File #: 03470, **Version:** 2

Fiscal Note

This ordinance amendment would modify the sharing of potential equity proceeds in owner occupied affordable housing units between the City and the income eligible owners. Under the current ordinance, any equity generated upon resale of an affordable unit would be shared between the City and the seller based on a complex scheduled calculation incorporating the number of years the owner has lived in the unit, the level of appreciation in each year and other factors including the value of improvements made by the owner. The current formula would result in the owner receiving from 0% to 50% of any equity appreciation which occurred during the period of ownership, with the City receiving the remaining majority. No owner occupied inclusionary zoning units have been sold to date, so there is no actual experience administering the details of this equity sharing formula.

The proposed ordinance amendment would replace this formula with a sharing arrangement where the City would receive a proportionate share of 95% of any appreciation based on the "discounted" price originally paid for the property by the income eligible buyer. For example, if the inclusionary zoning ordinance resulted in an initial purchase price of a unit that was calculated to be 80% of the appraised value, then the buyer would receive 81% of any appreciation and the City would receive the remaining 19%. This change in methodology would simplify some of the reporting and calculation requirements of the current equity calculation formula and would substantially increase the share of future equity accrued by the individual property owners while reducing the City's share by a corresponding amount.

It is difficult to predict, however, what impact this change might have on the total amount of equity appreciation returned to the City. Under the early operation of the existing ordinance, it has been reported that there is very little demand for the first available inclusionary units, perhaps because of the limited equity appreciation that potential owners could expect in the future. A change in this formula could increase the number of units sold to income eligible buyers, thus offsetting the significantly reduced share of equity that the City would receive from each unit sold. The actual result of either formula is highly dependent on a number of unknown market factors, however, including future rates of growth in housing values compared to median income levels, mortgage interest rates and the availability of reasonable housing financing alternatives. There is insufficient information available to predict with any accuracy how either the existing or proposed equity sharing arrangements will operate over time.

Title

SUBSTITUTE - Amending Sections 28.04(25)(b) and (h) of the Madison General Ordinances to delete several unnecessary definitions and modify the method of distribution of proceeds from sale of an owner-occupied inclusionary dwelling unit.

Body

DRAFTER'S ANALYSIS: This amendment changes the equity formula that determines how the proceeds from the sale of an inclusionary zoning unit are distributed. The City will receive an amount that represents the seller's note amount to the City plus a small portion of the market appreciation of the unit. The formula used allocates five percent (5%) of the sales price to the owner for improvement that have been made./ The ordinance also eliminates several definitions that are no longer applicable.

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The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (b) entitled "Definitions" of Subsection (25) entitled "Inclusionary Housing" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is amended to read as follows:

"(b) Definitions.

Area Median Income (AMI). The median annual income figures, adjusted for family size, calculated annually by the U.S. Department of Housing and Urban Development (HUD) for the metropolitan area that includes the City of Madison.

~~Improvement Equity. The increase in value of an inclusionary dwelling unit due to cash improvements made by the seller, except those that increase the square footage of the unit, unless necessary for accessibility.~~

Inclusionary Dwelling Unit. A dwelling unit for rent to a family with an annual median income at or below sixty percent (60%) of the Area Median Income (AMI), for sale to a family with an annual median income at or below eighty percent (80%) of the Area Median Income (AMI), or for other residential occupancy for a family with an annual median income at or below sixty percent (60%) of the Area Median Income (AMI).

Income eligible family. A family whose annual income qualifies the family to rent or purchase an inclusionary dwelling unit. For purposes of this ordinance, the City of Madison Community Development Authority (CDA) is an income eligible family and the Director of the Department of Planning and Development may designate a non-profit entity that provides housing as an income eligible family.

Initial Sale. The sale of an inclusionary dwelling unit to an income eligible family. An initial sale shall not include a sale of a lot to a builder who intends to construct an inclusionary dwelling unit.

Leased Residential Space Occupancy. Those residential arrangements whereby space in all dwelling units in a building is leased individually to each of the tenants in a dwelling unit.

~~Market Equity. The increase in value of an inclusionary dwelling unit as determined by the difference between the purchase price and the sale price.~~

Other Residential Occupancy. Those residential arrangements other than rental or owner-occupied, including but not limited to, continuing care contracts, agreements known as 'life leases', 'continuum of care agreements', or any other agreement whereby the resident of a dwelling unit makes some payment other than or in addition to a periodic occupancy payment, but does not obtain fee title to a residential unit.

~~Paid Equity. The amount of down payment and mortgage principal that the owner of an inclusionary dwelling unit has paid during the period of ownership, except for any amount withdrawn as part of additional financing.~~

Period of affordability. The time, specified in a recorded deed restriction, land use restriction agreement, and/or ground lease during which a rental inclusionary dwelling unit shall be rented only to an income eligible family. The period of affordability for rental inclusionary dwelling units begins on the date the certificate of occupancy is issued."

2. Subdivision (h) entitled "Distribution of Proceeds from Sale of an Owner-Occupied Inclusionary Dwelling Unit" of Subsection (25) entitled "Inclusionary Housing" of Section 28.04 entitled "General Provisions" of the Madison General Ordinances is amended to read as follows:

"(h) Distribution of Proceeds from Sale of an Owner-Occupied Inclusionary Dwelling Unit.

1. ~~After the initial sale of an owner-occupied inclusionary dwelling unit, the proceeds from additional sales that will accrue to the seller shall be an amount that represents the seller's paid equity, plus the seller's market equity plus any applicable improvement equity~~. At the time of the initial sale of an owner-occupied inclusionary dwelling unit, the income eligible family shall provide the City with a promissory note, secured by a second mortgage, for an amount that is the difference between the appraised value of the unit, determined within thirty(30) days prior to the sale, and the sales price of the unit. The City's percentage share of the value of the inclusionary dwelling unit shall be the percentage of the total value represented by the difference between the appraised value and the sales price

2. At the time of a sale of an inclusionary dwelling unit, the amount of the sale proceeds paid to the City shall be the City's percentage share of ninety-five percent (95%) of the sales price of the inclusionary dwelling. This provision applies to all inclusionary dwelling units sold by income eligible families before or after the effective date of this subdivision (h). ~~The seller's market equity is a percentage of the total market equity and is dependant on the length of the seller's ownership. No market equity is available to the seller until the end of two (2) years. The percentage of market equity available to the seller increases at the end of each subsequent calendar year as follows:~~

~~Length of Ownership~~	~~Seller's Market Equity~~
~~Less than 1 year~~	~~0%~~
~~1 Year~~	~~0%~~
~~2 Years~~	~~5%~~
~~3 Years~~	~~10%~~
~~4 Years~~	~~15%~~
~~5 Years~~	~~20%~~
~~6 Years~~	~~25%~~
~~7 Years~~	~~30%~~
~~8 Years~~	~~35%~~
~~9 Years~~	~~40%~~
~~10 Years~~	~~45%~~

~~11 Years~~	~~50%~~
~~12 Years~~	~~45%~~
~~13 Years~~	~~40%~~
~~14 Years~~	~~35%~~
~~15 Years~~	~~30%~~
~~16 Years~~	~~25%~~
~~17 Years~~	~~20%~~
~~18 Years~~	~~15%~~
~~All following years~~	~~15%~~

~~3.~~ ~~The seller's improvement equity is the total improvement equity adjusted for the age of the improvement. The age adjustment shall be calculated using the depreciation schedules in the Internal Revenue Code.~~

~~4.~~ 3. Any proceeds of a sale that are remaining after the seller's share shall be deposited in the ~~Affordable Housing Trust~~ Inclusionary Zoning Special Reserve Fund , or another fund designated by the Common Council.

~~5.~~ ~~The Director of the Department of Planning and Development shall be notified before significant improvements, as set forth in the Inclusionary Zoning Program Policies and Protocols, are made to an inclusionary dwelling unit.~~

~~6.~~ 4. The seller cannot offer the inclusionary dwelling unit for sale at a price below the assessed value unless approved by the Director of the Department of Planning and Development.

~~7.~~ ~~The Director of the Department of Planning and Development shall be notified before an inclusionary dwelling unit is refinanced.~~"