

3326

10-0-0042

(Do Not Write Above This Line)

An Ordinance Z-09-44
By Councilmember

An Ordinance to amend the 1982 Zoning Ordinance of the City of Atlanta, as amended, so as to create a new Chapter 37 entitled Voluntary Incentive Multi-Family Residential Regulations, concerning the creation of optional and parallel development code requirements for Multi-Family Residential Developments for the purpose of public benefits including the provision of affordable workforce housing; to define certain terms; to provide for related requirements and procedures; and for other purposes.

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred

1/4/10

Referred To:

ZRB + Zoning

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

Committee Zoning
 Date 11/26/13
 Chair [Signature]
 Action
 Fav, Adv, Hold (see rev. side)
 Other FILE
 Members
[Signature]
[Signature]
[Signature]
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action
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FILED
DEC 02 2013
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action
 Fav, Adv, Hold (see rev. side)
 Other _____
 Members _____
 Refer To _____

FINAL COUNCIL ACTION

- 2nd
- 1st & 2nd
- 3rd
- Consent
- V Vote
- RC Vote

CERTIFIED

DEC 02 2013

ATLANTA CITY COUNCIL PRESIDENT

[Signature]

CERTIFIED

DEC 02 2013

Ronda Duesler Johnson
MUNICIPAL CLERK

MAYOR'S ACTION

RCS# 3210
12/02/13
5:59 PM

Atlanta City Council

MULTIPLE

ITEMS 9-40 OF THE ZONING COMMITTEE
REPORT
FILE

YEAS: 12
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Bond
B Hall	NV Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	Y Sheperd	NV Mitchell

MULTIPLE

AN ORDINANCE BY:

Z-09-44

AN ORDINANCE TO AMEND THE 1982 ZONING ORDINANCE OF THE CITY OF ATLANTA, AS AMENDED, SO AS TO CREATE A NEW CHAPTER 37 ENTITLED VOLUNTARY INCENTIVE MULTI-FAMILY RESIDENTIAL REGULATIONS CONCERNING THE CREATION OF OPTIONAL AND PARALLEL DEVELOPMENT CODE REQUIREMENTS FOR MULTI-FAMILY RESIDENTIAL DEVELOPMENTS FOR THE PURPOSE OF PUBLIC BENEFITS INCLUDING THE PROVISION OF AFFORDABLE WORKFORCE HOUSING; TO DEFINE CERTAIN TERMS; TO PROVIDE FOR RELATED REQUIREMENTS AND PROCEDURES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta welcomes new persons each day for living and working purposes and as a result the City's Comprehensive Development Plan recognizes that many developed areas of the City are experiencing or are anticipated to experience residential development and redevelopment on scattered tracts of land; and

WHEREAS, the City's Comprehensive Development Plan recognizes that the diminishing supply of land within the City will also lead to the remodeling or redevelopment of existing residential structures or the purchase of existing structures for demolition and reuse of the lot for the building of new structures; and

WHEREAS, it is identified in the City's Comprehensive Development Plan that within neighborhoods, a broad range of housing types and price levels can bring people of diverse ages, races, and incomes into daily interaction, strengthening the personal and civic bonds essential to an authentic community therefore, it is in the best interest of the City of Atlanta that its workforce have as many tools at their disposal to be able to afford to live in the City and have a full range of housing options; and

WHEREAS, among the current policy goals expressed in City's Comprehensive Development Plan includes the creation of an affordable and walkable city, to retain, grow and attract middle-income residents by promoting the development of middle-income housing within the context of mixed-income neighborhoods, increasing opportunities for home ownership for low and moderate-income residents, promoting housing affordability in order to minimize the number of households that must pay more than 30 percent of their income in rent or mortgage payments, increasing the availability of affordable workforce housing through homeownership opportunities and inclusionary zoning policies, among others; and

WHEREAS, the City's Comprehensive Development Plan recommendations include providing development incentives to builders and developers in order to assist them in the construction of new low and moderate-income housing throughout the City; and

WHEREAS, a voluntary incentive ordinance will aide the City in its goal to maintain a diverse population for persons of various income levels and ensure the opportunity of affordable housing for the City's workforce to live within the City; and

WHEREAS, in residential developments, certain amendments to the Zoning Code are necessary to allow for specific and limited relief for certain development controls to create incentives for the provision of affordable workforce housing as a portion of residential development to address both existing and anticipated future housing needs in the City; and

WHEREAS, for such relief in certain development codes, certain procedures and requirements shall be prescribed to assure compliance to achieve the best interests of the city as described in the City's Comprehensive Development Plan.

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, AS FOLLOWS:

Section 1: That the 1982 Zoning Ordinance of the City of Atlanta is hereby amended by adding a new **Chapter 37. Voluntary Incentive Multifamily Residential Regulations**, which shall read as shown on the attached "Attachment A".

Section 2: That all ordinances or parts of ordinances in conflict with this ordinance shall be repealed.

Attachment A

Chapter 37. Voluntary Incentive Multifamily Residential Regulations

Section 16-37.001. Scope of Regulations

The existing zoning map and underlying zoning regulations governing all properties shall remain in full force and effect unless explicitly authorized to be modified by meeting the requirements of this Chapter. The scope of the regulations set forth in this chapter are not applicable to lots of record that are zoned R-1 through R-5. Only lots of record which allow for multiple or multi-family attached or detached dwellings as defined in Sec. 16-29.012(6)(b) shall qualify as eligible for the voluntary incentives outlined in this Chapter. In order for any development to utilize such incentives, the applicant must meet the requirements of this Chapter and Section 16-25 as applicable.

For purposes of this Chapter whereas existing regulations are in conflict:

1. Whenever in conflict with existing historic protection regulations: The historic protection regulations shall be in effect and apply; and
2. Whenever existing regulations are modified by a overlay district: The overlay district regulations, as applicable, shall be in effect and apply; and
3. Otherwise, whenever any other existing regulations are in conflict: The more stringent existing regulations shall be in effect and apply.

Any properly approved voluntary incentive regulations explicitly authorized by this Chapter shall supplant any of existing applicable regulations and apply to the subject property.

In order for any development rights authorized by the incentives outlined in this Chapter to be severed or transferred, the applicant must show that the future use of the property from which such development rights are severed or transferred meets the requirements of this Chapter, Section 16-25 and Section 16-28.023 as applicable.

Section 16-37.002. Findings and Statement of Intent

The provision of a range of housing choices for working persons in the City of Atlanta is a difficult but vital objective. Housing shortages for persons of various income levels are detrimental to the public health, safety and welfare including detrimental transportation, environmental, business and social consequences. It has been determined that private development is currently not meeting the need for moderately priced, affordable workforce housing and without any incentives to construct such housing on their own initiative it is unlikely it will be provided leaving the City without sufficient affordable workforce housing. Therefore, the purpose of this ordinance is to further the availability of housing choices for various income levels in the City of Atlanta whereas this can be accomplished, in part, by providing a variety of incentives to encourage development of dwelling units for persons and/or households with annual incomes at or below the area median income (AMI).

Therefore, policies to promote these objectives will serve to:

1. Implement the goals, policies, and objectives contained in the City's Comprehensive Development Plan;
2. Ensure a diverse housing options continues to be available for persons and/or households at or below the area median income;

3. Maintain a balanced community by encouraging the finite supply of developable land to provide housing opportunities appropriate to meet various needs and income levels;
4. Ensure the opportunity of housing to have better access to jobs in the City and thereby encouraging the use of MARTA and other public transit facilities;
5. Improve the opportunity for working people to upgrade their economic status;
6. Encourage the construction of affordable housing by offering zoning incentives for the provision of affordable workforce housing as a portion of residential development to address both existing and anticipated future housing needs in the City;
7. Allow developers of multifamily residential development the flexibility to meet the broad objectives of the City's policies to assist in providing a percentage of affordable housing units as a portion of development;
8. Provide opportunities to have on-site, privately produced, owned and managed, long term affordable units.

Section 16-37.003. Application Procedures and Effect on Other Permit requirements

A Special Administrative Permit (SAP) application and a specified number of copies each of a site plan, floor plans, elevation drawings of exterior façades and other documents as specified by this Chapter shall be submitted, as applicable, and approved by the Director of the Bureau of Planning prior to an applicant filing for a building permit. All applications for a SAP shall be processed in accordance with the standards and procedures applicable to said SAP applications contained in Chapter 25 of Part 16 except as otherwise modified by this Chapter 37.

Where the proposed development may require one or more Special Administrative Permits (SAPs), processing by the Director of the Bureau of Planning shall include consideration of such SAPs. Where underlying regulations require variance, special exception or special use permit action not authorized by this Chapter, the SAP shall not be issued until the necessary approval has been obtained.

For the purposes of this chapter, a unified development plan approved under a single SAP and meeting all applicable zoning requirements, as modified by this Chapter, may be subdivided, even if the resultant parcels do not otherwise meet these requirements. Any changes from the approved SAP shall require a new or amended SAP, which shall be based on the geographic extent of the original SAP; and shall indicate built or planned improvements on all parcels. Where a single property owner no longer owns all parcels, the applicant shall obtain authorization from all property owners prior to permit submittal.

As part of general action when plans require approval of a SAP, the Director of the Bureau of Planning may authorize variations from regulations the regulations explicitly authorized by this chapter. Notation concerning the existence of such variation shall be made by written findings of SAP approval to be filed in the office of the Bureau of Planning as public record.

Section 16-37.004. Definitions

For the purposes of this Chapter, the following definitions shall apply:

1. Affordable Housing Restriction Agreement: a written agreement between an applicant for a development and the City of Atlanta containing specific requirements to ensure the continuing long-term affordability of housing included in the development.

2. Affordable Workforce Housing Dwelling Unit: Any dwelling unit as defined in Sec. 16-29.001(10) and subject to covenants or restrictions requiring such dwelling units to be sold or rented at prices preserving them as affordable housing for a period of at least thirty (30) years.
3. Affordable Workforce Housing: Any housing, for sale or for rental, that is affordable to people ranging from a household with one working member working fulltime for minimum wage to tenants earning up to 120% of Area Medium Income (AMI).
4. Affordable Workforce Housing Development Plan: A plan prepared by an applicant for an Affordable Housing Development under this ordinance that outlines and specifies the development's compliance with the applicable requirements of this ordinance.
5. Applicant: Any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or affiliated entities and any transferee of all or part of the real property at one location, which after this Chapter is adopted.
6. Area Median Income (AMI): The median income figures, adjusted for household size, calculated annually by the U.S. Department of Housing and Urban Development for the metropolitan area that includes the City of Atlanta.
7. Child care facility: A facility installed, operated, and maintained under this section for the care of children including, but not limited to, infant centers, pre-schools, extended day care facilities, and school-age child care centers as defined under applicable state licensing requirements for such facility and not defined as family day care home.
8. Conservation Area: A portion of a parcel which has at least one of the following distinctive environmental features:
 - a. Slopes of 2:1 ratio (2 horizontal to 1 vertical) or steeper in the amount of 5,000 square feet or greater;
 - b. Streams and other surface waters and their applicable buffer zones;
 - c. Wetlands and their applicable buffer zones as defined by U.S. Army Corps of Engineers regulations pursuant to the Clean Water Act;
 - d. 100-Year Floodplains;
 - e. Populations of endangered or threatened species, as designated pursuant to the Endangered Species Act, or habitat for such species;
 - f. Archaeological or historic sites that remain primarily in an undeveloped state;
 - g. Abandoned cemeteries;
 - h. Existing healthy, native forests within a contiguous area of at least one acre;
 - i. Significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
 - j. Properties located adjacent to existing trails, public parks or greenspace that provide for access to improve connectivity to such areas.
9. Density Bonus: A marginal increase in the maximum floor area not to exceed 120% of the existing maximum floor area ratio (FAR) as an incentive for the construction of affordable housing pursuant to this ordinance.
10. Eligible household: A household whose annual income qualifies the household to rent or purchase an affordable workforce dwelling unit. For owned (for sale) dwellings, the maximum qualified household earnings do not exceed 120% of AMI. For leased (rental) dwellings, the maximum qualified household earnings do not exceed 80% of AMI.
11. HUD: The United States Department of Housing and Urban Development or any successor.
12. Improvement Equity: The increase in value of an inclusionary dwelling unit due to cash improvements made by the seller, except those that increase the square footage of the unit, unless necessary for accessibility.

13. Market Equity: The increase in value of an inclusionary dwelling unit as determined by the difference between the purchase price and the sale price.
14. Paid Equity: The amount of down payment and mortgage principal that the owner of an inclusionary dwelling unit has paid during the period of ownership, except for any amount withdrawn as part of additional financing.
15. Period of affordability: The time, specified in a recorded deed restriction, land use restriction agreement, and/or ground lease during which a affordable workforce housing dwelling unit shall be provided only to an income eligible household. The period of affordability for affordable workforce dwelling units begins on the date the certificate of occupancy is issued.
16. Principal residence: ???
17. Public Recreational Facility: Non-enclosed outdoor areas available to the general public at no cost and improved with landscape, hardscape and structural elements, or combination thereof, for the purpose of active personal recreation.
18. Renovation: Physical improvement that adds to the value of real property, but that excludes painting, ordinary repairs, and normal maintenance.
19. Leased Affordable Workforce Dwelling Unit Price: The monthly rental price for rental inclusionary dwelling units or leased residential spaces shall include rent and essential utility costs including water, power and heating.
20. Owned Affordable Workforce Dwelling Unit Price: The initial sale price of an owner occupied inclusionary dwelling unit or a lot that is designated for an owner-occupied inclusionary dwelling unit shall be calculated based on a monthly payment that includes property taxes, homeowner's insurance, private mortgage insurance, homeowner's or condominium association fees (if applicable), monthly ground rent, and the principal payment and interest on a mortgage based on the available fixed-rate mortgage.
21. Voluntary Incentive: A modification of zoning code or design requirements including those listed in Section 16-37.005(2) and which maintain minimum building standards.
22. Yards: As defined in Section 16-28.007(5).

Section 16-37.005. Voluntary Incentive Regulations

For any new construction (including additions or renovations to existing buildings) requiring a building permit for multi-family residential uses an applicant is eligible to receive one or more incentives for providing workforce affordable dwelling units as specified in the following Table I and regulations found in this Section. The number of incentives for a development is determined by a graduated scale based on the type of occupancy, either under ownership or leased, at specific household AMI levels and the percentage and number of units that are provided for such households, and any bonus incentives as specified in Section 16-37.005(1). An applicant may apply with the City for use of the Housing Opportunity Fund, as well as other assistance programs, to aid in the provision of the workforce affordable units independent to any voluntary incentives noted.

Table I: Incremental Authorized Voluntary Incentives				
Target Beneficiaries	Percentage of Affordable Workforce Dwellings (per the entire development) ¹ and Minimum Number of Affordable Workforce Dwelling Units			
30% AMI* leased (rental) dwellings	> 2.5% and not less than 1 unit	> 5.0% and not less than 2 units	> 7.5% and not less than 3 units	>10.0% and not less than 4 units
60% AMI* owned (for sale) dwellings	> 2.5% and not less than 1 unit	> 5.0% and not less than 2 units	> 7.5% and not less than 3 units	>10.0% and not less than 4 units

50% AMI* leased (rental) dwellings 80% AMI* owned (for sale) dwellings	> 5.0% and not less than 1 unit	> 10.0% and not less than 1 unit	> 15.0% and not less than 1 unit	> 20.0% and not less than 2 units
60% AMI* leased (rental) dwellings 100% AMI* owned (for sale) dwellings	>10.0% and not less than 1 unit	> 20.0% and not less than 1 unit	Not applicable	Not applicable
80% AMI* leased (rental) dwellings 120% AMI* owned (for sale) dwellings	>20.0% and not less than 1 unit	Not applicable	Not applicable	Not applicable
Number of Incentives Authorized²	1	2	3	4
<p>*AMI to be adjusted for household size. ¹ If the percentage of affordable dwellings units includes a fraction, the required number of affordable workforce dwelling units shall be the next highest whole number. ² Also see Bonus Incentives in Sec. 16-37.005(1) below.</p>				

2. Bonus Incentives: Are not construed to be allowed without provisioning the affordable workforce dwelling units authorized in Table I. However, an applicant is eligible to receive additional incentives for the inclusion of the following other public benefits including the following:
- a. Child Care Facility: An applicant is eligible to receive one additional incentive for the inclusion of a qualified and properly licensed child care facility operated by a licensed child care provider and if meeting the following criteria:
 - i. The subject child care facility shall provide care for no less than twenty children; and
 - ii. The percentage of children from households of the listed “target beneficiaries” attending the subject child care facility is at or greater than the percentage of the same households required in the affordable workforce residential development regardless of whether such children reside on-site or elsewhere. If such percentage of children shall fall below such required level the applicant shall conduct ongoing coordination with a local child care resource and/or governmental child care agency to order to maintain qualification; and
 - iii. The child care facility shall remain in legal operation at the same or greater floor area for a period of time as long as or longer than the period of time during which such affordable workforce dwelling units are required to remain affordable pursuant to Section 16-37.005 with the exception if Atlanta City Council makes findings that the need for child care is not present to the same degree as it was at the time the facility was established. If such a legal child care facility discontinue operation alternative means to restore the previously achieved incentive shall be required including either providing additional affordable workforce dwelling units or providing affordable workforce dwelling unit to a target beneficiary at a lesser AMI level according to the above Table 1.
 - b. Conservation Area or Public Recreational Facility: An applicant is eligible to receive one additional incentive for either the inclusion of a public conservation area or public recreational facility if a portion of a parcel is substantially restricted by either unique legal, environmental or structural features and if meeting the following criteria as determined and approved by the City’s Department of Parks and Recreation:
 - i. The subject conservation area shall meet the following criteria for a period of time as long as or longer than the period of time during which such affordable

workforce dwelling units are required to remain affordable pursuant to Section ????:

1. Shall remain undeveloped, maintained in its natural state, and protected consistent with the final approved Affordable Workforce Housing Development Plan; and
 2. The parcel's owner shall be responsible for the continuous maintenance of such conservation area whereas all City ordinances pertaining to the regulation of property maintenance shall apply including without limitation, control and prevention of invasive plant species and hazardous conditions. The City shall incur no responsibility or liability for improper maintenance.
- ii. The subject public recreational facility shall meet the following criteria for a period of time as long as or longer than the period of time during which such affordable workforce dwelling units are required to remain affordable pursuant to Section ????:
1. Active recreational opportunities shall be visible and readily accessible from a public right of way.
 2. Access for pedestrians to and from such public recreational facility shall be by logical, safe and convenient routes and shall be located and safeguarded as to minimize contact with automotive traffic.
 3. Minimum parking shall be provided as determined necessary due to the nature of such facility by the City's Department of Parks and Recreation.
 4. The parcel's owner shall be responsible for the development and continuous maintenance and safety of such public recreational facility, unless subsequently dedicated and accepted by the City or other governmental entity, whereas all City ordinances pertaining to the regulation of public safety and security shall apply; and
 5. No certificate of occupancy (CO) for any residential dwelling unit shall be issued prior to the approval of such public recreational facility being issued.
3. Type and Variety of Incentives:
- An applicant may select an incentive or combination of incentives, as listed below, according to the number of incentives authorized in Section 16-37.005 in order to supplant the specified zoning requirement(s). Any selection shall require meeting the full procedural regulations specified in Sec. 16-37.006.
- a. Parking: No parking spaces shall be required for the specific portion of affordable dwellings. Parking requirements shall be based only on the provision of market-rate units on the applicable lot(s) of record as determined by the applicable zoning requirements.
 - b. Loading: No loading spaces shall be required for the specific portion of affordable dwellings. Loading requirements shall be based only on the provision of market-rate units on the applicable lot(s) of record as determined by the applicable zoning requirements.
 - c. Open Space: No total open space requirements shall be required and no useable open space requirements shall be required for the specific portion of affordable dwellings. Useable open space requirements shall be based only on the provision of floor area of non-affordable dwelling units on the applicable lot(s) of record as determined by the applicable zoning requirements.
 - d. Front (& Half Depth Front)Yard: Any yards immediately adjacent to any public or publically accessible private street shall be reduced to no less than the greater of either: 10' from the adjacent right-of-way; or 20' from the existing curb, with the following exceptions:

- i. For lots or record subject to the BeltLine Overlay District: No such incentive is authorized.
 - ii. For lots of record subject to any Special Public Interest (SPI) District that is not an overlay district: No such incentive is authorized.
 - e. Side Yard: Any side yard shall be reduced to no less than the greater of either: 50% of the required side yard setback or; minimum setback required by the applicable International Building Code.
 - f. Rear Yard: Any rear yard shall be reduced to no less than the greater of either: 50% of the required rear yard setback or; minimum setback required by the applicable International Building Code.
 - g. Transitional Yard: Any transitional yard shall be reduced to no less than the greater of either: 50% of the required transitional yard setback or; minimum setback required by the applicable International Building Code. For purpose of this Section if a required transitional yard is a greater length than the required side or rear yard, said side or rear yard shall not be included as a selected incentive.
- Density Bonus- Developments may increase the floor area ratio of a development to a maximum of twenty percent (20%) above the residential floor area ratio (FAR) allowed by its current zoning classification based on the type of occupancy (either under ownership or leased) at specific household AMI levels and the percentage of units that are provided for such households as specified in the following Table II. Such density bonuses are not be construed to require a Comprehensive Development Plan (CDP) amendment, rezoning change, or similar approval.

Table II: Density Bonus Table	
30% AMI* leased (rental) dwellings 60% AMI* owned (for sale) dwellings	For each one percent (1%) of such affordable workforce dwelling units are provided a density bonus of two percent (2%) of residential floor area is allowed above the maximum residential floor area ratio allowed by current zoning classification.
50% AMI* leased (rental) dwellings 80% AMI* owned (for sale) dwellings	For each one percent (1%) of such affordable workforce dwelling units are provided a density bonus of one percent (1%) of residential floor area is allowed above the maximum residential floor area ratio allowed by its current zoning classification.
60% AMI* leased (rental) dwellings 100% AMI* owned (for sale) dwellings	For each one percent (1%) of such affordable workforce dwelling units are provided a density bonus of one-half percent (0.5%) of residential floor area is allowed above the maximum residential floor area ratio allowed by its current zoning classification.
80% AMI* leased (rental) dwellings 120% AMI* owned (for sale) dwellings	For each one percent (1%) of such affordable workforce dwelling units are provided a density bonus of one-quarter percent (0.25%) of residential floor area is allowed above the maximum residential floor area ratio allowed by its current zoning classification.
*AMI to be adjusted for household size. ¹ If the percentage of affordable dwellings units includes a fraction, any such fraction shall be rounded down to the lesser whole number.	

4. If the Director of the Bureau of Planning determines that any incentive(s) selected by the applicant shall not be allowed, the reasons for such determination shall be provided in writing to the applicant and filed as public record.

Section 16-37.006. Criteria of Affordable Dwelling Units

For all developments whereas voluntary incentives noted in this Chapter are proposed to be utilized, the applicant shall be advised to meet the requirements of this Section and evidence shall be required whereas to provide a signed a notarized agreement to the requirements as specified in the following:

1. Appearance: Any affordable unit shall be indistinguishable in exterior appearance from any similar or adjacent market rate unit.
2. Type: Affordable units shall be dispersed equivalently by bedroom count throughout a development up to and including units with 3 bedrooms.
3. Size: The minimum size of any affordable unit, specified by bedroom count, shall be no less in size(based on floor area) than the lesser of either: the smallest market rate unit of similar bedroom count or; 20% less than the median size of market rate unit of similar bedroom count.
4. Position: Affordable units shall be dispersed equivalently by floor level throughout a development up to and including any floor level within either four (4) stories or 50 feet from finished floor elevation to existing adjacent grade elevation.
5. Concurrency: No certificate of occupancy (CO) for market rate units shall be issued prior to an equal or greater number of a certificate of occupancy (CO) being issued for the affordable unit(s) regardless of any multiple planned phases of development.

Section 16-37.007. Procedures for Utilizing the Voluntary Incentives

1. For all developments in which voluntary incentives noted in this Chapter are proposed to be utilized, the applicant shall complete and file a Special Administrative Permit (SAP) application with the City of Atlanta Bureau of Planning on a form required by the Bureau. Said SAP application shall require, among other things, general information on the nature and the scope of the development as specified below and as the City of Atlanta determines necessary to properly evaluate the proposed development.
2. As part of the SAP application required above, the applicant shall also provide an Affordable Housing Development Plan subject to approval by the City of Atlanta Bureaus of Planning and Housing. The Affordable Housing Development Plan shall be incorporated into the Affordable Housing Restriction Agreement pursuant to Section ? and contain, at a minimum, the following information concerning the development and affordable workforce dwelling units whether located on-site or off-site:
 - a. A general written description of the development, including whether the development will contain units for rent or for sale.
 - b. Development control information of the proposed development including: parking and loading requirements, useable open space requirements, yard setbacks and floor area ratio, among others.
 - c. The total number of market-rate units and affordable housing units, specified by bedroom count.
 - d. The floor area of each market-rate unit and of each affordable unit and the sum floor area of market-rate units and affordable units.
 - e. Plans and documentation regarding the location of each affordable housing unit and exterior appearances including: materials and finishes of the Affordable Workforce Housing Development and each of its individual units.

- f. If construction of dwelling units is to be phased, a phasing plan stating the number of market-rate and affordable workforce housing units in each phase.
- g. The estimated sale price or monthly rent of each market-rate unit and each affordable workforce housing unit.
- h. Notations of the specific voluntary incentives proposed to be utilized.

Section 16-37.008. Affordable Housing Development Agreement

1. Subsequent to the issuance of any SAP approving any incentive pursuant to this Chapter but prior to the issuance of any building permit (other than demolition or land disturbance work) pursuant to such SAP, the applicant shall enter into an Affordable Housing Development Agreement with the City containing at a minimum the following:
 - a. Identification of each dwelling unit within the applicant's development designated as affordable workforce housing, the initial sales price or monthly lease rate for each such affordable workforce housing dwelling unit, and the specific AMI rate for each such affordable workforce housing dwelling unit; and
 - b. On forms prepared by the Bureau of Housing, an executed land-use restrictive covenant, for the benefit of the City, which shall run with the land associated with each affordable workforce housing dwelling unit and which:
 - i. Has a term of 30 years, in the case of a fee-simple affordable workforce dwelling unit, from the date of the first conveying instrument from the applicant to the eligible household or, in the case of a leasehold affordable workforce housing dwelling unit, from the date of the first lease agreement executed between the applicant and the eligible household;
 - ii. Restricts the sale or lease (as applicable) of each affordable workforce housing dwelling unit at no greater than the maximum sales price and/or rental rate calculated consistent with by this Chapter;
 - iii. Restricts the sale or lease (as applicable) of each affordable workforce housing dwelling unit solely to an eligible household as defined by this Chapter; and
 - iv. Restricts the sale or lease (as applicable) of each affordable workforce housing dwelling unit solely to an eligible household as such eligible household's; and
 - c. Acknowledgement and agreement that no certificate of occupancy, temporary or otherwise, shall issue for any unit within the development, unless and until the land-use restrictive covenants encumbering each identified affordable workforce housing dwelling unit has been filed of record in the applicable county real estate records and certified copies of such filing has been provided to the Bureau of Housing.
2. Failure by the applicant to execute such agreement shall void any incentive approved pursuant to this Chapter. The Director of the Bureau of Housing shall be authorized to sign the Affordable Housing Development Agreement on behalf of the City pursuant to this Chapter. The Bureau of Housing shall be responsible for developing and amending from time to time, as needed, the Affordable Housing Development Agreement forms (including land use restrictive covenants) so as to achieve the purposes and intent of this Chapter.

**Section 16-37.009. Long Term Affordability Requirements
(RESERVED)**

Section 16-37.010. Severability

It is declared the intention of the City of Atlanta that the provisions of any part of this ordinance are severable. If any court of competent jurisdiction shall adjudge any provision

of this ordinance to be invalid, such judgment shall not affect any other provision of this ordinance not specifically included in the judgment. If a court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance to a particular property, building or structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.