

City of Detroit

CITY COUNCIL


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TO: Detroit City Council

FROM: David Whitaker, Director 
Legislative Policy Division Staff

DATE: April 27, 2023

RE: **Proposed amendment to Community Benefits Ordinance/ International Border Crossings**

The Legislative Policy Division (LPD) received a request from the Detroit City Council to amend the current Community Benefits Ordinance to include a provision that addresses the development of an international border crossing in the city of Detroit. LPD has prepared the attached draft ordinance amendment which may be referred to the Law Department for review and approval as to form.

If we can be of further assistance, feel free to call upon us.

S U M M A R Y

AN ORDINANCE to amend Chapter 12 of the 2019 Detroit City Code, Community Development; by amending Article VIII, Community Benefits, Section 12-8-2 Definitions, and adding Section 12-8-6 International Crossings; to provide for the health, safety and general welfare of the public.

1 **AN ORDINANCE** to amend Chapter 12 of the 2019 Detroit City Code,
2 Community Development; by amending Article VIII, Community Benefits, Section 12-8-2
3 Definitions, and adding Section 12-8-6 International Crossings; to provide for the health, safety
4 and general welfare of the public.

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

7 **Section 1.** Amend Chapter 12 of the 2019 Detroit City Code, Community
8 Development; by amending Article VIII, Community Benefits, Section 12-8-2 Definitions, and
9 adding Section 12-8-6 International Crossings; to read as follows:

10
11 **CHAPTER 12, COMMUNITY DEVELOPMENT**
12 **ARTICLE VIII. - COMMUNITY BENEFITS**

13
14 Sec. 12-8-1. - Purpose; title.

15 (a) The City is committed to community outreach and engagement that promotes
16 transparency and accountability and ensures development projects in the City of
17 Detroit benefit and promote economic growth and prosperity for all residents. (b) This
18 article shall be known as the "Detroit Community Benefits Ordinance."

19
20 **Sec. 12-8-2. - Definitions.**

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

1 Community Benefits Provision means the agreement made by and between the Planning
2 Director and the developer that specifically addresses the issues raised by the Neighborhood
3 Advisory Council.

4 Enforcement Committee means a committee led by the Corporation Counsel and
5 composed of representatives from the Planning and Development Department, Law Department,
6 Human Rights Department, the City Council Legislative Policy Division, and other relevant City
7 departments as determined by the Planning Director, and a member of the respective
8 Neighborhood Advisory Council as a non-voting member.

9 Impact area means an area determined by the Planning Director that includes all census
10 tracts or census block groups in which the Tier 1 Project is located, and any other areas as
11 determined by the Planning Director.

12 **International Border Crossing Project means the development of land for the**
13 **enhancement or construction of any current or new international crossing that crosses an**
14 **international waterway to Canada with an embarkation or debarkation point in the city of**
15 **Detroit, where the developer of the project is negotiating public support for investment in**
16 **one or both of the following forms:**

17 **(1) Any land transfer by the City of Detroit to the Developer; or**

18 **(2) Any tax abatement of City taxes that inure directly to the developer utilized for**
19 **the international crossing project.**

20 Planning Director means the Director of the Planning and Development Department, or a
21 member of the Planning Director's staff working on behalf of the Planning Director.

22 Tier 1 Development Project means a development project in the City that is expected to
23 incur the investment of \$75,000,000.00 or more during the construction of facilities, or to begin

1 or expand operations or renovate structures, where the developer of the project is negotiating
2 public support for investment in one or both of the following forms:

3 (1) Any transfer to the developer of City-owned land parcels that have a cumulative
4 market value of \$1,000,000.00 or more, as determined by the City Assessor or
5 independent appraisal, without open bidding and priced below market rates where
6 allowed by law; or

7 (2) Provision or approval by the City of tax abatements or other tax breaks that abate
8 more than \$1,000,000.00 of City taxes over the term of the abatement that inure
9 directly to the developer, but not including Neighborhood Enterprise Zone tax
10 abatements.

11 Tier 2 Development Project means a development project in the City that does not qualify
12 as a Tier 1 Project and is expected to incur the investment of \$3,000,000.00 or more, during the
13 construction of facilities, or to begin or expand operations or renovate structures, where the
14 developer is negotiating public support for investment in one or both of the following forms:

15 (3) Land transfers that have a cumulative market value of \$300,000.00 or more, as
16 determined by the City Assessor or independent appraisal, without open bidding and
17 priced below market rates; or

18 (4) Tax abatements that abate more than \$300,000.00 of City taxes over the term of the
19 abatement that inure directly to the developer, but not including Neighborhood
20 Enterprise Zone tax abatements.

21 **Sec. 12-8-3. - Tier 1 Projects.**

22 (a) engagement process for public meetings.

1 (1) Prior to submitting to City Council a request for approval of land transfers or tax
2 abatements related to a Tier 1 Project, the Planning Director shall hold no fewer
3 than five public meetings, subsequent to the seating of the Neighborhood
4 Advisory Council, in the impact area as defined in Section 12-8-2 of this Code,
5 unless a majority of the Neighborhood Advisory Council vote to waive one or
6 more of the required meetings.

7 (2) The City Clerk shall forward notice of the first public meeting via first class mail
8 no less than ten days before such meeting to all City of Detroit residents within
9 300 radial feet of the Tier 1 Project Impact Area. The notice shall include:

- 10 a. The time, date, and location of the public meeting;
- 11 b. General information about the Tier 1 Project;
- 12 c. A description of the impact area and the location of the Tier 1 Project; and
- 13 d. Information related to potential impacts of the Tier 1 Project and possible
14 mitigation strategies.

15 (3) In addition to the notice requirement contained in Subsection (a)(2) of this
16 section, the Planning Director shall work with the District Council Member or
17 Members representing the district or districts where the Tier 1 Project is located
18 and at least one At-large Council Member to ensure that local residents,
19 businesses and organizations, especially those located in the impact area and those
20 expected to be directly impacted by the Tier 1 Project are informed of the public
21 meeting.

1 (4) At the first public meeting, which shall allow for questions from the community,
2 the Planning Director will present, in detail, the process that is contained in this
3 article, which shall include, but not be limited to, information on the following:

- 4 a. General information about the Tier 1 Project and the manner in which the
5 Tier 1 Project is anticipated to impact the local community;
- 6 b. Preliminarily identified measures by which the developer and the Planning
7 Director plan to address or mitigate anticipated negative impacts of the
8 Tier 1 Project;
- 9 c. The manner in which the Neighborhood Advisory Council fits within the
10 broader process that is contained in this article;
- 11 d. Responsibilities of the Neighborhood Advisory Council;
- 12 e. Proposed timeline for the Neighborhood Advisory Council meetings; and
- 13 f. Outcomes and best practices utilized by previous Neighborhood Advisory
14 Councils.

15 (5) City Council shall appoint a liaison from the Legislative Policy Division to
16 monitor the community engagement process and provide updates to the City
17 Council.

18 (6) The Planning Director shall provide notice to the liaison of all upcoming meetings
19 and activities associated with the community engagement process related to the
20 Tier 1 Project.

21 (b) Neighborhood Advisory Council.

22 (1) The Planning Director will accept nominations to the Neighborhood Advisory
23 Council from any person who resides in the impact area.

1 (2) All residents over the age of 18 who reside in the impact area are eligible for
2 nomination, provided, that:

- 3 a. Any person who is an agent, employee, or official of the developer, or an
4 employee of a City department or authority directly involved in the
5 development, must disclose such relationship prior to selection of the
6 Neighborhood Advisory Council members; and
- 7 b. If a conflict exists, the person is prohibited from serving on the
8 Neighborhood Advisory Council. A conflict of interest for this purpose
9 means any financial interest held personally or by an immediate family
10 member in the Tier 1 Project developer entity.

11 (3) The Neighborhood Advisory Council shall consist of nine members who are
12 selected as follows:

- 13 a. Two members selected by residents of the impact area chosen from the
14 resident nominated candidates;
- 15 b. Four members selected by the Planning Director from the resident
16 nominated candidates with preference given to individuals who the
17 Planning Director expects to be directly impacted by the Tier 1 Project;
- 18 c. One member selected by the council member in whose district contains
19 the largest portion of the impact area from the resident nominated
20 candidates; and
- 21 d. One member selected by each of the At-large Council Members from the
22 resident nominated candidates.

1 (4) If the Planning Director receives less than nine nominations, the Planning
2 Director may seek additional nominations from individuals who live outside the
3 impact area but within the City Council district or districts where the Tier 1
4 Project is located.

5 (5) All actions of the Neighborhood Advisory Council may be taken with the consent
6 of a majority of Neighborhood Advisory Council members serving.

7 (6) Unless advance written notice, including electronic transmission, is provided to
8 the Neighborhood Advisory Council, attendance is mandatory for members at all
9 meetings.

10 (7) Should any Neighborhood Advisory Council Member be absent more than one
11 meeting, a permanent replacement may be appointed by, and at the discretion of,
12 the Neighborhood Advisory Council.

13 (c) Distribution of essential information.

14 (1) The Planning and Development Department and the Detroit Economic Growth
15 Corporation shall provide all essential documents to the Neighborhood Advisory
16 Council Members, the City Council Members in whose district the development is
17 taking place, and the At-large City Council members, as follows:

18 a. Documents shall be provided within 72 hours of the selection of the
19 Neighborhood Advisory Council;

20 b. Documents shall include:

21 i. A current copy of this article;

22 ii. All development agreements between the City and the respective
23 developer;

- 1 iii. Projected revenue from the development;
- 2 iv. The developer's RFP response;
- 3 v. All renderings related to the project;
- 4 vi. The "But/For" economic analysis conducted by the Detroit Economic
5 Growth Corporation;
- 6 vii. All environmental studies completed on the respective property; and
- 7 viii. Documents related to Brownfield funding.

8 (d) Engagement with developer.

9 (1) In addition to the meeting requirement in Subsection (a)(1) of this section, the
10 Planning Director shall facilitate at least one meeting between the Neighborhood
11 Advisory Council and the developer to allow the Neighborhood Advisory Council
12 to learn more details about the project and to provide an opportunity for the
13 Neighborhood Advisory Council to make the developer aware of concerns raised
14 by the Neighborhood Advisory Council.

15 (2) City Council by a two-thirds vote of members present or the Planning Director
16 may facilitate meetings, which the developer, or the developer's designee, shall
17 participate in as directed.

18 (3) As part of community engagement, the developer, or their designee, shall be
19 required to meet as directed.

20 (e) Community Benefits Report.

21 (1) The Planning Director shall provide a Community Benefits Report to City
22 Council regarding the Tier 1 Project prior to the request for any approvals
23 related to the Tier 1 Project.

1 (2) The Community Benefits Report shall contain:

- 2 a. A detailed account of how notice was provided to organize the public
- 3 meeting;
- 4 b. A list of the Neighborhood Advisory Council members and how they were
- 5 selected;
- 6 c. An itemized list of the concerns raised by the Neighborhood Advisory
- 7 Council;
- 8 d. A method for addressing each of the concerns raised by the Neighborhood
- 9 Advisory Council, or why a particular concern will not be addressed; and
- 10 e. A detailed list of community outreach strategies, inclusive of a language
- 11 access plan, that have been used to solicit and record feedback.

12 (3) Where possible, the Planning Director shall provide a copy of the Community
13 Benefits Report to the Neighborhood Advisory Council prior to submission to
14 City Council. The Neighborhood Advisory Council shall have at least one
15 week to review the Community Benefits Agreement prior to receiving a
16 request either to vote to approve or to sign a letter in support of the proposed
17 benefits, provided, that, if a majority of the Neighborhood Advisory Council
18 votes against the proposal, additional time shall be provided for discussion
19 and negotiation.

20 (4) To ensure an expeditious community engagement process, the Planning
21 Director, shall submit, where possible, the initial Community Benefits Report
22 within six weeks from the date the notice of the public meeting is sent.

1 (5) The Planning Director shall work with City Council to assure that, to the
2 maximum extend possible, all approvals required of City Council may be
3 considered simultaneously and subject to one approval vote.

4 (6) The Planning Director shall work with other City departments to facilitate that
5 Tier 1 Projects receive expedited City-required approvals.

6 (f) Development agreement.

7 (1) All development agreements made between the developer and the City related to
8 the land transfers or tax abatements associated with a Tier 1 Project shall include
9 the Community Benefits Provision, which shall include:

10 a. Enforcement mechanisms for failure to adhere to Community Benefits
11 Provision, that may include, but are not limited to, clawback of City-
12 provided benefits, revocation of land transfers or land sales, debarment
13 provisions, and proportionate penalties and fees;

14 b. The procedure for community members to report violations of the
15 Community Benefits Provision to the Neighborhood Advisory Council;

16 c. The length of time that Annual Compliance Reports, as outlined in
17 Subsection (g)(2) of this section, are required to be submitted; and

18 d. Continued community engagement or community meeting requirements.

19 (2) The developer shall not be required to enter into a legally-binding agreement with
20 any individual or organization other than the City for the express purpose of
21 fulfilling the requirements of this article or other City-mandated community
22 engagement processes.

1 (3) The developer may voluntarily enter into any contract or agreement related to the
2 Tier 1 Project that does not pose a conflict of interest with the City.

3 (g) Enforcement.

4 (1) An Enforcement Committee shall be established to monitor Tier 1
5 Projects.

6 a. The Enforcement Committee shall be comprised of, at minimum,
7 the following four individuals:

8 i. The Corporation Council, or their designee;

9 ii. A representative from the Planning and Development
10 Department;

11 iii. A representative from the Law Department;

12 iv. A representative from the Human Rights Department;

13 v. A representative from the City Council Legislative Policy
14 Division; and

15 vi. A member from the respective Neighborhood Advisory
16 Council as a non-voting member.

17 b. In addition to the members of the Enforcement Committee as
18 identified in Subsection (1)a of this section, the Planning Director may
19 require that other departments participate in the Enforcement Committee
20 as needed.

21 (2) The Enforcement Committee shall provide a biannual compliance report
22 to the City Council and the Neighborhood Advisory Council for the time
23 period identified in the Community Benefits Provision.

1 not diligently pursuing the enforcement or mitigation steps outlined in its
2 findings, the Neighborhood Advisory Council may send notice to the
3 Enforcement Committee and the Committee shall have 14 days from
4 receipt of notice to respond to the concerns outlined.

5 (8) If the Neighborhood Advisory Council is not satisfied with the
6 Enforcement Committee's response, the Neighborhood Advisory Council
7 may petition the City Clerk and request that City Council schedule a
8 hearing with opportunity both for the Enforcement Committee and for the
9 Neighborhood Advisory Council to present information related to the
10 alleged violations of the Community Benefits Provision and any
11 enforcement or mitigation efforts that have occurred.

12 (9) If City Council elects to hold a hearing, or based upon the written
13 information submitted, City Council shall determine whether the
14 Enforcement Committee has made reasonable efforts to ensure that the
15 developer has complied with the Community Benefits Provision as
16 follows:

17 a. If City Council determines that the Enforcement Committee has made
18 reasonable efforts, City Council shall notify the Neighborhood
19 Advisory Council and the Enforcement Committee of their findings; or

20 b. If City Council finds that the Enforcement Committee has not made
21 reasonable efforts, City Council shall make specific findings to the
22 Enforcement Committee on the steps that need to be taken to comply
23 with the Community Benefits Provision:

- 1 i. The Enforcement Committee shall provide City Council and
- 2 the Neighborhood Advisory Council monthly updates on
- 3 compliance actions until City Council adopts a resolution
- 4 declaring that the developer is in compliance with the
- 5 Community Benefits Provision or has taken adequate steps to
- 6 mitigate violations; and
- 7 ii. .City Council may hold additional hearings related to
- 8 enforcement of the Community Benefits Provision as needed.

9 **Sec. 12-8-4. - Tier 2 Projects.**

- 10 (a) A developer shall:
 - 11 (1) Partner with the City, and when appropriate, a workforce development
 - 12 agency to promote the hiring, training, and employability of Detroit residents
 - 13 consistent with state and federal law; and
 - 14 (2) Partner with the Planning Director to address and mitigate negative impact
 - 15 that the Tier 2 Project may have on the community and local residents
- 16 (b) The developer's commitment as identified in Subsection (a) of this section shall
- 17 be included in development agreements related to any land transfers or tax
- 18 abatements associated with the Tier 2 Project for which the developer seeks
- 19 approval.

20 **Sec. 12-8-5. - Exemptions.**

21 The requirements of this article may be waived by resolution of the City Council upon

22 submission by either the Planning Director or the developer identifying reasons that the

1 requirements of this article are impractical or infeasible and identifying how the developer will
2 otherwise provide community benefits.

3 **Sec. 12-8-6 International Crossings.**

4 **Prior to submitting to City Council a request for approval of land transfers or tax**
5 **abatements related to the development of an International Crossing Project the Planning**
6 **and Development Department in consultation with any other applicable departments and**
7 **agencies of the City of Detroit shall comply with all the provisions set forth under Section**
8 **12-8-3a-g of this Article in establishing, engaging and enforcing the community benefits**
9 **provisions in concurrence with the following:**

10 **a. The Developer and the relevant city departments must present**
11 **to the members of the Neighborhood Advisory Council, at a**
12 **minimum, the following information:**

13 **i. Detailed report of tax incentives being requested,**
14 **amounts & duration of each;**

15 **ii. Plan for usage of green infrastructure on the land**
16 **development utilized for the footprint of the crossing**
17 **and the surrounding area owned by the developer;**

18 **iii. Detailed plan regarding the number of jobs to be**
19 **created and the commitment to hiring Detroiters;**

20 **iv. Engagement with small businesses in the impact area to**
21 **determine any detrimental impact and methods to**
22 **minimize;**

23 **v. Proposed rezoning, street closures and impact on the**
24 **community.**

25 **b. The following must be conducted and presented**
26 **Neighborhood Advisory Council prior to approval of any**
27 **transaction for land transfer or tax abatement:**

28 **i. Health Impact Study and analysis of the potential effect**
29 **the crossing will have on community residents;**

- 1 **ii. Traffic study with proposed traffic routes to protect**
- 2 **community residents;**
- 3 **iii. Stormwater management plan of developer;**
- 4 **iv. Plan for vegetative buffering of the development**
- 5 **footprint and air monitoring of the impact area;**
- 6 **v. Report on potential vehicle traffic emissions from the**
- 7 **bridge into the impact area;**
- 8 **vi. Report of any Michigan Environmental, Great Lakes**
- 9 **and Energy permits/record of violations of the**
- 10 **developer;**
- 11 **vii. Neighborhood revitalization and community**
- 12 **development plan for impact area.**

13

14 **Section 2.** All ordinances or parts of ordinances in conflict with this ordinance are

15 repealed.

16 **Section 3.** This ordinance is declared necessary for the preservation of the public

17 peace, health, safety, and welfare of the people of the City of Detroit.

18 **Section 4.** If this ordinance is passed by a two-thirds (2/3) majority of City Council

19 members serving, it shall be given immediate effect and shall become effective upon

20 publication in accordance with Section 4-118 of the 2012 Detroit City Charter; if passed

21 by less than a two-thirds (2/3) majority of City Council members serving, it shall become

22 effective no later than thirty (30) days after publication in accordance with Section 4-118

23 of the 2012 Detroit City Charter; if this ordinance specifies a certain date to become

24 effective, it shall become effective in accordance with the date

25 Approved as to form:

26 _____

27 Conrad L. Mallett, Jr.

28 Corporation Counsel

29