AN ORDINANCE BY

COUNCILMEMBER MICHAEL J. BOND

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

01-O -0841

That Part 8, Chapter 2, Article F, Division 1 of the City of Atlanta's Code of Ordinances is hereby amended by inserting the following language:

Section 8-2183- Purpose and Intent. For many Atlanta residents, suitable housing at an affordable level is not available. The City finds that the housing shortage for persons of very-low to moderate incomes is detrimental to the public health, safety and welfare, and further that it is a public purpose of the City, and public policy of the State of Georgia, to make available an adequate supply of housing for all segments of the community, while at the same time maintaining an economically sound and healthy environment. Further, the City finds that there is insufficient federal and state support for programs to assist the City in meeting its affordable housing needs. The City finds that it is a public purpose of the City to seek assistance and cooperation from the private sector in making available an adequate supply of housing for persons of all economic segments of the community. The goal of the City is to achieve a balanced community with housing available for persons of all income levels. The purpose of this Ordinance is to enhance the public welfare and assure that further housing development within the City contributes to the attainment of the housing goals of the City of Atlanta by increasing the production of units available to, and affordable by, households of low to moderate incomes, in order to promote a balance of housing for all economic segments of the community, and to meet the need documented in the Atlanta Housing Element. Specifically, the purposes of the Ordinance are to: (a) Promote the construction of housing within Atlanta that is affordable to all economic segments of the community, including households with low to moderate incomes; (b) Encourage the construction of affordable housing throughout the community, rather than concentrated within specific areas or neighborhoods; and (c) Provide a mechanism to assure affordability of housing units constructed under the provisions of this Ordinance for a specific period of time.

Section 8-2184- Definitions. (a) "Affordable" shall mean dwelling units that are affordable to households making 120 percent or less of the county median income, with monthly housing payments not exceeding 30% of the household's gross monthly income. The cost of utilities, property taxes, insurance, home owners dues and the like shall not be included in the calculation of housing costs. (b) "Applicant" shall mean any person, firm, partnership, association, or any other entity which seeks City permits and approvals. (c) "City" means the City of Atlanta. (d) "Developer" shall mean a person, firm, corporation, partnership, or agency who proposes to divide, subdivide, or construct improvements on, real property for oneself or for others. (e) "Market Units" or "Market Rate Units" means either an ownership or rental dwelling unit which is not restricted to those prices or rents affordable to very low, lower, median, or moderate income households, as defined by this Ordinance. (f) "Inclusionary unit" means an ownership or rental housing unit, as required and defined by this ordinance, that is affordable to very low, lower, median, or moderate income households. 1

(g) "In-lieu fee" means a fee paid into the City's Affordable Housing Fund to provide affordable housing opportunities to very low, low, median and moderate income households. In-lieu fees shall be allowed in lieu of actual provision of the inclusionary housing units required by this Ordinance only when the request meets the limitations. (h) "Lower income" or "Lower income household" shall mean a person or household whose gross annual income is between 51 % and 80%, inclusive, of the Fulton County median income, adjusted for family size, as defined by the Federal Department of Housing and Urban Development (HUD) or its successor. (i) "Median income" or "Median income household" shall mean a person or household whose gross annual income is between 81 % and 100%, inclusive, of the Fulton County median income, adjusted for family size, as defined by HUD. (j) "Moderate income" or "Moderate income household" shall mean a person or household whose gross annual income is between 101 % and 120%, inclusive, of the Fulton County median income, adjusted for family size, as defined by HUD. (k) "Non-profit housing agency" shall mean a not-for-profit agency engaged in the provision and/or management of housing for households with very low to moderate incomes. (1) "Qualified household" shall mean a household meeting the income restrictions established in this inclusionary program. (m) "Very low income" or "Very low income household" shall mean a person or household whose gross annual income is 50% or less of the Sonoma County median income, adjusted for family size, as defined by HUD.

Section 8-2185- Applicability. (a) Threshold. The provisions of this Ordinance shall apply to all new residential developments of five or more parcels or dwelling units intended and designed for permanent occupancy, including but not limited to single-family dwellings, apartments, town homes, condominiums, cooperatives, land divisions, or conversions from non-residential uses, which receive subdivision or Design Review Board approval after the effective date of this Ordinance. (b) Exemptions. The following shall not be subject to the provisions of this Ordinance: (1) Residential dwellings for which a building permit has been issued by the City prior to the effective date of this Ordinance; (2) Existing residences which are altered, improved, restored, expanded or extended, provided that the number of units is not increased; (3) Second dwelling units constructed pursuant to Section 8.2 of the Zoning Ordinance; (4) Dwelling units which are offered and restricted for sale, lease or rent solely to individuals or households of very low, low, or median incomes, as defined by this Ordinance.

Section 8-2186- Inclusionary Requirements. (a) Percentage requirement. In projects of five (5) or more units, ten percent (10%) of the units shall be inclusionary units affordable by and rented or sold to qualified households. If, in the application of the requirements of this Ordinance, a decimal fraction unit requirement is obtained, an in-lieu fee shall be provided equal to the applicable decimal fraction times the established in-lieu fee for one inclusionary unit. (b) Target income levels. The frst required inclusionary unit shall be provided at the moderateincome level or below; the second required inclusionary unit shall be provided at the medianincome level or below; the third required inclusionary unit shall be provided at the low-income 2

level or below, and thereafter the requirement shall be provided in the same order as the first through third inclusionary unit, as appropriate. At the developer's discretion, the inclusionary requirement may be satisfied by providing all of the required inclusionary units at the median income level. (b) Construction of inclusionary units. The inclusionary units shall be constructed at the same time as the other units. The completion of inclusionary units in a project shall be proportional to the completion of the market rate units. (c) Distribution of inclusionary units. Whenever reasonably possible, inclusionary units shall be distributed throughout the development. Distribution of units may take into account the number of required inclusionary units in the project, as well as consideration of environmental and aesthetic factors. (d) Appearance of inclusionary units. The inclusionary units shall be substantially the same as the market rate units or buildings in exterior materials and finish. The applicant may reduce either the size or the interior amenities of the inclusionary units as long as there are not significant differences visible from the exterior of the units and the size and design of the units is reasonably consistent with the market rate units in the project, provided all units conform to the requirements of the Building and Housing Codes. (e) Size of inclusionary units. Inclusionary units provided shall generally have a comparable number of bedrooms as market rate units in the project. If the floor area of the inclusionary units in the project is not substantially the same or larger than the market rate units in the project, the inclusionary units shall satisfy the following minimum total floor areas, depending on the number of bedrooms provided:

Number of Bedrooms

0-1,2,3,4 Minimum size of unit 500 sq. ft. 700 sq. ft. 875 sq. ft.
1100 sq. ft.

Section 8-2187- Pricing Requirements for Inclusionary Units.

(a) Allowable rents and sales prices. The Planning Department shall set maximum allowable rents and maximum allowable purchase prices for inclusionary units, adjusted by the number of bedrooms. Such maximum allowable rents and maximum allowable purchase prices shall be set at rates such that qualified occupants pay no more than thirty percent of the gross monthly household income. The cost of utilities, property taxes, insurance, homeowners' dues and the like shall not be included in the calculation of housing costs. (b) Down payment. For ownership units, any required down payment shall be limited to no more than ten percent of the purchase price.

Section 8-2188-. Eligibility Requirements.

(a) Qualified households. Only qualified households shall be eligible to occupy or own and occupy inclusionary units. Developers shall utilize a City-approved list of qualified households or a City-approved entity such as a non-profit housing corporation or a public Housing Authority to qualify applicants. Developers shall select only qualified households to occupy or own and occupy inclusionary units. (b) Excluded persons. The following individuals, by virtue of their position or relationship, are ineligible to occupy an inclusionary unit:

(1) All employees and officials of the City of Atlanta or its agencies, authorities, boards, or commissions who have, by the authority of their position, policymaking authority or influence affecting City housing and development programs, or the immediate relatives of such persons.
(2) The immediate relatives of the applicant or owner, including spouse, children, parents, grandparents, brother, sister, father-in-law, son-in-law, daughter-in-law, aunt, uncle, niece, nephew, sister-in-law, and brother-in-law.

Section 8-2189- In-lieu fees. (a) Eligibility for fee payment. When the calculation of inclusionary requirements yields a fractional number, a fee in-lieu of providing a full unit may be paid to the City. Said fee shall equal the fractional number times the established fee. (b) Amount of fee. For purposes of this section, the inclusionary fee shall be established and adjusted from time to time by resolution of the City Council based upon the cost of subsidizing a new multifamily residential unit affordable to a low-income household of four persons. Such cost shall represent the difference between the construction costs for such unit (including land costs) and the amount which the referenced household can afford under the parameters of this ordinance. (c) Payment of fee. Any fee required by this ordinance shall be paid in full prior to the issuance of a Building Permit for the project. At the applicant's discretion, total inclusionary fees for the project may be divided and paid on a per-market-rate-unit basis upon issuance of a building permit for each market-rate unit. (d) Use of funds. Any funds received from fee payments shall be placed in a reserve account used for the exclusive purpose of providing housing affordable to low and moderate income households in the City of Atlanta.

Section 8-2190- Deed Restrictions.
The minimum period of affordability for inclusionary units in rental developments shall be as set forth below: (a) Subsidized projects. Projects receiving public subsidies, including density bonuses or other concessions pursuant to Government Code Section 65915, shall maintain affordability for a period of not less than fifteen (15) years or for a different period when required by the City or by State law. A program to assure continued affordability for these units shall be administered by the City or by a non-profit housing agency approved by the City. The applicant shall enter into an agreement with the City to assure affordability of the inclusionary units for a period of not less than 15 years from the effective date of occupancy. The City Manager shall be authorized to enter into such agreement on behalf of the City. The approved agreement shall be recorded with the Fulton County Recorder prior to issuance of any building permit for the project. (b) Unsubsidized projects. Inclusionary units which are built without a public subsidy, or density bonus or other concession granted pursuant to Government Code Section, shall be required to maintain affordability for a minimum period of fifteen years or for a different period when required by the City or by State law. A program to assure affordability for these units for this period of time shall be administered by the City or by a non-profit housing agency approved by the City. The applicant shall enter into an agreement with the City or its designee to provide monitoring and to assure affordability of the inclusionary units for a period of not less than fifteen years from the effective date of occupancy. The City Manager shall be authorized to enter

into such agreement on behalf of the City. The approved agreement shall be recorded with the Fulton County Recorder prior to issuance of a building permit for the project.

(1) All buyers of "for sale" inclusionary units shall enter into a Resale Agreement with the City or its designee prior to the close of escrow for such inclusionary unit. The Resale Agreement shall specify the required affordability term, shall provide for an option for the City or its designee to designate an eligible purchaser and provide the City or its designee with first right of refusal to purchase the unit, and provide for a calculation of future equity assignment upon sale of the unit. Such agreement shall be recorded against each lot or unit.

(2) Conversion of an inclusionary rental unit to a "for sale" unit, if otherwise permitted, shall not void any provisions of applicable inclusionary housing agreements or requirements.

Section 8-2191- Monitoring of Inclusionary Units

Each owner of any rental inclusionary units shall submit an annual report to the Planning Department, no later than March 1, for the previous calendar year, identifying monthly rental rates, vacancy status of each inclusionary unit, income status for each resident and any other related data deemed necessary by the City while ensuring privacy for all residents. The deed restriction for ownership units shall require a conformance report upon sale of ownership inclusionary units.

Section 8-2192- Incentives.

It is the intent of this Ordinance that the requirements for inclusionary units not be contingent upon the availability of government subsidies. This is not to preclude the use of such programs and subsidies. This Ordinance is also not intended to cause an undue burden on the developers of residential projects. Therefore, incentives are given as outlined below to provide inclusionary units:

(a) Density Bonus Allowance. A developer of housing agreeing to construct at least 20 percent of the units in the project for low income households, or 10 percent of the units in the project for very low income households, or 50 percent of the units in the project for senior citizens, shall be offered a density bonus of 25 percent pursuant to Government Code Section and Section _ of the Atlanta Zoning Code. A developer agreeing to provide at least 20 percent of the units with three or more bedrooms to occupants with very low to moderate incomes shall be offered a density bonus of 25 percent pursuant to Zoning Code Section -. A developer agreeing to construct at least 20 percent of the units for very low and low income households, of which at least 25 percent must be for very low income households, shall be offered a density bonus of 45 percent, pursuant to Zoning Code Section 8.8, in the following districts:
where the base zoning district is the same as those listed above.

(b) Fast-tracking. The City shall expedite, whenever possible and appropriate, the processing of residential developments or land subdivisions which meet the requirements of this Ordinance.

(c) Modification of Certain Development Standards. The City may waive or reduce the covered parking requirement, and may modify certain other residential development standards, for residential developments or land subdivisions which meet the inclusionary requirements of this Ordinance.

(d) Reduction in Required Square Footage of Lots (Small Lot Provision). The City shall allow reduced lot sizes and alternate lot configurations in single-family and duplex-family residential subdivisions pursuant to Zoning Code Sections in order to help meet the inclusionary requirement of this Ordinance, provided that such sizes and configurations are found not to cause undue environmental impacts, and are generally compatible with surrounding land uses.

Section 8-2193- Inclusionary Housing Submittal Requirements. As part of any submittal to the City of Atlanta for the construction of five or more new dwelling units, or for the division or subdivision of land into five or more lots for residential use, each applicant shall include information as to the total number of housing units included within the application; the proposed sale or rental prices of the inclusionary units; identification of the agency which will monitor occupancy and continued affordability of the inclusionary units for the amount of time specified by this Ordinance; and any other information deemed necessary by the City. It shall be the responsibility of the developer to negotiate any needed agreement with the monitoring agency to comply with Section

Section 8-2194- Modification of Requirements.
The City Council may modify the requirements of the inclusionary provisions on a project basis upon submittal of a written request for an exception and payment of the applicable fee for a Variance by the developer, if the Council finds that alternate requirements will achieve the intent of the inclusionary program and are consistent with the General Plan.

Section 8-2195-. Appeals and Enforcement. (a) Application of requirements. The provisions of this Ordinance shall apply to all agents, successors and assignees of an applicant or developer. No planning permit shall be issued after the effective date of this Ordinance for any project which does not meet the requirements of this Ordinance. (b) Violations. Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this Ordinance, shall be guilty of a misdemeanor, and shall be deemed to be guilty of a separate offense during each and every day during any portion of which any violation of this Ordinance is commenced, continued, or permitted by such person, firm or corporation. (c) Appeal to Planning Commission. Any person aggrieved by any action involving denial, suspension or revocation of a building permit or denial, suspension or revocation of any development approval may appeal such determination to the Planning Commission, with further appeal possible to the City Council, upon payment of the applicable appeal fee. (d) Appeal to City Council. Any applicant or other person who contends that his or her interests are adversely affected by a determination or requirement of the City or its designee in regard to this Ordinance and is not satisfied with the decision of the Planning Commission may appeal to the City Council upon payment of the applicable appeal fee. The appeal shall set forth specifically wherein the action of the City or its designee fails to conform to the provisions of this Ordinance thereby adversely affecting the applicant's or other person's interests. The City Council may reverse or modify any determination or requirement of the City or its designee if it finds that the action under appeal does not conform to the provisions of this Ordinance.

(e) Effective date. This Ordinance shall be in full force and effect thirty (30) days after its approval and adoption.

Section 8-2196- Density Bonus Allowance

A. A developer of housing agreeing to construct at least:

(1) 20 percent of the units for low income households; or

(2) 10 percent of the units for very low income households; or

(3) 50 percent of the units for senior citizens; or

(4) 20 percent of the units with three or more bedrooms for large families with very low to moderate incomes.

shall be offered a density bonus of 25 percent of the maximum number of residential dwelling units that are allowed under the general plan land use designation for the subject property in addition to the dwelling units actually approved on the project and at least one of the concessions or incentives identified in Government Code Section or be provided other incentives or equivalent value based upon land cost per dwelling unit, unless the City makes a written finding that the additional concession or incentive is not required in order to provide affordable housing.

B. A developer of housing agreeing to construct at least 20 percent of the units for very low and low income households of which at least 25 percent must be for very low income households shall be offered a density bonus of 45 percent of the maximum number of residential dwelling units that are allowed under the general plan land use designation for the subject property in addition to the dwelling units actually approved on the project and at least one of the concessions or incentives identified in Government Code Section or be provided other incentives or equivalent value based upon land cost per dwelling unit, unless the City makes a written finding that the additional concession or incentive is not required in order to provide affordable housing.

This density bonus shall apply only to the following zoning districts: not including properties with an original base zoning district other than those listed above

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01-O -0841

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AN ORDINANCE

BY COUNCILMEMBER MICHEAL J. BOND

AN ORDINANCE TO AMEND THE CITY OF ATLANTA'S HOUSING CODE BY ADDING NEW SECTION "INCLUSIONARY HOUSING" WHICH WILL REQUIRE DEVELOPERS TO MAKE AVAILABLE ADEQUATE AND AFFORDABLE HOUSING UNITS FOR THOSE CITIZENS WHO CANNOT AFFORD TO PURCHASE A HOME UNDER THE CURRENT AFFORDABLE HOUSING DEFINITION; AND FOR OTHER PURPOSES.

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

Date Referred 5/21/01

Referred To: CD/HR

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee

Date

Chair

Referred to

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

FINAL COUNCIL ACTION

☐2nd ☐1st & 2nd Readings ☐3rd

☐Consent ☐V Vote ☐RC Vote

CERTIFIED

MAYOR'S ACTIO