

EMERGENCY

City of Cincinnati

KMG

An Ordinance No. _____

- 2022

AWB

AMENDING Ordinance No. 275-2017, as previously amended by Ordinance Nos. 339-2018 and 370-2020, regarding the commercial policies of Community Reinvestment Area real property tax exemptions, to (i) set a policy by which City Council authorizes the City Administration to approve the maximum Community Reinvestment Area real property tax exemption for projects awarded Low-Income Housing Tax Credits by the Ohio Housing Finance Agency without further approval by City Council; and (ii) clarify the eligible length of real property tax exemptions for commercial projects of historical or architectural significance in downtown Cincinnati.

WHEREAS, Ordinance No. 274-2017, passed by City Council on September 27, 2017, designated the area within the corporate boundaries of the City of Cincinnati as a "Community Reinvestment Area" pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute"); and

WHEREAS, effective October 23, 2017, the Director of Development of the State of Ohio determined that the area within the corporate boundaries of the City of Cincinnati contains the characteristics set forth in the Statute and confirmed such area as a Community Reinvestment Area under the Statute; and

WHEREAS, Ordinance No. 275-2017, passed by City Council on September 27, 2017, as amended by Ordinance Nos. 339-2018 and 370-2020, passed by City Council on October 31, 2018, and November 12, 2020, respectively (as amended, the "Commercial Policy Ordinance"), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled commercial structures (including residential structures of five units or more) in the Community Reinvestment Area; and

WHEREAS, City Council finds that there is an existing shortage of affordable housing units in the City of Cincinnati and City Council seeks to remove barriers for developers undertaking the construction or renovation of affordable housing units, so that they can be constructed at the earliest possible time; and

WHEREAS, documentation regarding proof of financing is required as a part of the application process for Low-Income Housing Tax Credits; and

WHEREAS, projects locally could be more competitive for certain Low-Income Housing Tax Credits if the City could execute award letters at the time of application for such Low-Income Housing Tax Credits that are not conditioned on the subsequent authorization by City Council of commercial real property tax exemptions pursuant to the Statute; and

WHEREAS, City Council desires to amend the Commercial Policy Ordinance to (i) set a policy by which City Council authorizes the City Administration to approve the maximum Community Reinvestment Area real property tax exemption for projects awarded Low-Income Housing Tax Credits by the Ohio Housing Finance Agency without further approval by City Council; and (ii) clarify the eligible length of exemption for commercial projects of historical or architectural significance in downtown Cincinnati; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 2 of Ordinance No. 275-2017, passed by City Council on September 27, 2017, as amended by Ordinance Nos. 339-2018 and 370-2020, passed by City Council on October 31, 2018 and November 12, 2020, respectively (as amended, the “Commercial Policy Ordinance”), is hereby amended to set a policy by which City Council authorizes the City Administration to approve the maximum Community Reinvestment Area real property tax exemption (“CRA”) for projects awarded Low-Income Housing Tax Credits by the Ohio Housing Finance Agency without further approval by City Council. The existing Section 2 of the Commercial Policy Ordinance is hereby repealed in its entirety and replaced with the following:

Section 2. That City Council hereby authorizes (i) the City Administration to approve the maximum real property tax exemption pursuant to the Reauthorizing Ordinance (as defined below) for Commercial Improvements (as defined below) awarded Low-Income Housing Tax Credits by the Ohio Housing Finance Agency (“LIHTCs”), subject to any agreements between the City and the Board of Education of the Cincinnati City School District, without any further authorization by City Council; and (ii) the City Manager to execute all related CRA Agreements (as defined below) if such CRA Agreement to be executed is substantially consistent with the form of CRA Agreement attached to this ordinance as Exhibit C (such form as may be updated, amended, or modified by the City Solicitor or his or her designee, in his or her sole discretion). City Council requests that the City Administration include a determination consistent with the point system attached hereto as Exhibit A (the “Points Determination”) when transmitting a all other Community Reinvestment Area (“CRA”) real property tax exemption ordinances to City Council pertaining to the remodeling or new construction of a commercial structure, a mixed-use structure or a residential structure containing five or more units (excluding owner-occupied residential condominium structures) (collectively, “Commercial Improvements”) and located outside of the area depicted on Exhibit B (the area depicted on such exhibit being the “Streetcar VTICA Area”). The period and percentage of the real property tax exemption determined by the

City Administration shall be in accordance with the Points Determination except as described in Section 3 below.

Section 2. That Section 3 of the Commercial Policy Ordinance is hereby amended consistent with Section 1 of this ordinance. The existing Section 3 of the Commercial Policy Ordinance is hereby repealed in its entirety and replaced with the following:

Section 3. That irrespective of the foregoing Section, for CRA Agreements that City Council must separately approve, the City Administration may make a determination that a Catalytic Project (as defined below), a project within a Targeted Neighborhood (as defined below), or an Undercapitalized Project (as defined below) warrants an abatement term and/or percentage up to the maximum amounts permitted pursuant to the ordinance establishing the CRA passed on or prior to the date hereof (the “Reauthorizing Ordinance”), even if such recommendation is inconsistent with such project’s Points Determination. City Council requests that the The Department (as defined below) shall explain in detail any determination made under this section as part of its approval recommendation to Council. As used herein:

- (a) “Targeted Neighborhood” means a neighborhood which, in the five years preceding the proposed project, has lacked significant investment in real estate development relative to other neighborhoods in Cincinnati based on the existing condition of the neighborhood’s commercial and housing stock. The City Administration, acting through the Department of Community and Economic Development (the “Department”), shall identify such Targeted Neighborhoods.
- (b) “Catalytic Project” means a project, as determined by the City Administration, that:
 - (i) includes a substantial amount of investment in real estate development relative to the average real estate development in the neighborhood of the project; or
 - (ii) is likely to have a substantial effect in encouraging additional investment or real estate development in the neighborhood of the project.
- (c) “Undercapitalized Project” means a project, as determined by the City Administration, that:
 - (i) would not be financially feasible if limited to a CRA abatement calculated solely using the Points Determination; and
 - (ii) is expected to result in public benefits (*e.g.*, job creation, neighborhood services, community enhancement, or elimination of blight) that would warrant an exception to the Points Determination.

Section 3. That Section 10 of the Commercial Policy Ordinance is hereby amended to make it clear that Commercial Improvements in the Streetcar VTICA Area (each as defined in the Commercial Policy Ordinance) are eligible for a historic extension pursuant to Ohio Revised Code Section 3735.67(D)(1). The existing Section 10 of the Commercial Policy Ordinance is hereby repealed in its entirety and replaced with the following:

Section 10. That within the Streetcar VTICA Area, (a) Commercial Improvements may be granted real property tax exemptions of up to 100 percent for up to ~~45 years~~ the maximum term permitted under the Reauthorizing Ordinance and (b) Commercial Improvements which obtain U.S. Green Building Council Leadership in Energy and Environmental Design (“LEED”) Silver, Gold or Platinum or projects which obtain a Living Building Challenge (“LBC”) Net Zero, Full, or Petal (which must comply with the requirements of “Energy Petal” of the LBC) (collectively, “LBC Qualified” and the attainment of such criteria being “LBC Qualification”) shall not be subject to gap financing analysis.

Section 4. That Section 13 of the Commercial Policy Ordinance is hereby amended consistent with Section 1 of this ordinance. The existing Section 13 of the Commercial Policy Ordinance is hereby repealed in its entirety and replaced with the following:

Section 13. That for exemptions for Commercial Improvements that require separate approvals by City Council, irrespective of (a) the Points Determination submitted to City Council with any CRA ordinance or (b) any recommendation with respect to a proposed tax exemption for a Commercial Improvement in the Streetcar VTICA Area, City Council retains the authority to deny such exemption applications or to award an exemption at any level and for any period up to the maximum permitted pursuant to the Reauthorizing Ordinance. Recommendations and Points Determinations provided by the City Administration pursuant to this ordinance are intended for City Council’s information and consideration, but shall in no way bind City Council to take, or refrain from taking, any action whatsoever, whether consistent or inconsistent with any such recommendation or Points Determination.

Section 5. That the Commercial Policy Ordinance is hereby amended by adding an Exhibit C in the form attached to this ordinance as Exhibit C.

Section 6. That this ordinance shall only apply to CRA applications for commercial projects (including residential projects containing five or more units) received on and after the date of passage of this ordinance.

Section 7. That all applications made, exemption agreements executed, and exemptions granted pursuant to the Commercial Policy Ordinance shall continue in force in accordance with the provisions of the ordinance applicable to that application, agreement, or exemption in effect at the time of the application, execution of the agreement, or grant of exemption, respectively.

Section 8. That existing Sections 1, 4-9, 11-12, and 14-20 of the Commercial Policy Ordinance shall remain in full force and effect.

Section 9. That the proper City officials are hereby authorized to do all things necessary to carry out the provisions of this ordinance.

Section 10. That the Clerk of Council is directed to send a certified copy of this ordinance to the County Auditor of Hamilton County as a matter of information.

Section 11. 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 need to expedite the approvals of CRAs so that affordable housing projects receiving Low-Income Housing Tax Credit awards can commence construction at the earliest possible time and be more competitive in the application process for receiving such tax credits.

Passed: _____, 2022

Aftab Pureval, Mayor

Attest: _____
Clerk

Deletions are struck through. Additions are underlined.