

S U M M A R Y

This ordinance amends Chapter 22, of the 2019 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 2019 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 2019 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 as provided by this
21 article serves a public purpose including promoting the public health, safety, general welfare,
22 security, prosperity, and contentment of all inhabitants of the City of Detroit, all covered
23 individuals who face eviction proceedings in 36th District Court or in housing-related

1 administrative proceedings which threaten the occupancy of their homes, shall be afforded a right
2 to legal representation by counsel in all 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, subject to
10 Section 7-102 of the City Charter, shall be assigned to the Housing and Revitalization Department
11 or otherwise, as the administration directs.

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

17 *Covered proceeding* means:

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

23 (2) Any post-judgment process or appeal of such a proceeding; 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
4 other entity that has the capacity to provide legal services per the standards set by the American
5 Bar Association Standards for the Provision of Civil Legal Aid to covered individuals.

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

8 Full legal representation means ongoing legal representation provided by a designated
9 organization to a covered individual and includes all legal advice, advocacy, court appearances,
10 and assistance with such representation. It also includes appeals to the Circuit Court or any other
11 court.

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

13 (a) The program and all services provided under this section are subject to Section 22-
14 8-8 of this Code.

15 (b) The Coordinator shall establish a program no later than October 1, 2022, to provide
16 full legal representation in accordance with this article and conduct outreach to covered individuals
17 who appear in covered proceedings. All covered individuals shall receive full legal representation
18 in accordance with this article no later than their first scheduled appearance in a covered
19 proceeding, or as soon thereafter as is practicable and as scheduled by the Court. If the projected
20 demand for legal services exceeds the available funds, the Coordinator shall prioritize the provision
21 of full legal representation, including but not limited to decisions as to appeals, by financial need,
22 the merits of the case, and recommendations jointly developed in partnership with designated
23 organizations.

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

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

11 (e) The lawyers providing such counsel shall be licensed in the State of Michigan with
12 experience and competency to provide such legal representation, and the designated organizations
13 shall be funded by the City of Detroit pursuant to this article. In competitively procuring
14 designated organizations, the Coordinator shall consider an organization’s experience and
15 competency in providing full legal representation to covered individuals.

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

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

21 (1) The estimated number of covered individuals and the total number of covered
22 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, or the Director of any department where the Office of Eviction Defense is**
20 **placed by the Administration, is required to promulgate procedural administrative rules for**
21 **carrying into effect the provisions of this article.**

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

23 **(a) The program and all services provided under this Article are subject to**

1 appropriation by City Council.

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

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

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

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

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

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

16 **Section 2.** This ordinance is hereby declared necessary to preserve the public peace, health,
17 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 Council
21 Members serving, it shall be given immediate effect and become effective upon publication in
22 accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed
23 by less than a two-thirds (2/3) majority of City Council Members serving, it shall become effective

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

Approved as to form:



Charles N. Raimi
Interim Corporation Counsel