as applicable, adjusted for household size, for the Atlanta-Sandy SpringsMarietta Metropolitan Statistical Area published annually by the United States' Department of Housing and Urban Development ("HUD AMI"). The maximum sales price cannot exceed the Workforce Owner Housing Maximums established by the City of Atlanta Office of Housing and Community Development (based on 80 percent and 120 percent of the HUD AMI, respectively), adjusted by household size. The percentage of units at 80 percent of AMI and the percentage of units at 120 percent of AMI shall be equal. In the event there is an odd number of required Affordable Workforce Home Ownership Units, the developer may choose whether the last unit will be at either 80 percent of AMI or at 120 percent of AMI.

2. In the event the unit is sold to an income-qualified buyer and not a qualified administrator, the developer will ensure that the Affordable Workforce Home Ownership Units sold in accordance with this section shall be deed restricted such that only households having an income as certified by the buyer or buyer's lender and verified by the City of Atlanta Office of Housing and Community Development that does not exceed either 80 percent of AMI or 120 percent of AMI, as applicable, adjusted for household size, for the Atlanta-Sandy Springs-Marietta Metropolitan Statistical Area published annually by the United States' Department of Housing and Urban Development ("HUD AMI"), may

purchase the unit. The deed restriction shall also indicate the original AMI designation for the unit and establish that the maximum sales price cannot exceed the updated Workforce Owner Housing Maximums for the original AMI designation at the time of the sale as established by the City of Atlanta Office of Housing and Community Development (based on 80 percent and 120 percent of the HUD AMI, respectively), adjusted by household size.

Units actively marketed for lease in accordance with the terms of the LURA shall be considered to be in compliance with the requirements of this Chapter 36A.”

**SECTION 5:** Except as otherwise provided, the provisions of this ordinance are effective as of the date of adoption of this legislation.

**SECTION 6:** That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.