

Introduced by: Councilmember Henry *Bullok Stokes SUEB, Middleton, Clarke JCH*

Prepared by: Department of Legislative Reference

Date: April 30, 2019

Referred to: TAXATION, FINANCE & ECONOMIC DEVELOPMENT Committee

Also referred for recommendation and report to municipal agencies listed on reverse.

CITY COUNCIL 19-0389

A BILL ENTITLED

AN ORDINANCE concerning

**High-Performance Market-Rate Rental Housing (Citywide) --
Eligibility for Tax Credit**

FOR the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

BY repealing and reordaining, with amendments

Article 28 - Taxes
Section 10-18(a)(3)
Baltimore City Code
(Edition 2000)

[Handwritten signatures: Shon M..., Robert Stokes, Margaret..., JCH, BMA]

NO. _____

****The introduction of an Ordinance or Resolution by Councilmembers at the request of any person, firm or organization is a courtesy extended by the Councilmembers and not an indication of their position.**

Agencies

- Baltimore City Public School System
- Baltimore Development Corporation
- City Solicitor
- Comptroller's Office
- Department of Audits
- Department of Finance
- Department of General Services
- Department of Housing and Community Development
- Department of Human Resources
- Department of Planning
- Other: _____
- Other: _____
- Other: _____
- Board of Estimates
- Board of Ethics
- Board of Municipal and Zoning Appeals
- Comm. for Historical and Architectural Preservation
- Commission on Sustainability
- Employees' Retirement System
- Other: _____
- Other: _____
- Other: _____
- Environmental Control Board
- Fire & Police Employees' Retirement System
- Labor Commissioner
- Parking Authority Board
- Planning Commission
- Wage Commission
- Other: _____
- Other: _____
- Other: _____

Boards and Commissions

- Department of Public Works
- Department of Real Estate
- Department of Recreation and Parks
- Department of Transportation
- Fire Department
- Health Department
- Mayor's Office of Employment Development
- Mayor's Office of Human Services
- Mayor's Office of Information Technology
- Office of the Mayor
- Police Department
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- Other: _____
- Other: _____
- Other: _____

CITY OF BALTIMORE
ORDINANCE **19-331**
Council Bill 19-0389

Introduced by: Councilmembers Henry, Bullock, Stokes, Sneed, Ex Officio President Middleton,
Councilmembers Clarke, Scott

Introduced and read first time: May 6, 2019

Assigned to: Taxation, Finance and Economic Development Committee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: December 16, 2019

AN ORDINANCE CONCERNING

**High-Performance Market-Rate Rental Housing (Citywide) --
Eligibility for Tax Credit**

FOR the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

BY repealing and reordaining, with amendments

Article 28 - Taxes

Section 10-18(a)(3)

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 28. Taxes

Subtitle 10. Credits

§ 10-18. High-performance market-rate rental housing – Citywide.

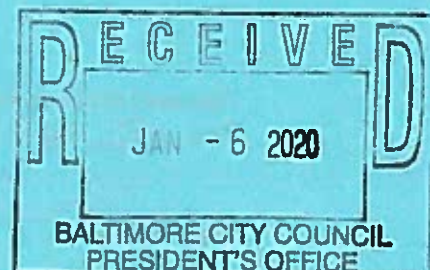
(a) *Definitions.*

(3) *Market-rate rental housing project.*

“Market-rate rental housing project” means a multi-family dwelling:

(i) that contains [20] 10 or more rental units; and

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.



Council Bill 19-0389

(ii) in which dwelling, except to the extent specifically required by City Code Article 13, Subtitle 2B {"Inclusionary Housing Requirements"}, none of the rental units are subject to governmental restrictions on the amount of rent charged or on the tenant's income level.

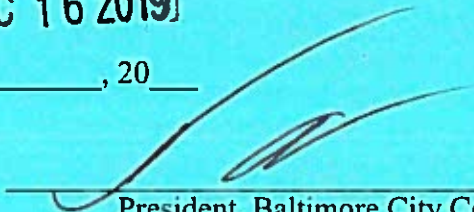
SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance shall apply retroactively to all projects under construction pursuant to a building permit that is valid as of the date this Ordinance is enacted, provided that: (i) the project has not received a final occupancy permit prior to the date this Ordinance is enacted; and (ii) an Initial Application has been submitted to the Department of Finance within 90 days of the date this Ordinance is enacted. It being the intention that, notwithstanding the time-frame set forth in the Rules and Regulations adopted by the Department of Finance, a project newly eligible for the credit pursuant to this Ordinance may be granted the credit provided the hereinabove conditions are met.

SECTION 3. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.

DEC 16 2019

Certified as duly passed this _____ day of _____, 20____



President, Baltimore City Council


Certified as duly delivered to His Honor, the Mayor,
this _____ day of _____, 20____

DEC 16 2019




Chief Clerk

Approved this 18th day of Dec, 2019



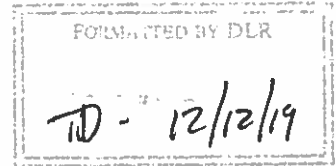
Mayor, Baltimore City

Approved For Form and Legal Sufficiency
This 17th Day of December 2019.



Chief Solicitor

AMENDMENTS TO COUNCIL BILL 19-0389
(1" Reader Copy)



By: Taxation, Finance, and Economic Development Committee
{To be offered on the Council Floor}

Amendment No. 1

On page 2, after line 4, insert:

“SECTION 2. AND BE IT FURTHER ORDAINED, That this Ordinance shall apply retroactively to all projects under construction pursuant to a building permit that is valid as of the date this Ordinance is enacted, provided that: (i) the project has not received a final occupancy permit prior to the date this Ordinance is enacted; and (ii) an Initial Application has been submitted to the Department of Finance within 90 days of the date this Ordinance is enacted. It being the intention that, notwithstanding the time-frame set forth in the Rules and Regulations adopted by the Department of Finance, a project newly eligible for the credit pursuant to this Ordinance may be granted the credit provided the hereinabove conditions are met.”;

and, on that same page, in lines 5 and 8, strike “2” and “3”, respectively, and substitute “3” and “4” respectively.

ADOPTED

BALTIMORE CITY COUNCIL

TAXATION, FINANCE AND ECONOMIC DEVELOPMENT

VOTING RECORD

DATE: December 11, 2019

BILL#: 19-0389

BILL TITLE: High Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit

MOTION BY: Stoke SECONDED BY: Cost

- FAVORABLE FAVORABLE WITH AMENDMENTS
 UNFAVORABLE WITHOUT RECOMMENDATION


NAME	YEAS	NAYS	ABSENT	ABSTAIN
Middleton, Sharon, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
McCray, D, Vice Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Costello, Eric	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reisinger, Edward	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Stokes, Robert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TOTALS				

CHAIRPERSON: Sharon Middleton

COMMITTEE STAFF: Samuel Johnson, Initials: SL



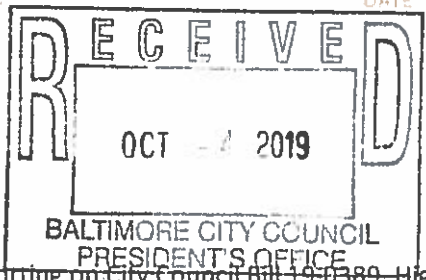
Kacm

FROM	NAME & TITLE	Robert Cename, Chief	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall (410) 396-4774		
	SUBJECT	City Council Bill 19-0389 – High-Performance Market-Rate Rental Housing (Citywide)—Eligibility for Tax Credit		

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

DATE
October 2, 2019



Position: Oppose

The Department of Finance is herein reporting on City Council Bill 19-0389, High-Performance Market-Rate Rental Housing (Citywide)—Eligibility for Tax Credit, the purpose of which is to modify the number of rental units required to qualify a multi-family dwelling for a High-Performance Market Rate Rental Housing Tax Credit, on a citywide basis. This bill would reduce the requirement to qualify from a rehabilitation or new construction project containing 20 or more rental units to one containing 10 or more rental units.

Background

Targeted HPMRRH Tax Credit

The Targeted High-Performance Market-Rate Rental Housing Tax Credit, adopted in Fiscal 2013 with the passage of City Council Bill 13-0176, was designed to encourage construction and rehabilitation of apartment structures in the City's downtown neighborhoods. The target area, defined in Article 28, § 10-17 (e), includes selected Census Tracts for the Downtown, Reservoir Hill, Jonestown, West Cold Spring Lane, Poppleton, York Road, Bel Air Road and Station North areas. Eligible projects must meet green building standards, have 50 or more rental units, and the total project cost must exceed \$60,000 per unit. The credit's value is based on a percentage of the increase in tax liability on the first assessment after an occupancy permit is issued. The credit length is 15 years and phases out over time, from 100% in years 1 and 2 to 20% in years 13 to 15.

With the intent of limiting over-supply of credits, the original legislation required that no new credits could be granted after Fiscal 2019. However, existing credits will phase out over 15 years leaving the City with costs through Fiscal 2033. In Fiscal 2019, there were 12 projects receiving this credit for a total City cost of \$4.9 million. There are three projects for which a credit application has been submitted, but not yet approved. From its inception through Fiscal 2020, the cumulative cost to the City is \$12.94 million. The table below shows the 13 properties currently receiving the credit in Fiscal 2020 at a total cost of \$5.6 million.

Address	Neighborhood	FY 2020 Assessment	Dwelling Units	Year Built	FY 2020 HPMRRH Tax Credit
10 Light St	Downtown	\$89,915,767	420	2017	\$1,149,264
12 N Calvert St	Downtown	\$23,858,367	188	2016	\$326,736
20 E Lanvale St	Station North	\$10,365,100	103	2018	\$177,148
26 S Calvert St	Downtown	\$13,693,600	85	2017	\$232,887
30 S Calvert St	Downtown	\$13,095,700	85	2017	\$232,683
103 S Gay St	Downtown	\$23,019,500	136	2018	\$217,130
111 W Baltimore St	Downtown	\$46,283,833	183	2018	\$798,330
207 N Calvert St	Downtown	\$52,849,667	346	2019	\$977,218

oppose



8

300 Saint Paul Pl	Downtown	\$41,914,533	173	2019	\$498,568
301 N Charles St	Downtown	\$12,902,533	92	2015	\$141,725
500 Park Ave	Downtown	\$23,339,800	153	2019	\$482,212
520 Park Ave	Downtown	\$19,160,100	171	2016	\$293,744
521 Saint Paul St	Downtown	\$7,652,000	69	2014	\$85,465
Total					\$5,613,110

Citywide HPMRRH Tax Credit

The High-Performance Market-Rate Rental Housing Tax Credit, adopted in Fiscal 2014 with the passage of City Council Bill 14-0359, was not restricted to any geographic area. The credit was designed to encourage construction and rehabilitation of apartment structures throughout the City. Eligible projects are required to have 20 or more rental units and total project cost must exceed \$60,000 per unit. The credit's value is based on a percentage of the increase in tax liability on the first assessment after an occupancy permit is issued. The credit length is 10 years and phases out over time, from 80% in years 1 to 5, to 30% in year 10.

The initial deadline to apply for the credit was December 31, 2017, but this credit was extended in Fiscal 2017 with the passage of City Council Bill 17-0030. This bill extended the application period by five years to December 31, 2022 and extended the permitting deadline for completed projects by five years, to June 30, 2024, from June 30, 2019.

In Fiscal 2019, there were 10 projects receiving this credit for a total credit amount of \$4.70 million. There are 18 projects for which a credit application has been submitted, but not yet approved. From its inception through Fiscal 2020, the total cumulative cost to the City is \$8.46 million. City costs are expected to grow through the application deadline in 2022, and then phase out over the next ten years through 2032. The table below shows the 10 properties currently receiving the credit in Fiscal 2020 at a total cost of \$6.2 million.

Address	Neighborhood	FY 2020 Assessment	Dwelling Units	Year Built	FY 2020 HPMRRH Tax Credit
1212 S East Ave	Canton	\$10,654,933	57	2015	\$170,967
2700 Remington Ave	Remington	\$20,063,300	86	2017	\$216,739
3232 Eastern Ave	Highlandtown	\$11,255,600	65	2017	\$190,117
3610 Dillon St	Brewers Hill	\$15,000,000	60	2016	\$266,611
414 Light St	Otterbein	\$141,934,300	394	2018	\$3,159,184
501 W Franklin St	University of MD	\$13,396,700	139	1962	\$167,780
611 S Charles St	Otterbein	\$82,184,833	349	2017	\$1,237,769
711 W 40th St	Hampden	\$91,908,600	379	2016	\$729,858
815 Park Ave	Mount Vernon	\$2,319,300	25	2018	\$27,210
824 N Calvert St	Mount Vernon	\$5,340,000	49	2017	\$71,343
Total					\$6,237,577

Fiscal Impact

City Council Bill 19-0389 would modify the number of rental units required to qualify a multi-family dwelling the citywide version of the High-Performance Market-Rate Rental Housing Credit by reducing the rental unit threshold from 20 or more units to 10 or more.

To calculate the cost impact, we compared the universe of eligible projects under current law (20 units or more) with those that would become eligible under this bill (10 units or more). We then used the current

law to predict the average assessed value for an eligible project and the average cost of the credit under the proposed law. The following table summarizes these findings.

	20 Units or More Requirement	10 Units or More Requirement
Universe of potentially eligible properties in 2019	51	1,098
Number of properties granted / potentially-granted tax credit	10	215
Total value of HPMRRH - Citywide Tax Credit	\$4,700,998	\$15,758,904
Average value of HPMRRH - Citywide Tax Credit	\$470,100	\$73,197
Average assessed value - properties w/HPMRRH - Citywide Tax Credit	\$25,516,707	\$4,003,738

Note: \$15.8 million = Average amount of tax credit per square foot under current regulation * average property sf. area under the new regulation * total number of potentially eligible x 20% (assuming 20% of the properties will receive tax credits under the new regulation) = \$1.8 x 40,101sf. x 1,098 x 20%.

By relaxing the requirement for the number of units required to qualify for the credit, this bill would significantly expand the universe of projects eligible for the credit, at an estimated cost of \$11 million annually, and \$113.1 million over ten years.

Other Considerations

Finance’s viewpoint is that tax credits should be treated like any other expenditure and should be vigorously evaluated periodically to ensure the best result for the City. To that end, as part of the City’s 10-Year Financial Plan refresh, we have worked with our vendor, Ernst & Young, to evaluate each of the City’s tax credits.

We do not find the reasons for expanding this credit compelling based on our fiscal analysis and examination of the following factors.

Green Construction

One of the justifications for the original High-Performance Market-Rate Rental Housing Tax Credit was to encourage green construction and development. However, construction and/or renovation of high-performance buildings is now required by the City’s Building Code. Part XI, Section 101.3 of the Baltimore City Building Fire and Related Codes mandates specific green construction requirements for multiple-family dwellings that are four stories or higher with more than five dwelling units. Buildings must be built according to the Code – modeled after the International Green Construction Code – or one of several codified alternatives, including LEED Silver. All newly constructed or converted residential buildings must comply with these requirements.

Even if developers had the option to choose between green building standards versus traditional construction, there are substantial financial incentives for investing in green building projects without the need for public subsidies. For example, the US Green Building Council reports that LEED-certified buildings have 20 percent lower maintenance costs, consume 25 percent less energy and 11 percent less water. Further research shows that tenants are willing to pay a premium to occupy LEED certified space. A University of San Diego study showed that green buildings have 3.5 percent lower vacancy rates and 13 percent higher rental rates than their traditional counterparts.

Multi-Family Building Activity

The market for multi-family buildings has begun to show signs of fatigue. According to data from the Federal Department of Housing and Urban Development (HUD), in its Comprehensive Housing Market Analysis for the Baltimore-Columbia-Towson area published in 2018, construction in this market peaked



during 2016 and 2017, with an average of 2,750 units permitted annually. Through May 2018, only 380 new units had been permitted, down 55% year-over-year.

In turn, Baltimore’s rental vacancy rate has grown from 6.2% to 6.8% in 2018. Baltimore’s rental vacancy rate is already consistently higher than regional and national averages, and this rate has been exacerbated by the rapid pace of apartment construction in 2016 and 2017. These factors suggest that the City is not able to support additional rental market inventory for the short-to-medium term and should not approve additional subsidies for rental housing.

Economic Development

One way to determine the impact of a tax credit is to look at key neighborhood housing variables both before and after the implementation of the tax credit. When looking at the neighborhoods with properties granted this tax credit, we found that these neighborhoods were already experiencing significant per capita income growth and reductions in vacancy rates. The preexistence of increased housing demand in these neighborhoods indicates that they were low risk to developers and in little need of subsidy.

Neighborhoods with HPMRRH-Citywide Tax Credit In 2019					
	2010	2015	2019	2010-2015 Change	2015-2019 Change
Per Capita Income	\$36,422	\$41,608	\$49,141	14.2%	18.1%
Total Properties	15,336	15,447	15,500	0.7%	0.3%
Average Assessment value	\$229,064	\$213,089	\$265,038	-7.0%	24.4%
Total Housing Units	15,286	16,743	17,386	9.5%	3.8%
Vacancy Rate	18%	13%	12%	-4.7%	-0.8%

We also examined comparable neighborhoods to those that received the tax credit. Here we found that these neighborhoods experienced similar income and assessment growth without the benefit of this credit.

Comparable Neighborhoods without HPMRRH-Citywide Tax Credit (at least 20 units)					
	2010	2015	2019	2010-2015 Change	2015-2019 Change
Per Capita Income	\$24,952	\$26,621	\$30,803	6.7%	15.7%
Total Properties	15,880	16,128	16,451	1.6%	2.0%
Average Assessment value	\$282,316	\$272,248	\$348,870	-3.6%	28.1%
Total Housing Units	23,328	23,629	23,878	1.3%	1.1%
Vacancy Rate	18%	14%	14%	-3.2%	-0.3%

These findings suggest that this tax credit was subsidizing the construction of more expensive apartments in neighborhoods that were already seeing a pattern of growth.

Equity Considerations

When the High-Performance Market-Rate Tax Credit was expanded from a targeted area to a City-wide credit, one of the stated objectives was to spur development of market-rate apartments to more neighborhoods throughout the City. However, the evidence to date suggests that properties in only eight neighborhoods have received the credit, which represents only 2.8% of the City’s 278 defined neighborhoods. The chart below lists the number of credits granted by neighborhood.

Total Number of HPMRRH –Tax Credit by Neighborhood				
	2016	2017	2018	2019
Otterbein			1	2
Hampden		1	1	1
Brewers Hill			1	1
Remington			1	1
Highland Town			1	1
Canton	1	1	1	1
University of Maryland		1	1	1
Mount Vernon			1	2
Baltimore City	1	3	8	10

Conclusion

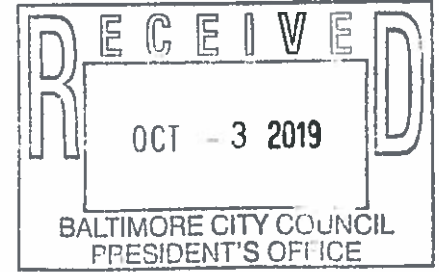
The High-Performance Market-Rate Tax Credit will cost the City \$13.2 million in Fiscal 2020 and grow to \$22.4 million by Fiscal 2022 due to 12 properties that are in the pipeline. This legislation, by relaxing the number of units required (from 20 to 10) to qualify for the credit, would further expand the universe of eligible properties with the potential for an additional \$11 million of cost.

In addition to the significant cost, from a policy perspective, the reasons to incent this type of building over others is limited. Construction for apartments has slowed and rental vacancy rates have grown, suggesting over-supply in the market. The green construction requirements that were required for tax credit eligibility are now part of the building code anyway. Additionally, our evaluation shows a clear pattern where credits were granted for projects in neighborhoods that were already experiencing significant growth, which has likely increased financial returns to developers rather than spread this type of housing to more City neighborhoods.

For the reasons stated above, the Department of Finance opposes City Council Bill 19-0389 and would propose an amendment to accelerate the sunset provision from December 31, 2022 to December 31, 2019.

cc: Henry Raymond
 Matthew Stegman
 Nina Themelis





MEMORANDUM

DATE: October 2, 2019
TO: Taxation, Finance and Economic Development Committee
FROM: Colin Tarbert, President and CEO *Colin Tarbert*
POSITION: Support
SUBJECT: City Council Bill No. 19-0389 – High-Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit

INTRODUCTION

The Baltimore Development Corporation (BDC) is reporting on City Council Bill No. 19-0389 introduced by Councilmembers Henry, Bullock, Stokes, Sneed, Clarke, Scott, and Middleton.

PURPOSE

This ordinance will modify the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

BRIEF HISTORY

The High Performance Market Rate Rental Housing Tax Credit – Citywide was enacted into law in August 2014. The credit offers a ten year credit against the increase in City property tax liability for eligible rental housing projects throughout the City. The credit is equal to 80% of the increase in tax liability in the first five years of eligibility, and declines by 10% in each subsequent year of the credit.

To be eligible for the credit, properties must contain 20 or more residential rental units. If enacted, this legislation would reduce that eligibility requirement from 20 to 10 residential rental units. This reduction would promote more affordable in-fill development in outlying neighborhoods, particularly where zoning prohibits developing the current 20 unit requirement.

FISCAL IMPACT

BDC defers to the Department of Finance’s assessment as to the fiscal impact of this Bill.

AGENCY POSITION

BDC supports City Council Bill No. 19-0389.

If you have any questions, please do not hesitate to contact Kim Clark at (410) 837-9305 or kclark@baltimoredevelopment.com.

cc: Nicholas Blendy

[RR]

defers to Finance



BALTIMORE CITY
DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT

MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Natawna Austin, Executive Secretary

From: Michael Braverman, Housing Commissioner 

Date: October 2, 2019

Re: **City Council Bill 19-0389, High-Performance Market-Rate Rental Housing (Citywide) -- Eligibility for Tax Credit**

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 19-0389, for the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

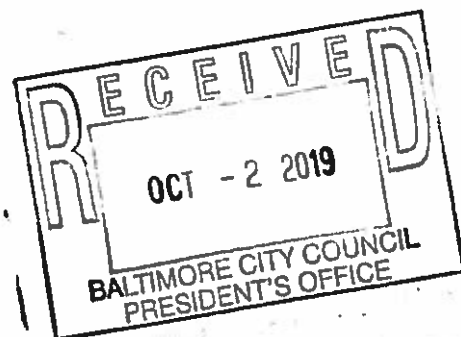
If enacted, this bill would amend Section 10-18 of Article 28 concerning the City's High-Performance Market-Rate Rental Housing tax credit to change the definition of market-rate rental housing project from a multi-family dwelling that contains 20 or more rental units to a multi-family dwelling that contains 10 or more rental units.

DHCD Framework for Community Development promotes investment in all neighborhoods and City Council Bill 19-0389 will encourage new development throughout the City. It is noted that DHCD does not support subsidizing developments in neighborhoods that do not need additional public support and would be willing to explore future changes to Article 28 of the Baltimore City Code to more finely target these incentives. This Bill would allow further investments in areas of the City not currently benefiting from the existing Tax credit.

DHCD has reviewed City Council Bill 19-0389 and **supports the passage of the bill.**

MB:sm

cc: Mr. Nicholas Blendy, *Mayor's Office of Government Relations*



CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG
Mayor



DEPARTMENT OF LAW
ANDRE M. DAVIS, CITY SOLICITOR
100 N. HOLLIDAY STREET
SUITE 101, CITY HALL
BALTIMORE, MD 21202

July 15, 2019

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 19-0389 – High-Performance Market-Rate Rental
Housing (Citywide) – Eligibility for Tax Credit

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0389 for form and legal sufficiency. The bill would modify Section 10-18 of the Taxes Article of the Baltimore City Code, which currently provides for a credit against the real property taxes for certain High-Performance Market-Rate Rental Housing projects that contain twenty or more rental units. The change would reduce the number of required rental units from twenty to ten. This change is in keeping with the authority given to the City Council by the General Assembly and found in Section 9-242 of the Tax-Property Article of the Maryland Code.

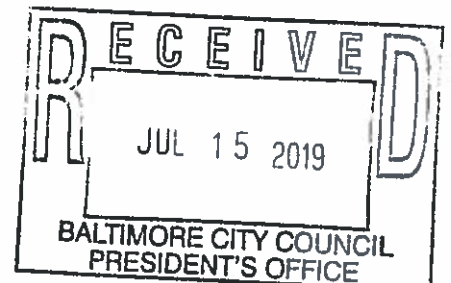
It is important to note that this change will apply prospectively only unless the bill is amended to make it retroactive. *See, e.g., Waters v. Montgomery Co.*, 337 Md. 15, 28-29 (1994) (citations omitted). If retroactivity is desired, the bill should be amended, if needed, to address the application process for those properties that would be eligible for the modified credit but would not have been eligible for the original credit.

Since City Council Bill 19-0389 is consistent with the powers granted to the Mayor and City Council by the State, the Law Department approves it for form and legal sufficiency.

Very truly yours,


Hilary Ruley
Chief Solicitor

cc: Andre M. Davis, City Solicitor
Jeffrey Amoros, Mayor's Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalo, Chief Solicitor
Ashlea Brown, Assistant Solicitor



F



FROM	NAME & TITLE	CHRIS RYER, DIRECTOR <i>CR</i>	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	DEPARTMENT OF PLANNING 8 TH FLOOR, 417 EAST FAYETTE STREET		
	SUBJECT	CITY COUNCIL BILL #19-0389/ HIGH-PERFORMANCE MARKET-RATE RENTAL HOUSING (CITY WIDE) - ELIGIBILITY FOR TAX CREDIT		

TO The Honorable President and
Members of the City Council
City Hall, Room 400
100 North Holliday Street

DATE: June 27, 2019

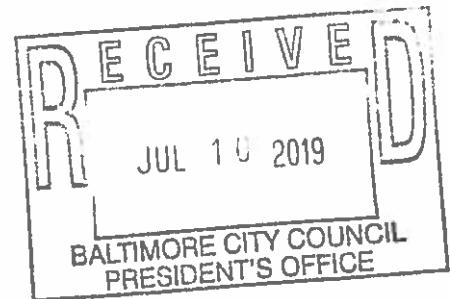
The Department of Planning is in receipt of City Council Bill #19-0389, which is for the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

The Department of Planning has no objection to City Council Bill #19-0389, and defers to the Department of Finance and the Department of Housing and Community Development as the more directly impacted agencies.

If you have any questions, please contact Mr. Eric Tiso, Division Chief, Land Use and Urban Design Division at 410-396-8358.

CR/ewt

- cc: Mr. Jeff Amoros, Mayor's Office
The Honorable Edward Reisinger, Council Rep. to Planning Commission
Mr. Colin Tarbert, BDC
Mr. Derek Baumgardner, BMZA
Mr. Geoffrey Veale, Zoning Administration
Mr. Bob Pipik, DCHD
Ms. Elena DiPietro, Law Dept.
Mr. Francis Burnszynski, PABC
Mr. Frank Murphy, DOT
Ms. Natawna Austin, Council Services



*No obj. defers to
Finance & HCD*



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Minutes - Final

Taxation, Finance and Economic Development Committee

Wednesday, December 11, 2019

11:00 AM

Du Burns Council Chamber, 4th floor, City Hall

Work Session: 19-0389

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

- Present** 4 - Member Sharon Green Middleton, Member Danielle McCray, Member Eric T. Costello, and Member Robert Stokes Sr.
- Absent** 1 - Member Edward Reisinger

ITEMS SCHEDULED FOR WORKSESSION

19-0389

High-Performance Market-Rate Rental Housing (Citywide) -- Eligibility for Tax Credit

For the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

Sponsors: Bill Henry, John T. Bullock, Robert Stokes, Sr., Shannon Sneed, Sharon Green Middleton, Mary Pat Clarke, Brandon M. Scott

A motion was made by Member Stokes, Sr., seconded by Member Costello, that this Ordinance be Recommended Favorably. The motion carried by the following vote:

- Yes:** 4 - Member Middleton, Member McCray, Member Costello, and Member Stokes Sr.
- Absent:** 1 - Member Reisinger

ADJOURNMENT



City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Minutes - Final

Taxation, Finance and Economic Development Committee

Thursday, October 17, 2019

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0389

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

Present 3 - Member Sharon Green Middleton, Member Danielle McCray, and Member Eric T. Costello

Excused 2 - Member Edward Reisinger, and Member Robert Stokes Sr.

ITEMS SCHEDULED FOR PUBLIC HEARING

19-0389

High-Performance Market-Rate Rental Housing (Citywide) -- Eligibility for Tax Credit

For the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

Sponsors: Bill Henry, John T. Bullock, Robert Stokes, Sr., Shannon Sneed, Sharon Green Middleton, Mary Pat Clarke, Brandon M. Scott

This hearing has been recessed.

RECESS



HEARING NOTES

Bill: 19-0389

**High-Performance Market-Rate Rental Housing (Citywide)
– Eligibility for Tax Credit**

Committee: Taxation, Finance and Economic Development
Chaired By: Councilmember Sharon Green-Middleton

Hearing Date: December 11, 2019
Time (Beginning): 11:12 a.m.
Time (Ending): 11:20 a.m.
Location: Clarence "Du" Burns Chambers
Total Attendance: Approximately 20 – 25
Committee Members in Attendance:
Sharon Green Middleton
Danielle McCray
Eric Costello
Robert Stokes

Bill Synopsis in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Attendance sheet in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Agency reports read?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Hearing televised or audio-digitally recorded?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
Certification of advertising/posting notices in the file?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Evidence of notification to property owners?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Final vote taken at this hearing?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Motioned by:	Stokes		
Seconded by:	Costello		
Final Vote:	4 – 0		

Major Issues Discussed

1. Councilwoman Sharon Middleton read the legislation into the record and introduced committee members.
2. Councilman Bill Henry provided opening remarks about why he sponsored the bill.
3. Councilman Eric Costello made a motion to move his amendment, which was seconded by Councilman Robert Stokes. The committee voted 4 – 0 in favor of the amendment.
4. A final vote was taken on the amendment bill, and was approved favorably as amended.

Further Study

Was further study requested?

Yes No

If yes, describe. N/A

Committee Vote:

S. Middleton: Yea
D. McCray: Yea
E. Reisinger: Absent
M. Clarke: Yea
E. Costello: Yea

Samuel Johnson , Committee Staff
(410) 396-1091
cc: Bill File
OCS Chrono File

Date: December 11, 2019



HEARING NOTES

Bill: 19-0389

**High-Performance Market-Rate Rental Housing (Citywide)
– Eligibility for Tax Credit**

Committee: Taxation, Finance and Economic Development
Chaired By: Councilmember Sharon Green-Middleton

Hearing Date: October 17, 2019
Time (Beginning): 10:20 a.m.
Time (Ending): 11:00 a.m.
Location: Clarence "Du" Burns Chambers
Total Attendance: Approximately 10 – 20
Committee Members in Attendance:
Sharon Green Middleton
Danielle McCray
Eric Costello

Bill Synopsis in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Attendance sheet in the file?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Agency reports read?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO	<input type="checkbox"/> N/A
Hearing televised or audio-digitally recorded?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
Certification of advertising/posting notices in the file?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Evidence of notification to property owners?	<input type="checkbox"/> YES	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A
Final vote taken at this hearing?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> N/A
Motioned by:			
Seconded by:			
Final Vote:			

Major Issues Discussed

1. Councilwoman Middleton read the legislation into the record and introduced committee members.
2. Councilman Bill Henry provided opening remarks about why he sponsored the bill.
3. Law Department stood by their report.
4. Department of Housing and Community Development was not in attendance.
5. Department of Planning was not in attendance.
6. The Department of Finance read their report into the record and answered questions from the committee.
7. The Baltimore Development Corporation read their report into the record and answered questions from the committee.

- 8. There were four people who offered public testimony.
- 9. The committee went into recess and will schedule a work session in the future.

Further Study

Was further study requested?

Yes No

If yes, describe. N/A

Committee Vote:

S. Middleton:
D. McCray:
E. Reisinger:
M. Clarke:
E. Costello:

Samuel Johnson , Committee Staff
(410) 396-1091
cc: Bill File
OCS Chrono File

Date: October 17, 2019



Baltimore City Council Committee Hearing Attendance Record

Subject: Ordinance – High Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit	Bill #: 19-0389
Committee: Taxation, Finance, and Economic Development	Chair: Bill Henry
Date: Wednesday, December 11, 2019	Time: 11:00 AM
Location: Clarence "Du" Burns Council Chamber	

PLEASE PRINT CLEARLY

CHECK HERE TO TESTIFY



First Name	Last Name	Address / Organization / Email	Testify	What is your position on this bill?		Lobbyist: Are you registered in the City?*	
				For	Against	Yes	No
John	Doe	400 N. Holliday St. Johndoenbmore@yahoo.com	✓	✓	✓	✓	✓
Josh	Greenfeld	309 4709 Harford Rd 21214 joshua.greenfeld@gmail.com		✓			✓
Justin	Williams	Rosenberg Martin Greenberg 25 S. Charles Street, 21 st Fl. Baltimore, MD 21204	✓	✓		✓	
Samuel	Polakoff	Property Consulting	✓	✓			✓
Angelica	Barley	MBIA		✓		✓	
Patrick	Terranova	BDC					
Ben	Pettanni	Booz					
Jay	Larin	MBIA	✓	✓		✓	

*NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD AS A LOBBYIST. REGISTRATION CAN BE DONE ONLINE AND IS A SIMPLE PROCESS. FOR INFORMATION VISIT: [HTTPS://ETHICS.BALTIMORECITY.GOV/](https://ethics.baltimorecity.gov/) OR CALL: 410-396-4730



CITY OF BALTIMORE

CITY COUNCIL HEARING ATTENDANCE RECORD

Committee: Taxation, Finance and Economic Development Chairperson: Sharon Green-Middleton
 Date: October 17, 2019 Time: 10:00 am Place: Clarence "Du" Burns Chambers
 Subject: High-Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit CC Bill Number: 19-0389

PLEASE PRINT

IF YOU WANT TO TESTIFY PLEASE CHECK HERE



FIRST NAME	LAST NAME	ST. #	ADDRESS/ORGANIZATION NAME	ZIP	EMAIL ADDRESS	TESTIFY	FOR	AGAINST	YES	NO	(*) LOBBYIST : ARE YOU REGISTERED IN THE CITY
John	Do	100	North Charles Street	21202	Johndoenbmore@yahoo.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Justin	William	25	S. Charles St.	21201	jwilliam1@rosenbergs.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Angelica	Bailey		Maryland Building Industry Assoc.		ABailey@mbia.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
RYAN	RATTAN		EDC		RYANR1@EDC.org	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Josh	Greenfeld		BDW		jgreenfeld@bdw.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Samuel	Polakoff		Germany Development		Samuel@germanydevelopment.com	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
BRANDON	CHAXEN		CHAXEN CBD		BRANDON@CHAXENCONSULTING.COM	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	

(*) NOTE: IF YOU ARE COMPENSATED OR INCUR EXPENSES IN CONNECTION WITH THIS BILL, YOU MAY BE REQUIRED BY LAW TO REGISTER WITH THE CITY ETHICS BOARD. REGISTRATION IS A SIMPLE PROCESS. FOR INFORMATION AND FORMS, CALL OR WRITE: BALTIMORE CITY BOARD OF ETHICS, C/O DEPARTMENT OF LEGISLATIVE REFERENCE, 626 CITY HALL, BALTIMORE, MD 21202. TEL: 410-396-4730; FAX: 410-396-8483.

City of Baltimore

City Council
City Hall, Room 408
100 North Holliday Street
Baltimore, Maryland 21202

Meeting Agenda - Final

Taxation, Finance and Economic Development Committee

Thursday, October 17, 2019

10:00 AM

Du Burns Council Chamber, 4th floor, City Hall

19-0389

CALL TO ORDER

INTRODUCTIONS

ATTENDANCE

ITEMS SCHEDULED FOR PUBLIC HEARING

19-0389

High-Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit

For the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

Sponsors:

Bill Henry, John T. Bullock, Robert Stokes, Sr., Shannon Sneed, Sharon Green Middleton, Mary Pat Clarke, Brandon M. Scott

ADJOURNMENT

THIS MEETING IS OPEN TO THE PUBLIC



BILL SYNOPSIS

Committee: Taxation, Finance and Economic Development

Bill 19-0389

High-Performance Market-Rate Rental Housing (Citywide) – Eligibility for Tax Credit

Sponsor: *Councilmember Henry*

Introduced: *May 6, 2019*

Purpose:

For the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

Effective: Takes effect on the 30th Day after enactment.

Agency Reports

City Solicitor	
Department of Housing and Community Development	
Baltimore Development Corporation	
Dept. of Planning	
Department of Finance	

Analysis

Background

The Citywide version of the High-Performance Market-Rate Rental Housing Property Tax Credit was originally enacted to meet the demands for apartment units in Baltimore City and the need for an apartment tax credit that was broader than the Rental Housing Targeted Area tax credit. The bill provided a real property tax credit for certain newly constructed or converted high-performance market-rate rental housing projects throughout the City.

The tax credit can be used against the tax imposed on the increased value of real property due to improvements that were made to the property immediately before the final occupancy permit was issued. The tax credit has a ten-year limit which allows for an 80% credit for the first five years and then reduces by 10% per year, until the 10th year where it bottoms out at 30%.

If enacted, Bill 19-0389 would reduce the minimum required number of units necessary to qualify as a "Market-rate rental housing project" from 20 units to 10 units. The power to modify the language in this legislation is within the authority of the Baltimore City Council, granted through the Maryland Code – Property Tax Section 9-242. It should be noted that this change will apply prospectively only unless the bill is amended to make it retroactive. The Law Department suggest that if retroactivity is desired, the bill should be amended, if needed, to address the application process for those properties that would be eligible for the modified credit but would not have been eligible for the original credit.

The Department of Finance suggest that by reducing the number of units from 20 to 10 to comply with this legislation it would expand the number of eligible projects that could receive this tax credit an increase the cost to approximately \$11 million annually, and \$113.1 million over ten years. From an equity standpoint the data shows that 2.8% of the City's 278 defined neighborhoods have received this tax credit.

Additional Information

Fiscal Note: See Department of Finance Report

Information Source(s): Agency Reports

Analysis by: Samuel Johnson
Analysis Date: October 15, 2019

Direct Inquiries to: (410) 396-1091

**CITY OF BALTIMORE
COUNCIL BILL 19-0389
(First Reader)**

Introduced by: Councilmembers Henry, Bullock, Stokes, Sneed, Ex Officio President Middleton,
Councilmembers Clarke, Scott

Introduced and read first time: May 6, 2019

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Planning, Department of
Finance, Department of Housing and Community Development, Baltimore Development
Corporation

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **High-Performance Market-Rate Rental Housing (Citywide) --**
3 **Eligibility for Tax Credit**

4 FOR the purpose of modifying the number of rental units required to qualify a multi-family
5 dwelling for a high-performance market-rate rental housing tax credit.

6 BY repealing and reordaining, with amendments

7 Article 28 - Taxes
8 Section 10-18(a)(3)
9 Baltimore City Code
10 (Edition 2000)

11 **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the
12 Laws of Baltimore City read as follows:

13 **Baltimore City Code**

14 **Article 28. Taxes**

15 **Subtitle 10. Credits**

16 **§ 10-18. High-performance market-rate rental housing – Citywide.**

17 (a) *Definitions.*

18 (3) *Market-rate rental housing project.*

19 “Market-rate rental housing project” means a multi-family dwelling:

20 (i) that contains [20] 10 or more rental units; and

EXPLANATION: CAPITALS indicate matter added to existing law,
[Brackets] indicate matter deleted from existing law.

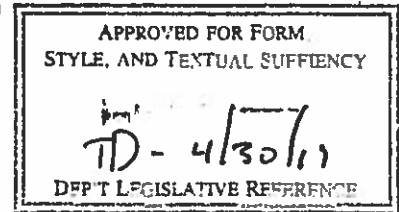
Council Bill 19-0389

1 (ii) in which dwelling, except to the extent specifically required by City Code
2 Article 13, Subtitle 2B {"Inclusionary Housing Requirements"}, none of the
3 rental units are subject to governmental restrictions on the amount of rent
4 charged or on the tenant's income level.

5 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
6 are not law and may not be considered to have been enacted as a part of this or any prior
7 Ordinance.

8 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th day
9 after the date it is enacted.

INTRODUCTORY*
CITY OF BALTIMORE
COUNCIL BILL _____



Introduced by: Councilmember Henry

A BILL ENTITLED

AN ORDINANCE concerning

**High-Performance Market-Rate Rental Housing (Citywide) --
Eligibility for Tax Credit**

FOR the purpose of modifying the number of rental units required to qualify a multi-family dwelling for a high-performance market-rate rental housing tax credit.

BY repealing and reordaining, with amendments

Article 28-- Taxes
Section 10-18(a)(3)
Baltimore City Code
(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 28. Taxes

Subtitle 10. Credits

§ 10-18. High-performance market-rate rental housing – Citywide.

(a) *Definitions.*

(3) *Market-rate rental housing project.*

“Market-rate rental housing project” means a multi-family dwelling:

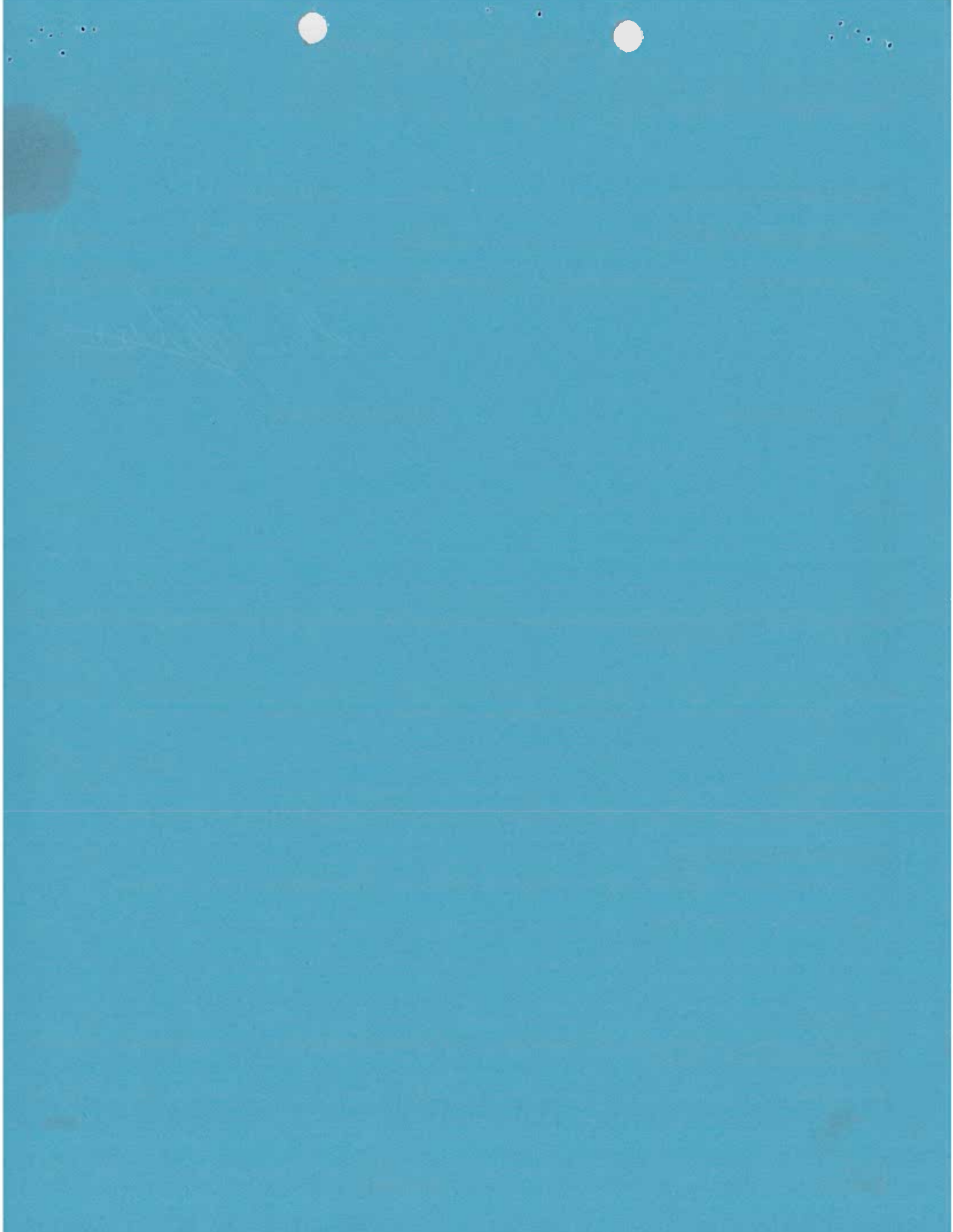
- (i) that contains [20] 10 or more rental units; and
- (ii) in which dwelling, except to the extent specifically required by City Code Article 13, Subtitle 2B {“Inclusionary Housing Requirements”}, none of the rental units are subject to governmental restrictions on the amount of rent charged or on the tenant’s income level.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.

* WARNING: THIS IS AN UNOFFICIAL, INTRODUCTORY COPY OF THE BILL.
THE OFFICIAL COPY CONSIDERED BY THE CITY COUNCIL IS THE FIRST READER COPY.

SECTION 2. AND BE IT FURTHER ORDAINED, That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

SECTION 3. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the 30th day after the date it is enacted.



ACTION BY THE CITY COUNCIL

FIRST READING (INTRODUCTION) _____

MAY 06 2019

PUBLIC HEARING HELD ON _____

October 17 20 19

COMMITTEE REPORT AS OF _____

December 11 20 19

_____ FAVORABLE _____ UNFAVORABLE FAVORABLE AS AMENDED _____ WITHOUT RECOMMENDATION

Chair

COMMITTEE MEMBERS:

COMMITTEE MEMBERS:

SECOND READING: The Council's action being favorable (unfavorable), this City Council bill was (was not) ordered printed for Third Reading on:

DEC 16 2019

Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING _____

DEC 16 2019

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (ENROLLED) _____

20 _____

_____ Amendments were read and adopted (defeated) as indicated on the copy attached to this blue backing.

THIRD READING (RE-ENROLLED) _____

20 _____

WITHDRAWAL _____

20 _____

There being no objections to the request for withdrawal, it was so ordered that this City Council Ordinance be withdrawn from the files of the City Council.

President

Chief Clerk