

Ordinance #2022-14

2022 Ordinance Book, Page 77

**ORDINANCE AMENDING CHAPTER 2 ENTITLED “ADMINISTRATION” TO
CREATE SECTION 2-9 SALE OR LEASE OF CITY OWNED PROPERTY FOR
AFFORDABLE HOUSING PURPOSES**

BE IT ORDAINED, by the Mayor and Winston-Salem City Council as follows:

Section 1. Section 2-9. Sale or Lease of City Owned Property for Affordable Housing Purposes. is hereby created to read as follows:

“Section. 2-9. Sale or Lease of City Owned Property for Affordable Housing Purposes.

(a) Objectives.

The purpose of this subsection is to create and preserve affordable rental and owner-occupied housing with an overall goal of affirmatively furthering affordable housing and stabilizing older neighborhoods where many of the city owned lots exists. The specific objectives include the following:

- (i) To increase the supply of affordable housing by using city owned properties.
- (ii) To encourage the development of affordable housing near existing transit services.
- (iii) To encourage transition from rental housing to home ownership, and
- (iv) To create and provide, where appropriate, affordable housing or a combination of affordable housing, workforce housing and market rate housing, as defined below.

(b) Definitions.

- (1) Affordable housing-housing that is designed, developed, and constructed, or renovated to serve eligible households with an income that is no more than 80% of the area median income.
- (2) Market rate housing-housing that is designed, developed and constructed or renovated to serve eligible households with an income that is 121% or more of the area median income.
- (3) Mixed income housing-housing that is designed, developed and constructed or renovated to provide housing to households with an income that meets each of the following housing categories: (i) affordable housing; at least 65% of the units must serve households that fall into this category; (ii) workforce housing and (iii) market rate housing.

(4) Purchaser-the eligible buyer of city owned property as determined by staff based upon the statutory provision utilized to convey the property to the eligible buyer. For purposes of Session Law 2021-44, the purchaser may be one or more individuals, partnerships, associations, corporations, or any other legal or commercial entity. Such Session Law does not limit the purchaser to a not-for-profit entity.

(5) Workforce housing-housing that is designed and constructed or renovated to serve eligible households with an income that is between 81-120% of the area median income.

(c) City Owned Residential Properties and Commercial Properties Rezoned for Residential Use.

(1) Requirement for Affordable Housing Program ("Program").

(i) Income Levels.

For purposes of this Program, the purchaser or lessee of city owned property for the provision of multifamily housing will be required to set aside sixty-five (65%) percent of the units developed or renovated for affordable housing purposes. Of that sixty-five (65%) set aside:

- twenty (20%) percent of the units shall be set aside for eligible households with incomes at 30% and below of the area median income,
- thirty (30%) percent of the units shall be set aside eligible households with incomes at 31-50% of the area median income and
- fifty (50%) percent of the units shall be set aside for eligible households with comes at 51-80% of the area median income.

The remaining thirty-five (35%) percent of the units may be occupied or leased to persons meeting the income requirements for either workforce housing, market rate housing or a combination thereof.

For purposes of this Program, the purchaser of city owned property for the provision of single-family housing (rental and home ownership) for affordable housing purposes will be required to set aside sixty-five (65%) percent of the single-family homes built for eligible households within the income requirements of affordable and workforce housing as defined herein. Of that required set aside for single-family housing (rental and home ownership), fifty-five (55%) percent must be affordable housing and the remaining ten (10%) percent must be workforce housing. The remaining thirty-five (35%) percent of the single-family housing may be sold or leased to persons meeting the income requirements of either workforce housing, market rate housing or a combination thereof.

In the event a single lot is purchased by an individual for homeownership purposes, the purchaser must meet the income requirements of affordable or workforce housing as defined herein or provide housing, by sale or lease, to an eligible household meeting the income requirements of affordable or workforce housing as defined herein. Unless otherwise prohibited by law, the city council, in its sole and absolute discretion, may relax the requirements of this ordinance, if the purchaser's proposed financing plan will not support the percentages set forth above. If a person receives city funds and purchases or leases city owned property, the higher standard set forth in the Affordable Housing Program ordinance shall apply.

(ii) *Sale of city owned properties; Session Law 2021-44.*

In an effort to help the purchaser achieve the above income requirements and a viable project, the City may sale properties in the Program for affordable housing purposes, with or without consideration, as determined by City Council, based upon Session Law 2021-44. Each sale shall be subject to the restrictive covenants and conditions required herein. The deed conveying the city owned property shall contain language that provides that the city owned property shall revert to the city if it ceases to be used, prior to the expiration of the requisite time period, for increasing the supply of affordable housing for low- and moderate-income persons. For purposes of this Program, persons who meet the income limits in the definitions set forth herein for affordable housing and workforce housing qualify as low-and-moderate income persons.

Any conveyance of city owned property under this Program shall be made only pursuant to a resolution adopted by City Council at a regular or special meeting authorizing the city manager to make the conveyance for the purpose of increasing the supply of affordable housing for low- and moderate-income persons. The resolution shall be posted on the City of Winston Salem's website at least 10 calendar days prior to the date the conveyance is executed by the city manager.

For purposes of Session Law 2021-44, no property acquired by eminent domain may be sold using this authority.

(iii) *Sale or lease of city owned properties. Additional authority.*

Section (k) herein contains additional authority for the sale or lease of city owned properties. For purposes of Session Law 2021-44 and any other statute that authorizes the sale or lease of city owned property, the city may solicit proposals for the purchase of city owned property included in and for purposes outlined in the Program.

(2) *Inclusion of properties in the Program.* Unless a waiver or exemption is granted, all existing city owned residential properties that can be built upon as single lots or combined lots will be included in the Program. City staff will utilize all available city

resources, including the city's website, to disseminate information to persons interested in purchasing city owned lots. City staff will direct persons interested in purchasing lots to the City's Real Estate Administrator. The existing residential properties, acquired in conjunction with or because of city transportation or utility projects, are not included in the program. Although rezoning may be required, commercial lots may be identified for inclusion in the program.

- (3) *Waiver or Exemption Process.* City owned residential properties shall be included in the Program, unless the council member of the ward, where the property is located, requests an exemption or waiver of certain property or properties from the Program and the Community Development/Housing/General Government Committee concurs with the requested waiver or exemption. As residential properties are acquired in the future, city staff will examine each acquisition for potential inclusion in the Program, where appropriate. When properties are added by to the Program by city staff or the council member of the ward, the process for requesting a waiver or exemption will apply. Staff will continue to market for sale any properties exempted from the Program.
- (4) *Affordable rental and owner-occupied housing: Department and HUD Affordability Standards.* Unless otherwise provided, the Community Development Department will utilize the Department's and HUD's affordability guidelines, which may be amended from time to time, to determine affordability and further define low-to-moderate income persons for purposes of this Program. Unless otherwise provided, the affordability period shall be determined in accordance with the provisions and standards set forth herein.
- (5) *Deed Restrictions.* Affordability, maintenance and other restrictions will be incorporated into each sale of city owned property. Said restrictions are necessary to ensure the use of the property for the provision of affordable housing and the maintenance thereof in accordance with all applicable state and local building, housing, environmental, nuisance and sanitation codes. The following is a general list of the type of restrictive covenants and conditions that will apply to each transaction.

(d) Affordability and affordability period.

Unless otherwise provided, the property will be subject to the following affordability timeframes:

- (i.) *Property sold to individual for homeownership.* The affordability and other restrictions will run with the land for ~~30~~ **at least 15** years.
- (ii.) *Property sold to develop/construct rental housing.* The affordability and other restrictions will run with the land for ~~50~~ **at least 30** years.
- (iii.) *Property leased to develop/construct rental housing.* The affordability and other restrictions will run with the land for ~~99~~ **at least 30** years.

(e) Breach of the restrictive covenants and conditions.

A breach of any of the restrictive covenants and conditions or any provision of the Program shall result in the property reverting to the city in accordance with the process set forth in the conveyance instrument and/or restrictive covenants and conditions. The buyer shall have a 60-day right to cure the breach or violation before the city exercises its right to reclaim the property. If it is more advantageous for the city to require a payment for termination of the restrictions in order to provide for affordable housing in an alternate location, the City has the option of allowing the buyer to pay an amount determined by the city necessary to terminate the restrictions.

(f) Subsequent sale or lease of property

All deed and/ lease restrictions shall run with the land.

(g) Construction and rehabilitation requirements when using city owned property or city owned property and city funds.

If : (1) city owned property, (2) city funding, or (3) a combination thereof is used, the housing/dwelling unit(s) must be constructed or rehabilitated in accordance with applicable state, local and federal codes and in accordance with industry standards and a certificate of occupancy must be obtained, within one year from the closing of said transaction, unless there is another agreed upon construction or rehabilitation schedule. All required licenses, permits and inspections shall be obtained and adhered to by the purchaser or lessee. The purchaser shall be solely responsible for the costs and completion of the construction or rehabilitation of the housing/dwelling unit(s).

All required taxes shall be paid by the purchaser or lessee in a timely manner. At this time, the city has the programs listed below that may be combined with the sale or lease of city owned property to provide financial assistance to eligible purchasers or lessees in the provision of affordable housing, rental or homeownership, to low-and-moderate income persons.

(h) Financial Assistance from the City.

Where appropriate, the following programs may be available to provide financial assistance to eligible applicants:

- (i) HOME Investment Partnership (HOME),
- (ii) Housing Finance Funds (HFF),
- (iii) Bond Funds, and
- (iv) CDBG.

(i) Annual Inspections and Affordability Review.

Each property sold or leased under this Program shall be subject to an annual inspection

and affordability review, which may occur more frequently if there are code or program violations. This is necessary to make sure the property is: (i) maintained in accordance with all applicable codes and (ii) owned or leased in accordance with the deed restrictions including the affordability requirements. Any violations noted during the inspection or affordability review shall be corrected in accordance with the applicable codes, rules and regulations and within the timeframes set forth therein using whichever code, rule regulation or provision that provides for the shortest compliance or right to cure period. Failure to correct the violation(s) or cure the breach within the allotted timeframe may trigger the reversion provision contained in the deed or recorded restrictions.

(j) Periodic review of program.

The Program may undergo periodic review for programmatic enhancements.

(k) Applicable statutory provisions.

- (i) SB 145-Session Law 2021-44 Conveyance Bill
- (ii) SB 319 System Development Fee Bill-(Provides lower development costs in constructing affordable housing.) (Bill still pending
- (iii) Alternative statutory provisions:
 - G.S. 160A-279 Sale to a not-for profit entity carrying out a public purpose.
 - G.S. 157-4-1. et. seq. Sale where the City Council is acting as a Housing Authority.
 - G.S. 160A-457.2 Urban homesteading programs.
 - G.S. 160A-269 Upset bid procedure with restrictions.
 - G.S. 160A-456-Community Development.
 - G.S. 160A-278 Leases for affordable housing.
 - G.S. 160D-1316. Low and moderate income housing.

(l) Additional Enforcement Measures.

Any tenant, applicant or occupant of housing who believes that he/she has been denied housing or that the purchaser receiving city funds has not complied with the provisions of the Program may file a complaint with the city's human relations department or any other department designated by the city manager or his/her designee. The complaint will be

investigated by said department. Depending upon the outcome of said complaint, the violator will be subject to the remedies set forth herein.

*(m) **Additional Remedies.***

Any purchaser who has violated the provisions of the Program and has not cured said violation after notice and reasonable cure period, will be ineligible to receive city funds in the future for a period of up to five (5) years as determined by the city manager or his/her designee.

*(n) **Severability.***

The provisions of the Program are severable, and, if any part of the Program shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts of the Program.

Section 2. This ordinance shall become effective upon adoption.