

S U M M A R Y

This ordinance amends Chapter 22 of the 2019 Detroit City Code, *Housing*, by amending Article III, *Inclusionary Housing Requirements*, by amending Section 22-3-2, *Definitions*; Section 22-3-3, *Applicability; exemptions*; Section 22-3-4, *Council approval; waivers and alternate means of compliance*; Section 22-3-5, *Affordability requirements of eligible residential housing developments*; Section 22-3-6, *Penalties for violation; options to cure*; to Section 22-3-7, *Detroit Affordable Housing Development and Preservation Fund*; Section 22-3-8, *Reporting requirements*; and Section 22-3-9, *Administration and implementation; promulgation of administrative rules*; to modify and add definitions; to add exemptions to this Article; to modify the timing and contents of reporting requirements; to expand alternative compliance options and set forth requirements; to modify qualifying transactions and clarify affordability requirements; to modify automatic termination provisions; to modify expiration or release of affordability provisions; to modify income verification provisions; to add provisions to minimize displacement of current residents; to modify enforcement and compliance responsibilities; to modify violations and penalties; to clarify the cure period for noncompliance; to clarify which penalties shall be deposited into the Detroit Affordable Housing Development and Preservation Fund; to add budget amendment and negotiated settlement options; to clarify and expand eligible activities; to modify the departments responsible for promulgating and amending administrative procedures; to modify the departments responsible for the informational website; to establish the department responsible for promulgating relocation and transition plan guidelines; and to update language, delete duplicative or obsolete language, and make other technical revisions.

Introduced

JUL 18 2023



TATE

1 BY COUNCIL MEMBER _____:

2 AN ORDINANCE to amend Chapter 22 of the 2019 Detroit City Code, *Housing*, by
3 amending Article III, *Inclusionary Housing Requirements*, by amending Section 22-3-2,
4 *Definitions*; Section 22-3-3, *Applicability; exemptions*; Section 22-3-4, *Council approval; waivers*
5 *and alternate means of compliance*; Section 22-3-5, *Affordability requirements of eligible*
6 *residential housing developments*; Section 22-3-6, *Penalties for violation; options to cure*; Section
7 22-3-7, *Detroit Affordable Housing Development and Preservation Fund*; Section 22-3-8,
8 *Reporting requirements*; and Section 22-3-9, *Administration and implementation; promulgation*
9 *of administrative rules*; to modify and add definitions; to add exemptions to this Article; to modify
10 the timing and contents of reporting requirements; to expand alternative compliance options and
11 set forth requirements; to modify qualifying transactions and clarify affordability requirements; to
12 modify automatic termination provisions; to modify expiration or release of affordability
13 provisions; to modify income verification provisions; to add provisions to minimize displacement
14 of current residents; to modify enforcement and compliance responsibilities; to modify violations
15 and penalties; to clarify the cure period for noncompliance; to clarify which penalties shall be
16 deposited into the Detroit Affordable Housing Development and Preservation Fund; to add budget
17 amendment and negotiated settlement options; to clarify and expand eligible activities; to modify
18 the departments responsible for promulgating and amending administrative procedures; to modify
19 the departments responsible for the informational website; to establish the department responsible
20 for promulgating relocation and transition plan guidelines; and to update language, delete
21 duplicative or obsolete language, and make other technical revisions.

1 *Consumer Price Index* means the U.S. Department of Labor Bureau of Labor Statistics
2 Consumer Price Index for all Urban Consumers for the Detroit metropolitan area, or some other
3 comparable index stated in the administrative procedures promulgated by the Director of the
4 Housing and Revitalization Department in accordance with Section 22-3-9 of this Code.

5 *Developer* means the legal or beneficial owner or the representative thereof, of a parcel of
6 land proposed for inclusion in a development, including the holder of an option or contract to
7 purchase who performs the functions necessary to obtain land control and financing to construct
8 or rehabilitate a property and expects to assume the risks and rewards upon completion of the
9 project but does not mean a governmental entity or a commercial lending institution other than a
10 commercial lending institution affiliated with the developer.

11 *Development* means the division of a parcel of land into two or more parcels; the
12 construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any
13 residential buildings, ~~any use or change in use of any buildings or land, any extension of any use~~
14 ~~of land or any clearing, grading, excavation or other movement of land, for which permission may~~
15 ~~be required pursuant to Chapter 50 of this Code, Zoning building.~~

16 *Dwelling* means a building, or portion of a building, for rent or lease, designed for or
17 occupied in whole or in part as the home, residence, or sleeping place of one or more individuals,
18 either continuously, permanently, temporarily, or transiently but does not mean a hotel, motel, bed
19 and breakfast, hostel, short term rental, or other lodging facilities.

20 *Dwelling unit* means a building, or portion of a building, offered or to be offered for rent
21 or lease, designed ~~and used for~~ use for residential occupancy by a single household and that
22 includes exclusive sleeping, cooking, eating and sanitation facilities.

1 *Eligibility criteria* means, with respect to rental housing, at the time of the first rental, or
2 any subsequent lease renewals or extensions, 20 percent of the dwelling units are required to be
3 affordable to households earning up to 80 percent of the Area Median Income.

4 *Fund* means the Detroit Affordable Housing Development and Preservation Fund
5 established under Section 22-3-7 of this Code.

6 *Occupied housing project* means a residential housing project in which at least one
7 dwelling unit is occupied by a tenant as the tenant's primary residence in exchange for rental
8 income.

9 *Qualifying transaction* means any of the following:

- 10 (1) Type 1 — The sale or transfer of City-owned real property at less than true cash
11 value which is intended to be developed for a residential housing project;
- 12 (2) Type 2 — Direct monetary support from the City of at least \$500,000.00, adjusted
13 annually based on changes in the Consumer Price Index, for a residential housing
14 project;
- 15 (3) Type 3 — ~~Commitment~~ Award of Community Development Block Grant funds of
16 the U.S. Department of Housing and Urban Development controlled by the City of
17 at least \$500,000.00, adjusted annually based on changes in the Consumer Price
18 Index, for a residential housing project;
- 19 (4) Type 4 — ~~Commitment~~ Award of HOME Investment Partnership Program funds
20 of the U.S. Department of Housing and Urban Development controlled by the City
21 of at least \$500,000.00, adjusted annually based on changes in the Consumer Price
22 Index, for a residential housing project; ~~or~~
- 23 (5) Type 5 — ~~Commitment~~ Award of funds of at least \$500,000.00 for a residential
24 housing project, through an as yet unidentified State of Michigan or federal housing

1 development program-; or

2 (6) Type 6 — Issuance of a tax abatement certificate for any residential housing project
3 that abates all or a portion of ad valorem property taxes.

4 Rehabilitation means repairs or improvements to a residential structure.

5 *Residential housing project* means one or more buildings that collectively contain at least
6 20 dwelling units offered for lease or rent on one or more tax parcels or lots marketed as a single
7 or unified project or sharing common elements, including, but not limited to, dwelling units for
8 lease or rent within a mixed use development or in a planned development district as set forth in
9 Chapter 50 of this Code, *Zoning* which are offered for rent or lease.

10 *Substitute structure* means a separate structure, or separate structures, that meet the criteria
11 contained in Section 22-3-4(d)(3) of this Code.

12 Tax abatement means the abatement of ad valorem taxes under the Neighborhood
13 Enterprise Zone Act, Public Act 147 of 1992; MCL 207.771, et seq.; the Obsolete Property
14 Rehabilitation Act, Public Act 146 of 2000; MCL 125.2781, et seq.; or the Commercial
15 Rehabilitation Act, Public Act 210 of 2005; MCL 207.841,et seq.

16 Tax abatement certificate means a certificate for a tax abatement issued by the City or
17 approved by the City Council that has the effect of reducing all or a portion of ad valorem property
18 taxes for property within a City Council approved tax abatement district or zone.

19 **Sec. 22-3-3. Applicability; exemptions.**

20 (a) Subject to Subsections (b) and (c) of this section, all qualifying transactions brought
21 before the City Council for approval are subject to the affordability requirements set forth in
22 Section 22-3-5 of this Code.

23 (b) The following facilities are exempt from the requirements of this article:

24 (1) Nursing homes, residential care facilities, and assisted care living facilities;

- 1 (2) Dormitories and group quarters, as defined by the U.S. Bureau of Census; and
2 (3) Predominantly transient-occupied lodging such as hotels, motels, hostels, short
3 term rentals and bed and breakfasts; and
4 (4) Owner-occupied cooperative housing projects.

5 (c) The requirements of this article do not supersede requirements or regulations set
6 forth by the U.S. Department of Housing and Urban Development or its agencies, or requirements
7 or regulations set forth by the State of Michigan or its agencies.

8 **Sec. 22-3-4. Council approval; waivers and alternate means of compliance.**

9 (a) Except as provided in this section, the City Council shall not approve any qualifying
10 transaction unless the transaction conforms to this article.

11 (b) All requests for approval of qualifying transactions brought before the City Council
12 shall be accompanied or supplemented by a report from the Housing and Revitalization
13 Department prior to the vote, which establishes finds that the evaluation and processing of the
14 qualifying transaction was performed pursuant to the administrative procedures promulgated under
15 Section 22-3-9 of this Code. All requests for approval of qualifying transactions which propose
16 the development or rehabilitation of an occupied housing project must be certified by the Housing
17 and Revitalization Department in its report to conform to the requirements of Section 22-3-5 of
18 this Code.

19 (c) Where the Housing and Revitalization Department concludes that a waiver under
20 Subsection (d) of this section is justified for a residential housing project, the report to the City
21 Council shall state the grounds for the Department's conclusion and proposed findings for the City
22 Council and be posted on the City's website.

23 (d) Notwithstanding the provisions of Subsection (a) of this section, if the developer or
24 owner ~~have~~ has previously agreed to provide affordable housing subject to ~~an~~ a written agreement

1 approved by the City Council or affordable housing is included in and the developer or owner is
2 in compliance with the affordability requirements in a Community Benefits Provision under
3 Chapter 12, Community Development, Article VIII, Community Benefits, ~~it~~ that qualifying
4 transaction or rental housing shall be deemed consistent with this waiver provision exempt from
5 this Article. Upon request of the Director of the Housing and Revitalization Department, the City
6 Council may also approve a qualifying transaction that does not conform to this article, where City
7 Council finds and declares in the authorizing resolution that:

8 (1) The application of the affordability requirements set forth in Section 22-3-5 of this
9 Code would produce a result inconsistent with the purpose and intent of this article
10 as set forth in Section 22-3-1 of this Code; or

11 (2) The application of the affordability requirements of this article would have a
12 significant negative ~~impact~~ effect on ~~the economies~~ of the residential housing
13 project ~~thus~~ rendering the project economically or financially unviable; or

14 (3) All substitute structures will be either within a comparable neighborhood to that of
15 the residential housing project, with comparable access to employment centers,
16 transportation, and other quality of life indicators, or are no more than one-quarter
17 mile away from the residential housing project; or

18 (4) The developer ~~or owner~~ provides satisfactory assurance that the affordability
19 requirements applicable to the ~~structure(s) comprising the~~ residential housing
20 project are satisfied by the provision of affordable dwelling units in one or more
21 substitute structures, as defined in Section 22-3-2 of this Code, where all of the
22 following criteria are satisfied:

1 a. All structures ~~are to~~ will be developed and placed into service within a 24-
2 month period from the completion of the first structure comprising the
3 residential housing project;

4 ~~b. All substitute structures are either within a comparable neighborhood to that~~
5 ~~of the residential housing project, with comparable access to employment~~
6 ~~centers, transportation, and other quality of life indicators, or are no more~~
7 ~~than one quarter mile away from the residential housing project; and~~

8 b. The affordability requirements including the substitute structures are will
9 be satisfied for the residential housing project as a whole within the 24-
10 month development period, which is calculated from the completion of the
11 first structure comprising the residential housing project. The developer
12 shall notify, in writing, the ~~Director~~ Directors of the Housing and
13 Revitalization Department and the City Council of delays in meeting this
14 timeframe. This notification shall include the reason for such delay(s) and
15 the anticipated completion date; and,

16 c. The application of the affordability requirements of this article would have
17 a significant negative impact on or functions to displace current residents of
18 substantially occupied buildings of the residential housing project.

19 (e) The requirements of this article applicable to a residential housing project under or
20 after development may be waived or modified in accordance with Subsections (c) and (d) of this
21 section.

22 **Sec. 22-3-5. Affordability requirements of eligible residential housing developments.**

23 (a) All qualifying transactions shall be made pursuant to a contract or development
24 agreement between the City and the developer.

- 1 (b) The agreement shall ~~at minimum~~ include the following provisions:
- 2 (1) Applicable affordability requirements:
- 3 a. For Type 1 and Type 2 ~~Qualifying Transactions~~ qualifying transactions at
- 4 least 20 percent of the dwelling units for rent or lease as part of the
- 5 residential housing project shall be affordable and provided to households
- 6 earning up to 80 percent of the Area Median Income. Where the product
- 7 includes a fraction, a fraction of 0.5 or greater shall be rounded up to the
- 8 next higher whole number and a fraction less than 0.5 shall be rounded
- 9 down to the next lower whole number;
- 10 b. For Type 3 and Type 4 ~~Qualifying Transactions~~ qualifying transactions at
- 11 least 15 percent of the dwelling units for rent or lease as part of the
- 12 residential housing project shall be affordable and provided to households
- 13 earning up to 60 percent of the Area Median Income, and at least five
- 14 percent of the dwelling units for rent or lease as part of the residential
- 15 housing project are to be affordable and provided to households earning up
- 16 to 50 percent of the Area Median Income. Where the product includes a
- 17 fraction, a fraction of 0.5 or greater shall be rounded up to the next higher
- 18 whole number and a fraction less than 0.5 shall be rounded down to the next
- 19 lower whole number. Residential Housing Projects meeting the definition
- 20 of a ~~Type 1 or Type 2 Qualifying Transactions~~ and a Type 3 or Type 4
- 21 ~~Qualifying Transactions~~ qualifying transaction are subject to this subpart;
- 22 and

- 1 c. For Type 5 ~~Qualifying Transactions~~ qualifying transactions the affordability
2 requirements shall follow the criteria set forth by the applicable state or
3 federal regulations of the relevant funding program; and
- 4 d. For Type 6 qualifying transactions the affordability requirements shall
5 follow the criteria set forth in the applicable tax abatement certificate
6 agreement.
- 7 (2) ~~The affordable dwelling units shall remain affordable~~ Applicable affordability
8 restrictions:
- 9 a. For Type 1 through Type 5 qualifying transactions, for at least 30 years after
10 the time of the issuance of the certificate of occupancy or, as applicable, for
11 that unit, or after the first day of the initial lease where no such certificate
12 is issued.; and
- 13 b. For Type 6 qualifying transactions, at least the number of years of the tax
14 abatement certificate approved by the City Council and the State Tax
15 Commission.
- 16 (3) The affordability requirement shall automatically terminate if the property is taken
17 by eminent domain, foreclosed by a *bona fide* lender, or a deed in lieu of foreclosure
18 is given to a *bona fide* lender. Upon request after the termination of the affordability
19 requirement, the Housing and Revitalization Department shall issue a release of the
20 affordability requirement in recordable form.
- 21 (4) At the sole discretion of the City, for Type 2, Type 3 and Type 4 qualifying
22 transactions of non-occupied developments only, the direct monetary support or
23 award of Community Development Block grant funds or HOME Investment

1 Partnership Program funds, may be returned to the City to enable the developer to
2 offer market rate housing.

3 a. The request to return funds acquired through Type 2, Type 3, or Type 4
4 qualifying transactions shall be made in writing to the Housing and
5 Revitalization Department.

6 b. The Housing and Revitalization Department shall prepare a
7 recommendation regarding the request for action by City Council.

8 c. The Housing and Revitalization Department's recommendation shall
9 become effective unless it is disapproved by a resolution adopted by a
10 majority of City Council members serving within 30 days after the filing of
11 the recommendation with the City Clerk.

12 d. The City shall provide an Acknowledgement of Expiration or Release of the
13 affordability requirements upon the receipt of the full amount of returned
14 funds.

15 (5) Income verification and confirmation of eligibility criteria shall occur through
16 production of information, including rent rolls, to the Housing and Revitalization
17 Department on an annual basis or upon request. If the income verification
18 demonstrates a tenant's income has increased over the applicable thresholds, it shall
19 be valid through the end of the lease term or for an additional one month if the lease
20 term is expiring for that affordable unit.

21 (6) Where the requirements of this article are not met or maintained, the developer or
22 owner shall be responsible for financial penalties as set forth in Section 22-3-6 of
23 this Code or the underlying tax abatement agreement.

1 (7) Subject to Subsections (2) and (3) of this section, the provisions of the contract or
2 development agreement relating to affordable housing shall run with the land and
3 be binding on all subsequent owners of the residential housing project. The City
4 shall provide an Acknowledgement of Expiration or Release of the affordability
5 requirements upon the occurrence of such event.

6 (c) The affordability requirements, obligations, and penalties shall be set forth in a
7 restrictive covenant or other appropriate document in recordable form, fully executed by the owner
8 of the residential housing project and recorded with the Wayne County Register of Deeds. The
9 City shall provide an Acknowledgement of Expiration or Release of the affordability requirements
10 upon the occurrence of such event.

11 (d) All qualifying transactions which propose the development or rehabilitation of an
12 occupied housing project must submit to the Housing and Revitalization Department for approval
13 a Relocation and Transition Plan which describes how the owner will minimize displacement of
14 existing residents, provided such plan must conform to the guidelines adopted by the Housing and
15 Revitalization Department.

16 **Sec. 22-3-6. Penalties for violation; options to cure.**

17 (a) The Housing and Revitalization Department shall investigate compliance and
18 enforce the provisions of this article for Type 1 through Type 5 qualifying transactions. To reduce
19 the duplication of enforcement efforts, for Type 6 qualifying transactions, the Housing and
20 Revitalization Department shall investigate compliance and enforce the provisions of this article
21 for tax abatements that do not receive federal funding. The Housing and Revitalization
22 Department is responsible for the verification of compliance monitoring for penalty purposes.

23 (b) Unless otherwise set forth in the transactional documents for Types 1 through 6
24 qualifying transactions, the contract or development agreement for the any qualifying transaction

1 shall contain provisions such that, where the requirements of this article are not met or maintained,
2 the developer or owner shall be responsible for the payment to the City of the following penalties,
3 provided that when penalties apply whichever penalty is greater will be imposed:

4 (1) For Type 1 through 5 qualifying transactions as follows:

5 a. Upon the failure to maintain and provide the required ~~level~~ number of
6 dwelling units available for rent or lease at affordable rates, both of the
7 following:

8 i. The excess of actual rent received over the affordable rate that would
9 otherwise apply; and

10 ii. A penalty for each unit not in compliance in the amount not less than
11 25 percent of the affordable monthly rent for each month or part of
12 a month of non-compliance;

13 (2) b. The enforcement costs of the City; and

14 (3) c. Any other sanctions or penalties under applicable laws, rules, or regulations.

15 (2) For Type 6 qualifying transactions as follows:

16 a. Upon the failure to maintain and provide the required number of dwelling
17 units available for rent or lease at affordable rates, an amount equal to the
18 difference for the year of non-compliance between the amount of ad
19 valorem tax otherwise due on the property without the tax abatement
20 certificate and the amount of the specific tax due on the property with the
21 tax abatement certificate, multiplied by a fraction, the numerator of which
22 is shortfall of the number of dwellings units available for rent or lease at
23 affordable rates and the denominator of which is the total number of
24 dwellings units required to be available for rent or lease at affordable rates;

1 b. The enforcement costs of the City; and

2 c. Any other sanctions or penalties under applicable laws, rules or regulations.

3 (c) The ~~penalty~~ penalties described in Subsection ~~(a)(1)(ii)~~ (b) of this section shall be
4 assessed to the developer or owner subject to the following:

5 (1) Prior to the application of the penalty, the owner shall have 60 days from the due
6 date of the annual report to the City of Detroit to cure the noncompliance;

7 (2) Where the owner has failed to cure the non-compliance within 60 days, the penalty
8 shall be assessed from the first day of non-compliance;

9 (3) The 60-day cure period may be extended by the Director of the Housing and
10 Revitalization Department_ for a reasonable specifically-stated period for good
11 cause shown, ~~which shall be stated in the extension document.~~ Examples of good
12 cause include, but are not limited to, situations where the current qualifying tenant's
13 income increases above the applicable Area Median Income thresholds and
14 situations where affordable dwelling units are not currently occupied by qualifying
15 tenants, but the owner is actively marketing the units to qualifying tenants.

16 (d) With the exclusion of enforcement costs under Subsections (b)(1)(b) and (b)(2)(b)
17 of this section, all remaining penalties under this section shall be deposited in the Detroit
18 Affordable Housing Development and Preservation Fund for use consistent with this article.

19 **Sec. 22-3-7. Detroit Affordable Housing Development and Preservation Fund.**

20 (a) The City shall create an appropriation within the Housing and Revitalization
21 Department's budget deemed the Detroit Affordable Housing Development and Preservation Fund
22 for the deposit and expenditure of penalties collected pursuant to this article.

23 (b) The purpose of the Fund is:

24 (1) To foster and promote the purpose and intent of this article;

1 (2) To prioritize the means by which funding for new residential housing projects
2 addresses housing for those with the greatest economic need, being households
3 earning up to 50 percent of the Area Median Income;

4 (3) To increase accessibility to safe, affordable housing for those facing high housing
5 costs;

6 (4) To prioritize permanent housing affordability and sustainability within the City;
7 and

8 (5) To prioritize the preservation of existing affordable housing units.

9 (c) In addition to the deposit of penalties for violations under Section 22-3-6 of this
10 Code, the City's annual budget or an amendment thereto shall contain an appropriation to the Fund.
11 It is expected that the annual appropriation or budget amendment will be not less than 40 percent
12 of the net receipts received by the City of Detroit of all commercial property sales during the
13 previous fiscal year. At the close of the fiscal year on June 30th, the Housing and Revitalization
14 Department shall calculate 40 percent of the actual land sales of the prior year and provide such
15 information to the City Council by August 1st.

16 (d) Unless specifically stated otherwise in the budget closing resolution, funds not
17 expended within such appropriation during a given fiscal year shall remain in such appropriation
18 and carry forward into the subsequent fiscal year to fund future affordable residential housing
19 projects and other eligible activities.

20 (e) Subject to approval of the City Council, the City may also accept and deposit into
21 the Fund or subaccounts of the Fund donations and grants from private or public sources, subject
22 to conditions of such grant, for use in accordance with the purpose of the Fund.

23 (f) Subject to approval of the City Council, the City may also accept and deposit into
24 the Fund or subaccounts of the Fund negotiated settlement agreements as to penalties, for use in

1 accordance with the purpose of the Fund. The Housing and Revitalization Department shall
2 negotiate the proposed settlements.

3 (g) Agreements or contracts for the expenditures from the Fund shall be authorized by
4 the City Council.

5 (h) In addition to the affordability administrative procedures promulgated under
6 Section 22-3-9 of this Code, the Director of the Housing and Revitalization Department shall
7 promulgate and publish on the City's website administrative procedures requiring Fund moneys
8 to be used to support housing opportunities for Detroit residents with income up to 50 percent of
9 the Area Median Income for activities consistent with this article.

10 (1) To the extent possible, not less than 70 percent of Fund moneys shall be allocated
11 to directly benefit households earning up to 30 percent of the Area Median Income;
12 the remaining 30 percent of moneys may be used to benefit households earning up
13 to 50 percent of the Area Median Income. Fund moneys shall not be used to benefit
14 households earning more than 50 percent of the Area Median Income.

15 (2) Not less than 70 percent of Fund moneys shall be allocated in areas that are located
16 in areas of persistent poverty, as identified by the U.S. Census Bureau, and/or are
17 located within Multi-Family Target Areas that are identified by the Housing and
18 Revitalization Department.

19 (3) Eligible activities include, but are not limited to, enforcement of this article,
20 creation and preservation of affordable housing units, compliance with standards
21 for accessible design and other activities under the Americans with Disabilities Act,
22 42 USC 1201 *et seq.*, or similar state laws, administration and disbursement of ~~grant~~
23 funds for ~~home repair~~, homelessness prevention, neighborhood revitalization,

1 activities of a non-profit corporation that develops and stewards affordable housing,
2 and any other activities consistent with this article and applicable law.

3 (4) The Housing and Revitalization Department shall provide the City Council,
4 Planning and Development Department and the Law Department with reasonable
5 opportunity to review and comment on the proposed administrative procedures
6 prior to promulgation under Section 22-3-9 of this Code.

7 (5) City Council may select individuals with expertise in the creation and/or
8 sustainability of affordable housing, or individuals directly ~~impacted~~ affected by or
9 who reside in subsidized housing, to serve in an advisory capacity to City Council
10 as part of its due diligence in considering recommendations from the Housing and
11 Revitalization Department. These individuals may include representatives from a
12 disability rights organization, fair housing experts, developers of extremely low
13 income housing, an organization representing people experiencing homelessness,
14 and/or affordable housing policy experts.

15 **Sec. 22-3-8. Reporting requirements.**

16 (a) The Housing and Revitalization Department shall prepare and submit an annual
17 report to the Mayor and the City Council that includes, at a minimum, the following information:

18 (1) The number of qualifying transactions presented to City Council in the preceding
19 year;

20 a. The number of qualifying transactions approved by City Council; and

21 b. The number of qualifying transactions denied by the City Council;

22 (2) The total number of dwelling units created and the total number of dwelling units
23 that meet the affordability requirements utilizing tax abatements;

24 (3) The status and anticipated timeline of project completion for residential housing

1 projects that receive tax abatements under this article where:

2 a. Construction is not yet started; or

3 b. Construction is ongoing; or

4 c. Construction is complete; or

5 d. Dwelling units are occupied and the affordability requirements have been
6 activated;

7 (4) The level of compliance in maintaining the affordability of dwelling units created
8 in previous years;

9 (5) The number of written notifications issued for noncompliance with this article;

10 (6) The total amount of penalties issued and collected for failure to cure
11 noncompliance;

12 (7) The number and circumstances of each extension granted under Section 22-3-
13 6(c)(3) of this Code; and

14 (8) The list and amounts of itemized expenditures from the Detroit Affordable Housing
15 Development and Preservation Fund.

16 **Sec. 22-3-9. Administration and implementation; promulgation of administrative rules.**

17 (a) In accordance with Section 2-111 of the Charter, the Director of the Housing and
18 Revitalization Department shall promulgate administrative procedures for the implementation,
19 administration, and enforcement of this article.

20 (b) With the assistance of the Department of Innovation and Technology, the Housing
21 and Revitalization Department shall create and maintain an informational website for the
22 registration and identification of affordable housing opportunities across the City.

23 (c) Within 120 days from the effective date of this article, the Housing and
24 Revitalization Department shall promulgate and publish on the City's website administrative

1 procedures for the evaluation and processing of any qualifying transactions and relocation and
2 transition plan guidelines. The Housing and Revitalization Department shall provide the Planning
3 and Development Department and the Law Department with reasonable opportunity to review and
4 comment on the proposed administrative procedures prior to promulgation under this section,
5 provided that the guidelines may be revised and re-published at the discretion of the Housing and
6 Revitalization Department in accordance with this section.

7 (d) The administrative procedures shall include, at minimum, the affordability
8 requirements set forth in Section 22-3-5 of this Code, the method used to determine the Consumer
9 Price Index, the current Area Median Income, the currently applicable affordable housing costs
10 based on the current Area Median Income, and the Fund guidelines described in Section 22-3-7(h)
11 of this Code.

12 (e) Any additional requirements or protocols contained in the administrative
13 procedures shall align with the purpose and intent of this article as set forth in Section 22-3-1 of
14 this Code.

15 (f) With the assistance of the Department of Innovation and Technology, the Housing
16 and Revitalization Department shall update the website as needed, and at minimum to indicate any
17 adjustments due to changes in the Consumer Price Index or the Area Median Income.

18 **Secs. 22-3-10--22-3-20. Reserved.**

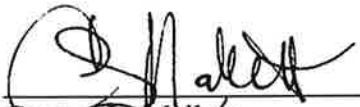
19

Section 2. This ordinance is hereby declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. In the event this ordinance is passed by two-thirds (2/3) majority of City Council Member serving, it shall be given immediate effect and become effective upon publication in accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective on the thirtieth (30) day after enactment in accordance with Section 4-118 of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel

SUMMARY

This ordinance amends Chapter 22 of the 2019 Detroit City Code, *Housing*, by amending Article III, *Inclusionary Housing Requirements*, by amending Section 22-3-2, *Definitions*; Section 22-3-3, *Applicability; exemptions*; Section 22-3-4, *Council approval; waivers and alternate means of compliance*; Section 22-3-5, *Affordability requirements of eligible residential housing developments*; Section 22-3-6, *Penalties for violation; options to cure*; to Section 22-3-7, *Detroit Affordable Housing Development and Preservation Fund*; Section 22-3-8, *Reporting requirements*; and Section 22-3-9, *Administration and implementation; promulgation of administrative rules*; to modify and add definitions; to add exemptions to this Article; to modify the timing and contents of reporting requirements; to expand alternative compliance options and set forth requirements; to modify qualifying transactions and clarify affordability requirements; to modify automatic termination provisions; to modify expiration or release of affordability provisions; to modify income verification provisions; to add provisions to minimize displacement of current residents; to modify enforcement and compliance responsibilities; to modify violations and penalties; to clarify the cure period for noncompliance; to clarify which penalties shall be deposited into the Detroit Affordable Housing Development and Preservation Fund; to add budget amendment and negotiated settlement options; to clarify and expand eligible activities; to modify the departments responsible for promulgating and amending administrative procedures; to modify the departments responsible for the informational website; to establish the department responsible for promulgating relocation and transition plan guidelines; and to update language, delete duplicative or obsolete language, and make other technical revisions.

1 **BY COUNCIL MEMBER _____** :

2 **AN ORDINANCE** to amend Chapter 22 of the 2019 Detroit City Code, *Housing*, by
3 amending Article III, *Inclusionary Housing Requirements*, by amending Section 22-3-2,
4 *Definitions*; Section 22-3-3, *Applicability; exemptions*; Section 22-3-4, *Council approval; waivers*
5 *and alternate means of compliance*; Section 22-3-5, *Affordability requirements of eligible*
6 *residential housing developments*; Section 22-3-6, *Penalties for violation; options to cure*; Section
7 *22-3-7, Detroit Affordable Housing Development and Preservation Fund*; Section 22-3-8,
8 *Reporting requirements*; and Section 22-3-9, *Administration and implementation; promulgation*
9 *of administrative rules*; to modify and add definitions; to add exemptions to this Article; to modify
10 the timing and contents of reporting requirements; to expand alternative compliance options and
11 set forth requirements; to modify qualifying transactions and clarify affordability requirements; to
12 modify automatic termination provisions; to modify expiration or release of affordability
13 provisions; to modify income verification provisions; to add provisions to minimize displacement
14 of current residents; to modify enforcement and compliance responsibilities; to modify violations
15 and penalties; to clarify the cure period for noncompliance; to clarify which penalties shall be
16 deposited into the Detroit Affordable Housing Development and Preservation Fund; to add budget
17 amendment and negotiated settlement options; to clarify and expand eligible activities; to modify
18 the departments responsible for promulgating and amending administrative procedures; to modify
19 the departments responsible for the informational website; to establish the department responsible
20 for promulgating relocation and transition plan guidelines; and to update language, delete
21 duplicative or obsolete language, and make other technical revisions.

1 *Consumer Price Index* means the U.S. Department of Labor Bureau of Labor Statistics
2 Consumer Price Index for all Urban Consumers for the Detroit metropolitan area, or some other
3 comparable index stated in the administrative procedures promulgated by the Director of the
4 Housing and Revitalization Department in accordance with Section 22-3-9 of this Code.

5 *Developer* means the legal or beneficial owner or the representative thereof, of a parcel of
6 land proposed for inclusion in a development, including the holder of an option or contract to
7 purchase who performs the functions necessary to obtain land control and financing to construct
8 or rehabilitate a property and expects to assume the risks and rewards upon completion of the
9 project but does not mean a governmental entity or a commercial lending institution other than a
10 commercial lending institution affiliated with the developer.

11 *Development* means the division of a parcel of land into two or more parcels; the
12 construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any
13 residential buildings, ~~any use or change in use of any buildings or land, any extension of any use~~
14 ~~of land or any clearing, grading, excavation or other movement of land, for which permission may~~
15 ~~be required pursuant to Chapter 50 of this Code, Zoning building.~~

16 *Dwelling* means a building, or portion of a building, for rent or lease, designed for or
17 occupied in whole or in part as the home, residence, or sleeping place of one or more individuals,
18 either continuously, permanently, temporarily, or transiently but does not mean a hotel, motel, bed
19 and breakfast, hostel, short term rental, or other lodging facilities.

20 *Dwelling unit* means a building, or portion of a building, offered or to be offered for rent
21 or lease, ~~designed and used for~~ use for residential occupancy by a single household and that
22 includes exclusive sleeping, cooking, eating and sanitation facilities.

1 *Eligibility criteria* means, with respect to rental housing, at the time of the ~~first~~ rental, or
2 any subsequent lease renewals or extensions, 20 percent of the dwelling units are required to be
3 affordable to households earning up to 80 percent of the Area Median Income.

4 *Fund* means the Detroit Affordable Housing Development and Preservation Fund
5 established under Section 22-3-7 of this Code.

6 Occupied housing project means a residential housing project in which at least one
7 dwelling unit is occupied by a tenant as the tenant's primary residence in exchange for rental
8 income.

9 *Qualifying transaction* means any of the following:

- 10 (1) Type 1 — The sale or transfer of City-owned real property at less than true cash
11 value which is intended to be developed for a residential housing project;
- 12 (2) Type 2 — Direct monetary support from the City of at least \$500,000.00, adjusted
13 annually based on changes in the Consumer Price Index, for a residential housing
14 project;
- 15 (3) Type 3 — ~~Commitment~~ Award of Community Development Block Grant funds of
16 the U.S. Department of Housing and Urban Development controlled by the City of
17 at least \$500,000.00, adjusted annually based on changes in the Consumer Price
18 Index, for a residential housing project;
- 19 (4) Type 4 — ~~Commitment~~ Award of HOME Investment Partnership Program funds
20 of the U.S. Department of Housing and Urban Development controlled by the City
21 of at least \$500,000.00, adjusted annually based on changes in the Consumer Price
22 Index, for a residential housing project; ~~or~~
- 23 (5) Type 5 — ~~Commitment~~ Award of funds of at least \$500,000.00 for a residential
24 housing project, through an as yet unidentified State of Michigan or federal housing

1 development program; or

2 (6) Type 6 — Issuance of a tax abatement certificate for any residential housing project
3 that abates all or a portion of ad valorem property taxes.

4 Rehabilitation means repairs or improvements to a residential structure.

5 *Residential housing project* means one or more buildings that collectively contain at least
6 20 dwelling units offered for lease or rent on one or more tax parcels or lots marketed as a single
7 or unified project or sharing common elements, including, but not limited to, dwelling units for
8 lease or rent within a mixed use development or in a planned development district as set forth in
9 Chapter 50 of this Code, *Zoning* which are offered for rent or lease.

10 *Substitute structure* means a separate structure, or separate structures, that meet the criteria
11 contained in Section 22-3-4(d)(3) of this Code.

12 Tax abatement means the abatement of ad valorem taxes under the Neighborhood
13 Enterprise Zone Act, Public Act 147 of 1992; MCL 207.771, et seq.; the Obsolete Property
14 Rehabilitation Act, Public Act 146 of 2000; MCL 125.2781, et seq.; or the Commercial
15 Rehabilitation Act, Public Act 210 of 2005; MCL 207.841, et seq.

16 Tax abatement certificate means a certificate for a tax abatement issued by the City or
17 approved by the City Council that has the effect of reducing all or a portion of ad valorem property
18 taxes for property within a City Council approved tax abatement district or zone.

19 **Sec. 22-3-3. Applicability; exemptions.**

20 (a) Subject to Subsections (b) and (c) of this section, all qualifying transactions brought
21 before the City Council for approval are subject to the affordability requirements set forth in
22 Section 22-3-5 of this Code.

23 (b) The following facilities are exempt from the requirements of this article:

24 (1) Nursing homes, residential care facilities, and assisted care living facilities;

- 1 (2) Dormitories and group quarters, as defined by the U.S. Bureau of Census; ~~and~~
2 (3) Predominantly transient-occupied lodging such as hotels, motels, hostels, short
3 term rentals and bed and breakfasts; and
4 (4) Owner-occupied cooperative housing projects.

5 (c) The requirements of this article do not supersede requirements or regulations set
6 forth by the U.S. Department of Housing and Urban Development or its agencies, or requirements
7 or regulations set forth by the State of Michigan or its agencies.

8 **Sec. 22-3-4. Council approval; waivers and alternate means of compliance.**

9 (a) Except as provided in this section, the City Council shall not approve any qualifying
10 transaction unless the transaction conforms to this article.

11 (b) All requests for approval of qualifying transactions brought before the City Council
12 shall be accompanied or supplemented by a report from the Housing and Revitalization
13 Department prior to the vote, which establishes finds that the evaluation and processing of the
14 qualifying transaction was performed pursuant to the administrative procedures promulgated under
15 Section 22-3-9 of this Code. All requests for approval of qualifying transactions which propose
16 the development or rehabilitation of an occupied housing project must be certified by the Housing
17 and Revitalization Department in its report to conform to the requirements of Section 22-3-5 of
18 this Code.

19 (c) Where the Housing and Revitalization Department concludes that a waiver under
20 Subsection (d) of this section is justified for a residential housing project, the report to the City
21 Council shall state the grounds for the Department's conclusion and proposed findings for the City
22 Council and be posted on the City's website.

23 (d) Notwithstanding the provisions of Subsection (a) of this section, if the developer or
24 owner ~~have~~ has previously agreed to provide affordable housing subject to ~~an~~ a written agreement

1 approved by the City Council or affordable housing is included in and the developer or owner is
2 in compliance with the affordability requirements in a Community Benefits Provision under
3 Chapter 12, Community Development, Article VIII, Community Benefits, ~~it~~ that qualifying
4 transaction or rental housing shall be deemed consistent with this waiver provision exempt from
5 this Article. Upon request of the Director of the Housing and Revitalization Department, the City
6 Council may also approve a qualifying transaction that does not conform to this article, where City
7 Council finds and declares in the authorizing resolution that:

8 (1) The application of the affordability requirements set forth in Section 22-3-5 of this
9 Code would produce a result inconsistent with the purpose and intent of this article
10 as set forth in Section 22-3-1 of this Code; or

11 (2) The application of the affordability requirements of this article would have a
12 significant negative ~~impact~~ effect on the ~~economies~~ of the residential housing
13 project ~~thus~~ rendering the project economically or financially unviable; or

14 (3) All substitute structures will be either within a comparable neighborhood to that of
15 the residential housing project, with comparable access to employment centers,
16 transportation, and other quality of life indicators, or are no more than one-quarter
17 mile away from the residential housing project; or

18 (4) The developer ~~or owner~~ provides satisfactory assurance that the affordability
19 requirements applicable to the ~~structure(s) comprising the~~ residential housing
20 project are satisfied by the provision of affordable dwelling units in one or more
21 substitute structures, as defined in Section 22-3-2 of this Code, where all of the
22 following criteria are satisfied:

1 a. All structures ~~are to~~ will be developed and placed into service within a 24-
2 month period from the completion of the first structure comprising the
3 residential housing project;

4 ~~b. All substitute structures are either within a comparable neighborhood to that~~
5 ~~of the residential housing project, with comparable access to employment~~
6 ~~centers, transportation, and other quality of life indicators, or are no more~~
7 ~~than one quarter mile away from the residential housing project; and~~

8 b. The affordability requirements including the substitute structures are will
9 be satisfied for the residential housing project as a whole within the 24-
10 month development period, which is calculated from the completion of the
11 first structure comprising the residential housing project. The developer
12 shall notify, in writing, the ~~Director~~ Directors of the Housing and
13 Revitalization Department and the City Council of delays in meeting this
14 timeframe. This notification shall include the reason for such delay(s) and
15 the anticipated completion date; and,

16 c. The application of the affordability requirements of this article would have
17 a significant negative impact on or functions to displace current residents of
18 substantially occupied buildings of the residential housing project.

19 (e) The requirements of this article applicable to a residential housing project under or
20 after development may be waived or modified in accordance with Subsections (c) and (d) of this
21 section.

22 **Sec. 22-3-5. Affordability requirements of eligible residential housing developments.**

23 (a) All qualifying transactions shall be made pursuant to a contract or development
24 agreement between the City and the developer.

- 1 (b) The agreement shall ~~at minimum~~ include the following provisions:
- 2 (1) Applicable affordability requirements:
- 3 a. For Type 1 and Type 2 ~~Qualifying Transaactions~~ qualifying transactions at
- 4 least 20 percent of the dwelling units for rent or lease as part of the
- 5 residential housing project shall be affordable and provided to households
- 6 earning up to 80 percent of the Area Median Income. Where the product
- 7 includes a fraction, a fraction of 0.5 or greater shall be rounded up to the
- 8 next higher whole number and a fraction less than 0.5 shall be rounded
- 9 down to the next lower whole number;
- 10 b. For Type 3 and Type 4 ~~Qualifying Transaactions~~ qualifying transactions at
- 11 least 15 percent of the dwelling units for rent or lease as part of the
- 12 residential housing project shall be affordable and provided to households
- 13 earning up to 60 percent of the Area Median Income, and at least five
- 14 percent of the dwelling units for rent or lease as part of the residential
- 15 housing project are to be affordable and provided to households earning up
- 16 to 50 percent of the Area Median Income. Where the product includes a
- 17 fraction, a fraction of 0.5 or greater shall be rounded up to the next higher
- 18 whole number and a fraction less than 0.5 shall be rounded down to the next
- 19 lower whole number. Residential Housing Projects meeting the definition
- 20 of a ~~Type 1 or Type 2 Qualifying Transaactions~~ and a Type 3 or Type 4
- 21 ~~Qualifying Transaactions~~ qualifying transaction are subject to this subpart;
- 22 ~~and~~

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c. For Type 5 ~~Qualifying Transactions~~ qualifying transactions the affordability requirements shall follow the criteria set forth by the applicable state or federal regulations of the relevant funding program; and

d. For Type 6 qualifying transactions at least 20 percent of the dwelling units for rent or lease as part of the residential housing project shall be affordable and provided to households earning up to 80 percent of the Area Median Income. Where the product includes a fraction, a fraction of 0.5 or greater shall be rounded up to the next higher whole number and a fraction less than 0.5 shall be rounded down to the next lower whole number.

(2) ~~The affordable dwelling units shall remain affordable~~ Applicable affordability restrictions:

a. For Type 1 through Type 5 qualifying transactions, for at least 30 years after the time of the issuance of the certificate of occupancy or certificate of acceptance, as applicable, for that unit, or after the first day of the initial lease where no such certificate is issued; and

b. For Type 6 qualifying transactions, at least the number of years of the tax abatement certificate approved by the City Council and the State Tax Commission.

(3) The affordability requirement shall automatically terminate if the property is taken by eminent domain, foreclosed by a bona fide lender, or a deed in lieu of foreclosure is given to a bona fide lender. Upon request after the termination of the affordability requirement, the Housing and Revitalization Department shall issue a release of the affordability requirement in recordable form.

1 (4) At the sole discretion of the City, for Type 2, Type 3 and Type 4 qualifying
2 transactions of non-occupied developments only, the direct monetary support or
3 award of Community Development Block grant funds or HOME Investment
4 Partnership Program funds, may be returned to the City to enable the developer to
5 offer market rate housing.

6 a. The request to return funds acquired through Type 2, Type 3, or Type 4
7 qualifying transactions shall be made in writing to the Housing and
8 Revitalization Department.

9 b. The Housing and Revitalization Department shall prepare a
10 recommendation regarding the request for action by City Council.

11 c. The Housing and Revitalization Department's recommendation shall
12 become effective unless it is disapproved by a resolution adopted by a
13 majority of City Council members serving within 30 days after the filing of
14 the recommendation with the City Clerk.

15 d. The City shall provide an Acknowledgement of Expiration or Release of the
16 affordability requirements upon the receipt of the full amount of returned
17 funds.

18 (5) Income verification and confirmation of eligibility criteria shall occur through
19 production of information, including rent rolls, to the Housing and Revitalization
20 Department on an annual basis or upon request. If the income verification
21 demonstrates a tenant's income has increased over the applicable thresholds, it shall
22 be valid through the end of the lease term or for an additional one month if the lease
23 term is expiring for that affordable unit.

1 (6) Where the requirements of this article are not met or maintained, the developer or
2 owner shall be responsible for financial penalties as set forth in Section 22-3-6 of
3 this Code or the underlying tax abatement agreement.

4 (7) Subject to Subsections (2) and (3) of this section, the provisions of the contract or
5 development agreement relating to affordable housing shall run with the land and
6 be binding on all subsequent owners of the residential housing project. The City
7 shall provide an Acknowledgement of Expiration or Release of the affordability
8 requirements upon the occurrence of such event.

9 (c) The affordability requirements, obligations, and penalties shall be set forth in a
10 restrictive covenant or other appropriate document in recordable form, fully executed by the owner
11 of the residential housing project and recorded with the Wayne County Register of Deeds. The
12 City shall provide an Acknowledgement of Expiration or Release of the affordability requirements
13 upon the occurrence of such event.

14 (d) All qualifying transactions which propose the development or rehabilitation of an
15 occupied housing project must submit to the Housing and Revitalization Department for approval
16 a Relocation and Transition Plan which describes how the owner will minimize displacement of
17 existing residents, provided such plan must conform to the guidelines adopted by the Housing and
18 Revitalization Department.

19 **Sec. 22-3-6. Penalties for violation; options to cure.**

20 (a) The Housing and Revitalization Department shall investigate compliance and
21 enforce the provisions of this article for Type 1 through Type 5 qualifying transactions. To reduce
22 the duplication of enforcement efforts, for Type 6 qualifying transactions, the Housing and
23 Revitalization Department shall investigate compliance and enforce the provisions of this article

1 for tax abatements that do not receive federal funding. The Housing and Revitalization
2 Department is responsible for the verification of compliance monitoring for penalty purposes.

3 (b) Unless otherwise set forth in the transactional documents for Types 1 through 6
4 qualifying transactions, the contract or development agreement for the any qualifying transaction
5 shall contain provisions such that, where the requirements of this article are not met or maintained,
6 the developer or owner shall be responsible for the payment to the City of the following penalties,
7 provided that when penalties apply whichever penalty is greater will be imposed:

8 (1) For Type 1 through 5 qualifying transactions as follows:

9 a. Upon the failure to maintain and provide the required level number of
10 dwelling units available for rent or lease at affordable rates, both of the
11 following:

12 i. The excess of actual rent received over the affordable rate that would
13 otherwise apply; and

14 ii. A penalty for each unit not in compliance in the amount not less than
15 25 percent of the affordable monthly rent for each month or part of
16 a month of non-compliance;

17 ~~(2)~~ b. The enforcement costs of the City; and

18 ~~(3)~~ c. Any other sanctions or penalties under applicable laws, rules, or regulations.

19 (2) For Type 6 qualifying transactions as follows:

20 a. Upon the failure to maintain and provide the required number of dwelling
21 units available for rent or lease at affordable rates, an amount equal to the
22 difference for the year of non-compliance between the amount of ad
23 valorem tax otherwise due on the property without the tax abatement
24 certificate and the amount of the specific tax due on the property with the

1 tax abatement certificate, multiplied by a fraction, the numerator of which
2 is shortfall of the number of dwellings units available for rent or lease at
3 affordable rates and the denominator of which is the total number of
4 dwellings units required to be available for rent or lease at affordable rates;

5 b. The enforcement costs of the City; and

6 c. Any other sanctions or penalties under applicable laws, rules or regulations.

7 (c) The ~~penalty~~ penalties described in Subsection ~~(a)(1)(ii)~~ (b) of this section shall be
8 assessed to the developer or owner subject to the following:

9 (1) Prior to the application of the penalty, the owner shall have 60 days from the due
10 date of the annual report to the City of Detroit to cure the noncompliance;

11 (2) Where the owner has failed to cure the non-compliance within 60 days, the penalty
12 shall be assessed from the first day of non-compliance;

13 (3) The 60-day cure period may be extended by the Director of the Housing and
14 Revitalization Department_ for a reasonable specifically-stated period for good
15 cause shown, ~~which shall be stated in the extension document.~~ Examples of good
16 cause include, but are not limited to, situations where the current qualifying tenant's
17 income increases above the applicable Area Median Income thresholds and
18 situations where affordable dwelling units are not currently occupied by qualifying
19 tenants, but the owner is actively marketing the units to qualifying tenants.

20 (d) With the exclusion of enforcement costs under Subsections (b)(1)(b) and (b)(2)(b)
21 of this section, all remaining penalties under this section shall be deposited in the Detroit
22 Affordable Housing Development and Preservation Fund for use consistent with this article.

23 **Sec. 22-3-7. Detroit Affordable Housing Development and Preservation Fund.**

1 (a) The City shall create an appropriation within the Housing and Revitalization
2 Department's budget deemed the Detroit Affordable Housing Development and Preservation Fund
3 for the deposit and expenditure of penalties collected pursuant to this article.

4 (b) The purpose of the Fund is:

5 (1) To foster and promote the purpose and intent of this article;

6 (2) To prioritize the means by which funding for new residential housing projects
7 addresses housing for those with the greatest economic need, being households
8 earning up to 50 percent of the Area Median Income;

9 (3) To increase accessibility to safe, affordable housing for those facing high housing
10 costs;

11 (4) To prioritize permanent housing affordability and sustainability within the City;
12 and

13 (5) To prioritize the preservation of existing affordable housing units.

14 (c) In addition to the deposit of penalties for violations under Section 22-3-6 of this
15 Code, the City's annual budget or an amendment thereto shall contain an appropriation to the Fund.

16 It is expected that the annual appropriation or budget amendment will be not less than 40 percent
17 of the net receipts received by the City of Detroit of all commercial property sales during the
18 previous fiscal year. At the close of the fiscal year on June 30th, the Housing and Revitalization
19 Department shall calculate 40 percent of the actual land sales of the prior year and provide such
20 information to the City Council by August 1st.

21 (d) Unless specifically stated otherwise in the budget closing resolution, funds not
22 expended within such appropriation during a given fiscal year shall remain in such appropriation
23 and carry forward into the subsequent fiscal year to fund future affordable residential housing
24 projects and other eligible activities.

1 (e) Subject to approval of the City Council, the City may also accept and deposit into
2 the Fund or subaccounts of the Fund donations and grants from private or public sources, subject
3 to conditions of such grant, for use in accordance with the purpose of the Fund.

4 (f) Subject to approval of the City Council, the City may also accept and deposit into
5 the Fund or subaccounts of the Fund negotiated settlement agreements as to penalties, for use in
6 accordance with the purpose of the Fund. The Housing and Revitalization Department shall
7 negotiate the proposed settlements.

8 (g) Agreements or contracts for the expenditures from the Fund shall be authorized by
9 the City Council.

10 (h) In addition to the affordability administrative procedures promulgated under
11 Section 22-3-9 of this Code, the Director of the Housing and Revitalization Department shall
12 promulgate and publish on the City's website administrative procedures requiring Fund moneys
13 to be used to support housing opportunities for Detroit residents with income up to 50 percent of
14 the Area Median Income for activities consistent with this article.

15 (1) To the extent possible, not less than 70 percent of Fund moneys shall be allocated
16 to directly benefit households earning up to 30 percent of the Area Median Income;
17 the remaining 30 percent of moneys may be used to benefit households earning up
18 to 50 percent of the Area Median Income. Fund moneys shall not be used to benefit
19 households earning more than 50 percent of the Area Median Income.

20 (2) Not less than 70 percent of Fund moneys shall be allocated in areas that are located
21 in areas of persistent poverty, as identified by the U.S. Census Bureau, and/or are
22 located within Multi-Family Target Areas that are identified by the Housing and
23 Revitalization Department.

1 (3) Eligible activities include, but are not limited to, enforcement of this article,
2 creation and preservation of affordable housing units, compliance with standards
3 for accessible design and other activities under the Americans with Disabilities Act,
4 42 USC 1201 *et seq.*, or similar state laws, administration and disbursement of ~~grant~~
5 funds for ~~home repair~~, homelessness prevention, neighborhood revitalization,
6 activities of a non-profit corporation that develops and stewards affordable housing,
7 and any other activities consistent with this article and applicable law.

8 (4) The Housing and Revitalization Department shall provide the City Council,
9 Planning and Development Department and the Law Department with reasonable
10 opportunity to review and comment on the proposed administrative procedures
11 prior to promulgation under Section 22-3-9 of this Code.

12 (5) City Council may select individuals with expertise in the creation and/or
13 sustainability of affordable housing, or individuals directly ~~impacted~~ affected by or
14 who reside in subsidized housing, to serve in an advisory capacity to City Council
15 as part of its due diligence in considering recommendations from the Housing and
16 Revitalization Department. These individuals may include representatives from a
17 disability rights organization, fair housing experts, developers of extremely low
18 income housing, an organization representing people experiencing homelessness,
19 and/or affordable housing policy experts.

20 **Sec. 22-3-8. Reporting requirements.**

21 (a) The Housing and Revitalization Department shall prepare and submit an annual
22 report to the Mayor and the City Council that includes, at a minimum, the following information:

23 (1) The number of qualifying transactions presented to City Council in the preceding
24 year;

- 1 a. The number of qualifying transactions approved by City Council; and
- 2 b. The number of qualifying transactions denied by the City Council;
- 3 (2) The total number of dwelling units created and the total number of dwelling units
- 4 that meet the affordability requirements utilizing tax abatements;
- 5 (3) The status and anticipated timeline of project completion for residential housing
- 6 projects that receive tax abatements under this article where:
- 7 a. Construction is not yet started; or
- 8 b. Construction is ongoing; or
- 9 c. Construction is complete; or
- 10 d. Dwelling units are occupied and the affordability requirements have been
- 11 activated;
- 12 (4) The level of compliance in maintaining the affordability of dwelling units created
- 13 in previous years;
- 14 (5) The number of written notifications issued for noncompliance with this article;
- 15 (6) The total amount of penalties issued and collected for failure to cure
- 16 noncompliance;
- 17 (7) The number and circumstances of each extension granted under Section 22-3-
- 18 6(c)(3) of this Code; and
- 19 (8) The list and amounts of itemized expenditures from the Detroit Affordable Housing
- 20 Development and Preservation Fund.

21 **Sec. 22-3-9. Administration and implementation; promulgation of administrative rules.**

- 22 (a) In accordance with Section 2-111 of the Charter, the Director of the Housing and
- 23 Revitalization Department shall promulgate administrative procedures for the implementation,
- 24 administration, and enforcement of this article.

1 (b) With the assistance of the Department of Innovation and Technology, the Housing
2 and Revitalization Department shall create and maintain an informational website for the
3 registration and identification of affordable housing opportunities across the City.

4 (c) Within 120 days from the effective date of this article, the Housing and
5 Revitalization Department shall promulgate and publish on the City's website administrative
6 procedures for the evaluation and processing of any qualifying transactions and relocation and
7 transition plan guidelines. The Housing and Revitalization Department shall provide the Planning
8 and Development Department and the Law Department with reasonable opportunity to review and
9 comment on the proposed administrative procedures prior to promulgation under this section,
10 provided that the guidelines may be revised and re-published at the discretion of the Housing and
11 Revitalization Department in accordance with this section.

12 (d) The administrative procedures shall include, at minimum, the affordability
13 requirements set forth in Section 22-3-5 of this Code, the method used to determine the Consumer
14 Price Index, the current Area Median Income, the currently applicable affordable housing costs
15 based on the current Area Median Income, and the Fund guidelines described in Section 22-3-7(h)
16 of this Code.

17 (e) Any additional requirements or protocols contained in the administrative
18 procedures shall align with the purpose and intent of this article as set forth in Section 22-3-1 of
19 this Code.

20 (f) With the assistance of the Department of Innovation and Technology, the Housing
21 and Revitalization Department shall update the website as needed, and at minimum to indicate any
22 adjustments due to changes in the Consumer Price Index or the Area Median Income.

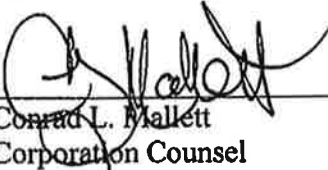
23 **Secs. 22-3-10--22-3-20. Reserved.**

Section 2. This ordinance is hereby declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. In the event this ordinance is passed by two-thirds (2/3) majority of City Council Member serving, it shall be given immediate effect and become effective upon publication in accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective on the thirtieth (30) day after enactment in accordance with Section 4-118 of the 2012 Detroit City Charter.

Approved as to form:



Conrad L. Mallett
Corporation Counsel