

EMERGENCY

City of Cincinnati

FC SW

An Ordinance No. 292 - 2023

TO SUBMIT to the electors of the City of Cincinnati an amendment to the Charter of the City which would require the City of Cincinnati to raise income and withholding taxes by three-tenths of one percent (0.3%), if subsequently approved by the electorate, annually beginning January 1, 2025, which new taxes shall be deposited into a non-lapsing special revenue fund restricted only to finance housing affordable to households with income up to 80 percent of the area median income as established by federal law with 65 percent of the fund restricted to support housing affordable only to households with incomes up to 30 percent of the area median income; which new taxes shall fund such housing throughout the city of Cincinnati through grants, subsidies, and loans, including to third party housing developers, which may be of low or no interest, and/or forgivable; which new taxes can be spent to increase, preserve, maintain, repair, improve, and pay off indebtedness related to privately owned homes and rental properties owned or rented by people with incomes up to 80 percent of the area median income as established by federal law; which new taxes can be spent to provide down payment assistance, mortgages, loans, financial counseling, and construction loans to people with incomes up to 80 percent of the area median income; and which up to five percent of annual revenues collected from the new tax may be used to support city staff and operations established for the purposes of administering the funds; and which imposes long-term restrictive covenants on property that receives funds from these taxes to maintain affordability and provide first right of refusal to purchase rental property funded through these taxes to tenants and the City, and shall be administered in consultation with an 11 member board of private citizens.

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 general election to be held November 7, 2023, an amendment to the Charter of the City of Cincinnati, enacting new Section 6d, "Affordable Housing Opportunities for Senior Citizens, Families with Children, People with Disabilities and other People with Middle to Low Incomes," of Article VIII thereof, to read as follows:

Article VIII. Taxation and Finance.

Section 6d. Affordable Housing Opportunities for Senior Citizens, Families with Children, People with Disabilities and other People with Middle to Low Incomes.

Whereas on November 3, 2020 the electors of Hamilton County approved a sales and use tax levy to provide general revenues for the Southwest Ohio Regional Transit Authority, and the income tax of three-tenths of one percent (.3%) levied by the City of Cincinnati for public transit purposes was discontinued. This amendment will effectively restore that levy for affordable housing.

The city shall, no later than January 1, 2025, levy a tax on income and a withholding tax (collectively “tax”), measured by municipal taxable income, at a rate of three-tenths of one percent (0.3%) per annum only for the purposes described herein, notwithstanding any conflicting provisions of Section 6c of the charter. Within sixty days of the approval of this amendment, the city shall take all steps required by law to be able to levy the tax by no later than January 1, 2025, including, if required, submitting it to electors of the city. In such event, it shall be submitted to the electors of the city at the November 2024 general election, and the ballot language shall substantially read, “Shall the Ordinance providing for a 0.3 per cent levy on income for the construction, renovation, and preservation of single-family and multi-family homes, affordable to senior citizens, families with children, people with disabilities, and other people, with middle to low incomes, and thereby strengthening the economic viability of neighborhoods through investments in household and family stability, workforce and supportive housing, and blight removal, to go into effect no later than January 1, 2025, as authorized by the voters in adopting Article VIII, section 6d of the City Charter, be passed?”

All proceeds from the tax shall be deposited to a non-lapsing special revenue fund to be named the “Affordable Housing Revenue Fund” (“RF”) and shall be used solely for the purposes set forth herein. Funds from other sources may be added for these purposes. Any unspent assets in the RF at the end of any fiscal year shall remain in the RF and be carried into the next fiscal year, including all interest and income earned, as well as any fees, rents, forfeitures or repayments of loans or grants.

- 1) **Purpose:** To finance housing affordable to, and provide for the housing stability of, households with low to middle incomes, and thereby:
 - a) Strengthen neighborhoods and empower neighborhoods to develop housing that meets their needs;
 - b) Prevent residential displacement;
 - c) Enable seniors to stay in their homes;
 - d) Decrease the number of families, children, seniors, individuals and households experiencing homelessness, eviction and/or housing instability;
 - e) Increase the number of homes accessible to people with disabilities;
 - f) Redress racial inequities in housing, neighborhood access and development; affirmatively further fair housing; and
 - g) Leverage additional resources for these purposes.

- 2) **Distribution:** This purpose and outcomes shall be met through the transfer and subsequent distribution of Revenue Fund (RF) funds only in the following manner and for these uses:

- a) Via grants, subsidies, and loans which may be of low or no interest, and/or forgivable. Loans to non-profit organizations shall always be of no interest and forgivable.
- b) At least 65 percent of annual RF revenues shall be transferred to special revenue fund, Fund 439, the “Affordable Housing Trust Fund” (Trust Fund) and reserved to increase the number of quality homes; preserve existing homes; and support the operations of homes that will be or are affordable, as defined herein, to households with incomes not more than 30 percent of the Area Median Income (AMI), as defined herein. Any funds described in 2b, left unspent at the end of a fiscal year, shall remain in the Trust Fund, reserved for the purposes in 2b.
- c) Up to 30 percent of annual RF revenues may be:
 - i) Transferred to the Trust Fund and used to: (1) Increase the number of quality homes; preserve existing homes; and support the operations of homes that will be affordable to households with incomes greater than 30 percent, but not more than 50 percent of the AMI, and/or (2) provide services, which shall not be loans, to households that decrease the impact of housing loss, and/or increase their ability to obtain and/or maintain housing.
 - ii) Used to assist homeowners with incomes not more than 80 percent of the AMI in maintaining, repairing, improving, and/or paying off indebtedness related to their home.
 - iii) Used to provide homeownership opportunities affordable to households with incomes not more than 80 percent of the AMI through services such as, but not limited to: down payment assistance, mortgages, loans, financial counseling and construction loans. If the benefitting household sells or ceases occupying the property before a number of years not less than five, have passed from the date they took ownership, the financial investment of the RF must be repaid to the RF, unless the city grants exemption to a household with exigent circumstances.
- d) Up to five percent of annual RF revenues may be used to administer the funds, including costs of the city to ensure quality, adequate staffing, and transparent, efficient operations; costs of awardees to submit applications for other funding, and/or in overseeing the development of funded projects.
- e) All rental units supported by 2b and/or 2ci1 funds, shall be maintained in quantity and bedroom count, within the property, regardless of location in the structure, and shall remain affordable at not more than the AMI listed in the funding agreement for a period not less than 30 years. Upon any sale or transfer of such units or the property containing them, this number of years shall restart. If 50 percent or more of units in a property have been supported by 2b and/or 2ci1 funds, and the property is for sale, the tenants of said property have the first right of refusal to purchase, followed by the city. At the time of the original contract with the city, and at all subsequent sales or transfers of such units, this number of years and rights of refusal shall be recorded and enforced by, at minimum, a deed covenant/restriction filed with the County Recorder, an affordable housing agreement between the owner and city, and, if applicable, as part of any mortgage or loan agreement. Additional enforcement measures, including but not limited

to: recapture of funds, ground leases, land trusts, and development agreements may be used. Funds may be used to assist tenants in purchasing the property where they rent their home.

- f) Greater funding shall be available per unit, the lower a unit's contracted AMI affordability level is.
 - g) Prior to occupying a unit or receiving services per 2b and 2c, a household's income must be verified to be not more than the specified AMI, adjusted for household size. For rental units in 2b and 2ci1, unless noncompliant with a controlling public funding source in the project, requirements when a tenant's income rises above the limit, shall comply with those in US Code 26, Section 42, or its successor, and when noncompliant they shall comply with the project's controlling public funding source.
 - h) Area Median Income (AMI), income and rent limit amounts, utility allowances and the like, including adjustments of each for household size, used to comply with this section, shall comply with Code of Federal Regulations (CFR) title 24, or its successor, and follow the guidelines published annually by HUD for the Cincinnati, OH-KY-IN HUD Metro FMR Area, or its successor.
 - i) Funds may be used for but are not limited to acquisition; new construction; renovation; repair; improvements; demolition; expansion; project planning; legal, design, and engineering services; and direct services to households.
 - j) Funds may support whole properties or any number of units within a property.
 - k) Projects and awardees may receive support multiple times and may concurrently receive other funds.
- 3) **Labor Laws:** Funds must be dispersed in compliance with all applicable federal, state and local labor laws.
- 4) **Equity:** Provisions hereunder to people who are members of protected classes that have historically experienced discrimination such as redlining, and displacement must be prioritized throughout.
- 5) **Administration:** All Revenue Fund (RF) funds shall be administered by the city or its contracted designee, in consultation with an Affordable Housing Trust Fund Board (Board) of city residents, with up to 11 members, meeting at least six times annually, appointed by Council for two year terms, with at least the following represented by at least one member each: people residing in housing restricted to households with low-incomes, people who have experienced homelessness, lenders, for-profit and non-profit housing developers, affordable housing and homelessness advocacy organizations and social services.
- a) The city, in consultation with the Board, shall establish policies, rules, regulations, and priorities relating to implementation, expenditures, and ongoing operations, in compliance with Article VIII 6d. The city and Board shall publish an annual RF report with at least the following: Fiscal year starting and ending balances; expenses; progress on outcomes in division 1; the number of: (a) homes created or preserved and their rent or mortgage levels; (b) households assisted by type of assistance, with income level and demographics of each; (c) jobs created and demographics of company ownership; and (d) funds leveraged from other sources. At least every five years, the Board shall review all funded projects to determine if they are following the contract with the city.

- b) At least twice each fiscal year, the Board and city shall have a working meeting open and advertised to the public, to assist in evaluating outcomes and setting priorities. Following the last of the fiscal year, the Board and city shall publish priorities and guidelines for the following year.
 - c) At least once per fiscal year the city and Board shall release a Notice of Funding Availability (NOFA) and a Request for Proposals (RFP) following the limitations in 2.
- 6) **Accessibility:** The city, in consultation with the Board, shall set percentages of units funded each fiscal year that must be accessible and/or visitable, with a process for projects to appeal.
- 7) **Definitions:** For the purpose of this Section:
- a) “Affordable”: Rent or mortgage payment plus the cost of utilities, or the relevant portions thereof, that must be paid by the occupant household, require no more than 30 percent of the household’s income.
 - b) “Household”: One or more persons occupying or who would occupy a single housing unit.
 - c) “Income” means “adjusted income” as defined in CFR title 24, or its successor. If noncompliant with a project’s other public funding source(s), “adjusted gross income” as defined in CFR title 26 shall apply. If neither complies, “income” shall comply with the project’s controlling public funding source.
 - d) “Unit”: House, apartment, group of rooms, or single room intended for occupancy as separate living quarters.
- 8) **Collection:** The tax shall be levied, assessed and collected to the same extent and in the same manner as the city's income tax under Section 6c of the charter, including calculation of income, exemptions and credits. The city shall not in any year levy less than the full amount of the tax.
- 9) Council shall have the power to enact all ordinances necessary to implement the purposes of this Article.
- 10) **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:

	<p>Charter amendment</p> <p>A majority vote is necessary for passage.</p>
<p>YES</p>	<p>Shall the Charter of the City of Cincinnati be amended to require the City of Cincinnati to raise income and withholding taxes by three-tenths of one percent (0.3%), if subsequently approved by the electorate, annually beginning January 1, 2025, which new taxes shall be deposited into a non-lapsing special revenue fund restricted only to finance housing affordable to households with income up to 80 percent of the area median income as established by federal law with 65 percent of the fund restricted to support housing affordable only to households with incomes up to 30 percent of the area median income; which new taxes shall fund such housing throughout the city of Cincinnati through grants, subsidies, and loans, including to third party housing developers, which may be of low or no interest, and/or forgivable; which new taxes can be spent to increase, preserve, maintain, repair, improve, and pay off indebtedness related to privately owned homes and rental properties owned or rented by people with incomes up to 80 percent of the area median income as established by federal law; which new taxes can be spent to provide down payment assistance, mortgages, loans, financial counseling, and construction loans to people with incomes up to 80 percent of the area median income; and which up to five percent of annual revenues collected from the new tax may be used to support city staff and operations established for the purposes of administering the funds; and which imposes long-term restrictive covenants on property that receives funds from these taxes to maintain affordability and provide first right of refusal to purchase rental property funded through these taxes to tenants and the City, and shall be administered in consultation with an 11 member board of private citizens.</p>
<p>NO</p>	

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

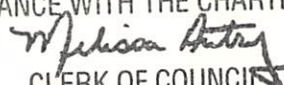
majority of the electors voting thereon, this Article shall become a part of the Charter of the City of Cincinnati.

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 November 7, 2023 general election.

Passed September 7, 2023

Attest: 
Clerk


NCC - Mayor

I HEREBY CERTIFY THAT ORDINANCE NO 292-2023
WAS PUBLISHED IN THE CITY BULLETIN
IN ACCORDANCE WITH THE CHARTER ON 9/19/2023

CLERK OF COUNCIL