



City Of Richmond, Virginia


Office of the City Clerk

Request to Withdraw Legislation

Paper Number: Ord. 2022-191

Chief Patron: Mayor Levar Stoney

Introduction Date: June 13, 2022

Chief Patron Signature:  02/08/2024

For Office Use Only

Attestation: _____

Effective Date: February 9, 2024

INTRODUCED: June 13, 2022

AN ORDINANCE No. 2022-191

To repeal ch. 16, art. II (§§ 16-19—16-31) of the City Code; to amend ch. 30, art. VI, div. 10.1 by adding therein a new section 30-691.1:1, concerning definitions for the Affordable Dwelling Unit Density Program; and to amend City Code §§ 30-691, 30-691.1, 30-691.2, 30-691.3, 30-691.4, 30-691.6, 30-691.7, 30-691.8, 30-691.9, 30-691.11, for the purpose of revising the Affordable Housing Dwelling Unit Density Program as authorized by Va. Code § 15.2-2305.1.

Patron – Mayor Stoney

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: JUL 25 2022 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That Chapter 16, Article II of the Code of the City of Richmond (2020), consisting of sections numbered 16-19 through 16-31, be and are hereby **repealed** as follows:

~~[ARTICLE II.~~

~~AFFORDABLE DWELLING UNIT PROGRAM~~

~~ADMINISTRATIVE PROVISIONS~~

AYES: _____ NOES: _____ ABSTAIN: _____

ADOPTED: _____ REJECTED: _____ STRICKEN: _____

~~Sec. 16-19. Purpose and intent.~~

~~Pursuant to the provisions of Code of Virginia, § 15.2-2305 and in furtherance of the purpose of providing affordable shelter for all residents of the City, the intent of this article is to provide for a voluntary affordable dwelling unit program that addresses housing needs, promotes a full range of housing choices, and encourages the construction and continued existence of housing affordable to low and moderate income citizens. The provisions of this article are intended to be applied in accordance with affordable dwelling unit program zoning regulations adopted by the City Council and set forth in Chapter 30.~~

~~Sec. 16-20. Definitions.~~

~~For the purposes of this article, certain words and terms used herein shall be interpreted as set forth in this section, unless otherwise specifically prescribed elsewhere in this article. Words and terms not defined herein shall be interpreted in accordance with such normal dictionary meaning or customary usage as is appropriate to the context or, in the case of words or terms defined in Chapter 30, shall be interpreted in accordance with such definition contained therein.~~

~~*Affordable dwelling unit* means a dwelling unit for which the rental or sales price is limited pursuant to the provisions contained in this article and the provisions of Chapter 30, Article VI, Division 10.1.~~

~~*Affordable dwelling unit for rent* means a dwelling unit that is affordable for rental by households whose income is no more than 60 percent of the area median income in the Richmond-Petersburg Metropolitan Statistical Area, except as such percentage of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in this article.~~

~~*Affordable dwelling unit for sale or affordable dwelling unit for purchase* means a dwelling unit that is affordable for purchase by households whose income is no more than 80 percent of the area median income in the Richmond-Petersburg Metropolitan Statistical Area, except as such percentage of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in this article.~~

~~*Affordable dwelling unit plan* means the detailed method for implementing an affordable dwelling unit program on a particular site as submitted by the applicant.~~

~~*Affordable dwelling unit program* means the process as set forth in this article and in Article VI of Chapter 30 by which increases in development density and other incentives are afforded the developer of a site in exchange for the voluntary provision of affordable dwelling units on the site.~~

~~*Applicant* means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or any transferee of all or part of the land at one location, or, when appropriate to the context, shall mean the owner or person or entity responsible for development of the affordable dwelling unit project.~~

~~*Area median income* means the median income determined annually for the Richmond-Petersburg Metropolitan Statistical Area by the United States Department of Housing and Urban Development.~~

~~*Designee* means any person or any agency of the City or any nonprofit entity or other entity designated by resolution of the City Council to administer certain specified aspects of the affordable dwelling unit program pertaining to the sale and rental and selection and qualification of households for occupancy of affordable dwelling units.~~

~~*Director*, except as otherwise indicated, means the Director of Planning and Development Review of the City.~~

~~*Dwelling unit* means a room or group of rooms within a building constituting a separate and independent unit occupied or intended for occupancy by one family and containing one kitchen and provisions for living, sleeping, eating and sanitation, all of which are generally accessible to all occupants of the unit, and which is not available for occupancy for periods of less than one month.~~

~~*Dwelling unit type* means any of the dwelling uses defined in Article XII of Chapter 30, and including the number of bedrooms contained therein.~~

~~*Economic loss for sales units* means the result when the owner or applicant of a development fails to recoup the cost of construction and certain allowances as may be determined by the designee for the affordable dwelling units, exclusive of the cost of land acquisition and cost voluntarily incurred but not authorized by this article, upon the sale of an affordable dwelling unit.~~

~~*Eligible household* means a person or household whose income qualifies the person or household to participate in the affordable dwelling unit program, and who holds a valid certificate of qualification, which may entitle the person or household to buy an affordable dwelling unit during a 90-day period specified by the certificate or to rent an affordable dwelling unit.~~

~~*Owner* means the fee simple owner of a property containing rental dwelling units.~~

~~*Program administrator* means the City employee appointed by the Director of Planning and Development Review to administer the provisions of this article for the City.~~

Sec. 16-21. — Standards for affordable dwelling units.

~~Affordable dwelling units shall include fixtures, finishes, amenities and quality of construction corresponding to the fixtures, finishes, amenities and quality of construction included in market rate dwelling units of the same dwelling unit type on the site, while taking into account the purpose of the affordable dwelling unit program of providing affordable shelter.~~

Sec. 16-22. — ~~Program administration.~~

~~(a) — *Administrator.* The Director is hereby designated by the City Council to implement the affordable dwelling unit program. Such program shall be administered by the affordable dwelling unit program administrator who shall be appointed by the Director.~~

~~(b) — *Establishment of rules and regulations.* The Director shall be authorized to establish reasonable rules and administrative regulations for the administration of the affordable dwelling unit program consistent with the provisions of this Code and general law.~~

Sec. 16-23. — ~~Program approval process.~~

~~Participation in the affordable dwelling unit program shall require approval of an affordable dwelling unit plan for the site by the program administrator in accordance with the provisions of this section.~~

~~(1) — *Affordable dwelling unit plan submission requirements.* The applicant shall submit the following plans and information to the program administrator:~~

~~a. — A copy of the proposed plan of development for the site.~~

~~b. — A copy of plans submitted with the building permit application, or to be submitted with the building permit application if such application has not yet been made.~~

~~c. — Such plans, specifications and other written or graphic information as necessary for the program administrator to determine compliance with the requirements of this article.~~

~~d. — The estimated cost of construction of each affordable dwelling unit, including the pro rata share of physical site improvement costs for each such unit, but not including the cost of land acquisition.~~

~~e. — The estimated pricing of the affordable dwelling units, which may take into account standard underwriting criteria and costs of occupancy, such as condominium and homeowners' association fees and utility costs in conformance with Code of Virginia, § 15.2-2305. Final pricing shall be determined by the designee at the time a contract of sale or lease is executed.~~

~~f. — Income levels of households intended to qualify for occupancy of the affordable dwelling units.~~

~~g. — Appropriate covenants or agreements shall be prepared by the owner or applicant's attorney and approved as to form by the City Attorney that bind the owner or applicant to the requirements of the affordable dwelling unit program.~~

~~(2) — *Action by program administrator.* The program administrator shall review the affordable dwelling unit plan and approve, approve with conditions, or disapprove the plan. The action of the program administrator shall be set forth in writing and shall be provided to the applicant, the Zoning Administrator and the designee.~~

~~(3) — *Approval of plan of development.* No plan of development required by Chapter 30 for a site intended to qualify for the affordable dwelling unit program shall be approved by the Director unless and until the program administrator has provided written certification to the Director that the affordable dwelling unit program criteria set forth in this article are satisfied and that the affordable dwelling unit plan for the site has been approved by the program administrator.~~

~~Sec. 16-24. — Program adjustments.~~

~~(a) — *Authority of City Council.* The City Council may adjust the program requirements establishing the income levels of households intended to qualify for occupancy of affordable dwelling units as they apply to affordable dwelling units in a particular development to the extent~~

~~deemed necessary by the City Council to avoid potential economic loss on the part of the owner or applicant as a result of providing such affordable dwelling units. In such case, determination of potential economic loss shall be made by the City Council.~~

~~(b) — *Authority of City Council's designee.* The designee shall have the authority to adjust any of the following program requirements as they apply to affordable dwelling units in a particular development to the extent deemed necessary by the designee to avoid potential economic loss on the part of the owner or applicant as a result of providing such affordable dwelling units:~~

~~(1) — The standards for affordable dwelling units set forth in Section 16-21.~~

~~(2) — The criteria for physical compatibility and dwelling unit sizes. In such case, determination of potential economic loss shall be made by the designee with the concurrence of the Director of Finance.~~

~~(c) — *Request for adjustment.* A request for adjustment of program requirements shall be submitted in writing to the designee by the owner or applicant, and may be submitted at any time after approval of the affordable dwelling unit plan. Such request shall specify the basis on which the adjustment is requested, the justification for the adjustment, including a detailed explanation of the extent and cause of the potential economic loss alleged by the owner or applicant, a description of the adjustment sought, and such additional information as deemed necessary by the designee to satisfy the requirements of this section or to enable a decision on the request to be rendered. In the case of a request for adjustment to be made by the City Council, the designee shall forward such request to the Council.~~

~~(d) — *Action on request for adjustment.* Upon receipt of a request for adjustment of program requirements containing all of the information required by this section, the City Council, in the case of a request for adjustment of household income levels, or the designee, as the case~~

~~may be, shall review the request and approve, approve with modifications, or disapprove the request. Such action shall be set forth in writing and shall be provided to the owner or applicant, the program administrator and the designee.~~

~~(e) — *Findings.* Adjustment of program requirements may be approved by the City Council or the designee only after demonstration by the owner or applicant and findings by the City Council or the designee, as the case may be, as to all of the following:~~

~~(1) — The adjustment is necessary in order to avoid potential economic loss on the part of the owner or applicant as a result of providing the affordable dwelling unit or units, and is the minimum departure from the program requirements that will avoid such potential economic loss.~~

~~(2) — Each program requirement to be adjusted is the most appropriate of the adjustments authorized by this section in consideration of the dwelling unit type involved, the character of the development and the surrounding neighborhood and the extent of the potential economic loss.~~

~~(3) — The adjustment will not be contrary to the purpose and intent of this Code or general law.~~

~~Sec. 16-25. — Notice of availability for sales or rental.~~

~~(a) — *Notice required.* Before the issuance of certificates of use and occupancy for any or all of the affordable dwelling units in a project, and at any time after the issuance of building permits for the affordable dwelling units that are being offered, the applicant shall submit to the program administrator a completed notice of availability for sales or rental advising that the unit or units are or will be completed and available for sale or rental at a specified date, and that all affordable dwelling unit program criteria have been met, including the approval of final unit~~

~~specifications and final prices or rents and that all required documents, such as plats, plan of development, building permits and covenants controlling the sale and rental of affordable dwelling units, have been approved or recorded as required.~~

~~(b) — *Form and content.* The notice of availability for sales or rental shall be in the form prescribed by the program administrator and shall include specific identification of the affordable dwelling unit or units being offered, the number of bedrooms, floor area, amenities and sales price or rent of each such unit and shall include evidence of the issuance of a building permit for each affordable dwelling unit being offered.~~

~~(c) — *Acceptance.* Acceptance and approval of such notice by the program administrator, which the program administrator shall forward in writing to the Commissioner of Buildings, shall serve as authorization for issuance of certificates of use and occupancy for the affordable dwelling unit or units. Upon acceptance of such notice, the program administrator shall provide a copy thereof to the designee for purposes of identifying households eligible to purchase or rent the unit or units involved.~~

~~Sec. 16-26. — Administration of sale and rental of affordable dwelling units.~~

~~(a) — *Generally.* The provisions of this article regarding the sale and rental of affordable dwelling units and the qualification and selection of households for occupancy of affordable dwelling units shall be administered by the City Council's designee. The designee may be any person or any agency of the City or any nonprofit entity or other entity having pertinent knowledge and experience.~~

~~(b) — *Rules and standards.* The Director shall establish reasonable rules and standards that shall be followed by the designee in the administration of the sale, resale, rental and re-rental of affordable dwelling units and in the selection and qualification of households for occupancy of~~

~~affordable dwelling units. Such rules and standards may include giving eligibility priority to persons who live or work in the City or requiring that purchasers be first time homebuyers, or both. Such rules and standards shall include, but are not limited to, the following:~~

~~(1) — Standards for determining eligibility to purchase or rent affordable dwelling units.~~

~~(2) — The method of selecting eligible households.~~

~~(3) — Standards for determining sale and rental prices by the designee for affordable dwelling units in conformance with applicable provisions of Code of Virginia, § 15.2-2305.~~

~~Sec. 16-27. Eligibility and selection of eligible households to purchase or rent affordable dwelling units.~~

~~(a) *Determination of eligibility.* Eligible households proposing to purchase or rent affordable dwelling units shall make application to the designee for determination of eligibility. In making such determination, the designee shall adhere to the rules and standards established by the Director. The owner of a development containing affordable dwelling units or any other person involved in the sale, rental or re-rental of affordable dwelling units in a development may refer households to the designee for determination of eligibility.~~

~~(b) — *Certificate of qualification.* A household determined to be eligible to purchase or rent an affordable dwelling unit shall obtain a certificate of qualification from the designee, a copy of which shall be provided by the designee to the program administrator. Before issuing a certificate of qualification, the designee shall verify that all applicable eligibility rules and standards are met. It shall be a violation of this article for any person to sell or rent an affordable dwelling unit to a household that has not been issued a current certificate of qualification by the designee.~~

~~(c) — *Selection of eligible households.* Upon receiving a notice of availability for sales or rental from the program administrator, the designee shall select the eligible household or households for purchase or rental of the unit or units involved in accordance with the criteria contained in the approved affordable dwelling unit plan for the site and consistent with the method of selecting eligible households established by the Director. The names of selected eligible households shall be reported to the program administrator.~~

~~(d) — *Underwriting criteria.* The designee shall use standard underwriting criteria in determining that eligible households are qualified to purchase or rent affordable dwelling units.~~

~~(1) — In the case of purchase, the underwriting criteria shall include an expectation that the purchase will be financed with a conventional 30-year mortgage at prevailing interest rates for borrowers with good credit, that a maximum down payment of five percent will be made by the purchaser, and that condominium and homeowners' association fees will be included in determining mortgage affordability.~~

~~(2) — In the case of rental, qualification shall be determined based on a review of credit worthiness and the assumption that monthly rental payments should not exceed 35 percent of a household's gross income.~~

Sec. 16-28. — Occupancy of affordable dwelling units.

~~(a) — *Affidavit of domicile by purchasers of units.* Eligible household purchasers of individual affordable dwelling units shall occupy such units as their domicile, and shall provide an executed affidavit in a form prescribed and provided by the designee certifying their continuing occupancy of such units. Purchasers shall submit such affidavit to the designee on or before July 1 of each year that they own and occupy the unit. The designee shall provide a copy of the affidavit to the program administrator.~~

~~(b) — *Notice of re-sale by purchasers of units.* When an affordable dwelling unit may be offered for re-sale, the owner shall provide the program administrator with written notification that the affordable dwelling unit is being offered for sale, and no contract for sale shall be entered into until such notification is provided. The seller shall provide the program administrator with written notification upon the closing of the re-sale of such unit.~~

~~(c) — *Affidavit of domicile by renters of units.* Every lease for an affordable dwelling unit shall contain a provision that renters of affordable dwelling units shall occupy such units as their domicile, and shall provide an executed affidavit in a form prescribed and provided by the designee certifying their continuing occupancy of such units. Renters of affordable dwelling units shall submit such affidavit to the owner of the property on an annual basis at least 90 days prior to expiration of the lease. Copies of the affidavit shall be provided by the owner to the program administrator and the designee.~~

~~(1) — Such affidavit shall include a statement of the renter's annual household income as of the date of the affidavit, together with such other information as may be requested by the owner for the purpose of verifying that the renter continues to meet applicable income eligibility criteria.~~

~~(2) — Every lease of an affordable dwelling unit shall contain a provision that if the renter of an affordable dwelling unit fails to provide such affidavit to the owner within 30 days after the required date, or if the renter's income makes them ineligible for the program, then it is a material breach of the lease and notice shall be served on the tenant as provided in Code of Virginia, § 55-248.31 advising that the rental agreement shall terminate for noncompliance. With prior approval by the program administrator, the owner may provide for substitution of an affordable dwelling unit by designating an additional~~

~~comparable unit of the same dwelling unit type on the site as an affordable dwelling unit to be rented under the provision and requirements of this article, in which case such renter may continue to occupy the unit at the market rent under a new lease.~~

~~(d) — *Failure of renter to occupy a rental unit.* Every lease of an affordable dwelling unit shall contain a provision that the tenant must give notice to the owner of an anticipated extended absence in excess of 60 consecutive days. Unless such absence is approved in writing by the designee, the owner may proceed in conformance with Code of Virginia, § 55-248.33.~~

~~(e) — *Re-rental of affordable dwelling units in case of vacancy.* The owner shall notify the designee of any vacancy of a rental affordable dwelling unit. The designee shall select an eligible household for re-rental of the unit in accordance with the provisions of Section 16-26 and shall notify the owner and the program administrator of such selection.~~

~~(f) — *Renting to non-eligible household constitutes violation.* Except as provided in subsection (e)(2) of this section, it shall be a violation of this article for any person to knowingly rent or continue to rent an affordable dwelling unit to a household that does not meet or does not continue to meet applicable income eligibility criteria.~~

~~(g) — *Required lease provisions for rental units.* Rental affordable dwelling units shall be leased for a period of not less than six months and not more than one year. In addition to any other requirements developed by the program administrator and the requirements specifically set forth in this article, lease agreements for such units shall also include a prohibition against the tenant subleasing the unit.~~

Sec. 16-29. — Price limitations.

~~(a) — *Price limitation for affordable dwelling units for purchase.* In the case of an affordable dwelling unit for purchase, only the price of the initial sale of such unit to an owner-~~

~~occupant household shall be limited by the provisions of this article, and the price of any subsequent resale of such unit shall not be limited.~~

~~(b) — *Price limitation period for affordable dwelling units for rental.* In the case of an affordable dwelling unit for rental, the rental price shall be limited in accordance with the provisions of this article and the applicable rules and standards for a period of 50 years after the initial rental transaction for such unit.~~

~~Sec. 16-30. — Required covenants.~~

~~(a) — *Covenants applicable to affordable dwelling units for purchase.* In developments containing affordable dwelling units for purchase, affordable dwelling unit program covenants applicable to the affordable dwelling units shall be recorded by the applicant after approval by the program administrator as to terms and the City Attorney as to legal form. The covenants shall be recorded in the land records of Richmond Circuit Court. Such covenants shall expressly provide for all of the following:~~

~~(1) — The units are subject to the provisions of the affordable dwelling unit program as set forth in this article.~~

~~(2) — The units are subject to the requirements set forth in Section 16-28 regarding owner occupancy, affidavit of domicile and notice of re-sale.~~

~~(3) — In the event of foreclosure by an eligible lender, the owner shall give written notice to the program administrator at least 30 days prior thereto.~~

~~(b) — *Covenants applicable to affordable dwelling units for rental.* In the case of a development containing affordable dwelling units for rental, and prior to submission of the notice of availability and rental offering agreement, affordable dwelling unit program covenants applicable to the entire development shall be recorded in the land records of the Circuit Court of~~

~~the City of Richmond. Such covenants shall be approved as to terms by the program administrator and approved as to legal form by the City Attorney or his designee. Such covenants shall expressly provide for all of the following:~~

~~(1) — The development is subject to the provisions of the affordable dwelling unit program as set forth in this article.~~

~~(2) — Identification of the particular dwelling units designated as affordable dwelling units and the means of enabling substitution of units as set forth in Section 16-28.~~

~~(3) — For a period of 50 years after the date of the initial rental transaction for an affordable dwelling unit, such unit shall not be rented for an amount that exceeds the limitations established pursuant to the provisions of this article, which date shall subsequently be specified in the covenant.~~

~~(4) — The covenants shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.~~

~~(5) — In the event of foreclosure by an eligible lender, the owner shall give written notice to the program administrator at least 30 days prior thereto.~~

~~Sec. 16-31. — Violations and penalties.~~

~~It shall be unlawful for any person to violate any section of this article. Any such violation shall be a misdemeanor punishable by a fine of up to \$2,500.00.]~~

§ 2. That Chapter 30, Article VI, Division 10.1 of the Code of the City of Richmond (2020) be and is hereby amended by adding therein a new section numbered 30-691.1:1 as follows:

Sec. 30-691.1:1. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates that a different meaning is intended.

Affordable means housing for which the rental or sales price is limited pursuant to the provisions contained in this division, provided that the occupying household pays no more than 30 percent of its gross income for gross housing costs, including utilities.

Affordable dwelling unit means any dwelling unit that is affordable for low-income households and any dwelling unit that is affordable for very-low-income households.

Affordable dwelling unit plan means the contents of a program application the Program Administrator has deemed complete in accordance with Section 30-691.11(b)(1) below.

Affordable dwelling unit program means the affordable housing initiative and associated regulations set forth in this division by which increases in development density and other incentives are permitted for a proposed housing development in exchange for the voluntary provision of affordable dwelling units within the same housing development.

Applicant means one or more persons or entities or combination thereof that (i) applies to participate in the affordable dwelling unit program in accordance with this division, and (ii) either is the fee simple owner of the real property on which the associated housing development would be built or has received permission from such owner to build such development.

Area median income means the median income determined annually for the Richmond Petersburg Metropolitan Statistical Area by the United States Department of Housing and Urban Development.

Certificate of qualification means a certificate issued to a person or household by the Program Administrator that recognizes such person or household as an eligible household and

entitles such eligible household to rent an affordable dwelling unit or to purchase an affordable dwelling unit within a 90-day period specified in the certificate.

Density bonus means a level of residential density permitted to an affordable dwelling unit plan housing development greater than the otherwise maximum allowable gross residential density on the date of the corresponding program application.

Development standards means any local land use, site, or construction regulation, including but not limited to, height restrictions, setback requirements, side yard requirements, minimum area requirements, minimum lot size requirements, floor area ratios, or onsite open-space requirements that applies to a residential or mixed-use development pursuant to any local ordinance, policy, resolution, or regulation.

Director means the Director of Planning and Development Review.

Eligible household means a person or household (i) whose income qualifies the person or household to purchase or rent an affordable dwelling unit and (ii) who holds a valid certificate of qualification evidencing such status.

Housing development means a specific work or improvement within the city, whether multifamily residential housing or single-family residential housing, undertaken primarily to provide dwelling accommodations, including the acquisition, construction, rehabilitation, preservation, or improvement of land, buildings, and improvements thereto, for residential housing, and such other non-housing facilities as may be incidental, related or appurtenant thereto.

Low-income household means any eligible household whose income does not exceed 80 percent of the area median income.

Program Administrator means the Director of Housing and Community Development or such other City employee designated by the Director of Housing and Community Development to administer the affordable dwelling unit program.

Program application means an application to participate in the affordable dwelling unit program that is signed by both the applicant and the fee simple owner of the real property on which the associated housing development would be built.

Very-low-income household means any eligible household whose income does not exceed 50 percent of the area median income.

§ 3. That sections 30-691, 30-691.1, 30-691.2, 30-691.3, 30-691.4, 30-691.6, 30-691.7, 30-691.8, 30-691.9, 30-691.11 of the Code of the City of Richmond (2020) be and are hereby **amended** and reordained as follows:

Sec. 30-691. Intent statement.

Pursuant to the general purposes of this chapter and the provisions of Code of Virginia, § ~~[15.2-2305]~~ 15.2-2305.1, and in furtherance of the purpose of providing affordable ~~[shelter]~~ housing for all residents of the ~~[City]~~ city, the intent of this division is to provide for a voluntary affordable housing dwelling unit program that addresses housing needs, promotes a full range of housing choices, and encourages the construction and continued existence of housing affordable to ~~[low]~~ very-low-, low-, and moderate income citizens by providing for increases in density and other incentives to the applicant in exchange for the applicant providing such affordable housing. ~~[The provisions of this division are intended to be applied in accordance with affordable dwelling unit program administrative provisions adopted by the City Council.]~~

Sec. 30-691.1. Applicability.

(a) *Generally.* Subject to the limitations and provisions set forth in Section 30-691.2, the provisions of this division shall be applicable to any site or portion thereof developed or to be developed for ~~[purposes]~~ the purpose of dwelling units ~~[as defined in Article XII of this chapter]~~. For purposes of these provisions, a site may include a single lot, a combination of contiguous lots, or a combination of lots that are contiguous except for intervening streets or alleys, when such combination of lots is to be developed under the same ownership ~~[and/or]~~ or control pursuant to an overall development plan.

(b) *Program is voluntary.* Participation in the affordable dwelling unit program shall be at the sole discretion of the applicant, and an applicant's decision not to apply under the program shall not affect the applicant's ability to obtain density increases pursuant to other applicable provisions of this Code.

(c) *Qualifying affordable dwelling units.* For purposes of this division, affordable housing is affordable dwelling units ~~[that qualify for application of the density bonus features set forth in this division and shall be dwelling units that are affordable for purchase by households whose income is no more than 80 percent of the area median income in the Richmond Petersburg Metropolitan Statistical Area and affordable for rental by households whose income is no more than 60 percent of the area median income in the Richmond Petersburg Metropolitan Statistical Area, except as such percentages of the area median income may be adjusted with the approval of the City Council for purposes of avoiding potential economic loss by the owner or applicant as provided in Chapter 16, Article II]~~ that qualify for application of the density bonus features or other incentives set forth in this division.

(d) *Dwelling units to be developed under current zoning.* If ~~[a site is proposed to be developed]~~ an affordable dwelling unit plan proposes construction of a housing development pursuant to the current zoning classification of the site of development, and no rezoning, special use permit or community unit plan is proposed to change the type or density of dwelling units or the lot sizes permitted to be developed on the site, then the current zoning district regulations shall be used as the basis upon which the eligible density bonus features and number of qualifying affordable dwelling units are applied.

(e) *Dwelling units to be developed pursuant to rezoning.* ~~[In the case of a site that is proposed to be developed]~~ If an affordable dwelling unit plan proposes construction of a housing development subject to approval of a change in the zoning classification of the site of development, the zoning district regulations resulting after such change in the zoning classification shall be used as the basis upon which the eligible density bonus features and qualifying number of affordable dwelling units are applied.

(f) *Dwelling units to be developed pursuant to special use or community unit plan.* Nothing contained in this division shall be construed to prohibit an applicant from voluntarily providing affordable dwelling units as part of a special use permit or community unit plan application.

Sec. 30-691.2. Density bonus features and qualifying affordable dwelling units.

The following modifications to applicable zoning district requirements shall be known as density bonus features~~[,]~~ and shall be permitted as means to enable increased density of development when affordable dwelling units are provided on a site~~[. In a case where a density bonus feature to be applied to a site is less than the maximum percentage authorized by this section, the percentage of affordable dwelling units or the percentage of floor area devoted to affordable~~

~~dwelling units necessary to qualify for such bonus feature shall be reduced proportionately, as rounded to the nearest whole percentage.~~

~~(1) — *Sites located in R, RO and HO districts.*~~

~~a. — *Single family detached dwellings.* The minimum required lot area, lot width and side yard width applicable to single family detached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of single family detached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 3,000 square feet, nor shall the lot width be less than 25 feet, nor shall any side yard be less than three feet in width.~~

~~b. — *Single family attached dwellings.* In districts where maximum permitted average density is applicable to single family attached dwellings, such density shall be increased by up to 20 percent, provided that not less than 11 percent of the total number of single family attached dwellings developed on the site, including the optional density increase, are affordable dwelling units.~~

~~c. — *Two family detached dwellings.* The minimum required lot area, lot width and side yard width applicable to two family detached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of two family detached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 3,600 square feet, nor shall the lot width be less than 27 feet, nor shall any side yard be less than three feet in width.~~

d. ~~Two family attached dwellings.~~ The minimum required lot area and lot width applicable to two family attached dwellings shall be reduced by up to 20 percent, provided that not less than 11 percent of the total number of two family attached dwellings developed on the site, including the optional density increase, are affordable dwelling units, and provided further that in no case shall the lot area be less than 2,600 square feet, nor shall the lot width be less than 23 feet.

e. ~~Multifamily dwelling lot area.~~ In districts where a minimum required lot area per dwelling unit is applicable to multifamily dwellings, the following shall apply:

1. ~~Where 23 or fewer multifamily dwelling units are permitted on a site before application of any density bonus feature, the permitted number of such units shall be increased by up to 15 percent, provided that not less than nine percent of the total number of multifamily dwelling units developed on the site, including the optional density increase, are affordable dwelling units.~~

2. ~~Where 24 or more multifamily dwelling units are permitted on a site before application of any density bonus feature, the permitted number of such units shall be increased by up to ten percent, provided that not less than six percent of the total number of multifamily dwelling units developed on the site, including the optional density increase, are affordable dwelling units.~~

f. ~~Multifamily dwelling floor area ratio.~~ In districts where a maximum floor area ratio is applicable to multifamily dwellings, the permitted floor area shall be increased by up to ten percent, provided that not less than six percent of the total multifamily floor area developed on the site, including the optional floor area increase, is devoted to affordable dwelling units.

~~(2) — Sites located in UB and B-1 districts; dwelling use floor area. The maximum permitted floor area devoted to dwelling use shall be increased by up to 20 percent, provided that not less than 11 percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.~~

~~(3) — Sites located in B-2 and B-3 districts.~~

~~a. — Dwelling use floor area. The maximum permitted floor area devoted to dwelling use shall be increased by up to 20 percent, provided that not less than 11 percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.~~

~~b. — Building height. The maximum permitted building height shall be increased by 12 feet when at least ten percent of the floor area permitted for dwelling use in the building is devoted to affordable dwelling units.~~

~~(4) — Sites located in the B-4 district; dwelling use floor area. The maximum permitted floor area applicable to dwelling use shall be increased by up to ten percent, provided that not less than six percent of the total dwelling use floor area, including the optional floor area increase, is devoted to affordable dwelling units.] :~~

(a) A density bonus, the amount of which shall be as specified in the applicable tables set forth in this section, shall be granted when an applicant voluntarily seeks and agrees to construct a housing development, excluding any dwelling units permitted by the density bonus awarded pursuant to this section, of which at least:

(1) Ten percent of its total dwelling units are affordable for low-income households; or

(2) Five percent of its total dwelling units are affordable for very-low-income households.

(b) For housing developments meeting the criteria of subsection (a)(1) of this section, the density bonus shall be calculated as follows:

<u>Percentage Affordable Dwelling Units for Low-Income Households</u>	<u>Percentage Density Bonus</u>
<u>10</u>	<u>20</u>
<u>11</u>	<u>21.5</u>
<u>12</u>	<u>23</u>
<u>13</u>	<u>24.5</u>
<u>14</u>	<u>26</u>
<u>15</u>	<u>27.5</u>
<u>16</u>	<u>29</u>
<u>17</u>	<u>30.5</u>
<u>18</u>	<u>32</u>
<u>19</u>	<u>33.5</u>
<u>20</u>	<u>35</u>
<u>21</u>	<u>36.5</u>
<u>22</u>	<u>38</u>
<u>23</u>	<u>39.5</u>
<u>24</u>	<u>41</u>
<u>25</u>	<u>42.5</u>
<u>26</u>	<u>44</u>
<u>27</u>	<u>45.5</u>
<u>28</u>	<u>47</u>
<u>29</u>	<u>48.5</u>
<u>30</u>	<u>50</u>
<u>31</u>	<u>51.5</u>
<u>32</u>	<u>53</u>
<u>33</u>	<u>54.5</u>
<u>34</u>	<u>56</u>
<u>35</u>	<u>57.5</u>

(c) For housing developments meeting the criteria of subsection (a)(2) of this section, the density bonus shall be calculated as follows:

<u>Percentage Affordable Dwelling Units for Very-Low-Income Households</u>	<u>Percentage Density Bonus</u>
<u>5</u>	<u>20</u>
<u>6</u>	<u>22.5</u>
<u>7</u>	<u>25</u>
<u>8</u>	<u>27.5</u>
<u>9</u>	<u>30</u>
<u>10</u>	<u>32.5</u>
<u>11</u>	<u>35</u>
<u>12</u>	<u>37.5</u>
<u>13</u>	<u>40</u>
<u>14</u>	<u>42.5</u>
<u>15</u>	<u>45</u>
<u>16</u>	<u>47.5</u>
<u>17</u>	<u>50</u>
<u>18</u>	<u>52.5</u>
<u>19</u>	<u>55</u>
<u>20</u>	<u>57.5</u>
<u>21</u>	<u>60</u>
<u>22</u>	<u>62.5</u>
<u>23</u>	<u>65</u>
<u>24</u>	<u>67.5</u>
<u>25</u>	<u>70</u>
<u>26</u>	<u>72.5</u>
<u>27</u>	<u>75</u>
<u>28</u>	<u>77.5</u>
<u>29</u>	<u>80</u>
<u>30</u>	<u>82.5</u>
<u>31</u>	<u>85</u>
<u>32</u>	<u>87.5</u>
<u>33</u>	<u>90</u>
<u>34</u>	<u>92.5</u>
<u>35</u>	<u>95</u>

(d) For a housing development meeting the criteria described in subsections (a)(1) or (a)(2) of this section, the applicant shall be awarded the density bonus for which the housing development is eligible pursuant to the foregoing calculation or, if elected by the applicant, a lesser percentage of density increase, including but not limited to no increase in density.

Sec. 30-691.3. Calculation of numbers of dwelling units.

In the case of density bonus features ~~[for]~~ permitting an increase in average density of single-family attached dwellings on a site or an increase in the number of multifamily dwelling units on a site, the following rules shall apply in the calculation of numbers of dwelling units:

- (1) *Number of dwelling units permitted before application of bonus feature.*

When calculation of the number of dwelling units permitted on a site before application of the density bonus feature results in a fractional number, the permitted number of dwelling units shall be the lower whole number.

- (2) *Number of additional dwelling units or affordable dwelling units.* When calculation of the number of additional dwelling units resulting from application of the density bonus feature results in a fractional number, or when calculation of the number of affordable dwelling units necessary to qualify for such bonus feature results in a fractional number, the number of additional dwelling units or number of affordable dwelling units shall be the nearest whole number.

Sec. 30-691.4. Distribution and physical compatibility of affordable dwelling units.

Affordable dwelling units intended to qualify for density bonus features shall comply with the following criteria. For purposes of this section, dwelling unit type shall be construed to mean any of the dwelling uses defined in Article XII of this chapter that are permitted on the site, and including the number of bedrooms contained therein.

- (1) *Distribution.* Affordable dwelling units of the given dwelling unit type shall be located on a site so as to be interspersed among the market rate dwelling units of the same dwelling unit type on the site, and shall not be concentrated together or otherwise separated from market rate dwelling units.

(2) *Physical compatibility.* The exterior appearance of affordable dwelling units shall be similar to and compatible with the typical exterior appearance of market rate units of the same dwelling unit type on the site by provision of similar architectural style and similar exterior building materials, finishes and quality of construction~~[, except as may be adjusted with the approval of the City Council's designee for purposes of avoiding potential economic loss by the owner or applicant as provided in Chapter 16, Article II].~~

(3) *Dwelling unit types and sizes.* The number of market rate dwelling units of a given dwelling unit type on the site shall be not less than the number of affordable dwelling units of the same dwelling unit type. The floor area of any affordable dwelling units shall comprise not less than 80 percent of the typical floor area of a market rate dwelling ~~[units]~~ unit of the same dwelling unit type, ~~[provided]~~ except that no affordable dwelling unit bedroom shall contain less than 100 square feet of floor area.

(4) *Standards.* Affordable dwelling units shall include fixtures, finishes, amenities, and quality of construction included in market rate dwelling units of the same dwelling unit type on the site, while taking into account the purpose of the affordable dwelling unit program of providing affordable housing.

Sec. 30-691.6. Other incentives.

(a) *Fee ~~[reduction]~~ waiver.* Applicants participating in the affordable dwelling unit program that voluntarily seek and agree to construct a housing development of which at least (i) ten percent of its total dwelling units are affordable for very-low-income households and (ii) ten percent of its total dwelling units are affordable for eligible households whose income is between 51 percent and 80 percent of the area median income shall be ~~[eligible for a reduction of those development]~~ granted a waiver of those fees specified in this chapter, in Chapter 5 of this Code,

or in Section 25-10 of this Code that are otherwise applicable[5] to [the extent that such fees shall be reduced by a percentage amount equal to the percentage of affordable dwelling units provided] such housing development.

(b) *Expedited consideration.* ~~[Applications proposing the development of affordable dwelling units pursuant to this program]~~ Program applications shall be given expedited consideration relative to other applications proposing residential development.

(c) *Waiver or reduction of development standards.* An applicant for a density bonus pursuant to Section 30-691.2 may additionally request a waiver or reduction of development standards that (i) physically preclude the construction of a housing development at the density permitted by this division or (ii) impact the financial feasibility of a housing development submitted pursuant to this division. Any such request shall be submitted in writing to the Director and shall specify (i) the development standard or standards the applicant seeks to have waived or reduced, and (ii) the basis upon which the applicant seeks the waiver or reduction, which basis shall include a detailed explanation of how one or more development standards either physically preclude the construction of a housing development at the density permitted by this division or impact the financial feasibility of a housing development submitted pursuant to this division, or both. Upon receipt of such request, the Director shall grant the waiver or reduction of development standards requested by the applicant, unless the Director is able to make a written determination that such waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment. The Director may also recommend to the applicant modifications of the initial request for waiver or reduction of local development standards that the Director has determined would not have a specific, adverse impact upon health, safety, or the physical environment. Nothing in this subsection shall be interpreted to require the Director to waive or

reduce development standards that would have an adverse impact on any real property that is located in an old and historic district, as the term “old and historic district” is defined by Section 30-930.1, is listed in the Virginia Landmarks Register or National Register of Historic Places, or would be contrary to state or federal law.

(d) *Waiver or reduction of parking requirements.* An applicant for a density bonus pursuant to Section 30-691.2 may additionally request a waiver or reduction in any parking ratios or requirements. The Director shall grant the waiver or reduction, unless the Director or the designee thereof makes a written determination that such waiver or reduction would have a specific, adverse impact upon health, safety, or the physical environment of residents of the City. The Director may also recommend to the applicant modifications of the initial request for waiver or reduction of development standards that the Director has determined would not have a specific, adverse impact upon health, safety, or the physical environment.

Sec. 30-691.7. Plan of development.

(a) *Plan of development required.* ~~[In addition to plan of development requirements that may otherwise be applicable in the district in which the site is located, a]~~ A plan of development shall be required as set forth in Article X of this chapter for all ~~[affordable dwelling units]~~ housing developments intended to qualify for density bonus features authorized by this division.

(b) *Indication of affordable dwelling units on plans.* All ~~[affordable dwelling units]~~ plans accompanying the plan of development for housing developments intended to qualify for density bonus features authorized by this division shall ~~[be indicated on plans accompanying the plan of development]~~ indicate all affordable dwelling units to be constructed therein, together with

such additional information as necessary to determine compliance with the provisions of this division.

(c) *Approval of plan of development.* No plan of development for a site that includes any of the density bonus features authorized by this division shall be approved by the Director ~~[of Planning and Development Review]~~ until the ~~[affordable dwelling unit program]~~ Program Administrator has provided written certification to the Director that the ~~[program]~~ affordable dwelling unit eligibility criteria ~~[necessary to qualify for such density bonus features are met]~~ set forth in Section 30-691.11 are satisfied and that the affordable dwelling unit plan for the site has been approved in accordance with the provisions set forth in Section 30-691.11.

Sec. 30-691.8. Certification of affordable dwelling unit program applicability.

In order for any of the density bonus features authorized by this division to be applicable to a site, the requirements of the affordable dwelling unit program administrative provisions ~~[established by the City Council shall]~~ set forth in section 30-691.11 must be met. ~~[The Zoning Administrator shall not approve any]~~ No application for a building permit, certificate of use and occupancy or certificate of zoning compliance that includes any of the density bonus features authorized by this division shall be approved until the ~~[affordable dwelling unit program administrator]~~ Program Administrator has provided written certification to the Zoning Administrator that the program criteria necessary to qualify for such density bonus features are met.

Sec. 30-691.9. Processing timeframe.

(a) The City shall ~~[have]~~ process the plan of development or subdivision plan included in an affordable dwelling unit plan within no more than 280 days ~~[in which to process site or subdivision plans proposing the development or construction of affordable dwelling units under]~~

after the date on which the Program Administrator receives the affordable dwelling unit [program]
plan. The calculation of such [periods of review] period shall include only the time that [plans are]
the plan of development or subdivision is in review by the City, and shall not include such time as
may be required for revision or modification in order to comply with lawful requirements set forth
in applicable ordinances and regulations.

(b) For each affordable dwelling unit plan, the Zoning Administrator or their designee
shall make an official determination in writing as to each of the following, as applicable, within
30 days after the date an applicant submits such plan to the Program Administrator:

(1) The amount of density bonus, calculated pursuant to Section 30-691.2, for
which the applicant is eligible.

(2) If the applicant requests a waiver or reduction of any parking ratios or
requirements pursuant to Section 30-691.6(d), the waiver or reduction of parking ratios or
requirements, if any, for which the applicant is eligible.

(3) If the applicant requests waivers or reductions of development standards
pursuant to Section 30-691.6(6), whether the applicant has provided adequate information
for the Director of the designee thereof to make a determination as to whether such waiver
or reduction would have a specific, adverse impact upon the health, safety, or the physical
environment of residents of the city. An appeal by a party aggrieved by an official
determination pursuant to this subsection (b) shall be made to the Board of Zoning Appeals
pursuant to Section 30-1040.1.

Sec. 30-691.11. Administration of affordable dwelling unit program.

~~[The City's affordable dwelling unit program shall be administered in accordance with the provisions of the affordable dwelling unit program administrative provisions adopted by the City Council.]~~

(a) Establishment of rules and regulations. The Program Administrator shall be authorized to establish reasonable rules and administrative regulations for the administration of the affordable dwelling unit program consistent with the provisions of this Code and other applicable law.

(b) Program approval process. Participation in the affordable dwelling unit program shall require approval by the Program Administrator of an affordable dwelling unit plan in accordance with the provisions of this section.

(1) Program application submission requirements. Every applicant shall submit a program application to the Program Administrator. No such application shall be complete without inclusion of the following attachments:

a. A copy of the proposed plan of development for the housing development.

b. A copy of all floor plans and elevations of the housing development.

c. A detailed pro forma including all soft and hard costs associated with the estimated total development cost of the housing development.

d. For the purchase dwelling units, a pro forma showing the total cost of development, the actual cost of the dwelling unit and the sales price of the dwelling unit less any subsidies provided to the eligible homeowner that illustrates how affordability will be achieved. The pro forma shall include all standard

underwriting criteria and costs of occupancy, such as condominium and homeowners' association fees and utility costs, in conformance with Code of Virginia, § 15.2-2305.1.

e. The income levels of the household intended to qualify for occupancy of the affordable dwelling units.

f. Agreements or other instruments containing all covenants necessary to bind the owner or applicant to the requirements of the affordable dwelling unit program. Such agreements shall be prepared by the owner's or applicant's attorney and approved as to form by the City Attorney.

(2) Action by Program Administrator. The Program Administrator shall confirm to the applicant within 30 days after the date on which the Program Administrator receives any program application whether such application is complete or whether more information is necessary. For complete applications, the Program Administrator shall inform the applicant that its program application qualifies as an affordable dwelling unit plan and confirm for the applicant the date of the receipt of such plan. The Program Administrator shall then review the affordable dwelling unit plan and approve, approve with conditions, or disapprove the plan with regards to satisfaction of the affordable dwelling unit plan criteria set forth in this division, including, without limitation, the affordability of the affordable dwelling units by eligible households. All such action of the Program Administrator shall be set forth in writing and shall be provided to the applicant and the Director.

(c) Notice of availability for sales or rental.

(1) Notice required. Before the issuance of certificates of use and occupancy for any or all of the affordable dwelling units in a project, and at any time after the issuance of building permits for the affordable dwelling units that are being offered, the applicant shall submit to the Program Administrator a completed notice of availability for sales or rental stating that the unit or units are or will be completed and available for sale or rental at a specified date and that all affordable dwelling unit program criteria have been met, including approval by the Program Administrator of final unit specifications and final prices or rents and approval, issuance, or recordation of all required documents, such as plats, plans of development, building permits, and covenants controlling the sale and rental of affordable dwelling units.

(2) Form and content. The notice of availability for sales or rental shall be in a form which shall be prescribed by the Program Administrator and shall include (i) specific identification of the affordable dwelling unit or units being offered, (ii) the number of bedrooms, floor area, amenities, and sales prices or rent of each such unit, and (iii) evidence of the issuance of a building permit for each affordable dwelling unit being offered.

(3) Acceptance. Acceptance and approval of such notice by the Program Administrator, which the Program Administrator shall forward in writing to the Commissioner of Buildings, shall serve as authorization for issuance of certificates of use and occupancy for the affordable dwelling unit or units.

(d) Administration of sale and rental of affordable dwelling units. The provisions of this division regarding the sale and rental of affordable dwelling units and the qualifications of eligible households for occupancy of affordable dwelling units shall be administered by the

Program Administrator. The Program Administrator shall establish reasonable rules and standards that shall be followed in the administration of the sale, resale, rental and re-rental of affordable dwelling units and in the qualification of eligible households for occupancy of affordable dwelling units. . Such rules and standards shall include, but are not limited to, the following:

(1) Standards for determining eligibility to purchase or rent affordable dwelling units.

(2) The method of determining eligible households.

(3) Standards by which the Program Administrator shall determine sale and rental prices for affordable dwelling units in accordance with Code of Virginia, §§ 15.2-2305.1(B)(9), 15.2-2305.1(B)(10), and other applicable provisions of Code of Virginia, § 15.2-2305.1. Such standards shall be subject to Code of Virginia, § 15.2-2305.1(F), whereby the owner or applicant, either or both, shall not suffer economic loss as a result of providing the required affordable dwelling units.

(e) *Eligibility and selection of eligible households to purchase or rent affordable dwelling units.*

(1) *Determination of eligibility.* Households proposing to purchase or rent affordable dwelling units shall make application to the Program Administrator for determination of eligibility. In making such determination, the Program Administrator shall adhere to the affordable dwelling unit program rules and standards established pursuant to this division. The owner of a development containing affordable dwelling units or any other person involved in the sale, rental, or re-rental of affordable dwelling units in a development may refer households to the Program Administrator for determination of eligibility.

(2) Certificate of qualification. A household determined to be eligible to purchase or rent an affordable dwelling unit shall obtain a certificate of qualification from the Program Administrator. Before issuing a certificate of qualification, the Program Administrator shall verify that all applicable eligibility rules and standards are met. It shall be a violation of this chapter for any person to sell or rent an affordable dwelling unit to a household that has not been issued a current certificate of qualification.

(3) Underwriting criteria. The Program Administrator shall use industry standard underwriting criteria for low-income and very-low-income households seeking affordable housing to determine whether such households are qualified to purchase or rent affordable dwelling units.

(f) Occupancy of affordable dwelling units.

(1) Affidavit of domicile by purchasers of units. Eligible households desiring to purchase an individual affordable dwelling unit as their domicile shall provide an executed affidavit in a form which shall be prescribed by the Program Administrator certifying their income eligibility to the owner selling the affordable dwelling unit prior to the execution of a purchase and sales agreement for the affordable dwelling unit. Such affidavit shall include verification of the purchaser's annual household income, household size, and estimated monthly housing expense including mortgage payment, homeowner's insurance, property taxes, water, sewer, gas and electric utility estimates, together with such other information such as may be requested by the Program Administrator for the purpose of verifying that the purchaser meets the applicable income eligibility criteria. Purchasers shall submit such affidavit to the owner selling the affordable dwelling units.

The owner of such affordable dwelling units shall submit such affidavit to the Program Administrator at least 60 days prior to the date of the purchase of the unit.

(2) *Notice of resale by purchasers of units.* The deed effecting the conveyance of an affordable dwelling unit shall include covenants running with the land for a period of 50 years written to require that (i) the affordable dwelling unit shall only be sold or otherwise conveyed to an eligible household, (ii) the owner and subsequent owners shall provide the Program Administrator with written notification in the event that the affordable dwelling unit is being offered for sale, and (iii) no contract for sale shall be entered into until the written notification required by numeral (ii) in this subdivision is provided. The seller shall provide the Program Administrator with written notification and documentation of the eligibility of the purchaser of the affordable dwelling unit upon the closing of the resale of such unit.

(3) *Affidavit of domicile by renters of units.* For a period of 50 years following the date of the initial rental transaction for an affordable dwelling unit, every lease for such affordable dwelling unit shall contain a provision that the renter thereof shall (i) occupy such unit as their domicile and (ii), at least 90 days prior to each expiration of the lease, annually submit an executed affidavit to the owner that certifies the renter's continuing occupancy of the affordable dwelling unit. Upon receipt of each such affidavit, the owner shall promptly provide the Program Administrator a copy thereof. The affidavit and lease referenced in this subsection shall be subject to the following conditions:

a. The affidavit shall be in a form which shall be prescribed by the Program Administrator and shall include a statement of the renter's annual household income as the date of the affidavit, together with such other information

as may be requested by the owner for the purpose of verifying that the renter continues to meet applicable income eligibility criteria.

b. Every lease of an affordable dwelling unit shall contain a provision that if the renter of an affordable dwelling unit fails to provide such affidavit to the owner within 60 days after the required date, or if the renter's income makes them ineligible for the program, then it is a material breach of the lease and notice shall be served on the tenant as provided in Code of Virginia, § 55.1-1245 advising that the rental agreement shall terminate for noncompliance. With prior approval by the Program Administrator, the owner may provide for substitution of an affordable dwelling unit by designating an additional comparable unit of the same dwelling unit type on the site as an affordable dwelling unit to be rented under the provision and requirements of this division, in which case such renter may continue to occupy the unit at the market rent under a new lease.

(4) *Re-rental of affordable dwelling units in case of vacancy.* The owner shall notify the Program Administrator of any vacancy of a rental affordable dwelling unit. The owner shall select an eligible household for re-rental of the unit in accordance with the provisions of this section and shall notify the Program Administrator of such selection.

(5) *Renting to non-eligible household constitutes violation.* Except as provided in subsection (f)(3)(b) of this section, it shall be a violation of this chapter for any person to knowingly rent or continue to rent an affordable dwelling unit to a household that does not meet or does not continue to meet the applicable income eligibility criteria.

(6) *Required lease provisions for rental units.* Rental affordable dwelling units shall be leased for a period of not less than six months. In addition to any other

requirements developed by the Program Administrator and the requirements specifically set forth in this division, lease agreements for such units shall also include a prohibition against the tenant subleasing the unit.

§ 3. This ordinance shall be in force and effect upon adoption.



CITY OF RICHMOND

INTRACITY CORRESPONDENCE

O&R REQUEST

DATE: May 16, 2022

EDITION: 1

TO: The Honorable Members of City Council

THROUGH: The Honorable Levar M. Stoney, Mayor

THROUGH: J.E. Lincoln Saunders, Chief Administrative Officer

THROUGH: Sherrill Hampton, Director of Housing & Community Development

THROUGH: Kevin Vonck, Director of Planning & Development Review

FROM: Sharon L. Ebert, DCAO – Planning & Economic Development Portfolio

RE: To amend City Code to revise the affordable housing dwelling unit (density bonus) program

ORD. OR RES. No. _____

PURPOSE:

- (1) To delete/repeal Chapter 16 Article II of City Code.
- (2) To amend certain provisions of Chapter 30 (the “Zoning Ordinance”) to revise the City’s Affordable Housing Dwelling Unit (Density Bonus) Program (see attachment for mark-up/draft of proposed Zoning Ordinance amendments).

REASON: An ordinance is necessary to amend City Code.

RECOMMENDATION: The City Administration recommends approval.

BACKGROUND:

The current provisions of the City’s affordable housing dwelling unit program set forth in City Code Chapter 16, Article II and Chapter 30, Article VI, Division 10.1, were established pursuant to and in accordance with the enabling authority promulgated by Va. Code § 15.2-2305. In 2020 the Virginia General Assembly amended the Code of Virginia by adding a section numbered 15.2-2305.1, which provides the City of Richmond an alternative source of enabling authority on which to base a voluntary affordable housing dwelling unit program. The provisions of a voluntary affordable housing unit program established pursuant to and in accordance with the enabling authority promulgated by Section 15.2-2305.1 of the Code of Virginia may include certain

enhanced tools not permitted by Section 15.2-2305 of the Code of Virginia, including significantly larger density bonuses in exchange for significantly higher percentages of affordable housing dwelling units.

Based upon the foregoing, on March 21, 2022, the Planning Commission adopted a Resolution of Intent to “amend the Zoning Ordinance to revise the Affordable Housing Dwelling Unit Density Bonus Program.” This ordinance would amend City Code for such purpose.

FISCAL IMPACT / COST: N/A

FISCAL IMPLICATIONS: N/A

BUDGET AMENDMENT NECESSARY: No

REVENUE TO CITY: N/A

DESIRED EFFECTIVE DATE: Upon adoption

REQUESTED INTRODUCTION DATE: June 13, 2022

CITY COUNCIL PUBLIC HEARING DATE: July 25, 2022

REQUESTED AGENDA: Consent

RECOMMENDED COUNCIL COMMITTEE: N/A

CONSIDERATION BY OTHER GOVERNMENTAL ENTITIES: Planning Commission

AFFECTED AGENCIES: Planning & Development Review, Housing & Community Development, City Attorney’s Office

RELATIONSHIP TO EXISTING ORD. OR RES.:

REQUIRED CHANGES TO WORK PROGRAM(S): None

ATTACHMENTS: Planning Commission Resolution of Intent dated March 21, 2022; Mark-up/DRAFT of Proposed Zoning Ordinance Amendments

STAFF: Matthew A. Welch, DED



March 21, 2022

**RESOLUTION CPR.2022.025
MOTION OF THE CITY OF RICHMOND PLANNING COMMISSION**

**TO DECLARE AN INTENT TO AMEND THE ZONING ORDINANCE TO REVISE THE AFFORDABLE HOUSING
DWELLING UNIT DENSITY BONUS PROGRAM.**

WHEREAS, in accordance with Section 15.2-2286 of the Code of Virginia an amendment to the zoning regulations or district maps may be initiated by motion of the City of Richmond Planning Commission provided any such motion or resolution of the Commission proposing an amendment to the regulations or district maps shall state the public purposes therefore; and

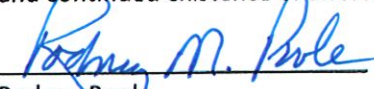
WHEREAS, Chapter 30, Article VI, Division 10.1, which is part of the City of Richmond Zoning Ordinance, provides for a voluntary affordable housing dwelling unit program for the purpose of addressing housing needs, promoting a full range of housing choices, and encouraging the construction and continued existence of housing affordable to low and moderate income citizens by providing for increases in density and other incentives in exchange for the applicant providing affordable housing; and

WHEREAS, the provisions of the affordable housing dwelling unit program set forth in Chapter 30, Article VI, Division 10.1, were established pursuant to and in accordance with the enabling authority promulgated by Section 15.2-2305 of the Code of Virginia; and

WHEREAS, in 2020 the Virginia General Assembly amended the Code of Virginia by adding a section numbered 15.2-2305.1, which provides the City of Richmond an alternative source of enabling authority on which to base a voluntary affordable housing dwelling unit program; and

WHEREAS, the provisions of a voluntary affordable housing unit program established pursuant to and accordance with the enabling authority promulgated by Section 15.2-2305.1 of the Code of Virginia may include certain enhanced tools not permitted by Section 15.2-2305 of the Code of Virginia, including significantly larger density bonuses in exchange for significantly higher percentages of affordable housing dwelling units.

NOW, THEREFORE BE IT RESOLVED THAT the City of Richmond Planning Commission hereby concludes, for the purposes of public necessity, convenience, general welfare, and good zoning practice, and in order to promote health, safety, morals, comfort, prosperity, and general welfare, that an amendment to the City's zoning ordinance should be drafted for the purpose of revising the provisions of the City's affordable housing dwelling unit program in an effort to enhance the effectiveness of such program in addressing housing needs, promoting a full range of housing choices, and encouraging the construction and continued existence of affordable housing.


Rodney Poole
Chair, City Planning Commission


Richard Saunders
Secretary, City Planning Commission