

**AN ORDINANCE
BY COUNCILMEMBER CARLA SMITH**

Z-18-79

AN ORDINANCE BY COUNCILMEMBER CARLA SMITH TO AMEND THE CITY OF ATLANTA, GEORGIA CODE OF ORDINANCES, PART III (“LAND DEVELOPMENT CODE”), PART 16 (“ZONING”), CHAPTER 28 (“GENERAL AND SUPPLEMENTARY PROVISIONS”), BY ADDING A NEW SECTION 18 (“VOLUNTARY INCLUSIONARY ZONING - HEIGHT BONUS AREA DESIGNATION”); AND FOR OTHER PURPOSES.

WHEREAS, the cost of housing is out of reach for thousands of Atlanta families; and

WHEREAS, like so many cities across the U.S., the City of Atlanta faces an urgent challenge to use as many creative solutions as possible to preserve and produce enough affordable housing units to meet the unmet housing needs of Atlanta’s working families; and

WHEREAS, if the current development trends continue as predicted, the vast majority of new multi-family housing units to be produced in Atlanta will be for rent or sale at market rate prices; and

WHEREAS, the City of Atlanta has been able to offer a variety of financial incentives to developers in the past who have been willing to include affordable housing units in their projects;

WHEREAS, in return for affordable housing units that will provide a public benefit to their communities, Atlanta neighborhoods may be willing to consider the possibility of offering additional height to developers; and

WHEREAS, developers may wish to produce additional housing units in some of their developments, if the applicable zoning for a particular parcel or parcels would allow it through height bonuses; and

WHEREAS, as a nationwide best practice, inclusionary zoning is about taking affirmative steps to reduce barriers to fair housing, and to repair the history of exclusionary zoning; and

WHEREAS, inclusionary zoning can be either mandatory and voluntary in nature; and whereas both mandatory and voluntary policies have the capacity to produce new affordable units; and

WHEREAS, voluntary inclusionary zoning policies give the City, neighborhoods, and developers more flexibility to structure incentive packages that make it feasible to serve a true mix of income levels; and

WHEREAS, inclusionary zoning will help promote socioeconomic integration in Atlanta, because affordable units will be produced alongside market rate units, and tend to be in high amenity new construction that will tend to be close to transportation and retail; and

WHEREAS, existing density bonuses in the City of Atlanta Zoning Chapter have been sporadic

and inconsistent through the code, and not widely used; and

WHEREAS, it is desirable to encourage the use of voluntary inclusionary zoning across the City of Atlanta; and

WHEREAS, neighborhoods and developers would benefit from a consistent set of definitions, requirements, and procedures in order to negotiate an exchange of height for new affordable housing units;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That Part III (“Land Development Code”), Part 16 (“Zoning”), Chapter 28 (“General and Supplementary Provisions”) of the Code of Ordinances of the City of Atlanta, Georgia be amended to add a new Section 18 (“Voluntary Inclusionary Zoning - Height Bonus Area Designation”), as follows:

Sec. 16-28.018 Voluntary Inclusionary Zoning - Height Bonus

(a) Purpose. The purpose of this section is to take meaningful, affirmative steps to remove barriers to fair housing in the City of Atlanta and to increase the production of new affordable housing in the City of Atlanta, consistent with the Housing section of the City’s Comprehensive Development Plan; the City’s Consolidated Plan prepared for the U.S. Department of Housing and Urban Development; the City’s affordable housing goals as codified in Subsection 54-1 of Part II, Chapter 54 of the Code of Ordinances; and the goals and aspirations of a City that wishes to provide opportunities for all.

(b) Definitions.

- (1) Affordable housing units. Affordable housing units are housing units that are affordable per the definition contained in City of Atlanta Code of Ordinances, Part II (“General Ordinances”), Chapter 54 (“Community Development”), Article I (“In General”), Section a (“Definitions”), Subsection 1 (“Affordable Housing”).
- (2) Bonus Height Area Designation. A Bonus Height Area Designation is a designation that a Neighborhood Planning Unit of the City of Atlanta may elect to adopt for some or all of the neighborhoods within their geographical boundary, which, if adopted, would designate those areas as allowing developers to receive additional height on their multi-family housing development when they provide a sufficient proportion of affordable housing units pursuant to the requirements of this section.

(c) Neighborhood designation of Bonus Height Areas. A Neighborhood Planning Unit may elect to create one or more Bonus Height Areas by undertaking a Bonus Height Area Designation for that area, when the Neighborhood Planning Unit identifies one or more areas where it finds that additional height is appropriate and desirable as an incentive to produce affordable housing units. In order to qualify as eligible for a Bonus Height Area, all points

within the area must be within one quarter mile of a public transit access point, including but not limited to a MARTA train station, MARTA bus stop, streetcar stop, or other public transit access point.

(d) Bonus units for inclusion of affordable housing units. Any multi-family housing development in the City of Atlanta that is developed in a neighborhood that has been given a Height Bonus Area Designation, and which includes at least one affordable housing unit for each four market-rate housing units, shall be eligible for a height bonus of one market-rate unit for each affordable housing unit provided on-site, up to 20 percent above the maximum number of housing units allowed by the underlying zoning district. Any affordable housing units that qualify toward the calculation of any other bonus in the zoning code shall not qualify toward the calculation of eligibility for bonus height under this section.

(e) Application and Affordable Housing Development Plan

(1) For all developments in which the applicant proposes to include affordable housing units and receive a height bonus pursuant to this section, the applicant shall complete and file an application on a form required by the Office of Housing of the City of Atlanta.

(2) As part of the application required under paragraph (1) above, the applicant shall provide to the Office of Housing an Affordable Housing Development Plan. The plan shall be subject to approval by the City of Atlanta and shall be incorporated into the Affordable Housing Development Agreement required pursuant to this section. The Affordable Housing Development Plan shall contain, at a minimum, the following information concerning the development:

(a) A general description of the development, including whether the development will contain units for rent or for sale;

(b) The total number of market-rate units and affordable housing units;

(c) The number of bedrooms in each market-rate unit type and each affordable unit type;

(d) The estimated sale price or monthly rent of each market-rate unit and each affordable housing unit;

(e) A marketing plan the applicant proposes to implement to promote the sale or rental of the affordable units within the development to eligible households

(f) Duration. Affordable units provided under this section shall remain affordable for at least twenty years.

(g) Affordable Housing Development Agreement.

(1) Prior to the issuance of a building permit for any units in which an applicant is providing affordable housing units in exchange for a height bonus pursuant to this section, the applicant

shall have entered into an Affordable Housing Development Agreement with the City of Atlanta. The development agreement shall set forth the commitments and obligations of the City of Atlanta and shall incorporate, among other things, the Affordable Housing Development Plan.

(2) The applicant shall execute any and all documents deemed necessary by the City of Atlanta in a form to be established by the City Attorney, including, without limitation, restrictive covenants, deed restrictions, and related instruments (including requirements for income qualification) to ensure the continued affordability of the affordable housing units in accordance with this ordinance. These covenants and restrictions shall be running with the land, and shall be binding on the assigns, heirs, and successors of the applicant.

(h) Quality of Affordable Units. The affordable housing units shall be intermingled with all other dwelling units in the development, and not clustered together or segregated in any way from, market-rate units. The affordable housing units shall be comparable in size, number of bedrooms, time frame of occupancy, exterior design, and interior finish, and quality of construction, to the market rate units. Occupants of the affordable housing units shall have access to the same entrances, exits, and common areas, as the occupants of the market rate units. If the units are to be phased in over a period that is longer than one year, the applicant shall provide for the development of affordable housing units concurrently with the market-rate units. No phasing plan for a multi-family development receiving a height bonus pursuant to this section shall provide that the affordable housing units built are the last units in an affordable housing development.

(i) Annual reporting. The developer and or his or her agent shall manage and operate affordable housing units as required by this section and shall submit an annual report to the Office of Housing of the City of Atlanta, identifying how many units are affordable housing units in an affordable housing development, the monthly rent for each rental unit, vacancy information for each year for the prior year, monthly income for tenants of each affordable unit, and other information as required by the City of Atlanta, while ensuring the privacy of the tenants.

SECTION 2: Except as otherwise provided, the provisions of Section 1 are effective as of the date of adoption of this legislation.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived to the extent of the conflict.