

**CITY OF MADISON
OFFICE OF THE CITY ATTORNEY
Room 401, CCB
266-4511**

Date: April 3, 2006

MEMORANDUM

TO: Common Council

FROM: Katherine C. Noonan

RE: Amendments to Sec. 28.04(25)

This memo contains a brief description of the proposed amendments to Sec. 28.04(25). I also have provided a brief statement of the intent of some of the changes. The sponsors and/or specific staff persons can provide a more complete explanation of the effect that is intended by the proposed amendments, which resulted from a number of policy discussions.

1. **Subsection (25)(b).** This subsection deletes several definitions that will no longer be used in the new equity model.
2. **Subsections (25)(c)1.d., 2.a. and 2.b.** This subsection adds situations in which non-profits will be exempt from the ordinance.
3. **Subsection (25)(c)8.** This subsection removes language that was inadvertently not deleted when the ordinance was adopted in 2004 and adds a requirement that the Plan Commission must approve any plans for off-site inclusionary dwelling units.
4. **Subsection (25)(c)8.k.** This subsection adds language regarding the procedure for appealing a determination of a request for a waiver and/or reduction of inclusionary dwelling units.
5. **Subsection (25)(c)9.b.** This subsection specifies that if a non-profit or the CDA wishes to use its own buy-back provision instead of having a City option to purchase, the buy-back provision must be approved by the City.
6. **Subsection (25)(d)4.i, j, and n.** This subsection adds three more incentives to the list of possible incentives. These add some flexibility to the dispersion requirement by allowing 10% of the developable area to not include any inclusionary dwelling units; allow duplexes, with conditions; and allow the possibility of using lands, designated in plan(s) for non-residential purposes, for residential development.
7. **Subsection (25)(e)6.** This subsection add various refinements to the requirement for marketing units and determining when a unit can be sold or rented at market rate because it has not sold or rented for the specified amount of time. This amendments attempts to address issues such as units being marketed before they are constructed.

8. **Subsection (25)(f).** This subsection adds a marketing plan as one of the elements that must be included in an inclusionary dwelling unit plan.

9. **Subsection (25)(h).** This subsection changes the equity model used at the time that an inclusionary dwelling unit is sold in order to address concerns about the amount of equity retained by the seller. This subsection also deletes the requirement that the City be notified when improvements are made to a unit or a unit is refinanced.