

AMENDMENT NO. 2

TO

SUBSTITUTE ORDINANCE NO. BL2016-133

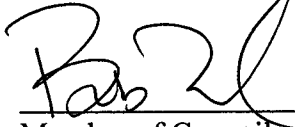
Mr. President –

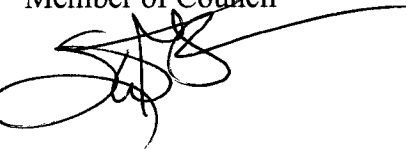
I move to amend Substitute Ordinance No. BL2016-133 as follows:

I. By amending Section 7 by deleting it in its entirety and substituting therefore the following:

Section 7. Be it further enacted that this ordinance take effect nine (9) months from and after its passage and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:



Member of Council


ADOPTED: September 6, 2016

AMENDMENT NO. 1

TO

ORDINANCE NO. BL2016-133

Mr. President –

I move to amend Ordinance No. BL2016-133 as follows:

I. By amending Section 1 by deleting proposed sub-section 17.40.820.A and substituting therefore the following:

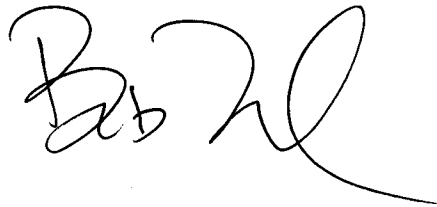
17.40.820 Sunset provisions.

- A. The provisions of Article XVII (Inclusionary Housing) shall expire and be null and void as of December 31, 2019 unless extended by resolution of the metropolitan council. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this section is reviewed by the metropolitan council after its adoption.

INTRODUCED BY:



Burkley Allen
Member of Council



ADOPTED: September 6, 2016

SECOND SUBSTITUTE ORDINANCE NO. BL2016-133

An ordinance to amend various sections of Title 17 of the Metropolitan Zoning Code to incentivize Inclusionary Housing with any residential development that seeks additional development entitlements beyond that permitted by the current base zoning district. (Proposal No. 2016Z-001TX-001)

WHEREAS, the Metropolitan Government of Nashville and Davidson County has undertaken a Inclusionary Housing Feasibility and Market Study (the Study); and

WHEREAS, the Study found that there has been cost appreciation and housing turnover in central areas of the city; and

WHEREAS, the Study found that 24% of homeowners in the city are cost-burdened and 46% of renters in the city are cost-burdened; and

WHEREAS, cost appreciation and housing turnover in central areas can lead to the displacement of cost-burdened households and gentrification; and

WHEREAS, 29% of all 2015 home sales in Nashville and Davidson County were affordable to a buyer earning 80% AMI for a 2.5 person household; and

WHEREAS, much of the housing affordable to 80% AMI is outside of the central areas, with poor access to jobs, transit and services; and

WHEREAS, affordable and workforce housing is a primary concern of the citizens of Nashville and Davidson County, as it continues to be a major barrier to economic progress for many in Nashville; and

WHEREAS, increasing the supply of affordable and workforce housing supports economic growth and is an important tool in reducing poverty in Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That Chapter 17.40 (Administration and Procedures) of the Metropolitan Code is hereby amended by inserting the following Article XVII (Inclusionary Housing):

17.40.780 Purpose and Applicability of Inclusionary Housing Provisions

A. Purpose. The purposes of this Section are to promote the public health, safety and welfare by increasing the production of Inclusionary Housing units to meet existing and anticipated housing and employment needs; mitigating the impacts of increasing housing cost and provide housing affordable to low and moderate income households; providing for a range of housing choices throughout the city to avoid the concentration of poverty;

and to provide a mechanism by which residential development can contribute in a direct way to increasing the supply of affordable and workforce housing in exchange for additional development entitlements other than those otherwise permitted as a matter of right.

B. Applicability.

1. When additional residential development entitlements are gained through an amendment to the official zoning map or when public resources or property is provided for a residential development, the rental residential units shall be subject to the provisions of this Section as long as adequate financial incentives from the Metropolitan Government of Nashville and Davidson County are available. On projects where a funding cap limits the financial incentives available to less than the value calculated based on the difference between the market rate rent and the selected workforce rent, the set aside may be adjusted annually to align the needed incentive with the funding available. A property owner or developer with for-sale residential units may participate in the incentives of this Section.
2. For residential uses, developments fewer than five units are exempt. For the purposes of this subsection, “development” shall include any residential or mixed use development at one or more adjoining sites with common ownership or under common control, within a period of five years from the first date of the issuance of a building permit for construction.
3. Inclusionary Housing shall not be provided and no financial incentives shall be granted if the average unit sale price or rental rate is less than, or within 5% above 100% Median Household Income (MHI) market prices or rental rates for Nashville and Davidson County and the Inclusionary Housing Plan demonstrates that the census tract average market rate prices or average rental rates for comparable units are affordable to a household at 100% MHI.

17.40.790 Requirements for Inclusionary Housing

A. Construction. The set aside for affordable or workforce housing shall be:

	Rental at 60% MHI or less	Rental at Greater than 60% MHI to 80% MHI	Rental at Greater than 80% MHI to 100% MHI (available in the UZO only)	For-sale at Greater than 60% MHI to 80% MHI	For-sale at Greater than 80% MHI to 100% MHI (available in the UZO only)
Single-family and Two-family uses	12.5% of total residential units	15% of total residential units	17.5% of total residential units	10% of total residential units	15% of total residential units

Multi-family uses less than 3 stories	12.5% of total residential floor area	15% of total residential floor area	17.5% of total residential floor area	10% of total residential floor area	15% of total residential floor area
Multifamily uses (3 to 6 stories)	10% of total residential floor area	12.5% of total residential floor area	15% of total residential floor area	n/a	n/a
Multifamily uses (≥ 7 stories)	7.5% of total residential floor area	10% of total residential floor area	12.5% of total residential floor area	n/a	n/a
<p>The Office of Economic Opportunity and Empowerment with assistance from the Finance Department may approve a mixture of MHI levels, provided the mixture is equivalent to the set asides above. The equivalency of the mixture of MHI levels and the approval shall be documented in the Inclusionary Housing Plan.</p> <p>For the purposes of this Article, the residential floor area shall be the net leasable residential floor area.</p>					

B. In lieu Construction.

1. In lieu of meeting the Inclusionary Housing incentives on site, construction at the same rates included in subsection A of this section may be provided within the following distances from the development that is providing Inclusionary Housing:
 - i. One (1) mile along the corridor, if the development that is providing Inclusionary Housing is on a Multimodal Corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways and Ramps.
 - ii. A half mile ($\frac{1}{2}$) mile, if the development that is providing Inclusionary Housing is not on a Multimodal Corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways and Ramps.
 - iii. In lieu construction shall not be permitted at an alternate location if the Inclusionary Housing Plan demonstrates that the alternate location's census tract market rate prices or rental rates for comparable units are affordable to a household at 100%MHI.
2. Use & Occupancy permits for the affordable and/or workforce units shall be issued prior to the issuance of any Use & Occupancy permit for principal project.

C. In lieu Contribution. There is hereby established a Housing Incentives Fund to be maintained as an administrative account by the Finance Department for the purpose of funding the incentives grant program. In lieu of meeting the Inclusionary Housing

incentives for rental units on site, prior to the issuance of building permits, an in lieu contribution may be provided to the Housing Incentives Fund as follows:

Within the UZO	Outside of the UZO
Per square foot equivalent of 50% of the affordable sales price at 100% MHI for Davidson County 12.5% of the total residential floor area in a rental project.	Per square foot equivalent of 50% of the affordable sales price at 80% MHI for Davidson County 10% of the total residential floor area in a rental project.
<p>The affordable sales price shall be determined by the Office of Economic Opportunity and Empowerment with assistance from the Finance Department annually based on:</p> <ol style="list-style-type: none"> a. A maximum down payment of 5.0%, b. Current Year MHI thresholds adjusted for household size published by HUD, c. Prior six-month average rate of interest based on the Fannie Mae Yield on 30-year mortgage commitments (price at par) plus one-half point (0.5%) spread, d. 30-year mortgage term, e. Any homeowner fees, taxes and insurance, and f. Typical unit size. 	

17.40.800 Standards for Construction and Occupancy of Affordable and/or Workforce Housing.

- A. With the building permit application, the Owner/Developer shall submit an Inclusionary Housing Plan, which documents the following:
 1. Number of total residential units provided under the site plan.
 2. Whether the development uses public resources or public property.
 3. Number of affordable or workforce housing units provided.
 4. Income levels of targeted families for affordable or workforce housing units.
 5. The proposed rents or sales prices and guarantee of limits on future rent increases or sales prices.
 6. Location of affordable or workforce housing units.
 7. Sizes of affordable or workforce housing units.
 8. Bedroom counts of affordable or workforce housing units.
 9. Market rate pricing or rental rates for comparable units within the census tract for the project site and, if applicable, the in lieu site.
 10. The party responsible for compliance reports, with approval from the Office of Economic Opportunity and Empowerment with assistance from the Finance Department.

- B. To ensure livability, Inclusionary Housing units shall be at least 80% of the average size of market rate units and the breakdown of bedroom counts of Inclusionary Housing units shall be similar to the breakdown of bedroom counts for the market rate units in the project. After the Inclusionary Housing square footage is allocated

according to the distribution of market rate units, any remaining square footage too small for construction of a unit shall utilize the in lieu contribution option.

- C. Exteriors of Inclusionary Housing units shall closely resemble the exteriors of other units in a project.
- D. The owner shall ensure to the satisfaction of the Metropolitan Government that the Inclusionary Housing units will:
 - 1. be occupied by eligible households.
 - 2. be maintained as rental Inclusionary Housing units for a minimum of 15 years from the date of initial occupancy and/or be maintained as for-sale Inclusionary Housing unit for 30 years from the date of initial occupancy.

17.40.810 Enforcement.

- A. Prior to the issuance of the first building permit, all Standards for Construction and Occupancy shall be documented on the building permit plans.
- B. Prior to the issuance of the Use & Occupancy permit, all Standards for Construction and Occupancy shall be satisfied and documentation provided to the Codes Department.
- C. During the applicable period, the owner, developer or designee shall provide a compliance report to the Office of Economic Opportunity and Empowerment in the form and manner determined by the Office of Economic Opportunity and Empowerment with assistance from the Finance Department. The party responsible for compliance reports shall be approved by the Office of Economic Opportunity and Empowerment and noted Inclusionary Housing Plan. For for-sale developments, individual owners are not permitted to be the party responsible for compliance reports.

17.40.820 Sunset provisions.

- A. The provisions of Article XVII (Inclusionary Housing) shall expire and be null and void as of December 31, 2019. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this section is reviewed by the metropolitan council after its adoption.
- B. Two (2) years after its passage, the Planning Department shall conduct a study of the impact of Article XVII (Inclusionary Housing) and related incentives. This study shall include an assessment of the economic impact, impact on affordable housing and whether the incentives should be recalibrated. The study shall be delivered to the Metropolitan Council no later than six (6) months before the sunset date.

Section 2. That Section 17.36.090 (Development bonuses.) of the Metropolitan Code is hereby amended by deleting the subsection B.

Section 3. That Chapter 17.37 (Downtown Code (DTC) of the Metropolitan Code is hereby amended by deleting pages 93, 96 and 99 and replacing with pages 93, 96 and 99 in the attached Exhibit A.

Section 4. That Chapter 17.40 of the Metropolitan Code is hereby amended by inserting the following Section 17.40.055 (Inclusionary Housing Incentive):

As an incentive to encourage developers and property owners to meet the affordable and workforce housing goals set forth in this Title, all proposed residential development that seeks to increase development entitlements beyond that permitted by the current base zoning district shall comply with Section 17.40.780 (Inclusionary Housing).

Section 5. That Section 17.40.105 (Specific plan—Purpose and intent.) of the Metropolitan Code is hereby amended by deleting the last sentence and inserting the following as the last sentence:

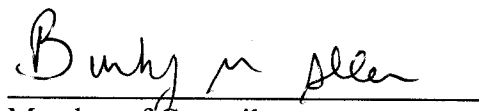
The specific plan cannot vary Section 17.40.055 (Inclusionary Housing Incentive) and must comply with the building, fire and life safety codes adopted by the metropolitan government.

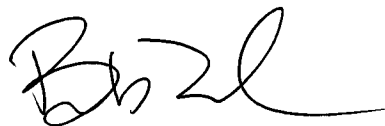
Section 6. That Chapter 17.10 of the Metropolitan Code is hereby deleted.

Section 7. That any appropriately filed application that complies with all existing filing requirements and that is filed prior to the effective date of this ordinance shall not be subject to the provisions of this ordinance, however a developer and/or property owner may participate in the incentives of this Section.

Section 8. Be it further enacted that following passage, this ordinance shall take on October 1, 2016 and such change be published in a newspaper of general circulation, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

INTRODUCED BY:


Member of Council



Section IV: General Standards

Bonus Height Program

The Bonus Height Program (BHP) allows additional building height in Downtown in exchange for contribution to specified programs that provide benefits to the public. The Bonus Height shall be permitted if the proposed development contributes to specific public benefits in the amount and manner set forth herein.

Bonus Height shall be permitted in exchange for the following public benefit contributions: Leadership in Energy and Environmental Design (LEED) certification of individual buildings, LEED for Neighborhood Development, pervious surface, Historic Building Preservation, publicly-accessible Open Space, Workforce Inclusionary Housing, Civil Support Space, upper level garage liners, and underground parking.

Bonus Height Standards

- Upon providing a binding commitment for the specified public benefit, the proposed development project shall be allowed to build within the restrictions of the Subdistrict, up to the Bonus Height Maximum as established within this section.
- Multiple height bonuses may be compounded insofar as the total additional height does not exceed the Bonus Height Maximum for the Subdistrict.
- Additional development rights achieved through the BHP may be transferred to another site within the DTC one time to one receiving site, provided the transferred height does not exceed the Bonus Height Maximum of the receiving site. By-right height may not be transferred; only bonus height received through the BHP may be transferred.
- Bonus height transfers shall be based on the square footage of the sending site, not the receiving site.
- No building permit shall be issued for bonus height until the Planning Commission has certified compliance with the provisions of this section, upon referral and assurance of compliance from applicable departments.

Section IV: General Standards

Bonus Height Program

Publicly-Accessible Open Space

Accessible, enjoyable open spaces are essential for vital and functioning neighborhoods. Open space provides the community with opportunities to be in an outdoor setting, while encouraging social interaction. See the BHP Chart for details for a list of Subdistricts in which the Open Space bonus may be utilized.

Open Space must be designed to the open space standards of the DTC. To be eligible for the Height Bonus, open space must be a minimum of ¼ acre in area.

- Plazas are not eligible for the BHP.
- In Open Space deficiency areas (See the Open Space section of the General Standards), the number of square feet of Bonus Height shall be seven times that of the number of square feet in open space. Outside of Open Space deficiency areas, the number of square feet of Bonus Height shall be four times that of the number of square feet in open space. The additional square footage may be used to the Bonus Height Maximum as determined on the BHP Chart.
- Bonuses are available only for publicly accessible (whether publicly or privately owned) open space.

Inclusionary Housing

Bonus Height is available for compliance with section 17.40.780 of the Zoning Code, as shown in the Bonus Height Program (BHP) Chart.

Workforce Housing

Housing encompassing a range of sizes, costs and tenure (both rental and owner-occupied), to accommodate the diverse range of employees and their families, is key to Downtown's continued economic health and to sustainable development patterns for Nashville/Davidson County.

Metro Government shall require the developer to execute an agreement, restrictive covenant, or other binding restriction on land use that preserves affordability and establishes the manner in which the affordability will be monitored for the required period before final site plan review.

As listed below, the specified percentage of total units shall be reserved for ownership or rental by households with

incomes below the specified percentage of the current Average Median Income (AMI) in Davidson County, as determined by MDHA.

Height bonuses are based on a percentage of the Maximum Height allowed on the property as dictated by the Subdistrict. In all cases, fifty percent (50%) of the additional stories shall be dedicated to Workforce Housing with twenty-five percent (25%) of the height bonus provided as housing for persons below one hundred percent (100%) of AMI and twenty-five percent (25%) of the height bonus provided as housing for persons below one hundred-twenty percent (120%) of AMI.

Workforce Housing Height Bonuses are:

- Level 1 - 10% increase in stories
- Level 2 - 20% increase in stories
- Level 3 - 30% increase in stories
- Level 4 - 40% increase in stories

Not all Levels are available in every Subdistrict. See the BHP Chart for details.

When percentage calculations result in a fraction of a story, the number of stories shall be rounded up.

The following shall apply to all construction that utilizes the BHP for Workforce Housing:

- Owner-occupied units shall remain affordable for 30 years.
- Renter-occupied units shall remain affordable for 30 years.
- Units that are converted from renter-occupied to owner-occupied shall remain affordable (as determined above) for 30 years beyond conversion.
- The size of all Workforce Housing units shall be at least 80% of the average size of market rate units.

Section IV: General Standards

Bonus Height Chart

	Maximum height within the Subdistrict	LEED	LEED ND	Pervious Surface	Historic Building Preservation
James Robertson					
	elevation of 560'	Any = 2 stories	2 stories	2 stories	2 stories
Core					
	30 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	8 stories
Core-historic					
	6 stories on the interior of blocks; 10 stories on the corners	No bonus	No bonus	No bonus	4 stories
Upper Broadway					
	100'	No bonus	No bonus	No bonus	No bonus
Second and Broadway					
Second	8 stories within 105'	No bonus	No bonus	No bonus	No bonus
Broadway	5 stories within 65'				
SoBro					
General, or 8th Avenue frontage south of roundabout (beyond 100' from frontage)	30 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	8 stories
West side of 1st and East side of 2nd	15 stories	Silver = 4 stories; Gold = 8 stories Platinum = 12 stories	2 stories	2 stories	5 stories
8th Avenue frontage south of roundabout (within 100' frontage)	8 stories	Any = 2 stories	2 stories	2 stories	2 stories
River					
	10 stories	No bonus	No bonus	No bonus	No bonus
Lafayette					
General	8 stories	Any = 2 stories	2 stories	2 stories	2 stories
Transitional Properties	15 stories	Any = 2 stories	2 stories	2 stories	3 stories
Lafayette Street	12 stories	Any = 2 stories	2 stories	2 stories	3 stories
Rutledge Hill					
Primary and Secondary	6 stories	Any = 1 story	1 story	1 story	1 story
Tertiary	3 stories	No bonus	No bonus	No bonus	No bonus
Rolling Mill Hill					
	65 feet with an SEP of 1:1.5	No bonus	No bonus	No bonus	No bonus
Rutledge River					
	9 stories	Any = 2 stories	2 stories	2 stories	2 stories
Gulch North					
General	7 stories	Any = 2 stories	2 stories	2 stories	2 stories
fronting Herman Street	4 stories	No bonus	No bonus	No bonus	No bonus
Gulch South					
General	10 stories	Any = 2 stories	2 stories	2 stories	2 stories
fronting Church, Broadway, Demonbreun	15 stories	Any = 2 stories	2 stories	2 stories	3 stories
at key intersections	20 stories	Silver or Gold = 2 stories; Platinum = 3 stories	2 stories	2 stories	4 stories
Hope Gardens					
Primary	7 stories	Any = 1 story	1 story	1 story	1 story
Secondary	4 stories	Any = 1 story	1 story	1 story	1 story
Tertiary	3 stories	No bonus	No bonus	No bonus	No bonus
Sulphur Dell					
Primary	7 stories	Any = 1 story	1 story	1 story	1 story
Secondary	5 stories	Any = 1 story	1 story	1 story	1 story
Tertiary	4 stories	Any = 1 story	1 story	1 story	1 story

ORIGINAL

METROPOLITAN COUNTY COUNCIL

SECOND
SUBSTITUTE

Bill No. BL 2016-133

An ordinance to amend various sections of Title 17 of the Metropolitan Zoning Code to incentivize Inclusionary Housing with any residential development that seeks additional development entitlements beyond that permitted by the current base zoning district. (Proposal No. 2016Z-001TX-001)

Introduced _____

Passed First Reading _____

Amended _____

Passed Second Reading _____

SECOND SUB.
FILED & AMENDED

Passed Third Reading SEP - 6 2016

Approved SEP - 7 2016

By _____

Metropolitan Mayor

Advertised SEP 16 2016

Effective Date SEP 16 2016