

## **Questions & Answers:** **Proposed “Saratoga Places for All” (SPA) Housing Ordinance** (August 2016)

(The following “Questions & Answers” are from the City’s 2006 Inclusionary Zoning Ordinance, updated by Sustainable Saratoga to reflect data relevant to the current SPA-Housing Ordinance proposal.)

### **Why is Sustainable Saratoga supporting this proposal?**

- Sustainable Saratoga advocates for sustainable smart growth policies. One such policy is that the City should have adequate, diverse housing.

### **What is the SPA-Housing ordinance?**

- SPA-Housing is an inclusionary zoning (IZ) ordinance that requires developers of larger housing (sale or rental) developments to include some affordable units to households of modest income. Developers are given a modest density bonus, or the right to build more units, to offset the costs of producing these units. The proposed ordinance for Saratoga Springs requires developments of 10 or more new units to dedicate 10 to 20 percent (depending on target income level) of the new units to be affordable in exchange for a 20 percent density bonus. Over 500 other communities in the country have enacted similar ordinances.

### **What does the SPA-Housing Ordinance require?**

- Developments with 10 or more new RENTAL units must set aside either:
  - 20% of units for households earning under \$65,000 (less than 80% of Area Median Income – AMI, based on a 4-person household) or
  - 10% of units for households earning under \$41,000 (less than 50% of AMI, based on a 4-person household)
- Developments with 10 or more new FOR SALE units must set aside either:
  - 20% of units for households earning under \$82,000 (less than 100% of AMI, 4 persons) or
  - 15% of units for households earning under \$65,000 (less than 80% of AMI, 4 persons)
- Density bonus - In exchange for providing the Inclusionary Units, the developer may increase the total number of units in the project by up to 20%.
- As necessary and appropriate to accommodate the Inclusionary Units, the Planning Board can relax certain regulations, depending on the zoning district.
- Developers will enter into an “Inclusionary Housing Agreement” with the City to assure that the conditions of inclusionary zoning are met.

### **Are there any exceptions?**

- The Ordinance would apply citywide to new construction, substantial rehab or conversions, except for:
  - Exclusively non-residential development
  - Developments with fewer than 10 new units (unless developer requests & City approves)
- The Planning Board can waive part or all of the Inclusionary Zoning (IZ) requirements if it determines the additional units cannot be accommodated on site without detrimental impact.
- Developers may request “relief” from IZ through the Zoning Board of Appeals.

### **How will the Inclusionary Units be priced?**

- Maximum rents and sales prices will be determined annually based on income levels. The Ordinance provides formulas for determining what the rents or sale prices for the affordable units will be.
- For certain "high cost" construction, the developer may seek Planning Board approval to set the price to target a slightly higher income level (up to 20% higher).

### **How will the Inclusionary Units differ from the market-rate units?**

- In order to make the units affordable, inclusionary units may be smaller in size and contain less expensive interior finishes and amenities than the market rate units.
- Exterior finishes must be comparable to the market-rate units.

### **How long will the Inclusionary Units remain affordable?**

- Rental units must remain affordable for at least 30 years.
- For sale units will remain affordable in perpetuity, with unit owners receiving net proceeds of the sale in proportion to their original investment.
- Affordability requirements are maintained through restrictive covenants & deed restrictions.

### **Who will be eligible for an Inclusionary Unit?**

- The City Office of Planning and Economic Development will create and maintain a waiting list of eligible candidates based on income limits (adjusted annually).
- Priority is given first to households that reside or work in the City, second priority to households that reside or work in Saratoga County.
- Developers of Inclusionary Units will use this list to rent or sell the units.
- Seasonal or part-time residents will not be eligible.
- Subletting an inclusionary unit to a non-income-eligible party is prohibited; on turnover, new occupants will be selected from the City waiting list.

### **How will the program be monitored to make certain it works in Saratoga Springs?**

- The Mayor is authorized to appoint a committee of experts to monitor the initial implementation of the Ordinance and to make recommendations for changes.
- The Planning Board can waive the requirements for individual projects where it is determined the IZ units cannot be provided without detrimental impact.
- If the City's waiting list is exhausted, the Planning Board can suspend the requirements for projects, or release individual units to market sale (with the excess proceeds being used to support this Ordinance).
- An annual report will be provided to the Council. An evaluation is scheduled every 3 years, which is the minimum time necessary to allow initial projects to be completed and units occupied.
- The City Council has the authority to amend this or any other portion of the City's Zoning Ordinance as needed.

### **How many affordable units will this produce?**

- Based on recent years, 15 to 30 units could be produced each year, although this could be higher or lower depending on the market and the types of projects approved. Under current market conditions, these units are likely to be mostly rental units, although over time the Ordinance may also result in the creation of owner-occupied units.

### **Where will these units be produced?**

- Consistent with the IZ principle of “fair share”, IZ units will be produced throughout the City, in proportion to the zoning density that applies to that particular neighborhood or site. The SPA Housing program is consistent with the relative housing densities proposed in the City’s Comprehensive Plan.
- The number of IZ units that any one area receives will be determined by the amount of new housing development in that area.

### **Who will these units be for?**

- It is envisioned that these units will serve local residents – elderly residents who can no longer keep up with the tax and maintenance burden of single family ownership, young people who grew up here and are returning to raise their families in Saratoga, and people who have jobs in the City or County and want to live closer to work. The Ordinance gives priority to households of modest income that live or work in Saratoga Springs. Based on current incomes, IZ units would serve a two-person household earning \$32,800 - \$52,500 for rental housing, and up to about \$65,600 for homeownership. For a four-person household, IZ units would serve households in the \$41,000 - \$65,000 range for rental units, and up to \$82,000 for homebuyer units. These income ranges are adjusted annually.

### **How will IZ be administered and what are the costs?**

- The ordinance is designed to minimize the administrative impact on our small city government. The Office of Planning and Economic Development (OPED) will administer the ordinance. While some staff time is required, these are functions already performed by OPED in other city housing programs, so the added workload is incremental, not new. Based on recent development activity, OPED and the 2006 Committee concluded that the administrative functions constitute about ½ person, or about \$55,000 in the first year and about \$45,600 in subsequent years (in 2006 dollars). The City is currently reviewing these estimates.

### **Why do we need to do this? Is there an affordable housing crisis in Saratoga Springs?**

- The US Department of Housing and Urban Development (HUD) says that housing is not affordable if the occupants of the unit are paying more than 30% of their income for housing costs (rent, mortgage, utilities, insurance, etc.).
- 25% of all homeowners in Saratoga Springs spend more than 30% of their income on housing costs. This represents 1,596 households.
- 44% of all renters in Saratoga Springs spend more than 30% of their income on housing costs. This represents 2,154 households.
- 33% of all households in Saratoga Springs spend more than 30% of their income on housing costs. This represents 3,750 households.

### **Why is housing so expensive in Saratoga Springs?**

- The reasons are many, but essentially there is very strong demand and a limited supply. The many positive qualities of Saratoga Springs have made it a very desirable place to live for people moving to and working in the Capital District. Saratoga’s appeal as a tourist and resort area is causing more and more of its housing stock to be claimed for vacation homes and second homes. Real estate investors are drawn to Saratoga Springs as an attractive

community to invest in high-end projects. As a result of this rising demand, land costs and building costs have increased to widen the gap between housing prices and area incomes.

**Isn't this a short-term problem? Won't the housing market settle down and become more affordable in the future?**

- Housing markets are cyclical and do not remain static. No one can predict the future of our local housing market, or whether prices will go up or down. This ordinance is designed as a long-term strategy to gradually add units in proportion to how the community grows. If the market slows and becomes more affordable, fewer market and IZ units will be produced.

**If I'm already a homeowner in Saratoga Springs, why is affordable housing my problem?**

- Although you may be secure in your home, we believe that the affordable housing may still impact you as a consumer, as an employer and as a family. If working middle class people cannot find housing that is affordable, the community as a whole suffers. Workers vital to the stability and health of the community—both professional and blue-collar workers—will not be available to provide the services needed by our citizens. Businesses will not locate or expand here if they are unable to recruit a local workforce, and this can threaten our local economy. On a more personal level, you may find that it will be harder to keep your family living close by – your children may have to move away to raise families, or your parents may not be able to afford to live close by as they age and need your support.

**Isn't it reasonable to expect some people to commute from less expensive outlying areas?**

- Employers indicate that this housing market affects recruitment, turnover and absenteeism. Workers who can't live close to their workplace are more likely to change their workplace location in order to shorten their commutes. Also, workers with long commutes are more likely to miss work, reducing the ability of local businesses to provide quality services. With uncertainty in fuel prices, workers have even more incentive to find employment close to their homes. And ultimately, housing choices should exist for working families and the elderly.

**What are the impacts of the SPA-Housing Ordinance?**

- There are over 500 IZ ordinances in effect nationwide, with different provisions and different levels of success. This proposed ordinance for Saratoga Springs drew on that range of experiences to develop a modest approach that is appropriate to Saratoga Springs and that will not negatively affect the special character of our community. Some of the key concerns about potential negative impacts of the IZ ordinances are discussed below.

**Will the SPA-Housing Ordinance discourage development in Saratoga?**

- It should not. In some IZ communities where the IZ requirement has become a severe burden to the developer, this has been the case. However, this ordinance has been carefully designed based on financial analyses so that these additional IZ units can be provided by the developer at a price that covers the developer's costs of construction and overhead. IZ requirements apply only when units can be added to the overall development plan, so there will not be a reduction in what the developer could produce without IZ. Therefore, while developers take on some additional near-term burden in building the IZ units, there is no long-term burden or financial cost to the developer. As long as there is market demand for the production of additional housing units in Saratoga, developers should be able to continue to produce units.

**Will IZ units alter the character and appearance of the entire development or the neighborhood?**

- It should not. The IZ units must be the same type as the market units -- for-sale units within for-sale projects or rental units within rental projects. The IZ units will be required to blend in with the market rate units in terms of exterior design, finishes and aesthetics. Only certain development requirements listed in the ordinance, such as setbacks, are waived, and only to the extent needed to incorporate the affordable units. Where the units cannot be constructed without detrimental impact on the development and the community, the requirements can be reduced or waived by the Planning Board.

**Will IZ units have an impact on traffic and other environmental issues of concern?**

- All developments covered by this ordinance are put through an environmental analysis following the State Environmental Quality Review (SEQR) process. The IZ units will be part of that, and changes to the design and other mitigation will be considered as part of that process prior to Planning Board approval. In addition, the proposed ordinance itself must receive SEQR review prior to enactment.

**Will the SPA-Housing Ordinance threaten Saratoga Springs' greenbelt or rural areas?**

- IZ applies within the City's existing zoning to all areas of the City. Therefore, inclusionary zoning will apply in the less densely zoned areas of the city, but in concentrations which reflect the lower density of those rural zones.

**Will IZ units be produced disproportionately in certain neighborhoods?**

- The ordinance is developed on the core principle of fair share. IZ requirements apply to all neighborhoods and areas of the City, in direct proportion to the existing zoning requirements in that area. It is likely that the city's core area and perhaps certain neighborhoods might see more development in the future than others, so these areas might see more IZ units than other areas. However, IZ units can be produced only on the development site and not shifted to other neighborhoods.

**Does this change the local review process and the roles of the Planning Board, Design Review, or Zoning Board of Appeals?**

- No. All existing review processes remain in place, and all authorities of the various review boards are preserved. The boards will be required to consider the IZ requirements as one of the overall requirements of the City, but not to the exclusion of other community concerns and requirements. The Planning Board will take the lead in incorporating the IZ requirements into the overall development approval. The Planning Board is authorized to grant relief from IZ requirements, and the developer still retains the right to appeal for full relief to the Zoning Board of Appeals.

**Will Saratoga's taxpayers carry the burden of producing and subsidizing these units?**

- There are no direct City subsidies contemplated or required for these units. However, there are administrative costs that have been estimated in 2006 at \$46,500 per year. The City is currently reviewing these estimates. The owners of IZ units will pay property taxes comparable to other modest housing in the community.

**Will SPA Housing Ordinance end up drawing households to Saratoga that will become a burden to the community?**

- The first priority is for households who live or work in Saratoga Springs. The second priority is for households who live and work in Saratoga County. Households who occupy these units must be self-sufficient because there are no subsidies provided. The ordinance has a “circuit breaker” so that the Planning Board can suspend the requirements if the City has no qualified applicants on its waiting list when developments are approved, and the income restrictions can be waived for units when there are no qualified buyers.

**Is the draft ordinance applying a model from Montgomery County, Maryland, or other communities that are larger, more urban, or fundamentally different than Saratoga?**

- No. The 2006 Committee was advised by the Innovative Housing Institute, nationwide experts on IZ, and the key IHI consultant formerly worked in Montgomery County and shared the Montgomery County experience. However, this ordinance was not based on Montgomery County or any other community. It was drafted from scratch, drawing on the experience of a range of communities, and modified based on substantial community input. The end result is a totally unique ordinance that is unlike any other community’s ordinance and tailored to the market and conditions in Saratoga Springs.

**Why was a threshold of 10 units chosen?**

- A 20% bonus only begins to make sense at 10 or more units. Because of the rounding required to get full units, a 20% bonus in smaller projects could have a dramatic and visible impact on density. The 2006 Committee looked at permits drawn in recent years, and has concluded that there would not be a significant increase in inclusionary unit production if the threshold were lowered to five units. The ordinance includes a voluntary provision where smaller projects could propose inclusionary units if it made sense from design and financial standpoints.

**Can developers propose to build the IZ units off site?**

- No. In cases where it is determined by the Planning Board that units cannot be accommodated on site, the requirement will be waived rather than shifted off site.

**Does the City have the option to purchase the affordable units or change their use?**

- No. This is not allowed, due to concerns that the intent and use of the units could be changed.

**Will these families be able to afford the housing costs, including maintenance, taxes and homeowner association fees?**

- The 2006 Committee analyzed the affordability, and created a pricing model that includes all costs, including taxes, insurance and homeowner association fees (if applicable). Taxes are based on assessments reflecting the lower price and value of the IZ units. In certain developments with high homeowner association fees, the pricing may need to be adjusted or subsidies provided to make it affordable. Maintenance and improvement of IZ units will be encouraged and taken into account for resale pricing.

**Will the IZ unit buyers be able to enjoy appreciation in their unit value when they sell?**

- Yes. Homeowners will be able to sell at a price that enables them to share in market appreciation in direct proportion to their initial investment when they sell. For example, if they were able to buy the unit at 60% of its original fair market value, they will be able to receive 60% of the appreciation at time of resale. The new buyer will continue to be a priority household in the eligible income range.

**Why don't we just make inclusionary zoning a voluntary program?**

- It is widely accepted that voluntary inclusionary zoning programs have been largely ineffective nationwide. Saratoga Springs has incorporated voluntary incentive-based affordable housing into its zoning standards for a number of years, but this has not resulted in the construction of any affordable units.. Also, if voluntary, it is likely that IZ units would not be produced throughout the City and this would result in higher concentrations of IZ units in some neighborhoods rather than others.

**Wouldn't it be easier if the City just paid developers to build affordable units?**

- It is the removal of land costs from the additional units, achieved through the density bonus, which permits IZ units to be offered at a more affordable price. To achieve similar pricing levels, the City would need to either build on City property, thereby concentrating these units, or provide substantial subsidies to offset the rising cost of available privately held land.

**Shouldn't this be a County-wide program?**

- The market pressures exist throughout the Saratoga region, but have become most focused in Saratoga Springs. While a County-wide strategy would produce more needed units, Saratoga Springs needs to address this problem whether or not other communities join in. We hope that our leadership on this issue will encourage other communities in the County to consider the benefits of creating their own inclusionary zoning programs.

**Will inclusionary zoning solve all of our community's affordable housing needs?**

- Inclusionary zoning is not a panacea, but it is an important tool in establishing a range of options to address affordable housing needs in Saratoga Springs. Providing these units through a private market solution allows Saratoga Springs to meet some of the need without large government subsidies and regulation by the state or Federal governments. It is a modest but truly local solution.

**What if it doesn't work?**

- Several features have been included in the Ordinance to enable it to be modified or suspended if it doesn't work or if there isn't sufficient demand.
  - (1) The Ordinance provides for a committee to monitor the initial implementation and to make recommendations for changes.
  - (2) There is a "circuit breaker" for the Planning Board to suspend the requirements for new developments if there is insufficient demand for the units.
  - (3) There is a provision to allow individual units to be sold at market value if eligible buyers cannot be found.
  - (4) The Ordinance requires an annual report to the Council on the IZ units produced.
  - (5) The Ordinance requires an evaluation of the Ordinance and its impact within three

- years.
- (6) And, of course, the City Council could choose to re-evaluate and change the ordinance at any point if it proves to be unsuccessful, has unintended loopholes or negatively affects the community.

**Who drafted the 2006 ordinance?**

- In early 2005, Mayor Michael Lenz created the Inclusionary Zoning Ordinance Development (IZOD) Committee to study the City housing issues and develop a new ordinance. The worked for over a year and in April 2006 delivered a new ordinance to the City Council. That committee consisted of Monte Franke (Chair), Sonny Bonacio, Amy Durland, Matt Gabryshak and Vilma Heramia. Eric Schreck and Nancy Ohlin also served in the earlier months on the committee.

**Why didn't the City Council adopted the draft ordinance in 2006?**

- We can only speculate why the City Council did not adopt the draft ordinance as recommended by the IZOD Committee. There is official record of any public discussion of the Ordinance by the City Council.
- Sustainable Saratoga believes there probably were a number of factors that contributed to the lack of action. These might have included:
  - Desire to see if the ordinance could be adopted on a regional or county-wide level;
  - Suggestions by some developers that more time could allow affordable housing to be built on a voluntary basis;
  - Concern with forecasts of an uncertain housing market;
  - A tight City budget that were projecting employee layoffs.