

# City of Cincinnati

KMG/C

AWB

## An Ordinance No. \_\_\_\_\_ - 2020

**AMENDING** Ordinance Nos. 274-2017, 275-2017, and 276-2017 to reflect certain real property tax abatement policies as proposed by members of the Property Tax Working Group, including creating additional caps on residential real property tax abatements and expanding the definition of residential properties to include structures containing four dwelling units.

WHEREAS, Ordinance No. 274-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 166-2018, passed by this Council on June 27, 2018 (as amended, the “Reauthorizing Ordinance”), designated the area within the corporate boundaries of the City of Cincinnati as a “Community Reinvestment Area” (“CRA”) 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 this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the “Commercial Policy Ordinance”), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled commercial structures in the CRA; and

WHEREAS, Ordinance No. 276-2017, passed by this Council on September 27, 2017 (the “Residential Policy Ordinance”), sets forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled residential structures in the CRA; and

WHEREAS, Motion Nos. 201801401 and 201900467, as adopted by this Council on October 3, 2018, and April 3, 2019, respectively, established the Property Tax Working Group to (i) study trends related to real property taxes, especially the issue of rising real property taxes in areas of significant levels of development; (ii) make recommendations to Council aimed at helping to keep senior citizens in their homes and communities; (iii) report on best practices in other cities and states facing similar challenges; and (iv) review the City’s real property tax abatement program; and

WHEREAS, Motion No. 202000945, as adopted by this Council on September 2, 2020, sets forth certain short-term and long-term recommendations from the Property Tax Working Group related to the City’s CRA, including expanding the definition of residential properties to include structures containing four dwelling units; and

WHEREAS, Motion No. 202000990, as adopted by this Council on September 2, 2020, recommends amending the caps on residential real property tax abatements, as set forth in the Residential Policy Ordinance, including by adding new caps in certain circumstances; and

WHEREAS, City Council desires to amend the Reauthorizing Ordinance, the Commercial Policy Ordinance, and the Residential Policy Ordinance to (i) expand the definition of residential properties to include structures containing four dwelling units and (ii) create additional caps on residential real property tax abatements and make certain other changes, as applicable; now, therefore,

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

Section 1. That Sections 4, 5, 6, 7, and 8 of Ordinance No. 274-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 166-2018, passed by this Council on June 27, 2018 (as amended, the “Reauthorizing Ordinance”), are hereby amended as follows:

Section 4. That the Director of the City’s Department of Community and Economic Development or his or her designee is hereby designated as the housing officer (as such term is defined in Ohio Revised Code Section 3735.65(A)) for the City of Cincinnati Community Reinvestment Area.

Section 5. That except as may be otherwise provided by this Council, exemptions for remodeling or new construction of commercial (including residential apartment structures containing ~~four~~five or more dwelling units, but excluding owner-occupied residential condominium structures), industrial and mixed-use structures (collectively, “Commercial Improvements”) are conditioned upon the execution of a CRA Agreement in a form required by the City (following separate approval by ordinance of Council) prior to commencement of construction or remodeling, as provided in Ohio Revised Code Section 3735.671, specifying the term and percentage of the exemption and any additional conditions applicable to the exemption as may be required by law or agreed upon by the City and any parties thereto.

Section 6. That except as may be otherwise provided by this Council, exemptions for remodeling or new construction of one-, two-, ~~and three-, and~~ four-dwelling unit residential structures are not conditioned upon the execution of a CRA Agreement. For the purposes of this ordinance, each owner-occupied residential condominium unit is considered a separate structure containing one dwelling unit.

Section 7. That Council (a) acknowledges that written agreements with respect to Commercial Improvements involve an application fee payable by the applicant to the Ohio Development Services Agency in the amount of \$750.00 and an application fee payable by the applicant to the City of Cincinnati in the

amount of \$1,250, (b) establishes an application fee for exemptions for remodeling or new construction of one-, two-, ~~and three-~~, and four-dwelling unit residential structures in the amount of \$250, and (c) establishes an annual fee to be included as a condition of each CRA Agreement in an amount equal to one percent of the annual real property tax exemption, but which shall in no event be less than \$500 per year or more than \$2,500 per year per CRA Agreement.

Section 8. That this Council acknowledges the City's obligations under that certain ~~Agreement by and between the City and the City School District of the City of Cincinnati dated July 2, 1999, as amended~~ Tax Incentive Agreement effective as of April 28, 2020, by and between the City and the Board of Education of the Cincinnati City School District, as the same may hereinafter be amended, modified, or restated.

Section 2. That the first recital and Section 2 of Ordinance No. 275-2017, passed by this Council on September 27, 2017, as amended by Ordinance No. 339-2018, passed by this Council on October 31, 2018 (as amended, the "Commercial Policy Ordinance") are hereby amended as follows:

WHEREAS, pursuant to an ordinance passed on or before the date of this ordinance, City Council has enacted legislation to reauthorize the City of Cincinnati Community Reinvestment Area (the "CRA") pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the "Statute"), which, upon confirmation of the findings therein by the Director of the Ohio Development Services Agency, will authorize up to the maximum real property tax exemptions for newly constructed and remodeled commercial (including residential apartment structures containing ~~four~~five or more dwelling units, but excluding owner-occupied residential condominium structures), industrial and mixed use structures (collectively, "Commercial Improvements") permitted pursuant to the Statute within the CRA; and

Section 2. That City Council hereby requests that the City Administration include a determination consistent with the point system attached hereto as Exhibit A (the "Points Determination") when transmitting a Community Reinvestment Area ("CRA") real property tax exemption ordinance to City Council pertaining to the remodeling or new construction of a commercial structure, a mixed-use structure or a residential structure containing ~~four~~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 3. That the first recital and Sections 2, 3, 4, and 6 of Ordinance No. 276-2017, passed by this Council on September 27, 2017 (the “Residential Policy Ordinance”) are hereby amended as follows:

WHEREAS, pursuant to an ordinance passed on or before the date of this ordinance, City Council has enacted legislation to reauthorize the City of Cincinnati Community Reinvestment Area (the “CRA”) pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the “Statute”), which, upon confirmation of the findings therein by the Director of the Ohio Development Services Agency, will authorize up to the maximum real property tax exemptions for newly constructed and remodeled one-, two-, ~~and three-~~, and four-dwelling unit residential structures (including owner-occupied residential condominium structures) (collectively, “Residential Improvements”) permitted pursuant to the Statute within the CRA; and

Section 2. That City Council approves real property tax exemptions for one-, two-, ~~and three-~~, and four-dwelling unit residential structures (collectively, “Residential Improvements”) in the amounts and for the durations listed on the applicable table within Exhibit A attached hereto and fully incorporated herein, *provided that* the Residential Improvements satisfy all other requirements for a real property tax exemption under this ordinance and the ordinance establishing the City of Cincinnati Community Reinvestment Area (“CRA”) passed on or prior to the date hereof (the “Reauthorizing Ordinance”). For the purposes of this ordinance, each owner-occupied residential condominium unit is considered a separate structure containing one dwelling unit. For the avoidance of doubt, a Residential Improvement constructed pursuant to a permit for new construction or an addition constitutes new construction and not remodeling.

Section 3. That in order to be eligible for the corresponding (a) U.S. Green Building Council Leadership in Energy and Environmental Design (“LEED”) or (b) 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”) real property tax exemption, an applicant must provide the City with evidence of the certification of the completed structure to the required LEED standard (~~Certified~~, Silver, Gold, or Platinum) by the U.S. Green Building Council or of LBC Qualification with reference to the applicable LBC standards and certifications provided by the International Living Future Institute, as applicable, and satisfy all other requirements for a real property tax exemption under this ordinance and the Reauthorizing Ordinance.

Section 4. That in order for a remodeled Residential Improvement to be eligible for a Home Energy Rating System (“HERS”) bonus to a real property tax

exemption, an applicant must (a) have a certified Home Energy Rater conduct a home energy rating (“Initial Rating”) and (b) (i) if the structure’s initial index score from the Initial Rating is equal to or above 85, the applicant must reduce the structure’s index score to at most 70 or (ii) if the structure’s initial index score from the Initial Rating is below 85, the applicant must reduce their HERS score by at least 20% (each of the foregoing (1) as confirmed by a certified Home Energy Rater conducting a second home energy rating (“Subsequent Rating”) and (2) will make the Residential Improvement “HERS Qualified”). Documentation establishing the index score from Initial Rating and the Subsequent Rating must be provided to the City in order for the remodeled Residential Improvement to be HERS Qualified.

Section 6. That in order to be eligible for a tax exemption pursuant to this ordinance and as required by State law, the cost of the remodeling or new construction of (a) a Residential Improvement containing one or two dwelling units must be at least \$2,500 and (b) a Residential Improvement containing three or four dwelling units must be at least \$5,000.

Section 4. That the Residential Policy Ordinance is hereby amended by adding a new

Section 13 as follows:

Section 13. That in order to be eligible for a historic restoration real property tax exemption, “.....a remodeled Residential Improvement must have been built no later than 1920, as memorialized in the County Auditor’s records and during the term of the exemption, no Residential Improvements that constitute “new construction” shall be constructed on the subject property (“Historic Restoration”).

Section 5. That Exhibit A to the Residential Policy Ordinance is hereby amended by substituting the Exhibit A attached to this ordinance in its place.

Section 6. That this ordinance shall only apply to applications for tax exemption for Residential Improvements where the remodeling or construction commenced on and after January 1, 2022, as either evidenced by permits issued by the City’s Department of Buildings and Inspections, if required pursuant to applicable law, or if permits are not required by applicable law, as determined by the housing officer.

Section 7. That all applications made, abatement agreements executed, and abatements granted pursuant to the Reauthorizing Ordinance, the Commercial Policy Ordinance, and the

Residential Policy Ordinance shall continue in force in accordance with the provisions of the ordinance applicable to that application, agreement, or grant of abatement, in effect at the time of the application, execution of the agreement, or grant of abatement, respectively.

Section 8. That existing (i) Sections 1-3 and 9-17 of the Reauthorizing Ordinance, (ii) the remaining recitals and Sections 1 and 3-20 of the Commercial Policy Ordinance, and (iii) the remaining recitals and Sections 1, 5, and 7-12 of the Residential 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 the Clerk of Council is directed to publish this ordinance in the City Bulletin once a week for two consecutive weeks immediately following its adoption.

Section 12. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: \_\_\_\_\_, 2020

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
New ordinance language underscored. Deleted ordinance language indicated by strikethrough.