

Inclusionary Housing Guidelines

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1. Introduction

In 2017, the City of Detroit passed an Inclusionary Housing Ordinance (Ordinance) to ensure that new development in the City that receives public subsidy would provide housing affordable to a range of income levels.

The Ordinance prescribes City policy for affordable housing. However, it does not include fully detailed instructions for administration, which allows more flexibility in implementing and enforcing the Ordinance. Instead, the Ordinance calls for the Housing and Revitalization Department to adopt Guidelines.

These Guidelines implement the Ordinance adopted by the Detroit City Council (Section 14-12-1 through 14-12-16 of the Detroit City Code) and constitute the Guidelines referred to from time to time in the Ordinance.

All of the terms of the Ordinance are not repeated in these Guidelines, which supplement, but do not reiterate the entire Ordinance. Applicants must also refer to the Ordinance when

submitting an application. If there is any conflict between these Guidelines and the Ordinance, the Ordinance shall control.

These Guidelines are not adopted as an Ordinance. While they give direction, administration of the Ordinance will necessarily need to occur in a reasonably flexible fashion consistent with the Ordinance's purpose and provisions. The Guidelines provide this flexibility while assuring conformance to the City's vision and goals for affordable housing.

2. Definitions

- A. *Affordable means*, as generally defined by the U.S. Department of Housing and Urban Development, housing for which the occupants are paying no more than 30% of their income for gross housing costs, including utilities.
- B. *Area Median Income (AMI)* means 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.
- C. *Department* means the housing and revitalization department.
- D. *Developer* means the legal or beneficial owner or the representative thereof, of a parcel of land proposed for inclusion in a development, including the holder of an option or contract to purchase. The developer performs the functions necessary to obtain land control and financing to construct or rehabilitate a property and expects to assume the risks and rewards upon completion of the project. For purposes of this article, developer does not include a governmental entity or a commercial lending institution other than a commercial lending institution affiliated with the developer.
- E. *Development or develop* means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any residential buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, excavation or other movement of land, for which permission may be required pursuant to the City of Detroit zoning ordinance.
- F. *Dwelling* means a building or portion of it designed for or occupied in whole or in part as the home, residence, or sleeping place of one or more individuals, either continuously, permanently, temporarily, or transiently. Dwelling does not include a hotel, motel, bed and breakfast, hostel, or other lodging facilities.
- G. *Director* means the director of the City of Detroit Housing and Revitalization Department.
- H. *Residential housing project* means one or more buildings that collectively contain at least 20 dwelling units offered for rent on one or more tax parcels or lots marketed as a single or unified project or sharing common elements. This includes, but is not limited to, dwelling units within a mixed use development or in a planned development district as set forth in the City of Detroit zoning ordinance.

3. Evaluation and Processing Transactions

A. Qualifying Transactions

The Ordinance applies to any project containing at least 20 rental dwelling units that receives city subsidy as described below:

Type 1	The sale or transfer of City-owned property at less than the True Cash Value
Type 2	Direct monetary support from the City
Type 3	Commitment of Community Development Block Grant Funds
Type 4	Commitment of HOME funds
Type 5	Commitment of unspecified other State or Federal sources.

The minimum threshold for the Ordinance and Guidelines to apply for Types 2-5 is \$500,000 in funding in 2018. The threshold will increase annually based on the Consumer Price Index for all Urban Consumers (CPI-U), as published by the United States Department of Labor, Bureau of Labor Statistics, for the Detroit-Ann Arbor-Flint metropolitan area. The Department shall compare the CPI in December to that of the CPI in the previous year December, and that percent change shall be used in calculating qualifying transactions for the following year. The amount of subsidy will be compared to the threshold at the time of Council action. (E.g. If Council takes action on a qualifying transaction in 2019, the threshold for 2019 will apply.)

There is no minimum threshold for Type 1 projects – all discount land sales trigger the requirement.

Neither Tax Increment Financing nor tax abatement are considered direct monetary support under Type 2. However, there is nothing to preclude the Department or Council from negotiating for affordable housing for these types of support, to the extent permitted by law.

If buildings that are not considered to be "dwelling units," such as motels and hotels, are remodeled to create twenty or more dwelling units, then they are subject to the Ordinance. However, the Ordinance only applies to newly created units or lots. For example, if ten units are added to an existing ten-unit building, for a total of twenty units, the Ordinance will not apply, because only ten units are being newly created.

The level of subsidy will be measured through an appraisal or similar method as specified by the department. The city shall specify or hire the appraiser. The True Cash Value is then compared to the proposed purchase price. If the proposed purchase price is lower than the appraised value, the inclusionary requirements are in effect. Once a purchase price is agreed to and a letter of intent is signed, land buyers have one year to execute a Purchase Agreement or Development Agreement with the City at the agreed upon price or a new appraisal will be required. The Director, at his or her sole discretion, may extend the length of time based on circumstances beyond the control of the developer.

B. Waivers and Exemptions

The following projects are exempt from these rules

- Ownership/for sale projects;
- Projects smaller than 20 units;
- Nursing homes, residential care facilities, dormitories, and assisted care living facilities;

- Hotels, motels, hostels, bed and breakfasts, and other transient-occupied lodging; and
- Cases where the developer or owner have previously agreed to provide affordable housing subject to an agreement approved by the City Council.

Exemption is not given to projects that receive an approved Condominium Subdivision Plan with the intention of being offered for sale, but are subsequently offered as rental units.

Generally, the City considers concurrent or sequential applications on contiguous parcels that under the same ownership or submitted by the same applicant (or controlled by the same applicant or owner) to be one residential project for purposes of the Ordinance. For example: if a developer proposes to buy two contiguous lots and builds 10 rental units on each lot, the Ordinance will apply.

The Director of the Department may propose waivers from the affordable housing rules for certain transactions. If the Department determines that a waiver is appropriate, it will prepare a report for City Council justifying its conclusion and post this report on its website. The request for a waiver will then be brought to City Council. The following projects are eligible for waivers:

- The affordable requirements produce a result inconsistent with the purpose and intent of the Ordinance; or
- The affordable housing requirements, including offsite production options, would render the project economically infeasible.

C. Processing Transactions

The City requires developers to produce an Affordable Housing Plan for all transactions covered by the Ordinance. The City's goal in requiring the plan is to ensure that inclusionary housing is considered early in the planning process with enough details to avoid disagreements later.

The required contents of the Affordable Housing Plan are specified in Exhibit A. The Director or designee is authorized to make changes in Exhibit A from time to time when necessary to ensure that residential projects comply with the Ordinance. The Affordable Housing Plan need be only at the same level of detail as the application. Where the initial Affordable Housing Plan is not at sufficient detail to determine compliance with the Ordinance, the City may require additions to the Plan as part of later planning approvals, or as part of a final Inclusionary Housing Agreement.

If appropriate, the Affordable Housing Plan will detail the phasing of the inclusionary units in relation to the construction of market-rate units. Normally, each construction phase designated by the developer will contain the required inclusionary units for that construction phase, although different phasing may be approved if there is adequate security to ensure that the required inclusionary units will be built. For instance, a developer may choose to build extra inclusionary units in an early phase so that there may be a smaller number of inclusionary units for the later phases of construction.

After an applicant submits an Affordable Housing Plan to the City, the Housing and Revitalization Development Department, as well as other departments as appropriate, will review it and notify the applicant within 30 days whether or not it is complete and consistent with the Ordinance. If necessary, the developer may need to resubmit their proposal or work with the Department to make changes. The Department will then prepare a report for City Council summarizing their conclusions and recommendations. This report will be delivered to City Council at the same time as the request for action regarding the qualifying transaction.

The Affordable Housing Plan is usually reviewed along with the qualifying transaction application and approved at the same time and by the same approval body that has authority to approve the transaction. In most, if not all cases, this will be the City Council.

Minor modifications to an approved Affordable Housing Plan may be approved by the Director, if the modification is consistent with the original Affordable Housing Plan and conditions of approval. Other modifications must be processed as an amendment to the agreement to sell land or provide subsidy.

Ongoing compliance with the Ordinance will be conducted by the Department with assistance from the Civil Rights, Inclusion, and Opportunity Department.

Income Limits

The City uses the most recent household income limits as published by the MSHDA for Wayne County, adjusted for household size. These income limits are derived from the Detroit-Warren-Livonia MSA Area Median Income. The median household income for a family of four in 2018 was \$70,900.

In the event that these income limits are no longer published annually by the MSHDA, the Director will determine an alternate method of computing income limits for eligible households using Area Median Income data published by the U.S. Department of Housing and Urban Development

The 2018 income limits are summarized below.

	Household Size							
Income Level	1	2	3	4	5	6	7	8
50%	\$28,400	\$24,850	\$31,950	\$35,450	\$38,300	\$41,150	\$44,000	\$46,800
60%	\$34,080	\$29,820	\$38,340	\$42,540	\$45,960	\$49,380	\$52,800	\$56,160
80%	\$45,440	\$39,760	\$51,120	\$56,720	\$61,280	\$65,840	\$70,400	\$74,880

Determining Household Income

Applicants' household annual gross income shall be calculated in accordance with the Technical Guide for Determining Income and Allowances for the HOME Program published by the U.S. Department of Housing and Urban Development (HUD), as it may be amended (the HOME Guide), and 24 CFR 5.609.

A copy of the HOME Guide is available for download here:

http://portal.hud.gov/hudportal/documents/huddoc?id=19754_1780.pdf

24 CFR 5.609 is available to be viewed here:

<https://www.gpo.gov/fdsys/pkg/CFR-2016-title24-vol1/xml/CFR-2016-title24-vol1-sec5-609.xml>

Exhibit B provides the definitions of what is included and excluded from the determination of annual gross income in accordance with the U.S. Code of Regulations. In summary, gross household income is the sum of all the income for every adult, 18 years or older, living in the unit. Sources of income include all wages, salaries, overtime pay, commissions, fees, tips, bonuses and other compensation, net income from a business or profession or from the rental of real or personal property, interest and dividends, payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, payments in lieu of earnings, public assistance, alimony and child support received, and any other sources of income.

Documentation to Verify Sources of Income

The gross annual incomes of all household members age 18 or older are considered when determining eligibility. The types of income to be verified and the type of documentation that will be requested will include:

- 2 months most recent pay stubs
- Signed copies of federal tax returns for the three most recent years
- W2 forms for the most recent year
- 1099 forms for the most recent year
- Self-employed, the net income from the operation of the business
- 3rd party verification of employment
- Other sources of earnings such as child support, alimony, social security, etc.

All income documentations is based primarily on the applicant's income for the past year as evidenced by the documents listed above and additional verification, if requested, as listed

below. Assumptions about bonuses, overtime, or other speculative or uncertain projections of income will be based on what was earned in the previous year, unless clear documentation is presented supporting a variation.

Where major changes have occurred in life circumstances since the applicant’s last year of employment, including only such major changes as retirement, job loss, or disability or death of a wage earner, the projected income losses may be deducted from the applicant’s income for the past year. The City may require verification of the change in life circumstances.

Additional income verification may also be requested as follows:

Source of Income	Documentation
Salaries and wages	Verification from employer
Business income	Verification of income by a certified public accountant or bookkeeper including most recent quarterly profit/loss statement. For self-employed individuals or sole proprietor’s, the City may use the most recent 1099 and tax returns.
Interest and dividend income	Current bank statements or dividend statements
Retirement and insurance income	Verification from source
Unemployment and disability income	Verification from source
Welfare assistance	Verification from source
Alimony, child support, gift income	Verification from source
Armed forces income	Verification from source
Other	Verification from source

Household income includes all payments from all sources received by all adult members of the household. The income of minors (household members less than 18 years old) and live-in aides is excluded.

For self-employed persons, the *net* income from the operation of the business is considered as the annual income, excluding deductions for expenses, capital expenditures and depreciation as documented in their tax returns. Similarly, *net* income from property rental is considered as annual income, also excluding deductions for expenses, capital expenditures and depreciation.

Assistance

The Department will provide assistance to developers in interpreting these rules. The City also encourages third parties to help with income verification on a fee for service basis.

Assets

There are no asset limits for occupants of inclusionary units, but they may not own a home or have owned a home in the past three years, unless that home was lost due to foreclosure or Short Sale.

4. Calculating Rents

The ordinance calls for rents to be affordable to households of various income levels. The City bases its formula on the most recent Michigan State Housing Development Authority (MSHDA) rents as published annual for Wayne County based on unit size (bedrooms) for its inclusionary housing units.

Specifically, the City's formula calls for the rent to be 90 percent of the maximum rent published by MSHDA, minus utilities, rounded to the closest dollar. The City adjusts the published maximums to ensure there is an adequate supply of potential renters.

To determine the rent that may be charged to tenants of inclusionary units, the monthly utility allowance is deducted from the affordable rent if the tenant pays for utilities. Any mandatory fees charged for use of the property must also be deducted from the affordable rent.

The 2018 figures are summarized below:

	Bedrooms					
	0	1	2	3	4	5
50% of AMI	\$559	\$599	\$718	\$829	\$925	\$1,022
60% of AMI	\$671	\$718	\$862	\$995	\$1,111	\$1,226
80% of AMI	\$895	\$959	\$1,150	\$1,328	\$1,481	\$1,634

The table below summarizes utility allowances in 2018.

**Michigan State Housing Development Authority
Utility Schedule - Region D**

Effective: January 1, 2018

Counties in Region D: Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, Wayne

Structure Type includes:	Standard Utility Allowance																	
	Apartment						Attached						Detached					
	High-rise, Low-rise						Townhouse, Duplex, Triplex, Fourplex						Single Family Detached, Manufactured Home					
Utility*	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR	0 BR	1 BR	2 BR	3 BR	4 BR	5 BR
Heating – Natural Gas	\$17	\$20	\$23	\$26	\$30	\$33	\$30	\$35	\$37	\$40	\$43	\$45	\$24	\$28	\$33	\$38	\$43	\$47
Heating – Bottle Gas	\$55	\$64	\$75	\$86	\$97	\$108	\$96	\$113	\$121	\$130	\$139	\$147	\$78	\$92	\$107	\$123	\$138	\$154
Heating – Electric	\$25	\$30	\$40	\$51	\$61	\$72	\$36	\$43	\$56	\$69	\$82	\$95	\$59	\$70	\$82	\$94	\$106	\$118
Heating – Fuel Oil	\$50	\$59	\$69	\$79	\$89	\$99	\$88	\$103	\$111	\$119	\$127	\$135	\$72	\$84	\$98	\$113	\$127	\$141
Cooking – Natural Gas	\$2	\$2	\$3	\$4	\$5	\$6	\$2	\$2	\$3	\$4	\$5	\$6	\$2	\$2	\$3	\$4	\$5	\$6
Cooking – Bottle Gas	\$6	\$7	\$10	\$13	\$16	\$19	\$6	\$7	\$10	\$13	\$16	\$19	\$6	\$7	\$10	\$13	\$16	\$19
Cooking – Electric	\$6	\$7	\$10	\$13	\$16	\$19	\$6	\$7	\$10	\$13	\$16	\$19	\$6	\$7	\$10	\$13	\$16	\$19
Other Electric	\$22	\$25	\$35	\$45	\$55	\$65	\$26	\$31	\$43	\$55	\$67	\$80	\$32	\$37	\$52	\$67	\$81	\$96
Air Conditioning**	\$4	\$5	\$7	\$9	\$10	\$12	\$5	\$5	\$7	\$10	\$12	\$14	\$3	\$4	\$8	\$13	\$18	\$22
Hot Water – Natural Gas	\$4	\$5	\$8	\$10	\$12	\$15	\$6	\$7	\$10	\$12	\$15	\$18	\$6	\$7	\$10	\$12	\$15	\$18
Hot Water – Bottle Gas	\$15	\$17	\$25	\$32	\$40	\$48	\$18	\$21	\$31	\$41	\$50	\$60	\$18	\$21	\$31	\$41	\$50	\$60
Hot Water – Electric	\$15	\$18	\$23	\$28	\$32	\$37	\$19	\$22	\$28	\$34	\$41	\$47	\$19	\$22	\$28	\$34	\$41	\$47
Hot Water – Fuel Oil	\$13	\$16	\$23	\$30	\$37	\$44	\$17	\$20	\$28	\$37	\$46	\$55	\$17	\$20	\$28	\$37	\$46	\$55
Water	\$17	\$18	\$31	\$49	\$67	\$86	\$17	\$18	\$31	\$49	\$67	\$86	\$17	\$18	\$31	\$49	\$67	\$86
Sewer	\$26	\$29	\$49	\$78	\$108	\$137	\$26	\$29	\$49	\$78	\$108	\$137	\$26	\$29	\$49	\$78	\$108	\$137
Trash	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20	\$20

* Service Charge: Natural Gas – for all unit types add \$12
Natural Gas service charge only allowed for Natural Gas utilities.
 Electric – for all unit types add \$9

**Air Conditioning Allowance: Only allowed if windows are not operable.

Tenant Furnished Appliance Allowance: Range – \$3
 If the tenant is responsible for supplying the range and/or refrigerator, use the allowances listed to the right. Refrigerator– \$5

To use this schedule:
 Fill in the appropriate amount on the chart for each utility/appliance that you are responsible to pay.

NOTE: Sales tax is included in the amounts listed above.

MSHDA 1793a (10/1/15) Previous versions obsolete

	Natural Gas	Propane	Electric	Oil	Wood (Secondary)	Cost
Heating						
Cooking						
Other Electric						
Air Conditioning						
Hot Water						
Water						
Sewer						
Trash						
Other						
Gas Service Charge						
Electric Service Charge						
Range						
Refrigerator						
TOTAL ROUNDED						

5. Substitute Structures/Offsite Production

The ordinance allows developers to produce some or all of their units in substitute structures. These guidelines clarify the rules regarding this.

With permission from the Director and City Council, developers may produce the units in a separate building. There are a number of conditions that apply:

- The units must be developed within 24 months of the first structure of the residential housing project’s completion;
- To ensure compliance developers may
 - 1) Agree to the following rules: If the new units are not placed into service within 24 months, the developer will rent the equivalent number of units in the main project at affordable levels, as would have been required if the developer did not pursue the offsite alternative. For every month after the 24 month period that the developer is not in compliance, the developer will pay the City

an amount equal to 1) the excess of actual rent received over the affordable rate that would otherwise apply, 2) a penalty for each unit not in compliance in the amount not less than 25% of the affordable monthly rent for each month or part of a month of noncompliance, and 3) the enforcement costs of the city. The city will ensure compliance through an Affordable Housing Agreement that is secured against the primary project.

- The substitute building must be within ¼ mile the housing project or in the same targeted multifamily housing area. Projects in the Downtown Development Area (DDA) or the rest of Downtown, as defined by city plans, may also locate their alternative projects in the DDA or rest of downtown, respectively. Developers may propose to have the substitute building in an alternative neighborhood with comparable access to quality of life amenities. Neighborhood is defined as a census tract. There is no one indicator of a comparable neighborhood, but the Director will make a decision based on the totality of factors. To apply, developers should prepare a report that compares the following information for their main project and their alternative site:
 - Employment centers within 1 mile
 - Major bus or transit stops within ¼ mile (major transit lines are light rail stops or bus stops with 12 minute or less headways between busses)
 - Crime rate of neighborhood (overall crime rate and violent crime rate per 1000 residents)
 - Parks within ½ mile
 - Local schools (based on graduation rates and percent of students performing at or above grade level measured at 3rd grade, 8th grade and 11th grade). Local schools are the neighborhood schools associated with the address of the project.
 - Percent of abandoned homes in the neighborhood
 - Retail amenities within 1 mile
 - Degree of racial segregation within the neighborhood
- The developer shall provide a detailed business plan to ensure that the affordable project has sufficient resources to meet short and long term management expenses and capital needs.

6. Number of Units

In computing the total number of inclusionary units required on-site in a residential project, fractions of one-half (1/2) or greater are rounded up to the next highest whole number, and fractions of less than one-half (1/2) are rounded down. For example, a 52-unit development would provide 42 market-rate units and 10 affordable units ($52 \times 0.2 = 10.4$, rounded down to 10).

Type 3 and Type 4 projects are responsible for providing 20% of the units at multiple affordable levels. Some of these units must be affordable to households making 50% of AMI and some at 60% AMI level. The order of providing affordable units is summarized below:

1. 60% AMI
2. 60% AMI
3. 50% AMI
4. 60% AMI
5. Repeat from one

For example, if a development has 36 units, it is responsible for 7 affordable units. Five of those units will be affordable at the 60% AMI level and two of those units would be affordable at the 50% AMI level (60%, 60%, 50%, 60%; 60%, 60%, 50%).

Type 1 and Type 2 projects are only responsible for units at 80% AMI, so there is no additional calculation needed.

7. Timing of Provision of Units

Affordable units should be built concurrently with market rate units. If a project is to be built in phases, the affordable units should be developed during each phase, at a pace equal to the market rate development. Further, a Developer shall apply for building permits and inspections for affordable units concurrently with any market rate units.

A Developer that violates this Section 7. of the Guidelines shall be found in violation of the Ordinance for failure to provide the required level of Dwelling Units available for rent or lease at Affordable rates.

8. Additional Procedures

Appeals Process

Applicants who believe they are wrongly denied eligibility for affordable housing may appeal the decision to the Director of the Department.

Developers who disagree with the implementation of these Guidelines or associated Procedures may appeal to the Director of the Department. The decision of the Director of the Department may be appealed according to appeals procedures for rule making processes identified in the Detroit City Charter. The City may charge fees to recover their costs in processing these appeals.

9. Affordable Housing Development and Preservation Fund

Income Level

The ordinance calls for the creation of an Affordable Housing Development and Preservation Fund. The money for the fund will be used as follows, to the extent possible:

- At least 70% of the expenditures to households making 30% of the Area Median Income.
- The remainder for households making 50% of the AMI.

In calculating the percentage of funds spent at different affordability levels, the city will look at a three year period.

The AMI will be calculated as described in the income limits section and are summarized below.

	Household Size							
Income Level	1	2	3	4	5	6	7	8
30%	\$17,040	\$14,910	\$19,170	\$21,270	\$22,980	\$24,690	\$26,400	\$28,080
50%	\$28,400	\$24,850	\$31,950	\$35,450	\$38,300	\$41,150	\$44,000	\$46,800

Rental limits are as follow:

	Bedrooms					
	0	1	2	3	4	5
30% of AMI	\$471	\$439	\$564	\$652	\$727	\$803
50% of AMI	\$559	\$599	\$718	\$829	\$925	\$1,022

Priority Funding Considerations

While the Ordinance provides a larger list of eligible activities, at this time the Department is prioritizing the following types of affordable housing projects:

- Development and construction of new affordable housing, including supportive housing
- Preservation of existing affordable housing
- Conversion of existing market-rate housing to an affordable housing unit

Ineligible Activities

The following activities are ineligible for funding

- Projects that require temporarily relocating current residents during the construction period shall not receive funds without submitting and receiving approval of a resident relocation and resident-tracking plan.
- Funds shall not be used to help cover the administrative costs of project planning.
- Funds shall not be used to meet required ADA compliance standards, or similar state or local laws for newly constructed housing units.

Location Criteria

Not less than 70% of Fund monies shall be allocated in areas that are located in areas of persistent poverty, as identified by the U.S. Census Bureau, and/or are located within identified Housing and Revitalization Department Multi-Family Target Areas. An area of persistent poverty is defined as a Census Tract where the majority of households are living below the Federal poverty line for two or more decennial Census.

Accessibility

The city intends to incorporate the goals of the Fund into the general NOFA process. Until that time, in each three year period, the city will, to the extent possible, have 10% of the total number of new construction units produced through the Fund be accessible to individuals with mobility impairments.

Administration

Not more than 15% of Funds shall be used to pay for the city's administrative costs of administering the fund.

Timing and Procedures

When there is sufficient balance in the fund, the method used to commit the resources will be through the annual Housing Rehabilitation and Development Program Notice of Funding Availability. The definition of sufficient balance may change from year to year, but at no time will it be larger than \$1 million.

Eligibility of Residents

The fund is intended to benefit Detroit City residents. The definition of resident is an individual domiciled in the city. "Domicile" means a place where a person has his or her true, fixed and permanent home and principal establishment to which, whenever absent therefrom he intends to return, and domicile continues until another permanent establishment is established.

Eligible Recipients of Funds

The following entities may apply for funds.

1. Nonprofit Developers
2. For-profit developers
3. Nonprofit and homeless service providers
4. Community Housing Development Organizations

Length of Affordability

Units receiving funds from the Trust Fund shall remain affordable for at least 30 years from the date of completion of construction, with priority given for proposals that are likely to be affordable in perpetuity, either by deed restriction or the nature of the developer.

Funding

The Ordinance requires an annual contribution by the city to the Fund. While the exact amount is not specified it is expected to be not less than 20% of the net receipts of all commercial property sales during the previous fiscal year.

Commercial land sales are defined as land zoned or intended for nonresidential use.

Net receipts are calculated by subtracting expenses from the final sale price of the commercial land. Expenses that may be deducted include a costs associated with the sale of the land (e.g. commission) or other costs incurred in the 12 months prior to the sale. City staff costs are not deducted when calculating net sales price.

Completed is defined as the point where money is transferred to the City.

Compliance

Ongoing compliance shall be monitored by the steps described in the Notice of Funding Availability, but generally will include at least an annual certified rent-roll, operating budget

comparing actual to projected income/expenses prepared by Developer and property manager 60 days prior to the project's fiscal year end; annual re-certification of tenant income; lease status and rental amount for each property; tenant income, household composition, and other information required to document eligibility; and information sufficient to document compliance with any other conditions of the funding allocation.

EXHIBIT A – Affordable Housing Plan Contents

The Affordable Housing Plan need be only at the same level of detail as the application for a residential development.

Where the initial Affordable Housing Plan is not at sufficient detail to determine compliance with the Ordinance, the City may require additions to the Affordable Housing Plan as part of later planning approvals, or as part of the Affordable Housing Agreement.

The Affordable Housing Plan must include:

1. Total number of dwelling units in the residential project: _____
2. Total number of inclusionary units provided: _____
3. Project Schedule and Timelines; phasing of construction of inclusionary units in relation to market-rate units
4. For each unit type, show the number of units, number of bedrooms, square footage, and tenure. This table may be expanded and duplicated for large and/or complex projects. If the project will be phased, complete a separate table for each phase of the project.
5. Site/building plan showing location of inclusionary units in the project. If the project will be phased, show the location of each phase. If the project consists of a multifamily building or buildings, provide a floor plan showing the location of the units in the structure, or, provide a narrative description sufficient for City to evaluate compliance with dispersal and other requirements.
6. If the project will be phased, describe the construction and completion schedule for the inclusionary units in relation to the market-rate units.
7. Describe the proposed design of the inclusionary units. (If designs are not being provided for the market-rate units as part of this planning application, designs for the inclusionary units may be submitted when they are submitted for the market-rate units.)
8. List any public subsidies or public financing that will be used for the inclusionary units. If public subsidies or public financing will be used, please provide a description of the financing type, the required length of affordability, and means to keep units affordable if different from the standard City affordability provisions.
9. Identify procedures to be used to verify tenant incomes both at occupancy and annually.
10. Identify financing mechanism for on-going administration and monitoring.
11. If the project is requesting an alternative, e.g. offsite compliance, provide a description of the alternative explaining how the alternative complies with each of the requirements for that alternative contained in Section 5.

SAMPLE AFFORDABLE HOUSING PLAN UNIT SUMMARY TABLE

INCOME LEVEL OF BUYERS	TYPE OF UNIT (single-family detached, townhouse or other attached, multifamily)	NUMBER OF UNITS	NUMBER OF BEDROOMS	SQUARE FOOTAGE	NUMBER OF BATHROOMS (Describe fixtures)	LAUNDRY FACILITIES (Unit hookups, or total number on-site)
Market-Rate Units						
50% AMI Units						
60% AMI Units						
80% AMI Units						

EXHIBIT B –Income Guidelines

General Category	Statement from 24 CFR 5.609 paragraph (b) (April 1, 2004)
1. Income from wages, salaries, tips, etc.	The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services.
2. Business Income	The net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight-line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.
3. Interest & Dividend Income	Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation is permitted only as authorized in number 2 (above). Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of \$5,000, annual income shall include the greater of the actual income derived from all net family assets or a percentage of the value of such assets based on the current passbook savings rate, as determined by HUD.
4. Retirement & Insurance Income	The full amount of periodic amounts received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except as provided in number 14 of Income Exclusions).
5. Unemployment & Disability Income	Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay (except as provided in number 3 of Income Exclusions).
6. Welfare Assistance	<p>Welfare Assistance. Welfare assistance payments made under the Temporary Assistance for Needy Families (TANF) program are included in annual income:</p> <ul style="list-style-type: none"> Qualify as assistance under the TANF program definition at 45 CFR 260.31; and Are otherwise excluded from the calculation of annual income per 24 CFR 5.609(c). <p>If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of:</p> <ul style="list-style-type: none"> ▶ the amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; <i>plus</i> the maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is reduced from the standard of need by applying a percentage, the amount calculated under 24 CFR 5.609 shall be the amount resulting from one application of the percentage.
7. Alimony, Child Support, & Gift Income	Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing in the dwelling.
8. Armed Forces Income	All regular pay, special day and allowances of a member of the Armed Forces (except as provided in number 7 of Income Exclusions).

General Category	Statement from 24 CFR 5.609 paragraph (c) (April 1, 2004)
1. Income of Children	Income from employment of children (including foster children) under the age of 18 years.
2. Foster Care Payments	Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the tenant family, who are unable to live alone).
3. Inheritance and Insurance Income	Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except as provided in number 5 of Income Inclusions).
4. Medical Expense Reimbursements	Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.
5. Income of Live-in Aides	Income of a live-in aide (as defined in 24 CFR 5.403).
6. Disabled Persons	Certain increases in income of a disabled member of qualified families residing in HOME-assisted housing or receiving HOME tenant-based rental assistance (24 CFR 5.671(a)).
7. Student Financial Aid	The full amount of student financial assistance paid directly to the student or to the educational institution.
8. Armed Forces Hostile Fire Pay	The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.
9. Self-Sufficiency Program Income	<ul style="list-style-type: none"> a. Amounts received under training programs funded by HUD. b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS). c. Amounts received by a participant in other publicly assisted programs that are specifically for, or in reimbursement of, out-of-pocket expenses incurred (special equipment, clothing, transportation, childcare, etc.) and which are made solely to allow participation in a specific program. d. Amounts received under a resident service stipend. A resident service stipend is a modest amount (not to exceed \$200 per month) received by a resident for performing a service for the PHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of the PHA's governing board. No resident may receive more than one such stipend during the same period of time. e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for the period during which the family member participates in the employment training program.
10. Gifts	Temporary, nonrecurring, or sporadic income (including gifts).
11. Reparations	Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.
12. Income from Full-time Students	Earnings in excess of \$480 for each full-time student 18 years old or older (excluding the head of household or spouse).
13. Adoption Assistance Payments	Adoption assistance payments in excess of \$480 per adopted child.
14. Social Security & SSI Income	Deferred periodic amounts from SSI and Social Security benefits that are received in a lump sum amount or in prospective monthly amounts.
15. Property Tax Refunds	Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.
16. Home Care Assistance	Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep this developmentally disabled family member at home.

17. Other Federal Exclusions	<p>Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which the exclusions of 24 CFR 5.609(c) apply, including:</p> <ul style="list-style-type: none"> • The value of the allotment made under the Food Stamp Act of 1977; • Payments received under the Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions); • Payments received under the Alaskan Native Claims Settlement Act; • Income derived from the disposition of funds to the Grand River Band of Ottawa Indians; • Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes; • Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program; • Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721); • The first \$2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court and the interests of individual Indians in trust or restricted lands, including the first \$2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands; • Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under the Federal workstudy program or under the Bureau of Indian Affairs student assistance programs; • Payments received from programs funded under Title V of the Older Americans Act of 1985 (Green Thumb, Senior Aides, OlderAmerican Community Service Employment Program); • Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation, M.D.L. No. 381 (E.D.N.Y.); • Earned income tax credit refund payments received on or after January 1, 1991, including advanced earned income credit payments; • The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990; • Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job Corps, state job training programs and career intern programs, AmeriCorps); • Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation; • Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990; • Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran; • Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act; and • Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998.
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