

SUMMARY

This ordinance amends Chapter 22, of the 2018 Detroit City Code, *Housing*, by adding Article VIII, *Right to Counsel in Eviction Proceedings*, which consists of Section 22-8-1, *Purpose*, Section 22-8-2, *Legislative findings*, Section 22-8-3, *Definitions*, Section 22-8-4, *Provision of legal representation*, Section 22-8-5, *Reporting*, Section 22-8-6, *Community meeting required*, Section 22-8-7, *Director of Housing Revitalization and Development to promulgate administrative rules*, Section 22-8-8, *Funding*, and Section 22-8-9, *No private right of action, debt, or obligation created*, to provide counsel for qualified low-income occupants in residential eviction cases in 36th District Court and in housing-related administrative proceedings which threaten occupancy; and to provide for such representation by organizations with expertise to provide such legal services with funding from the City.

1 **BY COUNCIL PRESIDENT SHEFFIELD:**

2 **AN ORDINANCE** to amend Chapter 22, of the 2018 Detroit City Code, *Housing*, by
3 adding Article VIII, *Right to Counsel in Eviction Proceedings*, which consists of Section 22-8-1,
4 *Purpose*, Section 22-8-2, *Legislative findings*, Section 22-8-3, *Definitions*, Section 22-8-4,
5 *Provision of legal representation*, Section 22-8-5, *Reporting*, Section 22-8-6, *Community meeting*
6 *required*, Section 22-8-7, *Director of Housing Revitalization and Development to promulgate*
7 *administrative rules*, Section 22-8-8, *Funding*, and Section 22-8-9, *No private right of action, debt,*
8 *or obligation created*, to provide counsel for qualified low-income occupants in residential
9 eviction cases in 36th District Court and in housing-related administrative proceedings which
10 threaten occupancy; and to provide for such representation by organizations with expertise to
11 provide such legal services with funding from the City.

12 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**
13 **THAT:**

14 **Section 1.** Chapter 22 of the 2018 Detroit City Code, *Housing*, is amended by adding
15 Article VIII, *Right to Counsel in Eviction Proceedings*, consisting of Sections 22-8-1 through 22-
16 8-9, to read as follows:

17 **CHAPTER 22. HOUSING**

18 **ARTICLE VII. RIGHT TO COUNSEL IN EVICTION PROCEEDINGS**

19 **Sec. 22-8-1. Purpose.**

20 Recognizing that providing a right to counsel to covered individuals serves a public
21 purpose including promoting the public health, safety, general welfare, security, prosperity, and
22 contentment of all inhabitants of the City of Detroit, all covered individuals who face eviction
23 proceedings in 36th District Court or in housing-related administrative proceedings which threaten

1 the occupancy of their homes, shall be afforded a right to legal representation by counsel in all
2 such proceedings as provided by this article.

3 **Sec. 22-8-2. Legislative findings.**

4 The Council finds that:

5 (1) Prior to 2020, there were more than 30,000 eviction filings on properties located in
6 the City of Detroit in the 36th District Court, one of the largest dockets in the nation.

7 The 2020 census reports indicates that there are 87,000 rental structures in the City,
8 of these, the Buildings & Safety Engineering Department estimates that fewer than
9 20% are code compliant;

10 (2) An estimated 11,000 homes in the City with federally insured mortgages were bank
11 foreclosed prior to the federal moratoria and are listed for sale in the 2022 HUD
12 inventory;

13 (3) There were more than 50,000 properties on the Wayne County Treasurer's 2021
14 petition for tax foreclosure in 2022, 85-90% of which are located in the City;

15 (4) There is an estimated economic value lost by the City due to out-migration related
16 to evictions of at least \$28.7 million;

17 (5) It is estimated that the City will experience social safety net cost savings of
18 approximately \$18 million by providing legal representation to residents facing
19 eviction. Between 2014-2019, it has cost an estimated \$34 million in public funds
20 to demolish blighted homes purchased by speculators out of the tax foreclosure
21 auction; and

22 (6) Providing the right to counsel in any proceeding that threatens the occupancy of the
23 occupant ameliorates the threat of economic impact and to public safety not only

1 for the individual so represented but for the entire City. Detroit receives an
2 estimated \$3,751 annually per resident in non-reimbursable federal funding, which
3 it is at risk of losing if a resident is evicted and migrates out of the City. Detroit
4 receives in federal funding more than three times the cost of providing legal
5 representation for a resident facing eviction.

6 **Sec. 22-8-3. Definitions.**

7 For the purpose of this article, the following words and phrases shall have the meanings
8 respectively ascribed to them by this section:

9 *Coordinator* means the Coordinator of the “Office of Eviction Defense”, who shall be
10 assigned to the Housing and Revitalization Department.

11 *Covered individual* means a resident of the City whose annual gross household income
12 does not exceed two hundred percent of the federal poverty guidelines as updated periodically in
13 the federal register by the United States Department of Health and Human Services pursuant to
14 subsection (2) of section 9902 of title 42 of the United States code and is a defendant or respondent
15 in a covered proceeding.

16 *Covered proceeding* means:

17 (1) Any summary proceeding commenced in the 36th District Court to recover
18 possession from an occupant of any residential property or any administrative
19 proceeding which threatens the occupancy of an occupant, including, but not
20 limited to, eviction proceedings, mortgage foreclosures, property tax foreclosures,
21 land forfeiture proceedings, and threats to rent subsidies;

22 (2) Any post-judgment process or appeal of such a proceeding in the discretion of the
23 designated organization; and

1 (3) Any action to recover possession from an occupant illegally evicted as a result of
2 self help remedies.

3 *Designated organization* means a competitively procured not-for-profit organization or an
4 entity that has the capacity to provide legal services per the standards set by the American Bar
5 Association Standards for the Provision of Civil Legal Aid to covered individuals, and has
6 demonstrated experience, competency, and community-based partnerships in providing full legal
7 representation and conducting community outreach to indigent persons facing eviction in the 36th
8 District Court.

9 Eviction means a covered proceeding whereby a Plaintiff seeks a court judgment granting
10 possession or title to the Plaintiff.

11 Full legal representation means ongoing legal representation provided by a designated
12 organization to a covered individual and includes all legal advice, advocacy, court appearances,
13 and assistance with such representation. It also includes appeals to the Circuit Court or any other
14 court in the discretion of the designated organization providing the representation.

15 **Sec. 22-8-4. Provision of legal representation.**

16 (a) The program and all services provided under this section are subject to Section 22-
17 8-8 of this Code.

18 (b) The Coordinator shall establish a program no later than October 1, 2022, to provide full legal
19 representation in accordance with this article and conduct outreach to covered individuals who
20 appear in covered proceedings. All covered individuals shall receive full legal representation in
21 accordance with this article no later than their first scheduled appearance in a covered proceeding,
22 or as soon thereafter as is practicable and as scheduled by the Court.

1 If the projected demand for legal services exceeds the available funds, the Coordinator shall prioritize
2 the provision of full legal representation by financial need, the merits of the case, and
3 recommendations jointly developed in partnership with designated organizations.

4 (c) The Coordinator shall establish a budget for the program annually to allocate the
5 funds available for the program for the fiscal year. The budget shall be for a period that is
6 coterminous with the City's fiscal year and includes the cost of administering the program. The
7 Coordinator shall use the most recent eviction case filings reported by the 36th District Court to
8 establish the budget. Prior to the commencement of the program, and no later than July 30th of
9 each fiscal year commencing in 2023 and thereafter, the Coordinator shall publish the budget and
10 a summary of any subsequent changes to the budget on the City of Detroit's website.

11 (d) Any legal services performed by a designated organization pursuant to this article
12 shall not supplant, replace, or satisfy any obligations or responsibilities of such designated
13 organization pursuant to any other program, agreement, or contract.

14 (e) The lawyers providing such counsel shall be licensed in the State of Michigan with
15 experience and competency to provide such legal representation, and the designated organizations
16 shall be funded by the City of Detroit pursuant to this article.

17 **Sec. 22-8-5. Reporting.**

18 (a) No later than January 31, 2024 and thereafter annually by January 31 of each
19 succeeding year, the Coordinator shall submit to the Mayor and the City Council, and post online
20 on the City's website, a review of the program and information regarding its implementation, to
21 the extent such information is available, including, but not limited to:

22 (1) The estimated number of covered individuals and the total number of covered
23 individuals served by the program;

- 1 (2) The number of covered individuals receiving full legal representation,
2 disaggregated by the following characteristics:
- 3 a. Neighborhood and postal code of residence;
4 b. Age of head of household;
5 c. Household size;
6 d. Estimated length of residency at the address;
7 e. Approximate household income;
8 f. Receipt of any public assistance at the time such legal services were
9 initiated;
10 g. Racial demographic;
11 h. Whether a rental unit was rent-assisted or subsidized; and
12 i. Types of cases filed in 36th District Court and number of each type of case.
- 13 (3) The racial demographic of the plaintiffs in covered proceedings if known,
14 notwithstanding the fact that plaintiffs shall not receive legal services under the
15 provisions of this article. The corporate designation shall be recorded in lieu of the
16 racial demographic if the plaintiff is not an individual.
- 17 (4) Outcomes immediately following the provision of full legal representation, as
18 applicable and available, including, but not limited to, the number of:
- 19 a. Case dispositions allowing occupants to retain possession;
20 b. Case dispositions requiring occupants to vacate the premises in dispute in
21 any period longer than the statutory minimum;
22 c. Case dispositions with a signed Order of Eviction;
23 d. Case dispositions where an Order of Eviction was bailiff-executed;

- 1 e. Instances where the attorney providing full legal representation was
2 discharged or withdrew;
- 3 f. Whether homeownership was retained or created for homeowner occupancy
4 cases;
- 5 g. Whether the amount of rent a covered individual was ordered to pay was
6 reduced from the plaintiff's demand at the time of trial or final hearing;
- 7 h. Whether repairs were ordered in the judgment or obtained through
8 agreement of the parties;
- 9 i. Whether the judgment contained a settlement agreement to dismiss the case,
10 or if there was a conditional dismissal entered by the court;
- 11 j. Whether the covered individual's subsidy was retained in matters involving
12 subsidized housing;
- 13 k. dispositions requiring payments of rent arrears in money judgments;
- 14 l. dispositions where payment arrangements were reached;
- 15 m. number of covered proceedings for properties without occupancy permits;
16 and
- 17 n. number of rental proceedings for properties without rental registrations.

18 **Sec. 22-8-6. Community meeting required.**

19 (a) Following the establishment of the programs described by Section 22-8-4 of this
20 Code, the Coordinator shall hold one community meeting each year to receive recommendations
21 and feedback about such programs.

1 (b) Such meeting may be in-person, virtual, or a hybrid of in-person and virtual meeting
2 and shall be open to the public. The Coordinator shall provide notice of such meeting, no less than
3 30 days before such meeting, by:

4 (1) Posting at the 36th District Court in English, Spanish, and Arabic;

5 (2) Posting in public areas in the Coleman A. Young Municipal Center designated for
6 posting official notices in English, Spanish, and Arabic;

7 (3) Outreach through local media to the general public; and

8 (4) Posting to each designated organization, the offices of the Mayor and City Council
9 Members, the Chief Judge of 36th District Court, and Chief Judge of the Real Estate
10 Division of the 36th District Court, and community-based housing organizations
11 funded by the City of Detroit.

12 (c) The community meeting shall provide for discussion, dialogue, or comment among
13 participants at which members of the public are able to provide public comment.

14 (d) The Coordinator shall cause a record of such meeting to be produced and shall post
15 such record online no later than 45 days after the community meeting.

16 **Sec. 22-8-7. Director of Housing Revitalization and Development to promulgate**
17 **administrative rules.**

18 In accordance with Section 2-111 of the Charter, the Director of Housing Revitalization
19 and Development is required to promulgate procedural administrative rules for carrying into
20 effect the provisions of this article.

21 **Sec. 22-8-8. Funding.**

22 (a) The program and all services provided under this Article are subject to appropriation
23 by City Council.

1 (b) The City is authorized, subject to approval and appropriation by City Council, to only
2 utilize county, state, or federal funds, including funds provided under the American Rescue Plan
3 Act, Public Act 117-2, and private funds to establish and fully implement the program through
4 December 31, 2026. After such date, the City is authorized, subject to approval and appropriation by
5 City Council, to utilize any funds as permitted by law.

6 **Sec. 22-8-9. No private right of action, debt, or obligation created.**

7 (a) Nothing in this Article or the administration or application thereof shall be construed
8 to create a private right of action on the part of any person or entity against the City or
9 any agency, official, or employee thereof.

10 (b) Nothing in this Article or the application thereof shall be construed to create a debt or
11 obligation of the City to any covered individual.

12 (c) Nothing in this Article or the application thereof shall be construed to create a debt or
13 obligation of the City, other than a contractual debt or obligation, to any designated
14 organization.

15 **Secs. 22-8-10 –22-8-20. Reserved.**

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

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

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

- 1 shall become effective on the thirtieth (30) day after enactment, or on the first business day
- 2 thereafter, in accordance with Section 4-118 of the 2012 Detroit City Charter.

Approved as to form:

Charles N. Raimi
Deputy Corporation Counsel