

24.)



Ratification
Number _____

AN ORDINANCE

TO AMEND PROVISIONS OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) PERTAINING TO ARTICLE 2, PART 15 – MIXED USE 1 - WORKFORCE HOUSING DISTRICT AND MIXED USE 2 - WORKFORCE HOUSING DISTRICT.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Article 2, Part 15 – Mixed Use 1 – Workforce Housing District and Mixed Use 2 – Workforce Housing District of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended to read as follows (new text in **bold and double underlined** and deleted text with ~~strikethrough~~):

PART 15 - MIXED USE 1 - WORKFORCE HOUSING DISTRICT MIXED USE 2 - WORKFORCE HOUSING DISTRICT

Sec. 54-297. - Findings.

City Council finds that its urban areas have traditionally included mixed use developments that incorporate housing opportunities for persons of varying means and incomes, along with complementary nonresidential uses. City Council finds that these mixed use developments have contributed significantly to the economic success and unique fabric of its urban environment by enhancing diversity and providing job opportunities, and that it is in the public interest that incentive-driven districts be established to encourage the continued development of mixed use projects.

Sec. 54-298. - Purpose.

These districts are intended to promote a mixture of housing opportunities within a single development, along with appropriate nonresidential uses, by providing incentives for the creation of such developments in urban areas of the city where on street parking or other public parking is customary and can be reasonably accommodated.

Sec. 54-299. - Availability.

The MU-1/WH and MU-2/WH districts, being incentive based, are only available to property owners who apply for the district designation.

Sec. 54-299.1. - Definitions.

For the purpose of this part, the following terms mean:

- a. Owner occupied workforce housing unit: A dwelling unit where at least one occupant is an owner, and where all occupants have, in the aggregate, household income less than or equal to one hundred twenty (120%) percent of the area median income (AMI) for owner occupied units. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.
- b. Rental workforce housing unit: A dwelling unit, where occupants have, in the aggregate, household income less than or equal to eighty (80%) percent of the area median income (AMI) for rental units. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.
- c. Qualified household: Households where occupants have, in the aggregate, a household income less than or equal to one hundred twenty (120%) percent of the area median income (AMI) for owner occupied units, and a household income less than or equal to eighty (80%) percent of the area median income (AMI) for rental units. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.
- d. Initial maximum allowable sales price: An amount equal to three (3) times one hundred twenty (120%) percent of the area median income (AMI), as determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors, plus any subsidy available to the buyer.
- e. ~~Fair~~**Affordable market rent: An amount calculated and An annual amount equal to thirty (30%) percent of eighty (80%) of Area Median Income (AMI), as published annually by the United States Department of Housing and Urban Development, or its successor, for the Charleston-North Charleston Metropolitan Statistical Area, as may be adjusted by the City of Charleston Department of Housing and Community Development, or their successors. Affordable rent for efficiency/studio units is the High HOME rents as published annually by the United States Department of Housing and Urban Development, or its successor, for the Charleston-North Charleston Metropolitan Statistical Area, as may be adjusted by the City of Charleston Department of Housing and Community Development, or their successors.** (eighty (80%) percent of area median income (AMI)). In the absence of such information, the rents charged by the owner shall not exceed thirty (30%) percent of the annual household income.
- f. Household income: All sources of financial support, both cash and in kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependent Children or other public assistance welfare programs, other sources of income regularly received, including Veterans' (VA) payments, unemployment compensation and alimony, and awards, prizes, government

or institutional or eleemosynary loans, grants or subsidies and contributions made by the Household members' families for medical, personal or educational needs.

Sec. 54-299.2. - Land uses.

The permitted land uses in these districts are those listed under Article 2, Part 3, Table of Permitted Land Uses, in the column headings having the applicable district designation to wit: MU-1/WH or MU-2/WH, modified as follows:

- a. Every development in the MU-1/WH or MU-2/WH zoning district that has five (5) or more residential units must include owner occupied workforce housing units and/or rental workforce housing units. Every development in the MU-1/WH or MU-2/WH zoning district that has less than five (5) units must include at least one (1) owner occupied or rental workforce housing unit or nonresidential use(s) that face the street on the ground level in accordance with the provisions of subsection b.
- b. The number of owner occupied workforce housing units and/or rental workforce housing units per development shall be the greater of: (1) one (~~1~~) unit; or (2) ~~fifteen~~ (~~15~~) twenty (20%) percent of the number of residential units in the development, rounded up to the next whole number, whichever is greater. The workforce housing units shall be sized, in terms of square footage and number of bedrooms, comparable and proportional to the square footage and number of bedrooms of the market rate units in the development as a whole. The smallest workforce housing unit by bedroom count shall not be smaller than the smallest market rate unit with the same number of bedrooms. The workforce housing units shall be integrated and intermixed within the market rate units in a development and not clustered together or segregated from the market rate units. Developments that contain multiple buildings shall incorporate in each building workforce housing units comparable and in proportion, square footage and bedroom wise, to the number of market rate units in the building. Exterior finishes of workforce housing units shall be the same type and quality as the development's market rate units.

Developments that do not include owner occupied and/or rental workforce housing units must dedicate the greater of: (1) fifty (50%) percent of the square footage of the ground level or one thousand five hundred (1,500) square feet for nonresidential uses. Nonresidential uses in the MU-1/WH district are the nonresidential uses allowable in the Limited Business (LB) district, and nonresidential uses in the MU-2/WH district are the nonresidential uses allowable in the General Business (GB) district.

- c. Fee payment in lieu of units (rental units only): In lieu of providing on site rental workforce housing units, a developer may choose to contribute a fee, on a per unit basis, to the City's Affordable/Workforce Housing Account for any or all of the number of workforce housing units required for the development. The sizes of the units satisfied by payment of a fee, in terms of square footage and number of bedrooms, shall be proportionate to the sizes, in terms of square footage and number of bedrooms, of units in the overall development.

The fee, per unit, shall be a sum equal to the difference between market rent (calculated on a monthly basis) and affordable rent (calculated on a monthly basis) as defined in Sec. 54-299.1 and based on the number of bedrooms per unit,

multiplied by 300, plus an administrative fee as set, from time to time, by City Council.

The market rent of each unit shall be determined by a licensed residential appraiser selected by the City and paid for by the developer. In its sole discretion, the City may require the developer to produce the pro forma or the documented anticipated revenue stream of the development submitted to the developer's lender that indicates the anticipated market rent of each unit.

Fees shall be calculated at the time of building permit application, and paid in full prior to the issuance of a building permit for any part of the development.

ed. Prior to receiving a building permit for any portion of a development, the owner thereof shall provide, in writing, to the satisfaction of the City of Charleston Department of Housing and Community Development, or its successor, information identifying the total number of one bedroom units, two bedroom units, etc., and the respective square footages of the same, the total number of one bedroom workforce housing units, two bedroom workforce housing units, etc., and the respective square footages of the same, and the location of the workforce housing units in the development. Prior to the issuance of a certificate of occupancy for any portion of a development, the owner thereof shall identify, in writing, to the City of Charleston Department of Housing and Community Development, or its successor, the units designated as owner occupied workforce housing units and/or rental workforce housing units.

de. i. Prior to the issuance of a certificate of occupancy for any portion of a development, the owner shall execute covenants satisfactory to the City that identifies the owner occupied workforce housing units and/or rental workforce housing units and which restricting such units to occupancy, and if applicable ownership, by qualified households for a period of no less than ~~ten (10)~~ twenty-five (25) years, and submit a copy of the recorded covenants to the City of Charleston Department of Housing and Community Development, or its successor.

ii. As for the owner occupied workforce housing units, the covenants shall identify the initial maximum allowable sales price, and provide that the initial maximum allowable sales price may be adjusted annually for inflation based on the increase in the area median income (AMI) or Consumer Price Index, whichever is greater. Each owner of such units, prior to initial occupancy, shall be required to submit to the City of Charleston Department of Housing and Community Development, or its successor, a verified income report of household income of all members of the household. The covenants shall require notice to the City of Charleston Department of Housing and Community Development, or its successor, of any transfer of the owner occupied workforce housing units and verification that the purchaser is a qualified household. Owner occupied workforce housing units shall be subject to resale restrictions for no fewer than ~~ten (10)~~ twenty-five (25) years from date of initial sale of the property. Such restrictions will be recorded as deed restrictions.

iii. As for rental workforce housing units, the covenants shall require the owner to provide proof to the City of Charleston Department of Housing and Community Development, or its successor, at inception of every tenancy, and on an annual basis thereafter, that no more than fair affordable market rent is being charged for the unit(s), and verified income reports of household income of all ~~rental~~ occupants of

rental workforce housing units. Rental workforce housing units shall be subject to these restrictions for no fewer than ~~ten (10)~~ twenty-five (25) years from the initial occupancy as workforce housing.

iv. The covenants for rental workforce housing units shall provide:

If a workforce housing unit is converted from rental occupied to owner occupied occupancy during the term of the rental workforce housing covenants, the unit shall be subject to the owner occupied workforce housing unit requirements as set out in subsection d (ii) (to include an Initial Maximum Sales Price) for a term of months equal to the number resulting when subtracting from 300 months the number of months the unit has been subject to rental workforce housing covenants.

Conversion of a workforce housing unit from owner occupied to renter occupied occupancy shall not be permitted.

Covenants shall require written notice to the City prior to any conversion taking place.

ef. The covenants shall accord the City of Charleston, or its assignee, rights to enforcement by any legal and/or equitable means, including the revocation of a certificate of occupancy, and in all events be subject to approval by corporation counsel.

g. If the development is to be phased, each phase shall include workforce housing units concurrently with the market rate units in the particular phase. A phasing plan that brings the workforce housing units on line at the end or build out is not permitted.

h. The upkeep of rental workforce housing units shall be of the same quality as the upkeep of the other market rate rental units of the development.

Sec. 54-299.3. - Parking and loading.

Parking requirements for an owner occupied workforce housing unit or rental workforce housing unit shall be one (1) space per two units.

Parking requirements for an owner occupied market rate housing unit or rental housing unit shall be one (1) space per unit.

Parking requirements for nonresidential uses in developments shall be governed by the parking provisions of Article 3, Part 4, Off-Street Parking Requirements; provided however, there shall be no off-street parking requirements for nonresidential uses in developments for the first five thousand (5,000) square feet of area dedicated for nonresidential uses, not including restaurants and bars which shall follow the parking requirements of Article 3, Part 4, and further provided that the off-street parking requirement for office uses shall be one (1) space per 600 square feet (excluding halls, stairwells, storage/elevator shafts and bathrooms). There are no off-street loading requirements for nonresidential uses.

Sec. 54-299.4. - Height, area and setback regulations.

The height, area and setback regulations for the MU-1/WH and MU-2/WH districts are listed under Article 3, Part 1, Table 3.1: Height, Area and Setback Regulations.

Sec. 54-299.5. - Affordable/Workforce Housing Account.

There is hereby created a City of Charleston Affordable/Workforce Housing Account. Fees contributed to the account per Sec. 54-299.2(c), along with all interest earnings, shall be used solely for the purpose of creating and/or improving workforce and/or affordable housing, including but not limited to improving or redeveloping existing housing stock, the acquisition of land, costs and fees for design and construction of affordable housing, and loans or grants to affordable housing providers. The terms of any assistance shall be developed by the City of Charleston Department of Housing and Community Development, or its successor, and approved by City Council.

Sec. 54-299.6. - Existing MU-1/WH and MU-2/WH classifications.

Properties with the zoning classification of MU-1/WH and MU-2/WH or which have applied for such classification, as of January 10, 2017, shall be governed by the provisions of this Article except as follows:

- a. **Sec. 54-299.2 (b): First paragraph: the number of owner occupied workforce housing units, and/or rental workforce housing units, shall be no less than fifteen (15%) percent of the number of units in the development, rounded up to the next whole number.**
- b. **Sec. 54-299.2 (c): Fee payment in lieu of units is optional, provided a certificate of occupancy has not been issued for the development or applicable phase, if the development is phased.**
- c. **Sec. 54-299.2 (e) (i)-(iii): The term of affordability shall be no less than ten (10) years.**

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this ____ day of
_____ in the Year of Our Lord, 2017,
and in the ____th Year of the Independence of
the United States of America

John J. Tecklenburg
Mayor, City of Charleston

ATTEST:

Vanessa Turner Maybank
Clerk of Council