



Ratification  
Number \_\_\_\_\_

# A N O R D I N A N C E

TO AMEND PART 15 (WORKFORCE HOUSING DISTRICTS AND OPPORTUNITY ZONES) OF ARTICLE 2 (LAND USE REGULATIONS) OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA (ZONING ORDINANCE), TO PROVIDE FOR AN INCREASED FEE IN LIEU OF DEVELOPING REQUIRED WORKFORCE HOUSING UNITS ONSITE. (AS AMENDED)

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Sec. 54-299.1 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby amended to add the following defined terms:

k. WH district(s). The term "WH district" means the MU-1/WH zoning district or the MU-2/WH zoning district. The term "WH districts" means the MU-1/WH district and the MU-2/WH district.

l. Workforce housing units. Workforce housing unit means owner occupied workforce housing units and rental workforce housing units.

m. Required workforce housing units. Required workforce housing units means workforce housing units required to be provided by the terms of this Part.

n. First generation properties: Any property which is zoned to a WH District as of January 10, 2017; or any property for which, as of January 10, 2017, an application has been filed for rezoning to a WH district and for which City Council later grants the rezoning application.

o. Second generation properties: Any property which City Council has rezoned to a WH district before March 9, 2021, except for first generation properties. Any property, other than first generation properties, for which the City has received an application for a rezoning to a WH district on or before March 9, 2021, to the extent City Council later approves the rezoning application.

p. Gross square footage ("GSF"): Gross square footage or GSF means the number of gross square feet within the development, whether residential, retail, commercial, or otherwise, inclusive of heated and unheated square footage, but excluding parking garages. Any portion of

the GSF initially used solely for a grocery store or pharmacy shall be excluded from GSF for purposes of calculating any fee-in-lieu of providing required workforce housing units; provided; however, if, at any time within ~~twenty five (25)~~ **thirty (30)** years after receipt of a certificate of occupancy or completion for the development, the use of such GSF as a grocery store or pharmacy lapses for a period of twelve (12) months or is used for any other purpose, then the owner of the development shall be required, as a condition of occupancy of such space, to pay a sum equal to the **difference between the fee per unit that would have been payable had the space not been excluded from the per unit calculation and the fee per unit initially paid.** ~~different between the fee per unit that would have been payable had such GSF not been excluded from the initial calculation of the fee per unit.~~

q. Consumer Price Index ("CPI"). The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services published by the United States Department of Labor and available for the pertinent geographical area, as determined annually by the City's Department of Housing and Community Development.

r. First tier unit(s). First tier units are calculated by dividing the required workforce housing units by four and rounding down to the nearest whole number.

s. Second tier unit(s). Second tier units are calculated by dividing the required workforce housing units by two, then subtracting the first tier units. If this calculation results in a number other than a whole number, then the resulting number shall be rounded down to the nearest whole number.

t. Third tier unit(s). Third tier units are calculated by dividing the required workforce housing units by four, then multiplying the resulting number by three, then subtracting first tier units and second tier units. If this calculation results in a number other than a whole number, then the resulting number shall be rounded down to the nearest whole number.

u. Fourth tier unit(s). Fourth tier units are calculated by subtracting the first tier units, second tier units, and third tier units from the required workforce housing units; provided, however, if the required workforce housing units is one (1), then such workforce housing unit shall be a fourth tier unit.

Section 2. That Sec. 54-299.2 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted and replaced with the following new Sec. 54-299.2:

Sec. 54-299.2 – Land uses for WH districts.

The permitted land uses in the WH districts are those listed under Article 2, Part 3, Table of Permitted Land Uses, in the column headings having the applicable district designation, to wit: MU-1/WH or MU-2/WH, respectively, modified as follows:

a. Every development in a WH district that has less than five (5) dwelling units must include at least one (1) workforce housing unit.

b. Every development within a WH district which includes five (5) or more dwelling units shall include workforce housing units comprising at least twenty percent (20%) of the total number of dwelling units in the development, rounded up to the next whole number. Notwithstanding the foregoing, with respect to first generation properties, every development within a WH district which includes five (5) or more dwelling units shall include workforce housing units comprising at least fifteen percent (15%) of the total number of dwelling units in the development, rounded up to the next whole number.

c. Required workforce housing units shall be sized, in terms of square footage and number of bedrooms, comparable and proportional to the square footage and number of bedrooms of market rate dwelling units in the development as a whole. The smallest required workforce housing unit shall not be smaller than the smallest market rate dwelling unit and shall contain the same number of bedrooms as the smallest market rate dwelling unit. Required workforce housing units shall be integrated and intermixed with the market rate dwelling units in the development. Required workforce housing units shall not be clustered together or segregated from the market rate dwelling units. Developments that contain multiple buildings shall incorporate required workforce housing units into each building, and the required workforce housing units shall be proportional, in terms of square footage and number of bedrooms, to the number of market rate dwelling units in each building. Exterior finishes of required workforce housing units shall be the same type and quality as the development's market rate dwelling units.

d. In lieu of providing required workforce housing units under Sec. 54-299.2.a ~~or Sec. 54-299.b~~, a development may dedicate the greater of (1) fifty percent (50%) of the ground level square footage; or (2) 1,500 square feet on the ground level to nonresidential uses which front on a public right-of-way. Nonresidential uses in the MU-1/WH district shall be those allowable in the Limited Business (LB) zoning district. Nonresidential uses in the MU-2/WH district shall be those allowable in the General Business (GB) zoning district.

e. (1) In lieu of providing the required workforce housing units onsite, a developer may contribute a fee, on a per unit basis, to the City's Affordable/Workforce Housing Account for any or all of the number of required workforce housing units for the development. Fees shall be calculated at the time of building permit application and paid in full prior to the issuance of a certificate of occupancy or completion for any part of the development covered in such building permit application. The fee for a required workforce housing unit shall be calculated as follows:

(a) For first tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by \$7.50, then dividing the latter number by the total number of first tier units.

(b) For second tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by \$10.00, then dividing the latter number by the total number of second tier units.

(c) For third quarter tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by \$12.50, then dividing the latter number by the total number of third tier units.

(d) For fourth tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by \$15.00, then dividing the latter number by the total number of fourth tier units.

The City's Department of Housing and Community Development (the "CDC") shall adjust the \$7.50 multiplier for first tier units, the \$10.00 multiplier for second tier units, the \$12.50 multiplier for third tier units, and the \$15.00 multiplier for **fourth tier**~~the tier-quarter~~ units annually based on any increase to the CPI **or AML, whichever is greater**. The adjustment shall apply to (i) any properties which have not received a vested right for a site specific development plan as of the date of publication of the multiplier by the CDC; or (ii) any required workforce housing units resulting from an amendment to a vested site specific development plan as of the date of the publication of the multiplier by CDC.

(2) Notwithstanding Sec. 54-299.2.e.(1), with respect to first generation properties, the fee per required workforce housing unit shall be calculated based on GSF multiplied by \$3.40, with the resulting number then being divided by the total required workforce housing units. **If a certificate of occupancy has been issued for the development or applicable phase, the fee per unit shall be prorated to account for the number of months the unit has already been subject to rental workforce housing covenants.**

(3) Notwithstanding Sec. 54-299.2.e.(1), with respect to second generation properties, the fee per required workforce housing unit shall be calculated based on GSF multiplied by \$5.10, with the resulting number then being divided by the total required workforce housing units.

f. Land donation in lieu of required workforce housing units. Upon approval by City Council by resolution, and in City Council's sole discretion, land may be donated to the City in lieu of required workforce housing units. The size, configuration, and location of any land proposed for donation shall be capable and appropriately zoned to support, at a minimum, the number of required workforce housing units such donation is intended to replace. City Council may accept or reject the donation for any reason. If City Council elects to accept land in lieu of required workforce housing units, the developer shall be solely responsible for all costs of acquiring the land and transferring the land to the City, including but not limited to the costs of surveys, plats, environmental investigation, title insurance, the City's attorneys' fees, and recording fees. Title to the land proposed for donation shall be conveyed to the City by general warranty deed prior to the issuance of a building permit for any part of the development.

g. Prior to receiving a building permit for any portion of a development within a WH district, the owner thereof shall provide, in writing, to the satisfaction of the CDC, information identifying the total number of one bedroom dwelling units, two bedroom dwelling units, etc., and the respective square footages of the same; the total number of one bedroom workforce housing units, two bedroom workforce housing units, etc., and the respective square footages of the same; and the location of the required workforce housing units in the development. Prior to

the issuance of a certificate of occupancy or completion for any portion of a development within a WH district, the owner thereof shall identify, in writing, to the CDC, the dwelling units designated as owner occupied workforce housing units and/or rental workforce housing units.

h. (1) Prior to the issuance of a certificate of occupancy or completion for any portion of a development, the owner shall execute covenants satisfactory to the CDC that identify the required workforce housing units and which restrict such units to occupancy, or, if applicable, ownership, by qualified households for at least ~~twenty-five (25)~~ **thirty (30)** years, and submit a copy of the recorded covenants to the CDC. Notwithstanding the foregoing, ~~for first generation properties,~~ the affordability period shall be ten (10) years **for first generation properties and twenty-five (25) years for second generation properties.**

(2) For the owner occupied workforce housing units, the covenants shall identify the initial maximum allowable sales price, and provide that the initial maximum allowable sales price may be adjusted annually for inflation based on the increase in the area median income (AMI) or Consumer Price Index, whichever is greater. Each owner of such units, prior to initial occupancy, shall be required to submit to the CDC a verified income report of household income of all members of the household. The covenants shall require notice to the CDC of any transfer of the owner occupied workforce housing units and verification that the purchaser is a qualified household. Owner occupied workforce housing units shall be subject to resale restrictions for no fewer than ~~twenty-five (25)~~ **thirty (30)** years from date of initial sale of the property. Notwithstanding the foregoing, ~~for first generation properties,~~ the affordability period shall be ten (10) years **for first generation properties and twenty-five (25) years for second generation properties.** Such restrictions will be recorded as deed restrictions against the subject property.

(3) As for rental workforce housing units, the covenants shall require the owner to provide proof to the CDC, at inception of every tenancy, and on an annual basis thereafter, that no more than affordable rent is being charged for the unit(s), and verified income reports of household income of all occupants of rental workforce housing units. Rental workforce housing units shall be subject to these restrictions for no fewer than ~~twenty-five (25)~~ **thirty (30)** years from the initial occupancy as workforce housing. Notwithstanding the foregoing, ~~for first generation properties,~~ the affordability period shall be ten (10) years **for first generation properties and twenty-five (25) years for second generation properties.**

(4) The covenants for rental workforce housing units shall provide:

If a workforce housing unit is converted from rental occupied to owner occupied occupancy during the term of the rental workforce housing covenants, the unit shall be subject to the owner occupied workforce housing unit requirements as set out in Sec. 54-299.h.(2), as amended, (to include an Initial Maximum Sales Price) for a term of months equal to the number resulting when subtracting from ~~31200~~ months **(or 300 months for second generation properties)** the number of months the unit has been subject to rental workforce housing covenants. Conversion of a workforce housing unit from owner occupied to a rental workforce housing unit shall not be permitted. Covenants shall require written notice to the City prior to any conversion taking place.

(5) The covenants shall accord the City of Charleston, or its assignee, rights to enforcement by any legal and/or equitable means, including the revocation of a certificate of occupancy or completion, and in all events be subject to approval by the City's corporation counsel.

i. If the development is to be phased, each phase shall include workforce housing units concurrently with the market rate units in the particular phase. A phasing plan that brings the workforce housing units on line at the end of build out is not permitted.

j. The upkeep of rental workforce housing units shall be of the same quality as the upkeep of the other market rate rental units within the development.

Section 3. That Sec. 54-299.5 ~~2~~ of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted and replaced with the following new Sec. 54-299.5:

Sec. 54-299.5. - Affordable/workforce housing account.

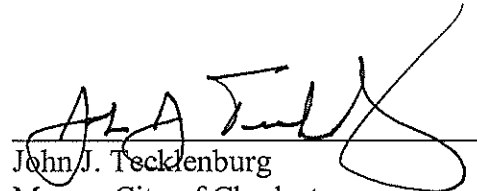
There is hereby created a City of Charleston Affordable/Workforce Housing Account. Fees contributed to the account per this Part, along with all interest earnings, shall be used solely for the purpose of creating and/or preserving workforce and/or affordable housing, including but not limited to preserving or redeveloping existing housing stock, the acquisition of land, costs and fees for design and construction of affordable housing, and loans or grants to affordable housing providers. The terms of any assistance shall be developed by the City of Charleston Department of Housing and Community Development, or its successor, and approved by City Council.

Section 4. That Sec. 54-299.6 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted, with Sec. 54-299.7 and Sec. 54-299.8 to be renumbered accordingly.

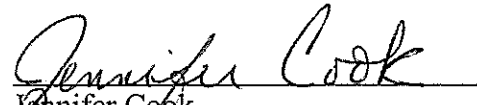
Section 5. This Ordinance shall take effect upon ratification; provided, however, the pending ordinance doctrine shall apply to rezoning applications for WH districts received by the City on or after March 9, 2021.

Ratified in City Council this 13<sup>th</sup> day of <sup>April</sup> 2021  
in the Year of Our Lord, 2021, and in the 245<sup>th</sup> Year  
of the Independence of the United States of  
America.

By:

  
John J. Tecklenburg  
Mayor, City of Charleston

ATTEST:

  
Jennifer Cook  
Clerk of Council