

EMERGENCY

City of Cincinnati

ORD/B *AWB*

An Ordinance No. 46

- 2021

TO SUBMIT to the electors of the City of Cincinnati an amendment to the Charter of the City which requires a permanent, annual contribution beginning July 1, 2021 of fifty million dollars (\$50,000,000) of City funds to a new restricted fund for housing that is affordable to persons with low incomes and for related purposes using funding sources otherwise dedicated to providing for essential City services and public infrastructure needs to be paid from (1) the City's general operating or capital funds; (2) revenue from the lease or sale of the Cincinnati Southern Railway; (3) a proposed fee on developers of all commercial and some residential projects; or (4) a personal income tax on the award of stock options in publicly traded companies; where the newly-created fund is restricted to the purpose of creating and preserving housing that is affordable for households earning 60% of Hamilton County's median household income, with half of the fund restricted to housing that is affordable for households earning 30% of Hamilton County's median household income; where the fund can be allocated to new construction, renovation of vacant property, renovation of existing affordable units, operation costs of affordable housing, and direct services, provided that housing supported by the fund, with the exception of owner-occupied single-family housing, must be permanently dedicated as affordable by deed restriction; where the fund will be administered by an unelected volunteer board that will consist of eleven private citizens, nine of whom are selected by affordable housing and low income service organizations and two of whom are selected by the City Council President Pro Tem; who will serve staggered four-year terms; and who will create the rules, regulations, and standards that govern the board by enacting new Article XVII of the Charter.

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio, two-thirds of the members elected thereto concurring:

Section 1. That there shall be submitted to the vote of the qualified electors of the City of Cincinnati for their approval or disapproval at the primary election to be held May 4, 2021, an amendment to the Charter of the City of Cincinnati, enacting new Article XVII thereof, to read as follows:

**Article XVII.**

**AN AMENDMENT TO THE CHARTER OF THE CITY OF CINCINNATI TO REQUIRE A PERMANENT, ANNUAL CONTRIBUTION OF FIFTY MILLION DOLLARS (\$50,000,000) OF CITY FUNDS TO A NEW RESTRICTED FUND TO PAY FOR HOUSING FOR PERSONS WITH LOW INCOMES USING FUNDING SOURCES OTHERWISE DEDICATED TO PROVIDING FOR ESSENTIAL CITY SERVICES AND**

**PUBLIC INFRASTRUCTURE NEEDS, TO BE ADMINISTERED BY AN UNELECTED VOLUNTEER BOARD BY ENACTING NEW ARTICLE XVII, WHICH ALSO REQUIRES:**

**A. CITY COUNCIL SHALL APPROPRIATE NO LESS THAN \$50 MILLION INTO THE FUND EVERY FISCAL YEAR BEGINNING JULY 1, 2021, TO BE PAID FROM (1) THE CITY'S GENERAL OPERATING OR CAPITAL FUNDS; (2) REVENUE FROM THE LEASE OR SALE OF THE CINCINNATI SOUTHERN RAILWAY, WHICH APPROPRIATION IS CURRENTLY PROHIBITED BY STATE LAW; (3) A PROPOSED FEE ON DEVELOPERS OF ALL COMMERCIAL AND SOME RESIDENTIAL PROJECTS; OR (4) A PERSONAL INCOME TAX ON THE AWARD OF STOCK OPTIONS IN PUBLICLY TRADED COMPANIES, WHICH TAX IS CURRENTLY PROHIBITED BY STATE LAW. THE MANDATORY \$50 MILLION ANNUAL APPROPRIATION SHALL TAKE PRIORITY OVER OTHER FUNDING NEEDS OF THE CITY AND COULD REQUIRE THE CITY TO REDUCE CITY SERVICES AND INFRASTRUCTURE PROJECTS BY AS MUCH AS \$50 MILLION ANNUALLY COMPARED TO CURRENT CITY EXPENDITURES FOR GENERAL OPERATING AND CAPITAL PROJECTS. ANY STATE OR FEDERAL FUNDING RECEIVED BY THE CITY AND DEPOSITED IN THE FUND SHALL NOT COUNT TOWARD THE \$50 MILLION MINIMUM ANNUAL CONTRIBUTION.**

**B. THE FUND IS RESTRICTED TO THE PURPOSE OF CREATING AND PRESERVING HOUSING THAT IS AFFORDABLE FOR HOUSEHOLDS EARNING 60% OF HAMILTON COUNTY'S MEDIAN HOUSEHOLD INCOME, WITH HALF OF THE FUND RESTRICTED TO HOUSING THAT IS AFFORDABLE FOR HOUSEHOLDS EARNING 30% OF HAMILTON COUNTY'S MEDIAN HOUSEHOLD INCOME; THAT THE FUND CAN BE ALLOCATED TO NEW CONSTRUCTION, RENOVATION OF VACANT PROPERTY, RENOVATION OF EXISTING AFFORDABLE UNITS, OPERATION COSTS OF AFFORDABLE HOUSING, AND DIRECT SERVICES, PROVIDED THAT HOUSING SUPPORTED BY THE FUND, WITH THE EXCEPTION OF OWNER-OCCUPIED SINGLE-FAMILY HOUSING, MUST BE PERMANENTLY DEDICATED AS AFFORDABLE BY DEED RESTRICTION; THAT ALL PERSONS HIRED TO CONSTRUCT, RENOVATE, OR OPERATE ANY UNITS SUPPORTED BY THE FUND MUST BE PAID A LIVING WAGE; AND THAT SUPPORTED HOUSING ORGANIZATIONS MUST COMMIT THAT FUND PROJECT LANDLORDS WILL BE LIMITED IN THEIR ABILITY TO PURSUE EVICTIONS.**

**C. THE FUND WILL BE CONTROLLED AND MANAGED BY A BOARD THAT WILL CONSIST OF ELEVEN PRIVATE CITIZENS, NINE OF WHOM ARE SELECTED BY AFFORDABLE HOUSING AND LOW INCOME SERVICE ORGANIZATIONS AND TWO OF WHOM ARE SELECTED BY THE CITY COUNCIL PRESIDENT PRO TEM; WHO WILL SERVE STAGGERED FOUR-**

**YEAR TERMS; WHO WILL CREATE THE RULES, REGULATIONS, AND STANDARDS THAT GOVERN THE BOARD.**

**Section 1. Establishment of the Affordable Housing Trust Fund**

- 1) The Fund is hereby established as a separate restricted account under the name of the City of Cincinnati Affordable Housing Trust Fund, held by the city in trust to address the purposes set forth herein.
- 2) The purposes of the Affordable Housing Trust Fund are restricted
  - a. To increase resources available for affordable housing and neighborhood stabilization;
  - b. To create and preserve affordable and accessible housing to meet the needs of families, households, and individuals with low incomes in the city;
  - c. To provide housing investment to prevent displacement and the loss of affordable housing in neighborhoods; and
  - d. To leverage additional outside resources for the betterment of housing affordable to households with low incomes in the city.
- 3) Definition of affordable: A home shall be “affordable” when costs associated with residing in the home require no more than thirty percent of the household’s income.

**Section 2. The Cincinnati Affordable Housing Trust Fund Board**

- 1) The Board shall have control and management of the city’s Affordable Housing Trust Fund and may adopt rules and regulations, implement policies, release requests for proposals, approve and deny proposals and otherwise be responsible for the Fund’s management.
- 2) The Board shall be supported by the Department of Community and Economic Development or its successor.
- 3) The Board shall adopt rules and regulations to establish standards, policies, and goals for the Affordable Housing Trust Fund, consistent with the purposes and policies set forth in this ordinance, including without limitation criteria; for eligible projects, number and type of units funded, scoring of applications for funding and the prohibition of discrimination in the use of the Fund. The Board has responsibility to approve or modify said standards and policies.
- 4) The Board shall issue an Annual Report on the activities and accomplishments of the Affordable Housing Trust Fund for the previous year.
- 5) The Board shall appoint its employees to assist in administration of the Fund.
- 6) The Board shall have the power to approve contracts which shall be executed by the City Manager.
- 7) The Board may only conduct business with an affirmative vote of six (6) members.

- 8) The Board shall consist of eleven (11) members who shall serve with no compensation. The Board shall be composed of city residents selected as follows:
- a. One (1) member who is a developer of affordable housing or who is an affordable or fair housing professional to be nominated by the board of Housing Opportunities Made Equal of Greater Cincinnati, Inc. or its successor.
  - b. One (1) member who is a representative of a community development corporation who is also a resident of its neighborhood or service area, to be nominated by Homebase Cincinnati or its successor.
  - c. One (1) member who is a representative from a local charitable foundation serving city residents with low incomes, to be nominated by the President Pro Tem.
  - d. One (1) member who is a representative from a social service organization to be nominated by the Greater Cincinnati Coalition for the Homeless or its successor.
  - e. One (1) member who is a representative of an affordable housing advocacy organization to be nominated by Cincinnatians for Affordable Housing, Inc. or its successor.
  - f. Two (2) members who are current renters who qualify for low-income housing assistance as determined by the then-current criteria set by United States Department of Health and Human Services, nominated as follows:
    - i. One renter is to be nominated by the Greater Cincinnati Coalition for the Homeless or its successor.
    - ii. One renter is to be nominated by the President Pro Tem.
  - g. One (1) member who is a homeowner whose income does not exceed 200% of Poverty Guidelines for the 48 Contiguous States and the District of Columbia as most recently published in the Federal Register by the United States Department of Health and Human Services, who will be nominated by Cincinnatians for Affordable Housing, Inc. or its successor.
  - h. One (1) member who is a representative of a homeless advocacy organization to be nominated by the Greater Cincinnati Coalition for the Homeless or its successor.
  - i. One (1) member who is an attorney admitted to practice law in the State of Ohio to be nominated by Cincinnatians for Affordable Housing, Inc. or its successor.
  - j. One (1) member who has experienced homelessness to be nominated by the Greater Cincinnati Coalition for the Homeless or its successor.

- 9) The City Council will appoint all nominated members to the Board. The terms will begin on the effective date of this Article with renewals of terms beginning on the respective anniversary dates of the Article. Any appointment to fill a vacancy created prior to the end of a term shall be only for the balance of the vacated term.
- a) The initial term for Board members from Section 2.8.a.; 2.8.b.; 2.8.d.; 2.8.g.; and 2.8.f.ii. shall be for two years with subsequent appointments for a term of four years.
  - b) The initial term for Board members from Section 2.8.c.; 2.8.e.; 2.8.f.i. 2.8.h.; 2.8.i; and 2.8.j. shall be for a term of 4 years beginning on the effective date of this Article with subsequent appointments for a term of four years.
  - c) If any organization with authority to make a nomination under this Article cannot for any reason, or fails to submit its nomination to the Clerk within 30 days from the receipt of notice of a vacancy from the Clerk, the President Pro Tem shall make such nomination, subject to the approval of Council within 30 days.
  - d) If there is no successor to any organization referenced herein, the nomination shall be made by the President Pro Tem of Council, subject to the approval of Council.
  - e) A member shall serve until her successor takes office.
  - f) Council shall confirm all nominations for appointment at the next meeting of Council.

### **Section 3.**

#### **1) Funds and Sources of Funds**

- a. Notwithstanding any provision of this Charter to the contrary, beginning with the first city budget after the effective date of this Article, Council shall appropriate a minimum of \$50 million to the Fund.
- b. Beginning with the second year, the minimum appropriation shall increase by the greater of zero or a percentage equal to the percent change in United States Bureau of Labor Statistics CPI-U: U.S. City Average for All Items, for the prior 12 months ending in January of the current year. Each year the adjusted amount will become the minimum appropriation for use in calculating the adjustment for the following fiscal year.
- c. Any assets remaining in the Fund at the end of any fiscal year shall be carried into the next fiscal year, including all interest and income earned, as well as any repayments or forfeitures of loans and/or grants. These funds shall not count toward the new minimum appropriation.

2) To meet its obligations to the Fund, Council shall appropriate funds from among the following sources:

- a. The revenue generated from the lease of the Cincinnati Southern Railway. If revenue is generated from a sale of the Railway, all proceeds shall be placed in the Fund.
- b. A fee to be assessed to developers of residential projects that include four or more residential units and all commercial or non-residential projects. Council may provide financial credits, not to exceed the fee, to developers who provide permanent affordable residential units in the project, as defined by the Board regulations.
- c. A personal income tax on the award of stock options in publicly traded companies.
- d. The city's general operating or capital funds.
- e. Nothing herein shall be construed to permit the council to raise revenue for purposes of this Article through an increase in the rate of the income tax unless the issue is first submitted to a vote of the electorate pursuant to Article VIII of the Charter.
- f. Funds received directly or indirectly from the State of Ohio or the government of the United States may be deposited in the Fund but shall not count toward the minimum appropriation.

#### **Section 4. Use of Funds**

1. The Board must allocate at least fifty percent of funds for the purpose of housing affordable to households with an income at or below thirty percent of the current median household income ("mhi") for Hamilton County, and all funds must be allocated for the purposes of housing affordable to households with an income at or below sixty percent of the mhi for Hamilton county, as published by the United States Census Bureau in the most recently available American Community Survey 5-Year Data Profile, or its successor.
2. Funds can be allocated to new construction, renovation of vacant property, renovation of existing affordable units for the purpose of ensuring their sustainability, operation costs of affordable housing and direct services.
  - a. No more than five percent of funds shall be allocated to the administration of the Fund annually.
  - b. The quantity and type (bedroom count) of housing supported by the Fund, must in perpetuity, within the property, via deed restriction, remain affordable, with the exception of repairs to an existing, owner-occupied single-family residence or other direct services. The Board may institute additional methods of enforcement.
3. All persons hired to construct, renovate or operate any units supported by the Fund must be paid a living wage consistent with the city's current living wage ordinance.
4. If an eviction is necessary, organizations must commit that the owner of the project will only pursue "Just Cause Evictions," defined as follows:
  - a. Serious or repeated violation of the terms and conditions of the lease and/or

- b. Violation of applicable federal, state or local law(s), and
- c. After a corrective action plan, agreed to by the tenant and landlord has not been adhered to by the tenant.

**Section 5. Miscellaneous**

- 1) Council shall have the power to enact all ordinances necessary to implement the purposes of this Article.
- 2) Severability. In the event that any provision of this Article is found to be unconstitutional or impermissibly in conflict with state or federal law, only such provision found to be unconstitutional or impermissible will be stricken, and the remainder of this Article will remain in full force and effect.

Section 2. That the form of submission of the proposed amendment to the electors shall be substantially as follows:

<b>YES</b>	<p>Shall the Charter of the City of Cincinnati be amended to require a permanent, annual contribution of fifty million dollars (\$50,000,000) of City funds to a new restricted fund for housing that is affordable to persons with low incomes and for related purposes using funding sources otherwise dedicated to providing for essential City services and public infrastructure needs, to be administered by an unelected volunteer board by enacting new Article XVII, which also requires:</p> <p>A. City Council shall appropriate no less than \$50 million into the fund every fiscal year beginning July 1, 2021, to be paid from (1) the City's general operating or capital funds; (2) revenue from the lease or sale of the Cincinnati Southern Railway, which appropriation is currently prohibited by state law; (3) a proposed fee on developers of all commercial and some residential projects; or (4) a personal income tax on the award of stock options in publicly traded companies, which tax is currently prohibited by state law. The mandatory \$50 million annual appropriation shall take priority over other funding needs of the City and could require the City to reduce City services and infrastructure projects by as much as \$50 million annually compared to current City expenditures for general operating and capital projects. Any State or Federal funding received by the City and deposited in the fund shall not count toward the \$50 million minimum annual contribution.</p> <p>B. The fund is restricted to the purpose of creating and preserving housing that is affordable for households earning 60% of Hamilton County's median household income, with half of the fund restricted to housing that is affordable for households earning 30% of Hamilton County's median household income; that the fund can be allocated to</p>
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<b>NO</b>	<p>new construction, renovation of vacant property, renovation of existing affordable units, operation costs of affordable housing, and direct services, provided that housing supported by the fund, with the exception of owner-occupied single-family housing, must be permanently dedicated as affordable by deed restriction; that all persons hired to construct, renovate, or operate any units supported by the fund must be paid a living wage; and that supported housing organizations must commit that fund project landlords will be limited in their ability to pursue evictions.</p> <p>C. The fund will be controlled and managed by a board that will consist of eleven private citizens, nine of whom are selected by affordable housing and low income service organizations and two of whom are selected by the City Council President Pro Tem; who will serve staggered four-year terms; who will create the rules, regulations, and standards that govern the board.</p>
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Section 3. That the Clerk of Council shall give notice of the proposed Charter amendment in the manner provided by Sections 8 and 9 of Article XVIII of the Ohio Constitution and Section 731.211 (B) of the Ohio Revised Code.

Section 4. That the Clerk of Council is directed to certify and transmit to the Board of Elections of Hamilton County, Ohio, a copy of this ordinance and direct the said Board to submit the proposed Charter amendment to the electors of the City of Cincinnati as provided by law.

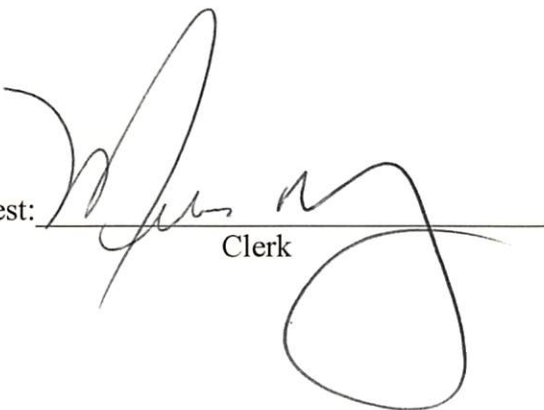
Section 5. That the Board of Elections of Hamilton County, Ohio, shall certify to the Council the result of the vote upon said amendment, and if said amendment is approved by a majority of the electors voting thereon, this Article shall become a part of the Charter of the City of Cincinnati.

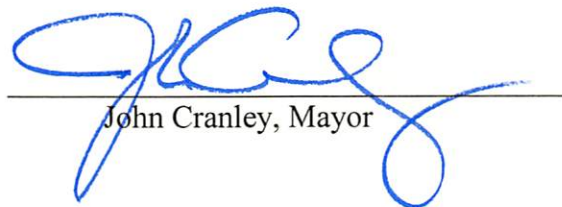
Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate necessity to authorize the Clerk of Council to certify and transmit



this ordinance to the Board of Elections at least sixty days prior to the May 4, 2021 primary election.

Passed March 3, 2021

Attest:   
Clerk

  
John Cranley, Mayor