



# **AFFORDABLE REQUIREMENTS ORDINANCE**

## **RULES**

Updated February 9, 2024




City of Chicago  
Mayor Brandon Johnson

Department of Housing  
Acting Commissioner Lissette Castaneda

**ARO RULES AUTHORITY**

BY THE AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF HOUSING  
PURSUANT TO SECTION 2-44-085 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING  
RULES ARE ADOPTED.

Signed:  \_\_\_\_\_  
Lissette Castaneda, Acting Commissioner

Date: February 9, 2024

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# Article 1: Applicability

Section 2-44-085 (the ARO) of the Municipal Code of Chicago (MCC) sets out Applicability standards in Sections (C) and (D). The following Rules provide clarification, where needed.

## 1.1 Which Version of the ARO applies?

### 1.1.1 ARO

Residential developments that receive City Council approval for an entitlement, city land sale, or financial assistance after October 1, 2021, are subject to the ARO.

### 1.1.2 2015 ARO

Residential developments that received City Council approval for a rezoning, city land sale, or financial assistance prior to October 1, 2021, are subject to Section 2-44-080 (the 2015 ARO) of the MCC if a building permit application for the residential development is submitted prior to October 1, 2025.

Residential developments in Planned Developments (PDs), and amended PDs, received City Council approval prior to October 1, 2021, are subject to the 2015 ARO if a building permit application for the residential development is submitted prior to the later of a) October 1, 2025, or b) the sunset date or such other date specified in the PD statement.

### 1.1.3 Pilsen-Little Village (PLV) ARO Pilot Area

Residential developments in the PLV ARO Pilot Area are subject to Section 2-44-105 of the MCC if:

- 1) an ordinance for a city land sale, financial assistance, or rezoning of a property as defined in Section 2-44-080(B), is introduced to City Council after January 1, 2019, and passed by City Council prior to December 31, 2023.

A map of the PLV ARO Pilot Area is online at [www.chicago.gov/aro](http://www.chicago.gov/aro).

### 1.1.4 Near North/Near West and Milwaukee Corridor Affordable Housing Pilot Areas

Residential developments in the Near North/Near West and Milwaukee Corridor ARO Pilot Areas are subject to Sections 2-44-090 and 2-44-100 of the MCC, respectively if:

- an ordinance for a city land sale, financial assistance, or rezoning of a property as defined in Section 2-44-080(B) is introduced to City Council after November 1, 2017 and, is passed by City Council prior to October 1, 2021. Maps of the Near North/Near West ARO Pilot Area and the Milwaukee Corridor ARO Pilot Area are online at [www.chicago.gov/aro](http://www.chicago.gov/aro).

The ARO Web Form can also be used to determine whether a particular address is located within a pilot area. It is online at [www.chicago.gov/aro](http://www.chicago.gov/aro).

## 1.2 City Financial Assistance

Pursuant to Section (L), when the construction, rehabilitation or preservation of a residential development is assisted by TIF funds, the [TIF guidelines](#) will prevail in the event of a conflict with the ARO. However, even if the TIF guidelines otherwise apply, the TIF Redevelopment Agreement (TIF RDA) must require a term of no less than 30 years.

Residential Developments that receive a land write down or other forms of financial assistance as defined in Subsection (B), such as Low-Income Housing Tax Credits (LIHTCs), will be monitored according to the more restrictive requirements of such programs, rather than the ARO. However, if the program requires a term that is less than 30 years, the project will be subject to the requirements of the ARO for the years after the program ends for a total 30-year term.

Affordable units are not eligible for financial assistance unless the affordability provided is in excess of the requirements of the ARO. For example, the Department of Housing (DOH) encourages 30% affordability in the Fulton Market Innovation District (FMID) north of Lake Street. Developers of residential developments in the FMID are encouraged to seek financial assistance to support that greater level of affordability.

## 1.3 Residential Developments in the Fulton Market Innovation District North of Lake Street

The Chicago Plan Commission adopted a plan for the Fulton Market Innovation District (the “FMID”) in July 2014, and approved an update to the plan (the “FMID Plan Update”) in February 2021. The FMID Plan Update allows residential uses north of Lake Street in the FMID and establishes a 30% affordability goal for new residential projects in that area. In order to achieve that goal, DOH is committed to offering developers financial assistance to provide an additional 10% affordability either on-site or in an off-site location within the boundaries of the FMID, in accordance with the FMID Plan Update (the “FMID Units”).

To determine the amount of financial assistance necessary to create the FMID Units, the Applicant should submit to DOH a complete FMID package at least three (3) months prior to the scheduled Plan Commission publication date:

1. ARO FMID PD Statement
2. ARO Intake Application – available here:  
<https://webapps1.chicago.gov/eforms/aroapplication>
  - a. Before you begin the ARO Intake Application, please fully complete the affordable unit details spreadsheet available for download in Step 1 of the e-form;
  - b. Submit floor layouts/schematic design drawings with affordable units highlighted. Drawings should include Unit #s, square footage, and Type A designation.

*Please provide two of each (a and b), one at 20% affordability and one at 30% affordability.*

3. Two (2) detailed pro formas using DOH's template; one pro forma considering 20% affordability, and a second pro forma considering 30% affordability, both pro formas should have the property tax abatement included (HB2621).
  - a. Pro formas must be fully completed. Please note that the "Units&Income" tab will need to highlight the proposed AMI mix for ARO units (please break out units into the correct AMI columns).
4. Provide a market rent study from a reputable firm with established expertise in valuations of similar properties. The study should highlight rental comparisons for all unit types being proposed in residential development.
5. Applicant's own analysis of the cost to provide the additional 10 percent affordability. An explanation of the results with supporting data on how the Applicant has landed on that dollar amount is required.

The pro formas, market rent study, and applicant's analysis must be based on commercially reasonable investment criteria and empirical data.

More information on the FMID 2021 Plan Update, ARO requirements, ARO statement templates, forms, and resources available at [www.chicago.gov/ARO](http://www.chicago.gov/ARO)

## Article 2: Interaction with Other MCC Provisions

Projects introduced to City Council on or after June 1, 2016, may be eligible to take the floor area bonus described in Section 17-4-1009-B of the MCC. Residential projects with ten or more units that elect to take the Neighborhood Opportunity Fund (NOF) bonus must do so as PDs and will be subject to the ARO. Payments made to the NOF will not be credited against or reduce any payment obligations under the ARO. Projects that take the floor area bonus described in Section 17-4-1009-B of the MCC are not eligible for additional bonus floor area under Section 17-4-0405-D of the MCC.

Projects in Transit-Served Locations (TSL) may be eligible to take the floor area bonus described in Sections 17-3-0403-C or 17-4-0405-D of the MCC. Residential projects with ten or more units that elect to take TSL bonus must do so as PDs or zoning map amendments and will be subject to the ARO. Verification from Zoning staff that the project is eligible for the ARO TSL bonus will be required prior to the ARO Project Manager's approval of the AHP. ARO units that enable additional floor area through the TSL must be located on-site. Projects that take the floor area bonus described in Section 17-4-0405-D of the MCC are not eligible for additional bonus floor area under Section 17-4-1009-B of the MCC.

The on-site affordable units provided pursuant to Subsection (W)(10) do not reduce the obligation to provide market rate accessible units under Section 14B-11-1107.6.2.2.1.3 of the MCC. i.e., as of the date hereof, the accessibility obligation in a 100 dwelling unit project that elects to provide all of their 20% set-aside on-site is 20 Type A affordable units and 16 Type A market rate units (20% of the 80 market rate units) for 36 total accessible Type A units in the project. However, the accessibility obligation in a 100 dwelling unit project that elects to provide the minimum 5% of the 20% set-aside-on-site is 5 Type A affordable units and 19 Type A market rate units (20% of 95 market rate units) for 24 total Type A units in the project.

# Article 3: ARO Areas Map

The ARO divides the city into four areas to reflect different housing markets and priorities: downtown areas; community preservation areas; inclusionary housing areas; and low-moderate income areas. If any portion of a low-moderate income area is located in a downtown district, that portion of the low-moderate income area will be treated as a downtown district for purposes of the ARO. The downtown district is an inclusionary housing area.

The ARO Areas Map is at the end of this Article 3.

**Downtown areas** include any parcel with a “D” zoning designation, representing the core of the city.

**Community preservation areas** are communities that may or may not be high-cost or low-affordability currently, but which are experiencing or are at high risk of experiencing displacement of existing low-income residents.

**Inclusionary housing areas** are communities that are high-cost or low-affordability currently, and which are experiencing displacement of existing low- and moderate-income residents and which pose entrance barriers to low- and moderate-income residents.

**Low- to moderate-income areas** are communities that do not meet the definition of either a community preservation area or inclusionary housing area.

Data used to define these geographies comes from the 2019 American Community Survey 5-Year Estimates as well as studies on legally restricted and naturally occurring affordable housing commissioned by the Departments of Housing and Planning and Development.

## 3.1 Updates to the Map

The map will be updated at least every five years but no more than every two years after October 1, 2021. Projects are subject to the map in effect at the time a project is submitted.

A project is “submitted” when:

- With respect to an entitlement, an ordinance for a zoning map amendment is introduced to City Council, a complete application for an administrative adjustment is filed with the zoning administrator or a complete application for a variation is filed with the zoning board of appeals (ZBA).
- An ordinance for city land sale or financial assistance is introduced to City Council.

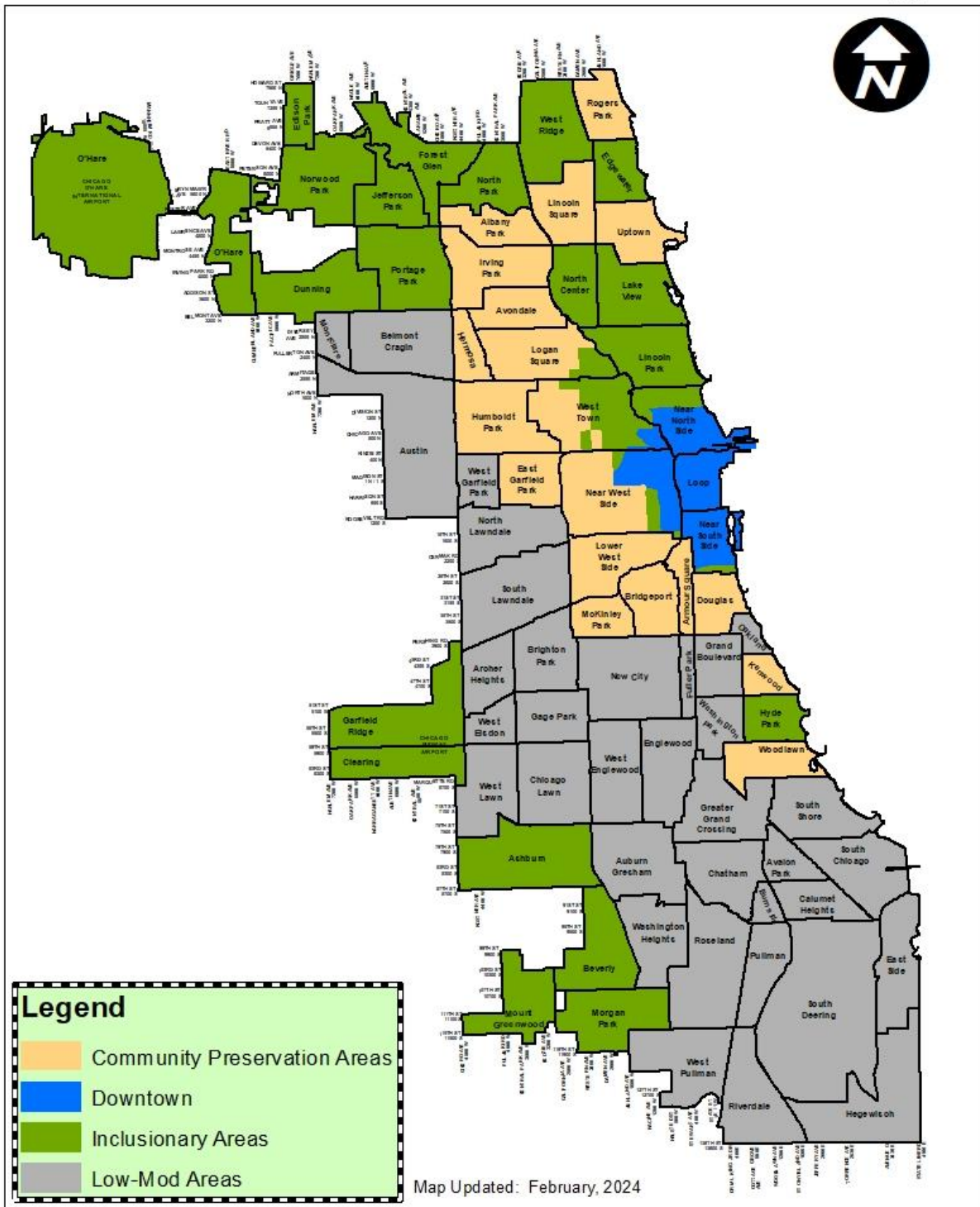
## 3.2 2015 ARO and Pilot Areas

If a project is subject to the 2015 ARO, please reference the 2015 ARO Rules and the 2015 ARO Zone Map, which are online at [www.chicago.gov/aro](http://www.chicago.gov/aro). More information on the pilot areas is also online at [www.chicago.gov/aro](http://www.chicago.gov/aro).



# ARO Areas Map

## ARO Geographies by Chicago Community Area



Source: Chicago Department of Housing, February 2024

# Article 4: Calculating Affordable Units and In Lieu Fees

## 4.1 Calculation of Affordable Units

Calculation of the ARO obligation includes any units enabled by the Neighborhoods Opportunity Fund bonus, or the TSL bonus.

Developers of rental projects in low-moderate income areas must set aside 10% of the dwelling units in the project as affordable units at a weighted average of 60% AMI as described in Subsection(F)(1). Developers of owner-occupied projects in low-moderate income areas must set aside 10% of the dwelling units in the project as affordable units at a weighted average of 100% AMI or 8% of the dwelling units in the project as affordable units at a weighted average of 80% AMI as described in Subsection (F)(3).

Developers of rental projects in community preservation areas, inclusionary areas, or the downtown district must set aside 20% of the dwelling units in the project as affordable units at a weighted average of 60% AMI. Developers of rental projects in those areas required to provide six or more on-site or off-site affordable units may choose to reduce the percentage of the affordable units set aside by providing deeper affordability levels as described in Subsection (F)(2), according to the table copied below.

<b>Downtown, Inclusionary Areas, and Community Preservation Areas</b>	
Option 1	20% at a weighted average of 60% of the AMI, provided that at least one-third of the affordable units must be affordable to households at or below 50% of the AMI, of which one-sixth must be affordable to households at or below 40% of the AMI
Option 1A Authorized agency units	Developers choosing Option 1 may lease or sell affordable units to an authorized agency. Such units shall count as 60% AMI units for the purpose of calculating the weighted average of the AMI. If a developer sells or leases more than one-half of a project's affordable units to the Chicago Low Income Housing Trust Fund or the Chicago Housing Authority, the required percentage of affordable units under Option 1 increases to 25%.
Option 2	16% at a weighted average of 50% of the AMI, provided at least one-third of the affordable units must be affordable to households at or below 40% of the AMI
Option 3	13% at a weighted average of 40% of the AMI
Option 4	10% at a weighted average of 30% of the AMI

Developers of rental projects in the community preservation areas, inclusionary areas, or the downtown district must, regardless of the total set aside chosen, build half of the affordable units, of which half (25% of the total affordable units) must be built on-site and the rest (25% of the total affordable units) can be built on-site or off-site. The other half of the total affordable units can be built on-site, off-site, paid for by an in lieu fee, or any combination thereof, as described in Subsection (G)(1).

For example, a rental project in a community preservation area, inclusionary area, or the downtown district proposing to build 100 total dwelling units with a 20% affordable set aside would have the following requirements.

Total Rental Units	Affordable Set Aside Units	On-Site Units	Units Eligible for On-Site or Off-Site	Units Eligible for On-Site, Off-Site, or In lieu fee
100	20 (20% of total)	5 (25% of affordable)	5 (25% of affordable)	10 (50% of affordable)

Developers of owner-occupied projects in community preservation areas, inclusionary areas, or the downtown district must set aside 20% of the dwelling units in the project as affordable units at a weighted average of 100% AMI or 16% of the dwelling units in the project as affordable units at a weighted average of 80% AMI as described in Subsection (F)(3).

Developers of owner-occupied projects in any area of the city may build half of the affordable units on-site or off-site, and the other half may be built on-site or off-site, or paid for by an in lieu fee. However, if at least 25% of the affordable units are not provided on-site, the in lieu fee amount per unit will increase by 25%.

Developers may reduce a project’s total number of affordable units by providing larger bedroom count units as described in Subsection (V).

#### **4.2 Calculation and Timing of Payment of In Lieu Fees**

Developers of residential projects have the option to decrease the percentage of the required affordable units set aside in exchange for a higher in lieu fee amount as described in Subsection (G)(2).

The in lieu fee amount will be calculated at the time the Affordable Housing Profile (AHP) is signed by the ARO Project Manager, using the fee that is effective at that time. However, if payment is not made before the fee has been annually adjusted, the fee will be recalculated to the updated in lieu fee amount.

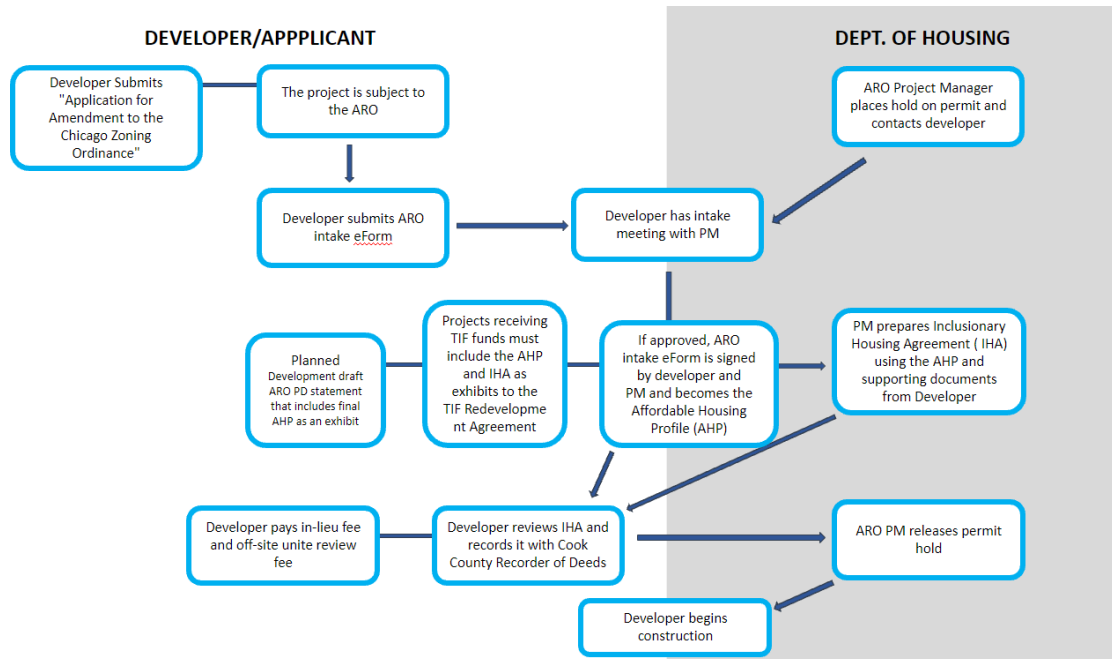
#### **4.3 Annual Adjustments to the In Lieu Fee, Based on the CPI**

The in lieu fee amount will be adjusted annually to reflect adjustments in the Consumer Price Index (CPI) for Chicago-Naperville-Elgin, based upon data published by the United States Department of Labor, Bureau of Labor Statistics.

The adjusted in lieu fee amount will take effect on January 1 of each year and will be online at [www.chicago.gov/aro](http://www.chicago.gov/aro) around November 15 of the preceding year.

# Article 5: Administrative Procedures

## 5.1 Administrative Procedures for Entitlements



### 5.1.1 Building Permit Hold

When a property is submitted for an entitlement, city land use, or financial assistance, as described in Article 3.1 of these Rules, the ARO Project Manager a) places a hold in the Department of Buildings' permitting system on property potentially subject to the ARO and b) emails the developer or the developer's attorney regarding next steps required to meet the ARO.

### 5.1.2 ARO Intake eForm

When a property is determined to have an ARO obligation, the developer or the developer's attorney is required to submit the ARO Intake eForm online at [www.chicago.gov/aro](http://www.chicago.gov/aro), with supporting documents, including:

- Developer's contact information.
- Residential development information.
- If affordable units are proposed:
  - Affordable Unit Details and Square Footage worksheet.
  - Dimensioned Floor Plans with affordable units highlighted.
  - If affordable units are proposed off-site, off-site unit application as detailed in Article 6.2.5 of these Rules.
  - If affordable units are proposed as authorized agency units, a signed acceptance letter from the authorized agency must be submitted. If the letter is not yet available, the

letter must be submitted before execution of the Inclusionary Housing Agreement (IHA).

Once all required documents are received and reviewed, the ARO Project Manager will schedule an intake meeting with the developer or developer's attorney to discuss the ARO proposal. If approved, the ARO Intake eForm will be signed by the developer and the ARO Project Manager and will become the Affordable Housing Profile (AHP).

### **5.1.3 PD Statements**

PD statements must include an ARO statement in the template provided by ARO staff. The ARO statement will detail the PD's ARO obligation. The fully executed AHP will be an Exhibit to the PD statement, so project details, including to the extent possible any off-site affordable units, must be finalized prior to the PD's presentation to the CPC. If the off-site affordable unit details are not yet finalized, the developer should provide a written statement of intent to develop off-site units. If the developer requests to change its method of compliance with the ARO after the PD is approved by City Council, the Developer shall update and resubmit the AHP to DOH for review and approval. DOH may adjust the AHP in accordance with the ARO without amending the PD, provided however, any request to relocate affordable units from on-site to an off-site location requires an informational presentation to the CPC.

### **5.1.4 Preparing and Recording the Affordable Housing Covenant and Agreement or Inclusionary Housing Agreement**

For clarification purposes, if the residential project is subject to 2015 ARO, the developer shall enter into and record an Affordable Housing Covenant and Agreement ("AHA"). However, if the residential project is subject to the 2021 ARO, the appropriate agreement shall be the Inclusionary Housing Agreement ("IHA"). Both shall hereinafter be referred to as the "Agreement".

Prior to the issuance of any building permit for the project, including, without limitation, excavation or foundation permits, interior demolition permits, and other phased construction permits, the developer must record the Agreement. The signed Affordable Housing Profile ("AHP") and other documents required by DOH, as applicable, must be attached as an exhibit to the recorded Agreement. Failure to record the Agreement with the AHP attached as an exhibit, or any other exhibits required by DOH, or any errors found post recordation, will require the developer to re-record the Agreement.

Since **the Agreement can take up to 45 business days to prepare once all required documents are received**, developers are encouraged to submit all required due diligence documents as soon as possible to the ARO Project Manager and to ensure their completeness and accuracy in order to avoid delays. The required due diligence documents are:

1. An **executed and recorded** copy of the deed conveying title to the developer
2. A copy of the title policy showing the developer as the owner of the property and the named insured (except in the case of city land sales if this information

is not available).

- a. An **executed** waived title commitment/marked and **signed** title commitment is also acceptable
  - b. If there are any exceptions in the title policy, such as building code violations and litigation, evidence that the exceptions have been cleared
3. Organizational Structure Documents
- a. Limited Liability Company
    - i. Articles of Organization for the LLC, certified by the Illinois Secretary of State.
      1. With the Illinois Secretary of State's stamp of filing and date filed
      2. Along with any amendments filed with the Illinois Secretary of State, as required by law
    - ii. Operating Agreement of the LLC (if any), certified by the manager of the LLC.
      1. Along with any amendments
      2. Must be certified by the manager of the LLC identified in the Operating Agreement
      3. The manager identified in the Operating Agreement should be the same manager identified in the Articles of Organization, unless the Articles of Organization are silent
    - iii. Certificate of Good Standing for the LLC, issued by the Illinois Secretary of State.
      1. Foreign entities must also provide a Certificate of Good Standing from the Illinois Secretary of State
      2. Must not be older than 6 months
  - b. Corporation
    - i. Articles of Incorporation, certified by the Illinois Secretary of State
      1. With the Illinois Secretary of State's stamp of filing and date filed
        - a. Along with any amendments filed with the Illinois Secretary of State, as required by law
      2. Foreign corporations: Submit a complete copy of the Articles of Authority to conduct business in Illinois
    - ii. By-Laws of the Corporation, if required by articles of incorporation or shareholders, certified by the Board of Directors or Shareholders, as applicable
    - iii. Certificate of Good Standing, issued by the Illinois Secretary of State
      1. Foreign entities must also provide a Certificate of Good Standing from the Illinois Secretary of State
      2. Must not be older than 6 months
  - c. Partnerships
    - i. General Partnership and Limited Liability Partnership

1. Statement of Partnership Authority, along with any filed amendments, certified by the Illinois Secretary of State
  - a. An affidavit stating that the partnership has been legally formed, if a Statement of Partnership Authority was not filed with the IL Secretary of State
2. Assumed Name (DBA-Doing Business As), if any, certified by the Cook County Clerk
3. Partnership Agreement, certified by the partners
4. Certificate of Existence, issued by the IL Secretary of State, no more than 6 months old (Not required for General Partnerships)
- ii. Limited Partnerships and Limited Liability Limited Partnerships
  1. Certificate of Limited Partnership certified by the IL Secretary of State
    - a. If foreign, a Statement of Qualification certified by the Illinois Secretary of State
  2. Partnership Agreement
  3. Certificate of Existence, issued by the IL Secretary of State, no more than 6 months old
4. Resolutions and Consent of the Entity to enter into the Agreement, including Signatory authority. Please provide one document containing the following resolutions:
  - a. Authorization for the entity to enter into the Agreement (identify appropriate agreement: IHA or AHA)
  - b. Authorization for the person identified in the signature block to sign the Agreement
  - c. Name of the manager/partner/officer or shareholder authorized to act on behalf of the entity (signatory for the Agreement).
5. Copy of the ordinance approving the city land sale, financial assistance, or entitlement (or the administrative adjustment or ZBA decision, as applicable).
  - a. Certified passed ordinance can be obtained from the City of Chicago Clerk
  - b. Please do not send the ordinance package submitted for City Council introduction
6. Copy of the AHP, signed by the developer and the ARO Project Manager.
  - a. If a House Number Certificate has been issued assigning a new address to the property, the AHP form should reflect the new address(es)
7. Floor plans submitted for building permit, dated, with affordable units highlighted.
  - a. Should identify the unit numbers
8. Copy of the Affordable Unit Details and Square Footage worksheet, with any changes made since the AHP was signed highlighted.
9. A copy of the House Number Certificate, issued by the Chicago Department of Transportation, if one was issued

If the unit mix/sizes have changed since the AHP was signed, the ARO Project



Manager will work with the developer to update the AHP. Once the Agreement is finalized, the developer will sign and notarize the Agreement and coordinate with the ARO Project Manager on DOH's execution. Once fully executed, the developer, at its expense, will record an original of the executed Agreement, with the AHP attached as an exhibit, with the Cook County Clerk. The developer, at its sole expense, will also be responsible for recording any future amendments to the Agreement or any re-recording of the Agreement.

#### **5.1.5 Releasing the Building Permit Hold**

After the ARO Project Manager receives a copy of the recorded IHA and/or evidence that the in lieu fee and, if applicable, the off-site unit review fee is paid, the ARO Project Manager will release the building permit hold. The process to pay the in lieu fee is detailed in Article 6.4 of the Rules.

### **5.2 Administrative Procedures for City Land Sales**

City land sales that trigger the ARO will follow the administrative procedures set forth in Articles 5.1.2, 5.1.4 and 5.1.5 of these Rules.

### **5.3 Administrative Procedures for Financial Assistance**

Projects receiving financial assistance that imposes greater affordability requirements than the ARO may not be subject to the ARO. Projects such as those receiving Low Income Housing Tax Credits (LIHTC), Donation Tax Credits, or other forms of financial assistance from the City, may be monitored by DOH's Construction and Compliance bureau (CAC) pursuant to another form of regulatory agreement.

Residential projects that receive TIF assistance, but no other form of City financial assistance that would impose greater affordability requirements than the ARO, are subject to the ARO. Developers are required to identify whether the project is likely to be subject to the ARO on the TIF application. The TIF Project Manager will share this information with the ARO Project Manager.

If the project is subject to the ARO, an AHP must be signed by the developer and the ARO Project Manager before the project can be presented to the Community Development Commission (CDC). The AHP will include details on the number and type of affordable units required. The fully executed AHP, and if applicable, the recorded IHA, will be attached as an exhibit to any Redevelopment Agreement.

PDs that receive public financial assistance to build affordable units must include an ARO statement that a) references the greater affordability requirements as described in Article 1.2 of the Rules; and b) requires the affordable units to remain affordable for at least 30 years, in the event that the greater affordability requirements expire prior to the ARO's affordability period.



# Article 6: Additional ARO Options

## 6.1 Lease or Sell Units to an Authorized Agency

Under the ARO's Subsection (S), developers may sell or lease affordable units to an authorized agency at any point during the affordability term. The Chicago Housing Authority (CHA) and the Chicago Low Income Housing Trust Fund (CLIHTF) are authorized agencies under the ARO. The ARO Project Manager must approve any other entity as an ARO authorized agency.

For the term of the IHA, the authorized agency must submit the Annual Owner's Certification (AOC), the form of which is attached as an exhibit to the IHA that provides the following information and any additional information requested by the DOH Commissioner:

- Number of affordable units currently in the authorized agency's inventory.
- Monthly rental rate for each affordable unit.
- Information concerning each tenant household's composition, demographics and gross income.
- Affordable unit operating expenses and revenues received by the authorized agency.

### 6.1.1 Partner with CHA or CLIHTF

CHA offers rent subsidies to owners of qualified developments through its Project Based Vouchers (PBV) program. The subsidies stay with the development to provide ongoing affordable housing. Information on partnering with CHA is online at <https://www.thecha.org/landlords/project-based-voucher>

CLIHTF also offers rent subsidies to owners of qualified developments through its Rental Subsidy Program. Like the CHA's PBV program, the subsidies stay with the development to provide ongoing affordable housing. Information on partnering with CLIHTF is online at <http://www.clihtf.org/programs-and-initiatives/rental-subsidy-program>

Prior to the issuance of any building permit for the project, DOH requires evidence, such as a Housing Assistance Payments (HAP) agreement, of the authorized agency's 30-year obligation to provide project-based subsidies to the developer and a recorded IHA.

If a property owner sells or leases affordable units to an authorized agency within an existing 30-year term, the property owner shall record an amended IHA with required evidence of the authorized agency's obligation to provide project-based subsidies. In the case of rental housing, the affordability period will continue from the date of the initial rental prior to the amendment IHA; provided that if an affordable unit is converted to a condominium unit, such units shall be subject to the provisions of Subsection (J)(1) and a new affordability period of 30 years shall begin on the date of the sell of affordable units to an authorized agency.

When an affordable unit receives a project-based rent subsidy, the rental subsidy provided by the authorized agency to the landlord combined with the rent paid by the eligible household may not exceed an amount affordable to households at 100% of the AMI.

If a developer sells or leases more than one-half of a project's affordable units to any authorized agency that provides rent subsidies to landlords, the required percentage of affordable units required under the Subsection (F) increases to 25%.

### **6.1.2 LIHTCs and Tax-Exempt Bonds**

Developers can apply to DOH for affordable housing development funding in the form of federal LIHTCs and tax-exempt bonds. LIHTC is a public-private partnership in which investors provide equity for low-income rental properties in exchange for a federal tax credit over several decades. The City of Chicago receives a limited number of these housing tax credits to allocate each year based on its population. The award of 4% LIHTCs and tax-exempt bonds is done by application to DOH. Applications for 4% LIHTC are accepted on a rolling basis.

More information is online at

<https://www.chicago.gov/city/en/depts/doh/provdrs/developers/svcs/multi-family-assistance.html>

## **6.2 Build, Buy, or Rehab units off-site**

### **6.2.1 City's Goal for Off-site Units**

Subject to the ARO's requirements and standards, developers may establish a portion of the affordable units off-site.

### **6.2.2 Meeting Required with DOH Staff**

If off-site units are proposed, developers should be prepared to discuss the specifics of the proposals in an intake meeting with DOH staff following the submission of the ARO Intake eForm. Specifics of the meeting will include: the proposed budget, off-site location, unit mix details and the ARO evaluation table so that DOH can make its determination for approval/disapproval of the off-site unit proposal. Note that all DOH determinations will be made in line with its policy goals.

### **6.2.3 Standards for Off-Site Affordable Units**

#### *6.2.3.1: New Construction and Rehabbed Buildings*

Off-site units in community preservation areas may be new construction or existing buildings. Off-site units in inclusionary housing areas may be new construction or in existing buildings if located in another inclusionary housing area but must be new construction if located in a community preservation area. If the off-site units will be placed in an existing building, the developer must provide a Physical Needs Assessment (PNA) and scope of work according to instructions provided by CAC.

A PNA is a report prepared by a local third-party industry recognized and qualified entity that is unaffiliated with the developer or its property manager. Unaffiliated means a person outside of the developer's and/or property manager's organization, and includes, but is not limited to, current property manager, the owner, any architect who will create the permit drawings for the project or other projects of for the developer, handyman under contract with the developer or property manager, a contractor who will be awarded

the job, any in-house consultant or construction individual who works for the developer or property manager.

The PNA must include a life expectancy analysis including estimated age, expected useful life (EUL), and effective remaining life. At a minimum, the PNA must assess the following elements of the proposed off-site building:

- Structure
- Exterior
- Interior
- Stairs, exterior and interior
- Mechanical systems
- Electrical systems
- Plumbing and sanitation systems
- Life safety protection systems
- Kitchen and laundry appliances
- Cabinetry and counters
- Flooring (common and individual units)
- Interior finishes (common and individual units)
- Common area laundry facilities
- Common area trash facilities
- Site conditions/improvements

Any of the above elements that are assessed to have an EUL of less than 15 years must be included in the developer's rehabilitation scope of work.

#### 6.2.3.2: Cost to Construct

The developer's cost to construct, acquire, and/or rehab, as applicable, the off-site units must equal or exceed the amount of the triggering project's in lieu fee multiplied by the number of off-site units. The developer's costs may not include soft costs, which include, but are not limited to, marketing costs, management costs, broker fees or closing costs. Developer's qualified hard costs include material and labor costs.

**Developers should utilize the following chart when calculating the cost-per-unit:**

Address of off-site location: _____	
Purchase date: _____	
Purchase price of the off-site location (or, if the off-site location has been owned for more than one year, the Appraised Value)	
Cost of Unit Updates	
Total Costs	
Number of Units	
Cost Per Unit	

**6.2.3.3: Occupancy**

Proposed off-site units in existing buildings must be vacant at the time of acquisition. Exceptions may only be made, at the ARO Project Manager’s discretion, if the existing tenants are a) income qualified (as determined by DOH) at the time of application, b) are allowed to remain in the units after they are established as ARO units, and c) provided relocation assistance by the developer during any required rehab work.

**6.2.3.4: Number of Bedrooms in Off-Site Units**

Off-site units must have the greater of two bedrooms or the number of bedrooms required if the units were constructed on-site.

Developers may use the incentives in Subsection (V) to reduce the total unit count by providing off-site units with more bedrooms than those required if the units were constructed on site. Calculate a project’s required affordable units if using Subsection (V) online at [www.chicago.gov/aro](http://www.chicago.gov/aro).

A triggering project’s bonus rooms, offices, dens, and similar spaces will be counted as bedrooms for the purpose of determining the number of bedrooms required in the off-site units unless comparable spaces are provided in the off-site units.

**6.2.3.5: Parking**

Parking for off-site units must be comparable to parking for the triggering project and must comply with the off-site location’s zoning requirements, whichever is more restrictive. If the off-site location is in a transit served location, developers may provide monthly CTA passes, Divvy Bike membership, or a combination of both, as the occupant elects, in exchange for parking for the off-site units provided the total monthly value is no less than the cost of providing that parking space, for the duration of the affordability period.

As with on-site affordable units, if parking is included in the price of the triggering project’s market rate units, then parking must be included in the price of the off-site units. The ARO staff may allow developers to “unbundle” parking from off-site units if there is a comparable reduction in rent or assessment costs.

#### 6.2.3.6: Design and Construction Standards

See Article 8 of these Rules.

#### 6.2.3.7: Legal Units with Building Permits and No Violations

Off-site units must be constructed in compliance with the City's current building code. Developers must meet all requirements of any applicable city, state or federal law which applies to the development.

If a developer begins rehab on a property prior to receipt of CAC's architectural approval, the developer bears the risk of costs incurred if the property is not approved as an off-site location.

If any violations or complaints exist against the proposed off-site location, including those listed online at <https://webapps1.chicago.gov/buildingrecords/doSearch> the developer must specifically address how the violations will be corrected.

#### 6.2.3.8 City Land

Off-site units may be built on land purchased from the City, but unless otherwise authorized by Rule or Ordinance, the developer must pay (or have paid) market value for such land. However, subject to Subsection (H), developers who hire general contractors certified by the Chicago Neighborhood Rebuild pilot program, which aims to rehabilitate vacant homes in Garfield Park, Humboldt Park, and Englewood and provide transitional jobs and training opportunities for at-risk youth and ex-offenders, may be eligible to purchase City-owned land at a discount to use as a location for off-site units.

### **6.2.4: Providing Off-site Units in an Affordable Development with Government Financing**

Developers may establish off-site units in projects that are government-funded but meet all of the requirements of the ARO, as long as a) the developer's equity contribution to the government-funded project equals or exceeds the amount of the triggering project's in lieu fee multiplied by the number of off-site units, in compliance with Article 6.2.3.2 of these Rules and b) the off-site project is fully funded at the time that the IHA is signed.

### **6.2.5: Application Process for Approval, Construction and Leasing of Off-Site Affordable Units**

#### **Pre-Construction**

**Step 1:** The developer must submit to ARO staff the off-site proposal with the ARO Intake eForm, including:

*For New Construction:*

- Schematic and design development drawings for on-site and off-site units pursuant to Section 10.1 of the Architectural Technical Standards (ATS) manual
- Complete ARO unit evaluation table

*For Rehab:*

- Schematic and design development drawings for on-site and off-site units pursuant to Section 10.1 of the ATS manual

- Complete ARO unit evaluation table
- PNA
- Site visit request letter
- Proposal to address outstanding building code violations (if applicable)
- Scope of work and estimated cost for renovation

Following CAC's review of the above-listed documents, CAC will issue a design review letter outlining:

- CAC's findings of review
- Required changes to meet the Architectural Technical Standards (ATS) manual
- CAC's requirements to move forward

*Estimated review period: ten business days once a complete package is received*

**Step 1A:** As necessary, the developer must submit any missing information that was required in Step 1, revised construction documents, and a response to address DOH's feedback.

Following CAC's review of the above-listed documents, CAC will issue a preliminary approval letter.

*Estimated Review period: ten business days once a response is received*

**Step 2:** To received CAC's Architectural approval, the developer must submit:

- Owner's sworn statement
- GC sworn statement
- Boundary Survey
- Draft permit application prior to submission to Department of Buildings (DOB)
- Final construction drawings stamped by the architect of record prior to submission to DOB

*Estimated review period: five to ten business days once all documents are received*

**Step 2A:** As necessary, the developer must submit any missing information that was required in Step 2, revised construction documents and a response to address DOH's feedback. In the event final submission is different from what DOH approved under step 1, DOH will required revisions and/or a response justifying each change with supporting documents.

Following CAC's review and approval of the above-listed documents, CAC will issue an Architectural approval letter.

*Estimated review period: five to ten business days once all documents are received*

**Step 3:** The DOH Commissioner signs the IHA. The ARO Project Manager issues an invoice and the developer records the IHA and pays \$5,000 per off-site unit administration fee.

*Estimated IHA creation: 15 business days once all documents are received*

**Step 4:** Upon receipt of a copy of the recorded IHA and evidence of payment of any in lieu and/or off-site unit administration fees, the ARO Project Manager releases the building permit hold on the triggering property.

## **Construction**

**Step 5:** When the construction of the off-site units are complete, the developer requests a final site visit by sending the ARO Project Manager all aligning financial construction information, including:

- Letter from the developer on company letterhead stating the project is complete and requesting a final site inspection
- A copy of the front and back of each building permit for each property with all DOB signoffs
- A copy of the certificate of occupancy for each property (as applicable)
- Final general contractor's and owner's sworn statements
- All final waivers of lien or a title report showing no liens for each property
- As-built survey (new construction)
- Final Issued for Construction Permitted Construction Drawings
- List of any buyer changes (if applicable, for-sale units only)
- A copy of the recorded IHA

Following CAC's review of the above-listed documents and the final site visit, CAC will issue a punchlist. As reasonable, multiple certificates of completion can be requested if off-site units are located in multiple buildings.

*Estimated time to schedule final site visit: five to ten business days once all documents are received*

**Step 6:** Upon completion of the DOH CAC punchlist, the ARO Project Manager will issue a certificate of compliance to be signed by the DOH Managing Deputy Commissioner and ARO Project Manager.

*Estimated delivery time: three to five business days*

**Step 7:** Prior to the Leasing of the Off-Site Units:

- The developer must obtain a certificate of occupancy from the DOB for the off-site units.
- CAC and ARO staff visit the off-site units and if compliant with the IHA issues a Certificate of Completion letter.

- The developer completes a marketing plan for the project, attends a compliance meeting with CAC and ARO staff and obtains a letter confirming the meeting took place. For links to template marketing plans, see Article 9 of these Rules (if the affordable units will be owner-occupied) and Article 10 of these Rules (if the affordable units will be rental units).
- The developer reviews tenant application packets. Once the developer pre-approves the application packets, the developer forwards them to CAC for review. Once CAC income qualifies the tenants, the developer, in its capacity as landlord, executes leases with the CAC qualified tenants.
- The developer submits copies of the fully executed leases to CAC to verify the affordable rents.

**Step 8:** After all of the off-site units have been leased at affordable rents to tenants who have been income-qualified by CAC as eligible households:

- The ARO Project Manager issues a release, in recordable form, releasing the triggering property and the triggering property's developer from the off-site location's ARO obligations.
- The 30-year affordability period begins for the off-site units once the final affordable unit has been leased.

#### **6.2.6: Department of Building Inspections**

The developer is required to schedule all applicable inspections with the DOB. Prior to the construction of the off-site units, the developer must submit copies of all building permit approvals to ARO Project Manager. The developer must also submit copies of all building permit approvals to DOH at the project's completion.

#### **6.2.7: Recording of the IHA and Release of the Triggering Project**

Prior to the release of DOH's hold on the building permit, the developer must record the IHA. The IHA will initially be a lien on the triggering project and the off-site location(s). As set forth in the IHA, the triggering property will be released from the off-site location's ARO obligations when the following conditions have been met:

- The construction or rehabilitation (as applicable) of the off-site units, common areas and any other facilities at each off-site location are completed in accordance with the CAC approved construction drawings.
- Each off-site unit has received all DOB signoffs.
- Each off-site unit has received a certificate of compliance from the ARO Project Manager indicating that the developer has completed the construction or rehabilitation, as applicable, in accordance with the terms of the IHA.
- If a developer has provided funds to a third-party developer to provide the off-site units pursuant to an arrangement approved by DOH, the developer's obligation for the off-site units will be satisfied when DOH is satisfied with evidence that the payment has been made into an escrow account controlled by the City, rather than when the off-site units are issued a certificate of occupancy, as described in Article 6.2.8 of these Rules.



- Developers must use good faith efforts to lease each off-site unit to an eligible household in accordance with the terms of the ARO, IHA and these Rules.
- There exists neither an event of default nor a condition or event which, with the giving of notice or passage of time or both, would constitute an event of default by developer.

#### **6.2.8: Certificate of Occupancy for Triggering Project**

Pursuant to Subsection (X)(2)(c), the DOB will not issue any certificate of occupancy for the triggering project prior to the satisfaction of all criteria under Article 6.2.7 of these Rules. Pursuant to Article 6.2.7 of these Rules, the developer must deliver all final signoffs from DOB for the off-site units to the ARO Project Manager, who will then schedule the final site visit. After the final site visit and issuance of a certificate of compliance, the ARO Project Manager will authorize DOB to issue the certificate of occupancy for the triggering project.

Notwithstanding the foregoing and also pursuant to Subsection (X)(2)(c), once funds are escrowed for a DOH-approved off-site project to be constructed by a third-party developer, pursuant to a DOH-approved escrow agreement, the triggering project's certificate(s) of occupancy may be issued prior to the issuance of any certificate of occupancy for the off-site units.

### **6.3 Compliance through the ARO Transit-Served Location (TSL) Bonus**

Pursuant to Subsection (H), if the triggering project is located in a TSL, each off-site unit must be located in a substantially comparable TSL.

## 6.4 Compliance through Payment of the In Lieu Fee

Any in lieu fees must be paid prior to the issuance of any building permit, including, without limitation, excavation or foundation permits, interior demolition permits, and other phased construction permits. The developer or their agent should request the in lieu fee invoice from the ARO Project Manager at least five business days before the anticipated release of any building permit. Once all documentation and details, including the name and address of the owner/developer of the property are finalized, the invoice is typically issued within two business days. The developer must then make the payment directly at one of the following Department of Revenue Payment Sites:

**Department of Revenue Payment Sites**

	<b>Address</b>	<b>Room</b>	<b>Days</b>	<b>Hours</b>
City Hall	121 N. LaSalle	Room 107	M-F	8 a.m. - 5 p.m.
North Side	4445 N. Pulaski	Lobby	M, Tu, Th	8 a.m. - 5 p.m.
			W, F	11 a.m. - 7 p.m.
South Side	2006 E. 95th	Lobby	M, W, F	9 a.m. - 5 p.m.
			Tu, Th	11 a.m. - 7 p.m.
Southwest Side	4770 S. Kedzie	Lobby	M, Tu, Th	8 a.m. - 5 p.m.
			W, F	11 a.m. - 7 p.m.
Central	400 W. Superior	1st Floor	M-F	8 a.m. - 4:30 p.m.
			Sa	8 a.m. - 3:30 p.m.

Payment must be made via cashier's check payable to the City of Chicago. The check may not be deposited until the invoice is received. Depositing the payment in the improper account will delay the release of the building permit.

The developer must send the ARO Project Manager a copy of the receipt and a copy of the check (or check stub). The ARO Project Manager will issue a DOH receipt and, once the payment has been processed (typically the following business day), the ARO Project Manager will release the building permit hold.

# Article 7: Phased Developments

Developers of single family and multi-phased developments may meet ARO obligations as follows:

- Record the IHA prior to issuance of the 10<sup>th</sup> unit's building permit.
- Pay the in lieu fees prior to issuance of the building permit for the phase in which the in-lieu units are to be built.

Example:

A 20-unit development to be built in two 10-unit phases records an IHA providing that they will build one affordable unit on site and pay for one affordable unit in-lieu with each phase. Prior to receiving the building permit for each phase, DOH must have received the in-lieu payment for the in-lieu unit in the phase being permitted.

# Article 8: Design and Construction Standards

Developers who provide affordable units must adhere to the Standards for Affordable Units outlined in Subsection (W). Developers who are constructing off-site units must also adhere to Subsection (X), Article 6.2 of these Rules, and DOH CAC 2021 Architectural Technical Standards manual and, in the event of a conflict, should follow the more restrictive requirement. The following Rules provide clarification.

## 8.1 Unit Mix

The ARO Project Manager’s approval of the affordable unit details and square footage worksheet, which becomes a part of the AHP, is required. The unit mix must meet the standards outlined in Subsection (W). The approved unit mix must be maintained for the 30-year term. Any revisions to the unit mix after the AHP is signed but before the IHA is recorded, must be approved by the ARO Project Manager. In that case, the developer is required to resubmit the unit details worksheet prior to the IHA’s finalization.

## 8.2 Distribution of Affordable Units

The affordable units must be distributed across all floors of a development so that no more than a third of units on any one floor are affordable units. DOH may grant exceptions to this requirement in order to allow the developer to provide accessible units and/or larger bedroom counts than would be otherwise required.

## 8.3 Square Footage

The square footage of on-site affordable units must be within 15% of the square footage of comparable (by number of bedrooms) market rate units in the project.

The minimum square footage of off-site affordable units shall be, at minimum, 85% of the comparable market rate units in the trigger project\* OR the square footages outlined in the 2023 Architectural Technical Standards Manual, whichever is lesser.

Unit Type	Bathrooms	Attached Units
Efficiency	1	420 sq. ft.
1 Bedroom	1	600 sq. ft.
2 Bedroom	1 – 1.5	875 sq. ft.
3 Bedroom	1 3/4 - 2	1,100 sq. ft.
4 Bedroom	2	1,250 sq. ft.

[https://www.chicago.gov/content/dam/city/depts/doh/qap/qap\\_2023/ATS-2023-8.2.23.pdf](https://www.chicago.gov/content/dam/city/depts/doh/qap/qap_2023/ATS-2023-8.2.23.pdf)

\*If interior living spaces required by the 2023 ATSM cannot be accommodated in an affordable unit that is 85% of the trigger property unit, then the unit must be enlarged to accommodate these requirements.

## **8.4 Finishes**

Developers shall provide comparable unit finishes in affordable units as in market rate units in the trigger property. However, affordable units may have different in unit finishes than market rate units in the development, as long as the materials, appliances and building systems are durable, of good and new quality and consistent with the then current standards for new housing and can meet the minimum Expected Useful Life (EUL).

Off-site proposed materials, appliances, and building systems, etc. are to be delineated on the ARO Evaluation table for review and approval.

## **8.5 Parking**

Parking must be the same for affordable units and market rate units and included in the purchase price or rent of the affordable unit, unless the developer can demonstrate to DOH's satisfaction that parking is not included in the purchase price or rent of the market rate units or otherwise as described in Article 6.2.3.5 of these Rules.

## **8.6 Landscaping**

Off-site properties must landscape features, at a minimum of:

1. Front, side, and rear yards shall be sodded.
2. Substantial landscaping on all public facing landscape areas shall be required.
3. A minimum of one flowering tree is to be provided in the front yard setback.
4. A variety of warm and cold climate shrubs / trees are to be incorporated in the public facing landscape areas.
5. Restoring the tree canopy on all parkways abutting the property with planting CDOT approved trees.
6. All landscape plans must be submitted at time of CAC project review in Step 1 for review and approval.

## **8.7 Garden Units**

Garden levels may be permitted as affordable units only if the triggering project contains market rate garden level units. If the triggering market rate project contains no garden units, any garden unit in an off-site building may only be used as storage or as a market rate unit.

# Article 9: Owner-Occupied Units

## 9.1 Pricing of Owner-Occupied Units

All owner-occupied affordable units under the ARO are price restricted by the Chicago Community Land Trust (CCLT). Owner-occupied units must be priced to be affordable to households earning no more than 100% of the AMI (if Option 1 is chosen under Subsection (F)(3) or no more than 80% AMI (if Option 2 is chosen). Note that the ARO allows households earning up to 120% of AMI to purchase the units.

CCLT’s affordable formula considers a buyer’s total monthly housing costs, as set forth in the table below. The formula models that a buyer will finance 97% of the purchase price. Maximum purchase prices are set at 1.5 occupants per bedroom and 1 occupant for a unit with no bedrooms.

Developers must submit an appraisal from an appraiser that is approved by the CCLT. A list of approved appraisers by CCLT will be published and available at [www.cityofchicago.org/CCLT](http://www.cityofchicago.org/CCLT). If the appraised value is not at least \$25,000 greater than the maximum affordable price calculated by CCLT, CCLT will require the developer to either set the affordable price \$25,000 lower than the market price, or the developer must prepay the Private Mortgage Insurance (PMI) costs at closing.

### Total Monthly Housing Costs include the following:

Monthly Housing Costs											
Cost	Assumption										
Property Taxes	2% of the greater of the affordable price or appraised value										
Monthly Assessment or Home Maintenance Reserve Amount	<p>The greater of the amount provided by the developer/homeowner or an amount estimated by DOH to be an average assessment, based on MLS data for all annual sales of units by number of bedrooms.</p> <p>Monthly Average Assessments are currently set at:</p> <table border="1"> <tr> <td>studio</td> <td>\$300</td> </tr> <tr> <td>one-bedroom</td> <td>\$325</td> </tr> <tr> <td>two-bedroom</td> <td>\$350</td> </tr> <tr> <td>three-bedroom</td> <td>\$375</td> </tr> <tr> <td>four-bedroom</td> <td>\$375</td> </tr> </table> <p>For single family homes without an assessment, DOH will assume a savings amount for maintenance of \$150/month.</p>	studio	\$300	one-bedroom	\$325	two-bedroom	\$350	three-bedroom	\$375	four-bedroom	\$375
studio	\$300										
one-bedroom	\$325										
two-bedroom	\$350										
three-bedroom	\$375										
four-bedroom	\$375										
Private Mortgage Insurance	PMI is estimated at 70 Basis Points (BPS), or 0.70% of the mortgage amount.										
Property Insurance	0.25% of the market purchase price for condominiums 0.75% of the market purchase price for single family homes or townhomes (where buyers are paying for homeowners insurance rather than renters/contents insurance)										

Interest Rate	The interest rate is the greater of 5% or the 10-year monthly average of interest rates, as calculated by DOH, plus 100 BPS or 1%, based on data published by Fannie Mae as "Mandatory Delivery Commitment, 30-Year Fixed Rate A/A – 60-day Delivery
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Once the developer and DOH have signed the AHP, using the AMI in effect on the date of DOH’s execution of the AHP, the maximum affordable sales price is valid for a period of one year after the certificate of occupancy for the unit is issued. If the IHA securing the units is not filed within a year of DOH’s execution of the AHP, CCLT may recalculate the maximum affordable sales price.

No sales price is valid unless DOH has signed the AHP.

**9.1.1 Homeowner Association Fees and Special Assessments**

Special assessments for CCLT units must be similarly proportional as such units’ monthly assessments are to the assessments of the whole association. CCLT homeowners must have the option of a reasonable payment plan when remitting the full special assessment at once is not feasible.

Future increases in regular monthly assessments should take into account that the annualized total of monthly regular assessments for CCLT units shall not exceed the allowable percentages in the table below of the current HUD Median Income for Unit Type as calculated annually by DOH based on HUD’s AMI limits per household size. DOH will publish these limits annually at [www.chicago.gov/aro](http://www.chicago.gov/aro).

Studio	6%
One-bedroom	6%
Two-bedroom	5%
Three-bedroom	5%
Four-bedroom	4%

**9.1.2 Fees and Earnest Money**

Affordable tenants or buyers shall not be assessed any fees that are not assessed to market rate buyers.

Developers may accept earnest money from an affordable buyer, but that earnest money must be 100% reimbursable if the buyer does not meet DOH’s requirements for an eligible household.

The amount of earnest money is capped at the greater of \$2,500 or 1% of the affordable purchase price.

## **9.2 Income Eligibility for Owner-Occupied Units**

Owner-occupied units must be purchased by households at or under the AMIs provided in Subsection (F)(3).

DOH follows HUD guidelines for calculating annual gross household income for first-time homebuyers. Homebuyers who have owned property in the past will be considered for participation in the program if the previously owned property is/was sold. Sales proceeds from the sold property may be used for the down payment of the new affordable unit up to the required amount. Any balance of the sales proceeds will be calculated at the rate of return for income purposes.

Per DOH policy, eligible buyers may not spend more than 30% of their household income on housing.

## **9.3 Marketing Owner-Occupied Units**

Developers shall use good faith and affirmative efforts to attract potential buyers according to guidelines specified by DOH's affirmative fair housing marketing plan.

To ensure that units are marketed widely and sold in a timely manner, DOH has set the following parameters for marketing owner-occupied units.

### **9.3.1 Marketing Intake Meeting**

The developer must schedule a marketing intake meeting with CCLT staff at least 90 days before marketing any of the units in the development, whether market rate or affordable, and at least 180 days before the anticipated closing of any affordable unit.

Prior to the marketing intake meeting, the developer must submit a preliminary marketing plan for CCLT units. CCLT staff will review the marketing and affordability requirements and will review the process to certify income eligible buyers with the developer and the marketing/sales agents that will be implementing the marketing plan and selling the affordable units.

If the marketing plan is not followed, the developer will be liable for costs incurred by any potential buyer resulting from this failure, including but not limited to, rate lock extension fees.

### **9.3.2 Marketing Plan**

The preliminary marketing plan that the developer must submit to CCLT to schedule a marketing intake meeting must follow the marketing plan template provided at [www.chicago.gov/aro](http://www.chicago.gov/aro).

No marketing or advertising material related to the affordable units may be distributed or published until CCLT has approved the developer's marketing plan for the project.

If the marketing plan is not approved, CCLT staff will provide recommendations to remedy any deficiencies.

CCLT recommends developers work with marketing agents specializing in affordable units to ensure the affordable units are marketed effectively and sold quickly.



## 9.4 Homebuyer Requirements

Potential homebuyers must meet the following requirements:

### 9.4.1 Be Income Qualified

Per Article 9.2 of these Rules.

### 9.4.2 Complete Homeownership Training

Prior to submitting an application to purchase, potential homebuyers must receive a certificate verifying pre-purchase education from a DOH-approved delegate housing counseling agency or other HUD-certified housing counseling platform or agency.

Certifications must be provided to CCLT in order to be eligible to purchase a CCLT unit. Homeownership training certifications are good for 12 months from the date of issuance.

- General Pre-Purchase Training
  - Pre-purchase homebuyer certification requires a minimum of 8 hours of training (including 6-8 hours of classroom training and 1-2 hours of one-on-one education).
  - A list of City-funded housing counseling agencies is online at [www.cityofchicago.org/ARO](http://www.cityofchicago.org/ARO). Each counseling agency maintains a calendar of scheduled classes on their websites.
- Condo Training

Specific condo training is required for buyers of condominium or townhome units to ensure that buyers understand the particular restrictions and obligations to buying a unit with shared components or amenities.
- Chicago Community Land Trust Training

If the unit is to be placed in the CCLT's portfolio, specific training is required, to ensure that buyers fully understand the ownership and resale restrictions and obligations to buying a CCLT unit.

### 9.4.3 Mortgage Pre-approval

Each potential purchaser of a CCLT unit must obtain a mortgage pre-approval letter from one of CCLT's approved lenders. The list of approved lenders is online at [www.cityofchicago.org/CCLT](http://www.cityofchicago.org/CCLT). The pre-approval letter must describe the type of loan product, the maximum loan amount, the interest rate and the term. The CCLT only allows 30-year fixed rate loans.

CCLT staff will confirm that homebuyers will not be spending more than 30% of their income on housing and will take steps to ensure that the mortgage is not a predatory loan.

CCLT requires a down payment from the borrower's own funds (equity) in the amount of 3% of the affordable purchase price.

#### **9.4.4 Completed Application**

The completed homebuyer application must be accompanied by the following documentation:

- Homebuyer counseling certificates, including condo and CCLT trainings, as applicable, as detailed above in Article 9.4.2 of these Rules.
- Mortgage pre-approval letter from a CCLT participating lender, as detailed above in Article 9.4.3 of these Rules.
- Copy of driver's license or State ID for all household members 18 years and older.
- Signed tax returns and W-2s for the prior 2 years, three years if self-employed.
- Four (4) most recent paystubs.
- Child support affidavit.
- Copy of divorce decree or legal judgment of separate maintenance, if applicable.
- Household income affidavit for all household members 18 years and older.
- Three (3) most recent months of all bank statements, checking and savings accounts, as applicable.
- 401(k) and/or pension funds, if applicable.

Additional documentation may be requested to verify income and eligibility.

The following documentation is required prior to preparing the CCLT's affordable housing covenant and agreement for owner-occupied units:

1. Signed sales contract, with all upgrades and options listed.
2. Appraisal.
3. Initial closing disclosure from the lender.
4. Final loan commitment.
5. CCLT's closing request form.
6. Title commitment.

#### **9.5 Process to Sell Affordable Units**

Developers must designate a date in the marketing plan, which must be at least 30 days after a) the units have been posted to the City's website and b) the marketing activities approved in the marketing plan have been initiated to begin accepting completed applications from prospective home buyers. Applications will not be accepted unless they are complete and include all required documentation.

CCLT staff will review completed applications and will give potential buyers up to ten (10) business days to comply with submittal requirements before moving to the next potential buyer.

Priority to select specific units will be based on the order in which a completed application is submitted, unless DOH staff determines that a lottery or other application process would be more appropriate, as explained below.

CCLT staff will send letters of conditional approval to all potential buyers who are determined to be income-qualified to purchase an affordable unit. Qualified buyers will then make an offer and sign a contract with the developer to purchase a unit and complete the steps needed to get a final loan commitment.

If DOH financing is involved or if the unit is to be placed in the CCLT's portfolio, the developer must send a final request to close to DOH. DOH and/or CCLT will issue a clear to close when the title commitment, final loan commitment, all required certifications, and a final appraisal are received.

To provide adequate time for internal legal review, the closing package (including the appraisal and the final loan commitment) must be received at least ten business days prior to closing.

Failure to record the affordable housing covenant and agreement at closing will render the project non-compliant with the ARO and will subject the developer to the penalties for non-compliance detailed in Article 16 of these Rules.

### **Lottery**

If demand for a particular unit is expected to be high, CCLT staff may require the developer to sell the unit via a lottery process to ensure that the opportunity to purchase the unit is made available to as many income-qualified homebuyers as possible. CCLT staff will conduct the lottery and the seller as well as all certified applicants are encouraged – but not required – to attend.

## **9.6 Restrictions on Owner-Occupied Units**

### **9.6.1 Resale or Transfer of ARO Units**

The resale or transfer of the affordable units is restricted as follows:

- During the 30-year affordability period, homeowners of affordable units must sell their units to a household meeting the eligibility criteria set by DOH or the CCLT. The affordable unit must be sold at a price that is affordable. What is affordable is determined by criteria set the DOH.
- Homeowners whose units are placed in the CCLT's portfolio are advised to contact the CCLT at least 6 months prior to the anticipated time of sale or whenever they decide to sell the unit, whichever comes sooner, in order to get direction from the CCLT on the process to price and sell the unit.
- The process to set the maximum resale price requires a current (no more than 6 months old) appraisal, which can take ten business days to order and receive. In addition, the CCLT has a 30-day right of first refusal period to purchase the unit.
- Once the appraisal is received, DOH or CCLT staff will calculate the maximum resale price of the unit. The homeowner will be required to reimburse the CCLT for the price of the appraisal if a current appraisal (no more than 6 months old) is not otherwise provided to CCLT. Typically, these funds are collected from the seller at the time of closing. If the unit does not sell within 12 months, the seller will remit the cost of the appraisal to CCLT.

- Homeowners are not required to complete a marketing plan for the unit, but they are responsible for selling the unit. While the payment of a real estate agent commission is not factored into the maximum resale price of a unit, sellers may work with a real estate agent to sell the unit.
- Listings must include the following statement: “This is an affordable unit created through the City of Chicago’s ARO program. This unit may only be purchased by a household with an annual income at or less than \$\_\_\_\_\_ as the household’s primary residence. Contact [insert contact] for more information.”
- To determine eligibility, potential buyers must submit a complete program application to DOH, or CCLT for units placed in the CCLT’s portfolio, at:

[Chicago Community Land Trust]  
 City of Chicago, Department of Housing  
 121 N LaSalle St – Room 1000  
 Chicago IL 60602

1. DOH, or CCLT for units placed in the CCLT’s portfolio, will issue a homebuyer approval letter within ten (10) business days of receipt of a completed application from the potential buyer. This approval letter is required in order to make an offer to execute a purchase contract with and buy the unit from the existing homeowner.
2. Pursuant to Subsection (J)(3), a qualified heir is (a) the spouse or “qualified domestic partner” (as defined in Section 2-152-072 of the MCC) of the homeowner; or (b) dependents (as defined by the IRS) of the homeowner, or, if such dependents are minors, a trustee or guardian for such minors.

### **9.6.2 Monitoring and Reporting Requirements**

Buyers of affordable units are required to submit annual affidavits verifying that they continue to reside in the property as their primary residence. They must also provide:

- Evidence of the homeowner’s insurance on the property and
- A copy of a state identification card or driver’s license evidencing the homeowner’s current contact information.

### **9.6.3 Refinances**

Post-purchase education may be required prior to the refinancing of an affordable unit.

Homeowners must contact CCLT once a refinancing lender has been identified to initiate CCLT’s approval of the refinance and any subordination request.

DOH policy does not allow cash-out in refinance transactions. The maximum new mortgage loan amount must be the amount of the pay-off letter(s) plus the closing costs shown on a signed Loan Estimate and Closing Disclosure. The amount of the new mortgage loan must be consistent on all of the following documents, which the lender must submit to CCLT to initiate approval of the refinance and the processing of the Consent to Refinance Letter:

- A copy of the signed homeowner’s authorization to release information.

- A copy of the signed completed 1003 (loan application).
- A copy of the ALTA settlement statement for the new mortgage.
- A copy of the closing disclosure for the new mortgage.
- A pay-off letter for the old mortgage for a date at least ten (10) business days after the date that the documents are delivered to CCLT.
- A copy of the signed mortgage approval or commitment letter detailing the loan type, the loan amount, the interest rate, and the loan's terms and conditions.
- A copy of the title commitment in the amount of the new mortgage.
- A copy of the appraisal used to process the new mortgage, or a notice from the lender that the appraisal requirement has been waived.
- Documents to show original loan amount, P&I, and loan type.

Upon receipt and approval of these documents, DOH or CCLT will initiate the approval of the refinance and the issuance of the subordination document.

CCLT homeowners must receive approval from the CCLT prior to refinancing and may be required to refinance with a CCLT-approved lender.

## **9.7 Additional Support for New Condominiums**

When 50% or more of a condominium building's units are placed in the CCLT's portfolio, CCLT reserves the right to require additional support for the establishment and operation of the condominium association. The term and nature of this additional support will be determined by DOH by taking into consideration factors that may include but are not limited to, market conditions and the percentage of units that are CCLT units. This support may be in the following forms:

- Requiring the developer to fund professional management of the condominium association up to 1 year.
- Requiring the developer to fund a reserve capped at 2,500 per unit.

# Article 10: Rental Units

## 10.1 Pricing of Rental Units

Affordable rents for each AMI described in the ARO are updated annually by DOH, based on income limits published by HUD and utility allowances published by CHA.

DOH publishes the affordable rents at [www.chicago.gov/aro](http://www.chicago.gov/aro) as soon as they become available, typically between February and June of each year.

If the developer sells or leases affordable units to an authorized agency, the income limits specified by the authorized agency's funding source will prevail if more restrictive than the ARO.

## 10.2 Income Requirements for Tenants

Prior to the initial leasing of the affordable units, DOH must verify that the prospective tenants are income qualified. The developer or management company, as landlord, may not sign a lease with any tenant for an affordable unit unless DOH has confirmed that the tenant qualifies as an eligible household. DOH's confirmation of income eligibility for rental units is valid for one year.

All tenants are income qualified at the time of initial rental. Tenants are requalified only when a tenant is added or removed from the lease.

Rental units may be leased by households earning up to the targeted AMI for the unit. A unit counted as a 60% AMI unit, for example, may be leased by households earning up to 60% AMI. There is no income minimum. However, if a prospective tenant's rent payment exceeds 30% of their gross income, DOH will require additional information to determine, on a case-by-case basis, whether that household will be rent-burdened by the unit.

Updated income limits and rents become effective for ARO properties when HUD makes both maximum incomes and rents available for a given year. If, for instance, 2022 maximum incomes are issued by HUD prior to 2022 maximum rents, then 2021 maximum incomes and rents will remain effective until 2022 maximum rents have been issued.

DOH follows HUD's guidelines for calculating annual gross household income, as published in Chapter 5, titled "Chapter 5: Determining Income and Calculating Rent" of the HUD Handbook and published at [http://portal.hud.gov/hudportal/documents/huddoc?id=DOC\\_35649.pdf](http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_35649.pdf).

## 10.3 Marketing Rental Units

Developers must market and lease the affordable units according to DOH's Affirmative Fair Housing Marketing Plan, available at [www.chicago.gov/aro](http://www.chicago.gov/aro).

At least 30 days before marketing any market rate or affordable unit in the development, the developer and its agents, if any, must meet with CAC for a marketing intake meeting. The purpose of the marketing intake meeting is to review the processes to a) market and lease the affordable units to income qualified tenants, b) income qualify tenants and c) submit annual compliance documentation. The marketing intake meeting should be attended by the developer

and the agents that will be responsible for leasing the units, income-qualifying tenants, and submitting annual compliance documentation. Prior to this meeting, developers are required to submit the ARO rental unit marketing form, which is online at [www.chicago.gov/aro](http://www.chicago.gov/aro), to the ARO Project Manager. DOH will use the submitted information to list the units on DOH's affordable housing resource list, which is online at <https://www.chicago.gov/city/en/depts/doh/provdrs/renters/svcs/affordable-rental-housing-resource-list.html>.

During the marketing intake meeting, the ARO Project Manager may schedule a site inspection to confirm details regarding the affordable units, recorded in the IHA, such as unit numbers and amenities.

Developers must provide the City with current contact information during the term of the IHA.

#### **10.4 Process to Income Qualify a Tenant**

The steps for a developer (or its agent), as landlord, to income qualify a tenant are:

- Landlord receives rental application from the prospective tenant.
- Landlord requests required supporting income documentation for household income as specified in DOH's affirmative fair housing marketing and screening plan.
- Landlord completes Tenant Income Certification (TIC) form for the tenant.
- Landlord provides the TIC form, application and required supporting income documentation (the application package) to CAC.
- CAC reviews the application package and, within 10 business days, emails the landlord:
  - A tenant approval letter if the prospective tenant is income qualified.
  - A tenant rejection letter if the prospective tenant is not income qualified.
  - Asking for additional information required to make a determination.
- If CAC issues a tenant approval letter, the landlord must offer the qualified tenant a lease.
- Landlord must email a signed copy of the lease to CAC.

Aside from the process detailed above, landlords may not apply criteria or charge fees to tenants applying to rent affordable units that are not applied or charged to tenants applying for market rate units.

#### **10.5 Appeal Process for Prospective Tenants that Are Not Income Qualified**

If a landlord submits an application package to CAC and CAC determines that that prospective tenant is not income qualified, the prospective tenant has 10 business days from the date the landlord notifies the tenant of CAC's decision to appeal the determination through the landlord. Once CAC receives all requested documents from the landlord, CAC will email the landlord a final determination of income qualification within 10 business days.

The landlord may not lease the unit to another prospective tenant until the landlord receives CAC's final determination.

## **10.6 Monitoring and Reporting Requirements for Rental Units**

Developers, owners, authorized agencies, or their agents, as applicable, of rental properties must submit the Annual Owner's Certification (AOC) to CAC by June 30 of each year every year until the expiration of the IHA term, along with the following supporting documentation:

- The rent roll for all the affordable units. The rent roll must include the tenant's name, current lease period and household composition data.
- Fully executed copies of all the affordable unit leases.
- Contact information of all relevant agents, including, any leasing agent or property manager.

## **10.7 Affordability Period**

The 30-year term begins on the date that the last affordable unit in the development is first leased to an eligible household and expires on the 30<sup>th</sup> anniversary of that date.

## **10.8 Affordable Unit Leases**

Leases for the affordable units must be written and in conformity with all applicable laws, including without limitation, the City of Chicago Residential Landlord and Tenant Ordinance. In the lease, each tenant must:

- Certify to the accuracy of the information provided in the TIC form.
- Agree that the household income and other eligibility requirements are material terms of the lease.
- Agree to comply with all requests from landlord and/or the City for information related to household income and other eligibility requirements.
- Agree that the failure to comply with any such request is a default under the lease.
- Agree that providing inaccurate information in the TIC form is a default under the lease.

Leases for the affordable units must be for a period of one year, unless tenant and landlord mutually agree to a shorter term. Rents for affordable units may not be set more than one year in advance.

Leases for the affordable units may not contain any of the following provisions:

- Agreement by tenant to be sued, to admit guilt or to a judgment in favor of landlord in a lawsuit brought in connection with the lease.
- Agreement by tenant that landlord may take, hold or sell personal property of household members without notice to tenant and a court decision on tenant's rights. This prohibition does not apply to an agreement by the tenant concerning disposition of personal property remaining in the affordable unit after the tenant has moved out of the unit, in which case landlord may dispose of the property in accordance with applicable local and state law.
- Agreement by tenant not to hold landlord or landlord's agent(s) legally responsible for any action or failure to act, whether intentional or negligent.
- Agreement by tenant that landlord may institute a lawsuit without notice to tenant.



- Agreement by tenant that landlord may evict tenant or other household members without instituting a civil court proceeding in which tenant has the opportunity to present a defense or before a court decision on tenant's rights.
- Agreement by tenant to waive any right to a trial by jury.
- Agreement by tenant to waive any right to appeal, or to otherwise challenge in court, a court decision in connection with the lease.
- Agreement by tenant to pay attorney's fees or other legal costs even if tenant wins in a court proceeding by landlord against tenant. This prohibition does not apply to the obligation tenant may incur to pay costs if the tenant loses.

Landlord may not terminate the tenancy or refuse to renew the lease of a tenant of an affordable unit except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable federal, state or local law, or for other good cause. To terminate or refuse to renew tenancy, landlord must serve written notice upon tenant and DOH specifying the grounds for the action at least 30 days prior to the termination of tenancy.

All tenant lists, applications and waiting lists relating to the affordable units shall at all times be kept separate and identifiable from any other business of the landlord. These documents shall be maintained in reasonable condition and available for audit during business hours by City representatives. If landlord employs a management agent or leasing agent for the affordable units, landlord shall include these requirements in any and all agreements or contracts entered with such agents with respect to the affordable units.

## **10.9 Timing of leasing**

Affordable units should be constructed, completed, ready for occupancy, and marketed concurrently with or prior to the market rate units in the project.

As set forth in the IHA, affordable units should be leased within 6 months after the earlier of: (a) the issuance of the certificate of compliance for the project or (b) the first day of the initial lease of a unit in the project. If the affordable units are not leased within that time, the developer may be penalized, per the terms of the IHA.

## **Article 11: Penalties for Non-Compliance**

Penalties for developers who fail to pay required fees, construct, lease or sell the affordable units per the terms of the ARO and the IHA are subject to the enforcement provisions outlined in Subsection (P). Developers that submit piecemeal applications to avoid compliance with the ARO, for projects later determined by the city to be subject to the ARO, will also be subject to these penalties.

## **Article 12: Changes to the Project**

Any change to the project following approval by DOH, CPC, or City Council, that increases allowable floor area ratio (FAR) or the number of dwelling units will require a recalculation of the number of required affordable units.

Changes to the unit mix in the project may require changes to the affordable unit mix and will require the ARO Project Manager's approval as described in Article 8.1 of these Rules.

### **12.1 Project Does Not Move Forward**

If the proposed project on a property that received a zoning change does not move forward, the building permit hold will remain on the property's address range. Any 10+ unit, residential project proposed on the property will be subject to the ARO, regardless of the ownership of the project or the property.

In the case of PDs, if the project does not move forward before the sunset date (or some other date specified in the PD) the property will revert to its prior zoning classification. If City Council subsequently approves a zoning map amendment that allows residential use or permits a greater FAR, the ARO will apply. The ARO's applicability is solely dependent on the zoning map amendment. It does not matter who applied for the application (i.e., developer, alderman or City department).

### **12.2 Sale of the Property**

Affordability obligations run with the land in the event of any transfer of the project or property.

### **12.3 Project Converts from Rental to Owner-Occupied**

Projects that convert from rental to owner-occupied prior to the expiration of the 30-year term will be required to sell the affordable rental units to income-qualified buyers, under the terms of the ARO. The 30-year term will restart on the date of the initial sale of the owner-occupied unit and the affordability restriction of Subsection (J)(1) will apply.

### **12.4 No Changes to the Project After the Building Permit has been Issued**

Prior to the issuance of any building permit for the project, the developer must record an IHA and pay any fees in lieu. Any changes to the project after building permit is issued may subject the developer to the penalties described in Article 11 of these Rules.

### **12.5 Developer Elects to Build On-Site Units After Payment of In Lieu Fee**

If the developer elects to provide additional on-site affordable units after DOH has received the in lieu fee, the ARO Project Manager may work with the developer to seek a refund in exchange for the filing of an IHA amendment securing construction of the additional on-site units.

## **Article 13: AHOF**

DOH is responsible for administration of the Affordable Housing Opportunity Fund (AHOF), as set forth in Subsection (I). DOH reports on the collection and expenditure of funds collected under the ARO quarterly to the City Council's Committee on Housing and Real Estate. These quarterly reports are available online at

[https://www.chicago.gov/city/en/depts/doh/provdrs/goals\\_reports/svcs/one-chicago--2019-2023.html](https://www.chicago.gov/city/en/depts/doh/provdrs/goals_reports/svcs/one-chicago--2019-2023.html)

# Article 14: Hardship Waivers

Because of widely varying land use and operational characteristics, hardship waiver requests require case-by-case review. Hardship requests must be made to the ARO Project Manager at least 60 days before the project proceeds to CPC and 6 months prior to any building permit application. Hardship waivers are made solely at the discretion of the DOH Commissioner.

To be considered for a hardship waiver per Subsection (R), the developer must send the ARO Project Manager a written description of the hardship along with supporting documentation, including, if applicable, a summary of the impact the ARO obligation will have on the project's development budget and operating pro forma, to support the determination that the ARO creates a hardship for which:

- the practical difficulties or particular hardships are due to unique circumstances and are not generally applicable to other similarly situated property;
- without the hardship waiver, the project would not be feasible; and
- the waiver, if granted, will not set a precedent that reduces the impact or is counter to the intent of the ARO.

## **Article 15: Changes to the Rules**

These Rules may be updated at any time at the discretion of the DOH Commissioner. The current version of the Rules will be dated and published on the DOH website at [www.chicago.gov/aro](http://www.chicago.gov/aro).

# Article 16: ARO Program Contacts

Questions about the ARO can be directed to [ARO@cityofchicago.org](mailto:ARO@cityofchicago.org)

Department of Housing  
121 N LaSalle St, Room 1000  
Chicago, IL 60602  
Phone: 312-744-3653  
Phone: 312-744-3653