



LAW DEPARTMENT

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October 28, 2022

Detroit City Council
1340 Coleman A. Young
Municipal Center
Detroit, Michigan

Re: Ordinance to Provide for Greater Inclusionary Housing Contracting Transparency

Honorable City Council:

Council Member Waters has requested that the Law Department prepare an ordinance to amend Chapter 22 of the 2019 Detroit City Code, *Housing*, Article III, *Inclusionary Housing Requirements*, by amending, Section 22-3-2, *Definitions*, and adding, Section 22-3-10, *American Rescue Plan Act and Coronavirus Aid, Relief and Economic Security Act fund recipient requirements*. A copy of the ordinance which has been approved as to form is attached for your review and consideration.

We are available to answer any questions that you may have concerning this proposed ordinance.

Respectfully submitted,

Adam G. Saxby
Assistant Corporation Counsel

Enclosure

cc: Gail Fulton, City Council Liaison

SUMMARY

This ordinance amends Chapter 22 of the 2019 Detroit City Code, *Housing*, Article III, *Inclusionary Housing Requirements*, by amending, Section 22-3-2, *Definitions*, and adding, Section 22-3-10, *American Rescue Plan Act and Coronavirus Aid, Relief and Economic Security Act fund recipient requirements*; to provide for greater transparency in contracts “issued” by the City of Detroit.

1 **BY COUNCIL MEMBER _____:**

2 **AN ORDINANCE** to amend Chapter 22 of the 2019 Detroit City Code, *Housing*,
3 Article III, *Inclusionary Housing Requirements*, by amending, Section 22-3-2, *Definitions*, and
4 adding, Section 22-3-10, *American Rescue Plan Act and Coronavirus Aid, Relief and Economic*
5 *Security Act fund recipient requirements*; to provide for greater transparency in contracts “issued”
6 by the City of Detroit.

7 **IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT**
8 **THAT:**

9 **Section 1.** Chapter 22 of the 2019 Detroit City Code, *Housing*, Article III, *Inclusionary*
10 *Housing Requirements*, be amended by amending, Section 22-3-2, and adding, Section 22-3-10, to
11 read as follows:

12 **CHAPTER 22. HOUSING**

13 **ARTICLE III. INCLUSIONARY HOUSING REQUIREMENTS**

14 **Sec. 22-3-2. Definitions.**

15 For purposes of this article, the following words and phrases shall have the meaning
16 respectively ascribed to them by this section:

17 *Affordable* means, as generally defined by the U.S. Department of Housing and Urban
18 Development, housing for which the occupants are paying no more than 30 percent of their
19 income for gross housing costs, including utilities.

20 *ARPA* means the Federal American Recue Plan Act of 2021, being Public Law 117-2,
21 and as may be amended.

1 *Area Median Income* means the median family income for the Detroit-Warren-Livonia
2 Metropolitan Statistical Area, as published by the U.S. Bureau of Census and the U.S.
3 Department of Housing and Urban Development.

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

8 *CARES Act* means the Federal Coronavirus Aid, Relief, and Economic Security Act,
9 being Pub. Law 116-136, as may be amended.

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

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

1 *Dwelling* means a building, or portion of a building, designed for or occupied in whole
2 or in part as the home, residence, or sleeping place of one or more individuals, either
3 continuously, permanently, temporarily, or transiently but does not mean a hotel, motel, bed and
4 breakfast, hostel, or other lodging facilities.

5 *Dwelling unit* means a building, or portion of a building, designed and used for residential
6 occupancy by a single household and that includes exclusive sleeping, cooking, eating and
7 sanitation facilities.

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

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

13 *Qualifying transaction* means any of the following:

- 14 (1) Type 1 — The sale or transfer of City-owned real property at less than true cash
15 value which is intended to be developed for a residential housing project;
- 16 (2) Type 2 — Direct monetary support from the City of at least \$500,000.00, adjusted
17 annually based on changes in the Consumer Price Index, for a residential housing
18 project;
- 19 (3) Type 3 — Commitment of Community Development Block Grant funds of the
20 U.S. Department of Housing and Urban Development controlled by the City of at

1 least \$500,000.00, adjusted annually based on changes in the Consumer Price
2 Index, for a residential housing project;

3 (4) Type 4 — Commitment of HOME Investment Partnership Program funds of the
4 U.S. Department of Housing and Urban Development controlled by the City of at
5 least \$500,000.00, adjusted annually based on changes in the Consumer Price
6 Index, for a residential housing project; or

7 (5) Type 5 — Commitment of funds of at least \$500,000.00, through an as yet
8 unidentified State of Michigan or federal housing development program.

9 *Residential housing project* means one or more buildings that collectively contain at least
10 20 dwelling units offered for rent on one or more tax parcels or lots marketed as a single or
11 unified project or sharing common elements, including, but not limited to, dwelling units within
12 a mixed use development or in a planned development district as set forth in Chapter 50 of this
13 Code, *Zoning*.

14 *Special Developer* means a developer of a residential housing project in the City of Detroit,
15 which includes funding provided under ARPA and/or CARES Act.

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

18 **Sec. 22-3-10. Special developer recipient requirements.**

19 (a) Prior to City Council’s approval of the award of ARPA and/or CARES funds to a
20 special developer, the Housing and Revitalization Department shall provide to City Council a
21 report detailing the following information:

- 1 (1) The number of affordable housing units which will be added by the development;
- 2 (2) The initial housing rates for each affordable housing unit;
- 3 (3) A copy of a commitment letter by the special developer to maintain the housing
4 unit as affordable;
- 5 (4) A description of the special developer’s strategy to lease the affordable housing
6 units to City residents in need of affordable housing, including but not limited to:
- 7 a. Low-income households, as defined by the HUD Income Limits Summary;
8 and
- 9 b. Very low-income households as defined by the HUD Income Limits
10 Summary; and
- 11 c. Extremely low-income households as defined by the HUD Income Limits
12 Summary; and
- 13 d. City residents with past evictions; and
- 14 e. City residents who currently live within an area adjacent to the
15 development.
- 16 (5) Information showing that the building will be compliant with applicable American
17 with Disabilities Act accessibility standards;
- 18 (6) The number of units that will be compliant with applicable American with
19 Disabilities Act accessibility standards, including any additional accommodations
20 made for people with disabilities.
- 21 (b) The contract between the City and the special developer shall require the special

1 developer to submit to the Housing and Revitalization Department quarterly reports on the status
2 of the special developer's compliance with the requirements under this Article.

3 (c) The Housing and Revitalization Department shall provide any reports obtained
4 pursuant to Subsection (c) of this section to City Council, upon City Council's request.

5 (d) The requirement to provide the information in Subsection (a) of this section shall
6 be included within contracts between the City and the special developer receiving ARPA or
7 CARES Act funding for projects subject to this Article.

8 (e) Failure by special developer to comply with this Article may result in breach of
9 contract.

10 (f) A determination on whether or not a breach of contract has occurred due to the
11 special developer's failure to comply with this Article shall be made by the individual or
12 department designated to interpret and enforce such contracts at any time after reviewing, or
13 becoming aware of, information which indicates that a special developer has failed to comply with
14 this Article.

15 (g) If the special developer fails to meet the representations and commitments set forth
16 in Subsection (a) of this Section, the City, through the individual or department designated to
17 enforce such contracts, shall have the right to enforce any and all claw back provisions, including
18 those for City, ARPA and/or CARES funding, as may be provided for in the contract.

19 Secs. 22-3-11 – 22-3-20. Reserved.

20 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are
21 repealed.

1 **Section 3.** This ordinance is hereby declared necessary for the preservation of the
2 public peace, health, safety, and welfare of the people of the City of Detroit.

3 **Section 4.** If this ordinance is passed by a two-thirds (2/3) majority of City Council
4 members serving, it shall be given immediate effect and shall become effective upon publication
5 in accordance with Section 4-118 of the 2012 Detroit City Charter; if passed by less than a two-
6 thirds (2/3) majority of City Council members serving, it shall become effective no later than thirty
7 (30) days after publication in accordance with Section 4-118 of the 2012 Detroit City Charter; if
8 this ordinance specifies a certain date to become effective, it shall become effective in accordance
9 with the date.

Approved as to form:



Charles N. Raimi
Deputy Corporation Counsel