

MEMORANDUM

TO: Plan Commission

FROM: Andrew Lichterman, Assistant Village Manager and Director of Community Development, Jeff Ryckaert, Principal Planner and Dan Nakahara, Planner

DATE: May 7, 2021

RE: Affordable Housing Inclusionary Ordinance



Application History

Workshop Meeting Dates:

- September 10, 2020
- October 22, 2020
- February 11, 2021
- March 11, 2021

Public Hearing Publication Date:

- April 22, 2021

Planning Commission Public Hearing Date:

- May 13, 2021

Zoning Actions

The Deerfield Plan Commission is conducting a Public Hearing to consider the following zoning actions:

1. Text Amendments to the Zoning Ordinance to address affordable housing through an Inclusionary Zoning Ordinance.

Background

At the January 27, 2020 Committee of the Whole (COW) meeting, the Village Board discussed the possibility of an inclusionary affordable housing ordinance that would mandate affordable housing units be provided in new developments over a particular size. At that time, the Board directed staff to prepare a report discussing the appropriate scale for when an affordable housing unit would be triggered and the related policy tools and implications.

Subsequently, at the July 20, 2020 Board of Trustees meeting, the Board again discussed the issue of affordable housing and voted in favor of referring an inclusionary zoning ordinance to the Plan Commission for further study and consideration.

Process and Policy Considerations

The Plan Commission discussed the issue of affordable housing; specifically, an inclusionary zoning ordinance, at four workshop meetings (September 10, 2020, October 22, 2020, February 11, 2021, March 11, 2021) and is now proceeding to a May 13, 2021, Public Hearing on this matter. During these workshop meetings the Plan Commission strived to find the correct balance to promote affordable housing without stifling development. Notably, this balance is reflected in the policy recommendations that allow for a relatively higher Area Median Income (AMI) thresholds but preclude the ability for developers to pay fees in-lieu or offer off-site developments or donations.

Inclusionary Housing Ordinance Worksheet

Affordable housing and the creation of an inclusionary zoning ordinance is a complex topic with many decision points and policy implications. For that reason, staff has prepared the enclosed Inclusionary Housing Ordinance Worksheet (“**Worksheet**”) to help facilitate discussion. The Worksheet is broken down into five parts and summarizes the key policy decisions and areas of consensus ostensibly reached by the Plan Commission during the four previous workshop meetings. The Worksheet will be the main tool used to facilitate discussion at the Public Hearing and once finalized it will be used as a framework to draft an inclusionary zoning ordinance.

Additional References

Also enclosed are the staff report dated July 13, 2020, which captures the intent of the Board regarding affordable housing, as discussed on previous occasions, as well as a list of questions and answers that were discussed at previous Plan Commission workshop meetings.

Comprehensive Plan

Included below are the relevant sections of the Village’s Comprehensive Plan related to affordable housing. =

3.3 HOUSING

The purpose of this element of Deerfield's Comprehensive Plan is to document the present and future housing needs within the Village of Deerfield, including affordable and special needs housing. The condition of the local housing stock has been considered in developing the strategies, programs, and other actions to address Deerfield's housing needs, and provide current and future residents with a range of housing options.

AFFORDABLE HOUSING

Given the full development of the Village and the derogation of local land use planning and zoning powers provided by the Affordable Housing Planning and Appeal Act, 310 ILCS 67/1, *et seq.* (the "Act"), it is determined that compliance with the Act is impractical and not in the best interests of the Village; therefore, pursuant to its home rule powers, the Affordable Housing Planning and Appeal Act, 310 ILCS 67/1, *et seq.*, will not apply within the Village of Deerfield and shall be superseded within the Village by the Zoning Ordinance and Comprehensive Plan of the Village of Deerfield.

The Village recognizes the need for affordable housing within the Village and the region in which the Village is located and will give due consideration to those needs and to the opportunity to accommodate new affordable housing options within the Village when opportunities are presented to develop or redevelop significant parcels for residential uses in the Village of Deerfield. The enforcement of federal and state fair housing laws shall be and remain a priority for the Village.

Goal: *Maintain the variety of the existing housing stock and supplement it in suitable locations with safe, well-constructed housing of a density*, scale* and character compatible with adjacent housing.*

Objectives	Policies
<p>Help maintain the desirability of Village neighborhoods.</p>	<p>Encourage maintenance of the existing housing stock.</p> <p>Endeavor to increase the variety in the housing stock, so that there will be types and prices of housing to satisfy the needs and preferences of a wider variety of residents, while maintaining the single-family dwelling as the basic form of housing unit in the Village.</p> <p>Protect residential areas from incompatible uses through effective land use controls, proper screening and buffering.</p> <p>Maintain streets, parkway trees, sidewalks, street lighting and other community facilities in good condition.</p> <p>Encourage good architectural and site design, individuality and character in new housing.</p>

* - Term defined in the Glossary.

Conclusion

Lastly, for background purposes, previous discussions of affordable housing not mentioned in this memo can be found on the Village’s website- [Click here for a direct link](#). Some of the discussions in the past focused on workforce housing. For our purposes, workforce housing has been defined as affordable housing for middle-income people who will fill jobs in fields as diverse as teaching, law enforcement and health care, especially at entry-level salaries. Workforce

housing helps people live near their workplaces so they enjoy reduced commuting times and transportation costs. Workforce housing may help local employers attract and retain the people who maintain the health of the business sector, keep the community safe, and who teach at local schools. Providing adequate affordable housing for people so they do not have to expend huge portions of their income on housing, or spend hours commuting to their jobs is a challenge facing many communities across the United States.

Staff will be present at the May 13, 2021, Public Hearing to review the memo and Worksheet.

Enclosures:

- Inclusionary Housing Ordinance Worksheet
- Plan Commission Workshop Meeting Q & A
- January 27, 2020, COW Minutes
- July 13, 2020, Staff Report to BOT



VILLAGE OF DEERFIELD

Inclusionary Housing Ordinance Worksheet

Part 1: Defining the Need

1. Primary reason for adopting an inclusionary housing ordinance in Deerfield

- Affordable housing needs
- Socioeconomic integration
- Workforce retention and attraction

The Plan Commission feels there is a need to adopt an inclusionary housing ordinance to address lack of housing for low and moderate-income households. Proceeding with an ordinance brings consistency and equitable application in a uniform manner to residential development in the Village.

Part 2 : Program Structure

1. Type of Program

- Mandatory

Mandatory ordinance requiring developers to provide specified number/ percentage of affordable units in all new development covered by ordinance.

2. Type of Development

- Ownership and Rental

Both types of development are included in the ordinance.

3. Excluded Development

- A non-residential development
- Assisted living facilities
- Nursing facilities

Excludes certain types of residential housing not covered by the ordinance.

4. Project Threshold Size—Attached (i.e. multi-family building)

- 11-30 Unit Project = 1 Affordable Unit
- 31-40 Unit Project = 2 Affordable Units
- 41-50 Unit Project = 3 Affordable Units
- 51+ Unit Project = 10% Affordable Units

Also known as the “trigger,” this is the minimum size project that is covered by the ordinance for rental and ownership types. The affordable units within an otherwise market-rate development must be affordable to households earning at or below a defined income level.

5. Project Threshold Size—Detached (i.e. single-family home)

- 0-30 Unit Project = 0 Affordable Unit
- 31-40 Unit Project = 2 Affordable Units
- 41-50 Unit Project = 3 Affordable Units
- 51+ Unit Project = 10% Affordable Units

Fractions up to .49 would be rounded down and fractions at .5 and above would be rounded up.

Part 3: Detailed Ordinance Changes

1. Affordability Thresholds for Rental Units

- 0-50 Unit Project = 120% AMI
- 51+ Unit Project = 1/2 units at 100% AMI and 1/2 units at 120% AMI

An affordable unit is an owner-occupied or rental unit available to households with incomes that do not exceed a percentage of the Chicago-Joliet-Naperville, IL HUD Metro Fair Market Rate Area Median Income (AMI), as established and defined in the annual schedule published by HUD, and adjusted for



Inclusionary Housing Ordinance Worksheet

Part 3: Detailed Ordinance Changes (Continued)

2. Affordability Threshold for Ownership Units

- All units at 120% AMI

3. Priority Eligibility Requirements

- Work in private or public corporation within the Village limits
- Lives in Village

4. Application of Structure Type in Development

- Attached and Detached

5. Duration of Affordability Requirements

- In-Perpetuity

6. Application of Affordable Units in Development

- Equal Application Among All Housing Types

7. Design Standards

- Flexibility

household size. The ordinance determines the affordability as a percentage of Area Median (AMI).

Priority to people who work OR live in the Village limits. No priority given to age. For rentals, once a person is in an affordable unit, they may stay as long as their income qualifies.

Ordinance applies to both detached and, attached structure types in a covered development (condos, townhomes, single family, apartments).

Inclusionary units must be maintained as affordable through deed restrictions or affordability covenants in perpetuity.

Ordinance defines that affordable units are provided in equal proportion to all housing types in a covered development .

The Plan Commission would like the exterior of the affordable units to be indistinguishable but chose flexibility of the unit interior with language that is reasonable and well defined. The following language is proposed:

Exterior Appearance. The exterior appearance of the affordable housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for affordable housing units as for market rate units.

Interior Appearance and Finishes. Affordable housing units may differ from market rate units with regard to interior finishes, provided that:

1. The bedroom mix of affordable units shall be in equal proportion to the bedroom mix of the market rate units.
2. The differences between the affordable housing units and the market rate units shall not include improvements related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.



VILLAGE OF DEERFIELD

Inclusionary Housing Ordinance Worksheet

Part 3: Detailed Ordinance Changes (Continued)

7. Design Standards

- Flexibility

Size of Units. Affordable housing unit size must be generally representative of and correspond to the size of the market rate housing units within the covered development.

Part 4: Incentives

1. Type of Incentives

- Density Bonus Increase
- Parking Ratio Reduction
- Fee Reduction

The Plan Commission is in favor of density bonus increases, parking ratio reductions, and fee reduction incentives. A density bonus would be allowed by right and all other incentives would be eligible to the developer. The Plan Commission may recommend and the Village Board may approve eligible incentives, but they are not a given except for the density bonus. The following language is proposed:

Density Bonus. Any covered development providing affordable housing units shall be entitled to an increase in the permitted residential density equal to one additional dwelling unit above that otherwise established by the zoning district in which the development is located for each affordable housing unit provided on-site (For each affordable unit the developer would be allowed an additional market rate unit). The affordable housing compliance plan for the covered development must include a narrative describing how the design and orientation, as well as the increased density of the covered development will be compatible with the surrounding land use character, particularly with any surrounding residential parcels. The developer's narrative must address building size and massing, site layout and design, architectural characteristics, and landscaping, as well as any other aspects of development that the Village deems appropriate.



VILLAGE OF DEERFIELD

Inclusionary Housing Ordinance Worksheet

Part 4: Incentives (Continued)

1. Type of Incentives

- Density Bonus Increase
- Parking Ratio Reduction
- Fee Reduction

Eligible Incentives

Reduced Off-Street Parking Minimums. In considering a proposed covered development with affordable housing units, the Plan Commission may recommend and the Board of Trustees may approve a reduction in the otherwise applicable off-street parking minimums for the affordable housing units. In considering the merits of such a reduction, the Village shall consider the availability of alternative means of transportation, including mass transit and bicycle facilities in the vicinity of the covered development and any unique transportation needs of the expected residents.

Standards for Approving Eligible Incentives. The Village Board, in determining whether the eligible incentives set forth in this Section should be available for a covered development, shall consider the following:

1. Whether the incentives will result in conditions detrimental to the public's health, safety, or welfare; and,
2. Whether the granting of the incentives will be consistent with the intent and purpose of this Section and the Deerfield Comprehensive Plan.

Part 5: Compliance Alternatives

1. Fee in Lieu

- In-Lieu Fees—No

2. Off-Site Alternatives

- Partnership with Nonprofits—No
- Land Dedication—No

The Plan Commission is not in favor of allowing developers to pay fees in-lieu of building affordable units on-site. The Plan Commission is also not in favor of offering off-site construction of affordable units in lieu of building affordable units on-site; and, not in favor of the dedication or donation of land in lieu of on-site construction of affordable units.

Questions and Responses from Plan Commission

Workshop Meetings on Inclusionary Zoning

Q: Why does the Village want an Inclusionary Zoning Ordinance?

A. At the July 20, 2020, Board of Trustees meeting, the Village Board voted in favor of moving forward with the framework of an inclusionary zoning ordinance to advance the Village Board policy intentions to mandate affordable housing units be provided in new developments over a particular size.

Q: What does the Village Comprehensive Plan say about affordable housing?

A: The Village recognizes the need for affordable housing within the Village and the region in which the Village is located and will give due consideration to those needs and to the opportunity to accommodate new affordable housing options within the Village when opportunities are presented to develop or redevelop significant parcels for residential uses in the Village of Deerfield. The enforcement of federal and state fair housing laws shall be and remain a priority for the Village.

Q: What is inclusionary zoning?

A: Inclusionary zoning are programs and policies that require or offer incentives for the creation of affordable housing when new development or redevelopment occurs. Inclusionary zoning is distinct from other affordable housing programs in that;

- largely depends on private sector development,
- does not necessitate a direct government subsidy,
- integrates affordable units directly into market-rate developments; and
- disperses households of different income levels throughout the municipality, instead of concentrating affordable housing in a single area.

Q: What is the framework of an inclusionary zoning ordinance?

A: The structure of inclusionary zoning policies can vary considerably in design and application. Policies can:

- be mandatory or voluntary;
- require different shares of affordable housing per development;
- apply to rental and for sale properties;
- vary in terms of occupant eligibility;
- have different term limits;
- apply to an entire jurisdiction or to specific housing types or locations;
- allow developers to opt out of constructing on-site units by providing in lieu payments or off-site units; and
- offer development incentives including density bonuses

Q: What is the area median income or AMI?

A: A number based on a specific area income or regional area income, and calculated annually by HUD that determines income limits for a specific area or region. The AMI is the "middle" number of all of the incomes for the given area; 50% of people in that area make more than that amount, and 50% make less than that amount. The income levels are percentages of that AMI number.

Q: What area/region is being used to calculate AMI?

A: The Chicago-Joliet-Naperville HUD Metro Area is used to calculate AMI. The Chicago-Joliet-Naperville, IL HUD Metro FMR Area contains the following areas: Cook County, IL; DuPage County, IL; Kane County, IL; Lake County, IL; McHenry County, IL; and Will County, IL. (HUD.gov)

Q: Why are we starting with 120% of AMI?

A: In previous negotiations, the Village has used 120% of AMI when addressing an affordable unit. Most recently, the Village negotiated 18 affordable units with the developer in the REVA residential development based on 120% AMI of the Chicago-Joliet-Naperville AMI Metro Area as defined by HUD.

Q: What are objectives of an inclusionary zoning ordinance?

A: According to the booklet entitled, *Affordable Housing Toolkit for Communities in the Chicago Region*, produced by "Business and

Professional People for the Public Interest (BPI), an inclusionary zoning program will:

- Increase the supply of affordable housing in municipalities
- Disperse the affordable units throughout the community
- Allow low- and moderate-income families to live in homes indistinguishable from and adjacent to, market-rate housing
- Allow low- and moderate-income families to live in communities with better access to employment and educational opportunities; and
- Encourage racial and economic integration of our communities

Q: Are inclusionary zoning ordinances effective?

A: Some argue that inclusionary zoning policies harm the housing markets by reducing the developer’s ability to fully profit from a new development, which could unintentionally reduce construction and investment in municipalities. Proponents of inclusionary zoning maintain that, rather than limiting housing markets, applying local control over the regulation of land use through inclusionary policies can actually encourage developers to produce less conventional, lower priced homes, thereby expanding emerging segments of the housing market.

Overall, studies on the effectiveness of inclusionary zoning have been mixed. Inclusionary policies may be best evaluated from a local perspective with an understanding of the various motives that prompted jurisdictions to adopt the given policy in the first place¹.

Q: In 2013, the State of Illinois captured affordable units in Deerfield at 4% and in 2018, 7.3%. How are Affordable Units Determined Under the 2003 Affordable Housing Planning and Appeal Act² (AHPAA)?

A: The Illinois Housing Development Authority determines affordable units based on an identification of the total number of year-round housing

¹ Pathways to Affordability: Municipal Strategies to Increase Affordable Housing Supply in Illinois - C. Scott Smith and Kyle Smith, the Chaddick Institute for Metropolitan Development at DePaul University and the Metropolitan Mayors Caucus

² Affordable Housing Planning and Appeal Act: 2018 Non-Exempt Local Government Handbook (310 ILCS 67/20) Sec. 20. Determination of exempt local governments.

units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.) See Appendix

Q: If the Village were to impose an inclusionary zoning ordinance, could this only apply to attached housing?

A: An inclusionary zoning ordinance could apply to both detached (single-family) and attached units (apartments, condos, and townhomes), or it could apply to only attached housing.

Q: How do we calculate the number of required affordable units in a residential development?

A: There are many different ways to determine this calculation, the percentage of units could vary depending on the number of total units being built or it could be one percentage based on the total number of units built that has to be set aside as affordable units.

Q: Can there be a different sliding scale for calculating required affordable rental units and affordable owner occupied units?

A: It is not advisable to treat affordable rental units and affordable owner occupied units differently with regard to the number of affordable units required in a given development. This could have unintended consequences and could be taken advantage of if owner occupied units were later rented on a secondary market.

Q: Can you have a different AMI for owner occupied and rental?

A: Yes, a different AMI can be used for an owner occupied unit and a rental unit. Keep in mind that the AMI calculation for a rental unit includes rent and utilities.

Q: What percentage calculation of AMI is used for the proposed Zion Woods units?

A: The proposed Zion Wood residential development was originally funded through federal money so limits for eligibility were based on 60% of AMI and below. As of the date of this memo, the funding sources may have changed.

A restrictive covenant has been placed on the property stipulating that 13 units will be available at 50% AMI and 11 of the units will be available at 60% AMI for 30 years. Thereafter, after the initial 30 years, all 24 units will be available at the 80% AMI.

Q: What does equal application of housing structure type in a development mean?

A: The different housing structure types include condominiums, townhomes, detached single family homes and apartments. Equal application housing structure types of affordable housing units means that affordable housing units must be in equally divided among the housing structure types in the development. For example, if a development must provide 9 affordable units and the development consists of 10 detached single family homes, 20 condos, and 10 townhomes, the development must provide 3 affordable detached single family homes, 3 affordable condominium units and 3 affordable townhomes.

Q: How would a density bonus work if the Plan Commission is inclined to offer a density bonus as an incentive to developers?

A: The following are 2 examples of how a Density Bonus could work:

One example is for an apartment development of 50 units, and another example is an apartment development of 250 units:

Proposed Development of 50 Apartments:

A 50-unit apartment development would require 3 affordable units based on 5% affordable units in a covered development:

50 units with 5% affordable units would equal 3 affordable units ($50 \times 5\% = 2.5 = 3$ units). Therefore, the 50-unit development would have 47 market rate units and 3 affordable units.

A density bonus of 1 market rate units for each affordable unit provided would allow the developer 3 more market rate units (3 affordable units \times 1 density bonus = 3 = 3 units), bringing the total apartment units to 53 (50 market rate rental units and 3 affordable rental rate units).

Proposed Development of 250 Apartment:

A 250-unit apartment development would require 25 affordable units based on 10% affordable units :

250 units would require 10% affordable units which is 25 affordable units ($250 \times 10\% = 25$ units). Therefore, the 250-unit development would have 225 market rate units and 25 affordable units.

A density bonus of 1 market rate units for each affordable unit provided would allow the development 25 more market rate units (25 affordable units \times 1 density bonus = 25 units), bringing the total apartments units to 275 (250 market rate rental units and 25 affordable rental rate units).

It is important to recognize that the increase in total units as a result of a density bonus may require additional floors to be constructed in a multi-tenant building resulting in a height increase. As previously discussed with the Plan Commission a density bonus could result in increased neighbor impacts but they are also recognized as one of the most valuable incentive tools available to a developer so they warrant consideration.

Q: How can we prioritize eligibility for affordable units?

A: Priority can be prioritized to people who work and or live in the Village limits or by age or a combination of both.

Q: How is eligibility controlled?

A: Eligibility, maintenance and audit could be done through a third party consultant such as Community Partners for Affordable Housing (CPAH) or Housing Opportunity Development Corporation (HODC).

Q: What happens when an eligible renter's income improves and they no longer qualify for the unit?

A: This would mostly likely only apply to rental units because once a person qualifies for a for-sale affordable unit they do not have to requalify unless they sell the affordable for-sale unit and want to purchase another affordable for-sale unit. For a rental unit, this could be written into the ordinance and as to how often an applicant has to requalify. Staff spoke to a third party consultant and they noted that they would not remove someone from an affordable unit. They do find that if a person's income substantially increases the renters tend to move out. If the renter does stay in the unit and it is found that their income increases, usually there would be a restructuring of their rent.

Q: What happens if someone changes employment and no longer works in the Village?

A: If the person changes employment, they may still qualify to remain in the unit if they are under the required income limits.

Q: What if someone purchases an affordable condominium and rented it?

A: If someone purchases an affordable unit, they would be required to live in the unit and would not be able to rent the unit if it is written into a restrictive covenant approving the development.

Q: If someone purchased a condominium or single family home and wanted to later sell the property, would there be an incentive to maintain the unit/dwelling?

A: Staff spoke with a third party consultant who handles affordable housing units. The third party consultant has not seen this as an issue in the past. Purchasers are homeowners and like all homeowners, there is pride in home ownership and maintaining ones property. In addition, homeowners are held accountable to code violations by a municipality's code enforcement division.

Q: How are affordable units marketed or offered publically? How the applicants told the units are available and how are they approved?

A: The third party consultant would handle marketing of the available affordable units, maintain the waiting/eligibility list and approve tenants.

Q: What would be an estimation of a third party cost – do we want to take that on? Is it worth it?

A: Staff spoke with an experienced third party consultant regarding cost of maintaining an eligibility list, qualifying residents and marketing properties. The third party consultant noted that they do not make money on this type of work, as it is their mission. An approximation of cost would be a few hundred dollars per unit per year. The third party consultant would maintain a waiting/eligibility list, and requalify participants as written in the ordinance. The third party consultant does not often see requalification of residents on a yearly basis.

Q: If an affordable for sale unit is purchased, do you have to sell to someone who qualifies for the affordable unit?

A: Yes. This would be written into a restrictive covenant as well as how much you could sell the unit for. The restrictive covenant would define the length of the term the unit would remain affordable such as 25 year or in perpetuity. It is not uncommon for the future sale of the owner-occupied property to be capped at annual CPI increases.

Q: What are fees in lieu? How are fees in lieu amounts determined? What guidelines should the Plan Commission be thinking of if this is something, they are interested in recommending?

In inclusionary zoning, a fee in lieu is (a fee to pay) may be offered by developers as an alternative to building an affordable unit. In lieu-fees are generally paid into a housing trust fund and used to finance the development of affordable housing units.

Each jurisdiction must determine how to set their fee level. There is no single “right” formula. A key factor that shapes the decision about which formula to use is whether a jurisdiction wants to encourage on-site development of affordable units or collect the revenue to leverage other sources of funding to build affordable units off site.

As previously discussed with the Plan Commission the Village Board expressed concern with accepting fee-in-lieu payments and the associated staff oversight and management required such as the formation of a Housing Trust Fund and

the associated responsibility to identify and spend those funds on affordable properties for purchase.

Q: If the Village were to form a housing authority would it be a volunteer board or would they be paid? Would there be staff and if so what would be the cost?

A: Although the Village has not contemplated this, a housing authority within the Village would have to be enacted by Village Ordinance, staffed with Village residents and require a village employee as staff liaison. The mission, duties and responsibilities, number of Commission and makeup of the Commission would be determined by the Village Board and written into an ordinance.

Q: How would thresholds be applied to someone building a development like Coromandel today because it is a mix of single family, townhomes and condominiums? What would the break down look like?

A: This would be based on the definition of a covered residential development and whether or not the required affordable units would apply to detached structures or attached units only, such as in Lake Forest.

Using the scale recommended in the July 13, 2020, report to the Village Board, the 400 unit Coromandel project would require a 10% set aside for affordable units because the development is more than 50 units, therefore it would require 40 affordable units (316 condos + 68 townhomes + 16 single family X 10% = 40).

Appendix

2003 Affordable Housing Planning and Appeal Act³ (AHPAA)

Section 20 (310 ILCS 67/20) of the law describes fundamental steps that must be included in the exemption determination process. This section is quoted in its entirety below:

Sec. 20. Determination of exempt local governments.

(a) Beginning October 1, 2004, the Illinois Housing Development Authority shall determine which local governments are exempt and not exempt from the operation of this Act based on an identification of the total number of year-round housing units in the most recent data from the U.S. Census Bureau for each local government within the state and by an inventory of 7 owner-occupied and rental affordable housing units, as defined in this Act, for each local government from the U.S. Census Bureau and other relevant sources. (This inventory is based on census household survey data.)

(b) The Illinois Housing Development Authority shall make this determination by: (i) totaling the number of owner-occupied housing units in each local government that are affordable to households with a gross household income that is less than 80% of the median household income within the county or primary metropolitan statistical area; (ii) totaling the number of rental units in each local government that are affordable to households with a gross household income that is less than 60% of the median household income within the county or primary metropolitan statistical area; (iii) adding the number of owner-occupied and rental units for each local government from items (i) and (ii); and (iv) dividing the sum of (iii) above by the total number of year-round housing units in the local government as contained in the latest U.S. Census Bureau, and multiplying the result by 100 to determine the percentage of affordable housing units within the jurisdiction of the local government.

(c) Beginning on August 9, 2013 the Illinois Housing Development Authority is to publish a list of exempt and non-exempt local governments and the data that it used to calculate its determination once every 5 years. The data shall be shown for each local government in the state and for the

³ Affordable Housing Planning and Appeal Act: 2018 Non-Exempt Local Government Handbook (310 ILCS 67/20)
Sec. 20. Determination of exempt local governments.

state as a whole. Upon publishing a list of exempt and non-exempt local governments, the Illinois Housing Development Authority shall notify a local government that it is not exempt from the operation of this Act and provide to it the data used to calculate its determination.

(d) Communities that develop affordable housing plans and meet one of the three statutory goals are then exempt from the provisions of the law, including possible appeals and submitted to the State Housing Appeal Board.