

Case # RZONE2025-01-0005 Memo

To: Bloomington Plan Commission

From: Jackie Scanlan, AICP Development Services Manager

Date: January 15, 2025

Re: Text Amendments to Unified Development Ordinance: Affordable Housing Incentives

Through Resolution 2024-23, the Bloomington Common Council directed the Plan Commission to draft amendments to Title 20 of the Bloomington Municipal Code, the Unified Development Ordinance (UDO) section 20.04.110 Incentives, related to Affordable Housing Incentives.

The Resolution directed the Plan Commission to prepare a proposal that does the following:

1. To amend the text of the UDO (BMC 20.04.110(c)(2)) Eligibility to include an Area Median Income (AMI) requirement within Tier 1 and Tier 2 Affordable Housing Projects, as follows:

Tier 1 Affordable Housing Projects to include at least some units to be priced below 90% of AMI, using whole percentages for each tier.

Tier 2 Affordable Housing Projects to include at least some units priced below 70% of AMI, using whole percentages for each tier.

2. To amend the text of the UDO (BMC 20.04.110(c)(5)) (Affordable Housing Incentives) to assess the incentive structure and consider creating additional incentives for affordable housing, including but not limited to expected owner-occupied unit development.

3. To amend the text of the UDO (BMC 20.04.110(c)(7)) (Payment-in-Lieu) to require housing developments that use the "Payment-in-Lieu" option to accept housing vouchers.

The Planning and Transportation Department prepared draft amendments that address numbers 1 and 3 for review by the Plan Commission in response to the Resolution. Analysis and redline proposals of those amendments are below. Number 2 requires more coordination and discussion with the Plan Commission to determine what type of incentives to include, as well as what outcomes are desired for those incentives.

1. Tier 1 is proposed to be split, with 8 percent of total units required to be income-limited below 120 percent of Area Median Income (AMI) and 8 percent to be limited to below 90 percent of AMI. Tier 2 is proposed to continue to be split, with the percentages changes from 7.5 to 8 and the earning caps to be adjusted to 90 percent of AMI and 70 percent of AMI.

(2). Eligibility

Projects that satisfy one of the following criteria shall be eligible for the incentives established in subsection 0 below:

(A) Tier 1

- i. At least 60 percent of the total gross floor area of the building (including additional area awarded with an incentive) is dedicated to residential dwellings; and
- ii. A minimum of ~~845~~ percent of the total dwelling units (including those on floors awarded with an incentive) are income-restricted permanently, unless otherwise adjusted or forfeited by the City, to households earning less than 120 percent of the HUD AMI for Monroe County, Indiana; ~~and or~~
- ~~ii.iii.~~ A minimum of 8 percent of the total dwelling units (including those on floors awarded with an incentive) are income-restricted permanently, unless otherwise adjusted or forfeited by the City, to households earning below 90 percent of the HUD AMI for Monroe County, Indiana; or

(B) Tier 2

- i. At least 60 percent of the total gross floor area of the building (including additional area awarded with an incentive) is dedicated to residential dwellings; and
- ii. A minimum of ~~87.5~~ percent of the total dwelling units (including those on floors awarded with an incentive) are income-restricted permanently, unless otherwise adjusted or forfeited by the City, to households earning below ~~90420~~ percent of the HUD AMI for Monroe County, Indiana; and
- iii. A minimum of ~~87.5~~ percent of the total dwelling units (including those on floors awarded with an incentive) are income-restricted permanently, unless otherwise adjusted or forfeited by the City, to households earning below ~~7090~~ percent of the HUD AMI for Monroe County, Indiana.

2. To be discussed at the January 16, 2025 hearing.

(5) Affordable Housing Incentives

(A) Reduced Bulk Requirements

The following dimensional standards shall apply to single-family and duplex residential lots in the R1, R2, R3, and R4 zoning districts that meet either of the two criteria in subsection (2) above:

- i. The minimum lot area for subdivision may be reduced up to 50 percent.
- ii. The minimum lot width for subdivision may be reduced up to 40 percent.
- iii. The side building setbacks may be reduced to five feet regardless of the number of stories.
- iv. The rear building setback may be reduced to 15 feet.

- v. Where these standards conflict with the neighborhood transition standards established in Section **Error! Reference source not found. (Error! Reference source not found.)**, the neighborhood transition standards shall govern.

(B) Primary Structure Height

i. Eligibility

In addition to the eligibility criteria in 0, affordable housing projects seeking increased maximum primary structure height shall comply with the following criteria:

1. The building shall contain six or more dwelling units; and
2. Unit size and bedroom mix for deed-restricted units shall be comparable to those for market-rate units.

ii. Tier 1 Projects

Projects that meet the Tier 1 affordability standards may increase the primary structure height by one floor of building height, not to exceed 12 feet, beyond the maximum primary structure height established for the zoning district where the project is located, as identified in Section **Error! Reference source not found. (Error! Reference source not found.)**.

iii. Tier 2 Projects

Projects that meet the Tier 2 affordability standards may increase the primary structure height by two floors of building height, not to exceed 24 feet, beyond the maximum primary structure height established for the zoning district where the project is located, as identified in Section **Error! Reference source not found. (Error! Reference source not found.)**.

iv. Sustainable Development Bonus

1. Tier 1 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet.
2. Tier 2 Projects: Projects that are eligible for increased primary structure height for affordable housing and sustainable development shall be eligible for one additional floor of building height, not to exceed 12 feet. The additional floor of building height granted under this subsection (iv)(2) shall be limited to 50 percent of the building footprint area of primary structure, and that additional floor shall be set back at least 10 feet further than the lower floors of the building.

3. Utilizing 20.04.110, Incentives, is optional, so utilizing the Payment-in-lieu found in (c)(7) is also an optional process. However, the Department has some concerns as to the legality of including vouchers, per Indiana code 36-1-3-8.5, which reads as follows:

36-1-3-8.5 Prohibition against the adoption or enforcement of an ordinance requiring participation in Section 8 or similar program housing

Sec. 8.5. A unit may not adopt or enforce an ordinance that requires or would have the effect of requiring a landlord to participate in:

- (1) a Section 8 program of the federal Housing Act of 1937 (42 U.S.C. 1437f); or
- (2) a similar program concerning housing.

The Legal Department is researching this issue in relation to a Planned Unit Development proposal. Language is included below, in the event that the request is determined to be legal.

(7) Payment-in-Lieu

- (A) A payment-in-lieu of providing housing that meets the Tier 1 or Tier 2 affordability criteria may be authorized by an agreement with the City and all payments will be deposited into the Housing Development Fund. In order to utilize this option, housing vouchers must be accepted at the development.
- (B) The provisions of this Section 20.01.010(a)(7) shall become effective no later than the effective date of the UDO, by which time administrative procedures for calculating, collecting, accounting for, and spending payments-in-lieu in compliance with all applicable law shall be adopted and publicly available in the Administrative Manual within the Planning and Transportation Department. The procedures used for calculating, collecting, accounting for, and spending shall be reviewed frequently and updated as local housing market conditions change. The calculations may use or be based upon one or more of the following methods:
 - i. Housing and Urban Development (HUD) annual rents based on Area Median Income;
 - ii. Area Median Income (per person, income bracket, etc.);
 - iii. Rental rates per unit or per bedroom;
 - iv. Utility rates allowances per unit;
 - v. Tiered rental rates based on percentages above and/or below AMI; and
 - vi. Payment contribution rates.

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RECOMMENDATION: The Department recommends that the Plan Commission continue the petition to its February 10, 2025 hearing.

RESOLUTION 2024-23

TO INITIATE A PROPOSAL TO AMEND TITLE 20 (UNIFIED DEVELOPMENT ORDINANCE) OF THE BLOOMINGTON MUNICIPAL CODE Re: Preparation of a Proposal to Amend Chapter 20.04.110 (Incentives).

- WHEREAS, the Common Council, by its Resolution 18-01, approved a new Comprehensive Plan for the City of Bloomington, which took effect on March 21, 2018; and
- WHEREAS, thereafter the Plan Commission initiated and prepared a proposal to repeal and replace Title 20 of the Bloomington Municipal Code, entitled “Unified Development Ordinance” (“UDO”) in order to implement the vision for community development put forward in the Comprehensive Plan; and
- WHEREAS, on December 18, 2019, the Common Council passed Ordinance 19-24, to repeal and replace the UDO; and
- WHEREAS, on January 14, 2020, the Mayor signed and approved Ordinance 19-24; and
- WHEREAS, the UDO has since been revised by action of the Plan Commission and the Common Council seven times; and
- WHEREAS, the current affordability tiers set out in the UDO Chapter 20.04.110 (c)(2) have resulted in housing units priced at the maximum amount allowable based on the Area Median Income (AMI) for the City of Bloomington¹; and
- WHEREAS, this has resulted in the use of affordability incentives by housing developments that do not actually create affordable units²; and
- WHEREAS, pursuant to IC 36-7-4-602, the Common Council may initiate a proposal to amend or partially repeal the text of the UDO and require the Plan Commission to prepare it;
- WHEREAS, the Common Council wishes to initiate a proposal to amend the UDO to modify the Affordable Housing Incentives in order to create truly affordable units; and
- WHEREAS, in preparing and considering this proposal, the Plan Commission and Common Council shall pay reasonable regard to:
- 1) the Comprehensive Plan;
 - 2) Current conditions and character of current structures and uses in each district;
 - 3) the most desirable use for which land in each district is adapted;
 - 4) the conservation of property values throughout the jurisdiction; and
 - 5) responsible development and growth.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Pursuant to IC 36-7-4-602(b), the Common Council directs the Plan Commission to prepare a proposal consistent with this resolution to amend the text of the UDO (BMC 20.04.110(c)(2)) (Eligibility) to include an Area Median Income (AMI) requirement within Tier 1 and Tier 2 Affordable Housing Projects, as follows:

Tier 1 Affordable Housing Projects to include at least some units to be priced below 90% of AMI, using whole percentages for each tier.

¹ See City of Bloomington 2024 Workforce Rental Housing Limit Calculations, <https://bloomington.in.gov/housing/workforce>.

² “A major theme during public engagement was on the lack of rental units priced below \$900.” Regional Opportunity Initiatives, *Indiana Uplands Regional Housing Study Addendum 2.H Monroe County*, (2023 Update), 131, <https://regionalopportunityinc.org/src-content/uploads/2024/01/Indiana-Uplands-Housing-Study-Addendum-2.H-Monroe-County.pdf>.

Tier 2 Affordable Housing Projects to include at least some units priced below 70% of AMI, using whole percentages for each tier.

SECTION 2. The Common Council further directs the Plan Commission to prepare a proposal to amend the text of the UDO (BMC 20.04.110(c)(5)) (Affordable Housing Incentives) to assess the incentive structure and consider creating additional incentives for affordable housing, including but not limited to expected owner-occupied unit development.

SECTION 3. The Common Council further directs the Plan Commission to prepare a proposal to amend the text of the UDO (BMC 20.04.110(c)(7)) (Payment-in-Lieu) to require housing developments that use the "Payment-in-Lieu" option to accept housing vouchers.

SECTION 4. Upon passage of this resolution, the Plan Commission shall review and recommend UDO amendments to the Common Council in response to this resolution.

SECTION 5. If any section, sentence or provision of this legislation, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this legislation which can be given effect without the invalid provision or application, and to this end the provisions of this legislation are declared to be severable.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 20 day of November, 2024.



ISABEL PIEDMONT-SMITH, President
Bloomington Common Council

ATTEST:



NICOLE BOLDEN, Clerk
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this 26 day of November, 2024.



NICOLE BOLDEN, Clerk
City of Bloomington

SIGNED by me upon this 26 day of November, 2024.



KERRY THOMSON, Mayor
City of Bloomington

SYNOPSIS

This resolution, sponsored by Councilmember Stosberg, initiates a proposal to amend Title 20 (the Unified Development Ordinance or "UDO") of the Bloomington Municipal Code. The resolution directs that a UDO text amendment proposal be prepared by the Plan Commission to make changes to the affordable housing incentive structure.

*Distributed to: Clerk, Council Attorney, Legal, Mayor, and
Planning + Transportation.*