

SUMMARY

This proposed ordinance amends Chapter 14, *Community Development*, by adding Article XII, entitled *Inclusionary Housing*, consisting of sections 14-12-1 through 14-12-10 to require a certain amount of inclusionary housing units to be built when developers receive financial assistance or discounted land from the City of Detroit; to define ordinance terms, to set the duration of the inclusionary requirement, to create a Detroit Housing Trust Fund, to set fees structure and to provide for the administration of the ordinance.

BY COUNCIL MEMBER SHEFFIELD:

AN ORDINANCE to amend Chapter 14, *Community Development*, by adding Article XII, entitled *Inclusionary Housing*, consisting of sections 14-12-1 through 14-12-10...

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

Section 1. Chapter 14 of the 1984 Detroit City Code, '*Community Development*', be amended by adding Article XII, '*Inclusionary Housing*', to read as follows:

CHAPTER 14. COMMUNITY DEVELOPMENT

ARTICLE X11 – Inclusionary Housing

Sec. 14-12-1. Purpose and intent.

The regulations and requirements of this article are intended to:

(1) Promote the health, safety and general welfare of the citizens of the city through the implementation of housing goals, objectives and policies that support housing opportunities for all residents of Detroit;

(2) Stimulate the private sector production of housing available to families within the range of 50 percent to 80 percent of the area median income, or lower;

(3) Encourage the even and widespread distribution of inclusionary housing opportunities throughout all portions of the community, including within new developments in the fastest growing areas of the community; and

(4) Ensure that the City-provided housing resources, such as discounted land and tax incentives, optimize the benefits for low and moderate income residents during the City's revitalization.

Sec. 14-12-2. Definitions.

For purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

“Area Median Income (AMI)”. The median family income for the Detroit-Warren-Livonia Metropolitan Statistical Area, as published by the U.S. Bureau of Census and the U.S. Department of Housing and Urban Development, unless otherwise specified.

“Inclusionary housing” means with respect to rental housing, housing that is affordable to households earning up to 80 percent of the Detroit-Warren-Livonia Metropolitan Statistical Area median income.

“Condominium” means a form of property established pursuant to the Condominium Act MCL 559.101 *et seq.*

“Developer” means any person or entity who develops housing units, but does not include a lender or any governmental entity.

“Development” or “develop” means the construction or substantial rehabilitation of housing units or the conversion of any building into residential condominiums.

“Eligibility criteria” means with respect to rental housing, at the time of the first rental by that household, a household earning between 50 and 80 percent of the Detroit-Warren-Livonia Metropolitan Statistical Area median income provided that when a residential housing project receives financial assistance from tax increment financing revenues pursuant to Section 14-12-3

“eligibility criteria” for that project means:

- (i) with respect to rental housing, at the time of the first rental by that household, one-half of the housing units required to be inclusionary are affordable to households

earning up to 80 percent of the Detroit-Warren-Livonia Metropolitan Statistical Area median income, and one-quarter of the housing units required to be inclusionary are affordable to households earning up to 50 percent of the Detroit-Warren-Livonia Metropolitan Statistical Area median income; and

- (ii) Fee in-lieu means the fee paid by the developer/owner of any development as an alternative to providing required inclusionary housing for rent within the development.

“Financial assistance” means any assistance provided by the city through grants, direct or indirect loans, allocation of tax credits, or tax abatements for the development of residential housing units.

“Housing unit” means a room or suite of rooms that are designed, occupied or intended for occupancy as a separate living quarter with cooking, sleeping and sanitary facilities provided within the unit for the exclusive use of the occupants of the unit.

“Planned development” has the same meaning as ascribed to that term in Detroit Zoning Code.

“Residential housing project” or “project” means one or more buildings that collectively contain twenty or more housing units on one or more tax parcels or lots marketed as a single or unified project or sharing common elements, or comprising a part of a planned development or the addition of ten or more housing units to an existing building.

“Substantial rehabilitation” means the reconstruction, enlargement, installation, repair, alteration, improvement or renovation of a building, structure or portion thereof requiring a permit issued by the city; provided the cost of the substantial rehabilitation must be \$25,000.00 or more per housing unit, adjusted annually based upon the United States Department of Labor,

Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Detroit metropolitan area, or some other comparable index.

“Trust Fund” means the Detroit Housing Trust Fund, a not-for-profit organization.

Sec. 14-12-3. Applicability and Requirements for Inclusionary Housing.

(a) The requirements of this section shall apply to new development within the Inclusionary Housing Overlay Area, inclusive of property in the City of Detroit generally bounded by the city limits of Highland Park to the north, the city limits of Hamtramck to the east following I-75 south to East Grand Boulevard to the east and south to Mack Avenue to the east to the centerline of St. Jean Avenue extended south to the Detroit River west to the centerline of W. Grand Boulevard extended north and east to Rosa Parks Boulevard north to the center line of Webb Avenue east to the southern city limits of Highland Park, with 20 or more residential dwelling units with the following characteristics:

(1) the City sells real property to any developer for less than fair market value on which a residential housing project is subsequently developed, the developer shall be required to establish twenty percent of the housing units as inclusionary housing in the following amounts: five percent at 50 percent AMI, five percent at 60 percent AMI and 10 percent at 80 percent AMI; or the equivalent as provided in subsection (b);

(2) financial assistance is provided to any developer in connection with the development of a residential housing project, the developer shall be required to establish twenty percent of the housing units as inclusionary housing in the following amounts: five percent at 50 percent AMI, five percent at 60 percent AMI and 10 percent at 80 percent AMI; or the equivalent as provided in subsection (b).

(b) A developer subject to the provisions of subsection a, may establish inclusionary housing by one of the following: (i) the development of inclusionary housing units as part of the residential housing project; or (ii) payment of a fee in lieu of the development of inclusionary housing unit; or a (iii) a combination thereof it. The in-lieu fee shall be \$50,000 for each inclusionary housing unit not developed as a part of the residential housing project, adjusted annually based upon the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for all Urban Consumers for the Detroit metropolitan area, or some other comparable index. Such fees shall be deposited into the Detroit Housing Trust Fund, unless required to be deposited into another fund pursuant to federal or state law.

Sec. 14-12-4. Minimum Composition of Project

All inclusionary units when built in pursuant to this article shall comprise of at least 15 percent of the total square footage of the residential portion of the housing development.

Sec. 14-12-5. Administration.

The housing provisions of this section shall be administered by the Department of Housing and Revitalization.

Sec. 14-12-6. Detroit Housing Trust Fund.

The City shall establish a separate fund designated as the Detroit Housing Trust Fund which shall be supported by the fees collected under this article. By-Laws requiring the fund to be used to support housing opportunities for Detroit resident with income 80 percent or less of the Detroit-Warren-Livonia Metropolitan Statistical Area median income shall be established. The revenues of the Detroit Housing Trust Fund shall be disbursed in accordance with bylaws established for the use of the trust.

Sec. 14-12-7. Duration of Inclusionary Requirement.

The inclusionary housing units required by this ordinance shall continue to be inclusionary housing for a period of 30 years after the time of the issuance of the certificate of occupancy (or after the first day of the initial lease if no such certificate is issued), unless:

(1) The property is foreclosed upon or condemned, or a deed in lieu of foreclosure is given; or

(2) The seller of an inclusionary housing unit has sold the unit to a household that does not meet the eligibility criteria and has paid the recapture fees required by Section 14-21-11.

Sec. 14-12-8. Vested Rights.

Those provisions in this article requiring of new development of inclusionary housing or in-lieu payments shall not apply to development of any property authorized by and consistent with any of the following development projects approved, or prior to the effective date of the affordability housing ordinance: preliminary plat approval; site plan approval; or development agreement approval. However, projects that require additional approvals by City Council for financial assistance or tax abatements, not including approval of certificates related to the tax abatements, will not be considered vested. In those instances where the property owner of a vested property applies for changes to a development project, that if approved, would constitute a modification, not including minor modifications of the previous development project, that property may lose its vested status as it relates to the provisions of this Article. Determination as to whether a change to the development order would constitute a modification shall be made in accordance to Section 61-3-97 of the Code.

Sec. 14-12-9. Exemptions.

The following shall be exempt from the requirements of this article:

- (1) Nursing homes, residential care facilities, and assisted care living facilities; and
- (2) Dormitories and group quarters, as defined by the U.S. Census.

Sec. 14-12-10. Waiver of Inclusionary Housing Requirements.

The Director, with the confirmation of City Council, may grant waivers of requirements for inclusionary housing if the Director finds the following:

- (1) The application for the requirement would produce a result inconsistent with the goals and objectives of this Article pertaining to the development of the community; or
- (2) If the housing project is part of a larger development, the larger development furthers the intent of this Article through means other than strict compliance with the regulations.

Sec. 14-12-11. Fees.

Prior to the issuance of a building permit, for any planned development or residential housing project subject to the inclusionary housing requirements of this section:

- (1) the developer shall pay an amount equal to the required fee in lieu pursuant to Section 14-12-3; or
- (2) the director shall cause a lien, or similar instrument to be recorded, initially, prior to development, against and comprising the planned development or residential housing project, and subsequently, in connection with the rental of any inclusionary housing unit, against the land on which such inclusionary housing unit is located to secure the requirements of this section and the recapture of the following amounts:

(a) Upon the rental of any housing unit required to be inclusionary under this section at a rental price that renders the housing unit not inclusionary housing, or to a household that does not meet the eligibility criteria, the owner shall pay a fee of \$500.00 per unit per day for each day that the owner is in noncompliance; provided that prior to the assessment of the penalty, the owner shall have 90 days, after written notice from the director, to cure the noncompliance. If after 90 days the owner fails to cure the noncompliance, the fees shall be assessed from the first day of noncompliance. The 90-day time period to cure the noncompliance may be extended by the director for good cause. Or, the unit may be rented without regard to household income by paying a recapture fee of \$50,000 per housing unit;

(b) The sale of any rental housing unit required to be inclusionary under the Article is converted to a condominium in accordance with the Condominium Act or otherwise being sold as a owner-occupied unit must be to a household with income between up to 100 a percent of the Detroit-Warren-Livonia Metropolitan Statistical Area median income. Or the unit may be converted without regard to household income by paying a recapture fee of \$50,000 per housing unit;

(c) Any fines or penalties imposed by the city for a violation of this section. The fees collected under this subsection shall be deposited into the Detroit Housing Trust Fund, unless required to be deposited into another fund pursuant to federal or state law.

Sec. 14-12-12. Administrative Rules.

The Director is authorized to adopt rules necessary for the proper administration and enforcement of this Article.

Section 2. All ordinances, parts of ordinances, or resolutions in conflict herewith are repealed.

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

Section 4. In the event that this ordinance is passed by a two-thirds (2/3) majority of the City Council Members 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 two-thirds (2/3) majority of the City Council Members serving, it shall become effective no later than thirty (30) days after enactment in accordance with Section 4-118 of the 2012 Detroit City Charter.

Section 5. This ordinance shall be severable. If any Court of competent jurisdiction determines that any word, phrase or section of this ordinance is invalid, the remainder of the ordinance shall remain in full force and effect.

Approved as to form only:

Melvin Hollowell
Corporation Counsel.