

**AMENDMENTS TO COUNCIL BILL 22-0195
(1st Reader Copy)**

By: Committee of the Whole
{To be offered on the Council floor}

Amendment No. 1

On page 1, strike beginning with line 3 down through and including line 12 on page 32 and substitute:

1 “FOR the purpose of defining certain terms; repealing certain findings and policy statements;
2 repealing rules of statutory interpretation that have been superseded by the enactment of
3 Code-wide revisions; requiring annual reporting by the Commissioner of the Department
4 of Housing and Community Development; amending the composition and duties of the
5 Inclusionary Housing Board; amending certain affordability requirements; clarifying a
6 certain City policy regarding mixed income communities; repealing off-site substitutions;
7 requiring residential projects to submit inclusionary housing plans; amending
8 requirements for continued affordability; clarifying the applicability of certain fair
9 housing laws and regulations; establishing certain penalties; and generally relating to
10 inclusionary housing.

11 BY repealing and re-ordaining, with amendments
12 Article 13 - Housing and Urban Renewal
13 Sections 2B-1, 2B-3, 2B-7, 2B-12, 2B-16, 2B-17, 2B-21, 2B-25, 2B-31 to 2B-33, 2B-37,
14 2B-51, 2B-71, and 2B-72
15 Baltimore City Code
16 (Edition 2000)

17 BY repealing
18 Article 13 - Housing and Urban Renewal
19 Sections 2B-2, 2B-4 to 2B-6, 2B-22 to 2B-24, 2B-34 to 2B-36, 2B-41 to 2B-45, 2B-52,
20 and 2B-61 to 2B-67
21 Baltimore City Code
22 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.

1 BY repealing and re-ordaining, without amendments
2 Article 13 - Housing and Urban Renewal
3 Sections 2B-11 and 2B-13 to 2B-15
4 Baltimore City Code
5 (Edition 2000)

6 BY adding
7 Article 13 - Housing and Urban Renewal
8 Sections 2B-22, 2B-24, and 2B-53
9 Baltimore City Code
10 (Edition 2000)

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

13 **Baltimore City Code**

14 **Article 13. Housing and Urban Renewal**

15 **Subtitle 2B. Inclusionary Housing Requirements**

16 **Part I. Definitions; General Provisions**

17 **§ 2B-1. Definitions – General.**

18 (a) *In general.*

19 In this Subtitle, the following terms have the meanings indicated.

20 (b) *Board.*

21 “Board” means the Inclusionary Housing Board established by this subtitle.

22 (c) *COMMISSIONER.*

23 “COMMISSIONER” MEANS THE COMMISSIONER OF THE DEPARTMENT OF HOUSING AND
24 COMMUNITY DEVELOPMENT OR THE COMMISSIONER’S DESIGNEE.

1 (D) [(c)] Developer.

2 “Developer” means any person, firm, partnership, association, joint venture,
3 corporation, or other entity or combination of entities that undertakes a residential
4 project.

5 [(d) Housing Commissioner.]

6 ["Housing Commissioner” means the Commissioner of Housing and Community
7 Development or the Commissioner’s designee.]

8 (E) DEPARTMENT.

9 “DEPARTMENT” MEANS THE DEPARTMENT OF HOUSING AND COMMUNITY
10 DEVELOPMENT.

11 (F) DWELLING UNIT.

12 “DWELLING UNIT” OR “UNIT” HAS THE MEANING STATED IN § 202.2 OF THE
13 BALTIMORE CITY PROPERTY MAINTENANCE CODE.

14 (G) [(e)] Housing funds.

15 “Housing funds” means Federal, State, or City funds designated explicitly for the
16 purpose of providing affordable housing.

17 [(f) Includes; including.]

18 ["Includes” or “including” means by way of illustration and not by way of limitation.]

19 (H) [(g)] Major public subsidy.

20 (1) In general.

21 “Major public subsidy” means the provision by the City or any of its agents or
22 contractors of funds, resources, or financial assistance for a residential project
23 [that needs these funds, resources, or assistance to proceed].

24 (2) Inclusions.

25 “Major public subsidy” includes:

26 (i) the sale or transfer of land substantially below its appraised value;

1 (ii) payment in lieu of taxes;

2 (iii) tax increment financing;

3 (iv) grants or loans that equal or exceed 15% of total projected project
4 costs; [or]

5 [(v) except as specified in paragraph (3) of this subsection, installation or
6 repair of physical infrastructure directly related to the residential project
7 and with value equal to or exceeding 5% of total projected project costs.]

8 (V) TAX CREDITS; OR

9 (VI) ANY OTHER FUNDS, RESOURCES, OR FINANCIAL ASSISTANCE PROVIDED BY
10 THE CITY AS DETERMINED BY ANY RULE OR REGULATION PROMULGATED
11 UNDER THIS SUBTITLE.

12 [(3) Exclusions.]

13 ["Major public subsidy" does not include:]

14 [(i) infrastructure repairs or improvements undertaken as part of a regularly
15 planned program; or]

16 [(ii) housing funds.]

17 (I) [(h)] Neighborhood.

18 "Neighborhood" means an area delineated by commonly accepted boundary, as
19 determined by the Planning Director.

20 (J) [(i)] Planning Director.

21 "Planning Director" means the Director of the Department of Planning or the
22 Director's designee.

1 (K) [(j)] Residential project.

2 “Residential project” means any new construction or any substantial renovation of an
3 existing building that is designed, in whole or in part, to provide residential units.

4 [(k) Significant land use authorization.]

5 “Significant land use authorization” means the adoption of a Planned Unit
6 Development or a legislatively approved amendment to a Planned Unit Development,
7 either of which increases the permissible number of residential units by 30 or more
8 units above the number permitted before adoption of the Planned Unit Development
9 or amendment.]

10 [(l) Significant rezoning.]

11 “Significant rezoning” means any rezoning that permits residential units where none
12 were permitted previously.]

13 (L) SIGNIFICANT LAND USE AUTHORIZATION.

14 “SIGNIFICANT LAND USE AUTHORIZATION” MEANS ANY ACTION OF THE MAYOR, CITY
15 COUNCIL, BOARD OF MUNICIPAL AND ZONING APPEALS, OR
16 ZONING ADMINISTRATOR THAT INCREASES THE PERMISSIBLE NUMBER OF
17 DWELLING UNITS IN A LAND AREA BY 20 OR MORE DWELLING UNITS ABOVE THE
18 NUMBER OF DWELLING UNITS PERMITTED BEFORE THE ACTION.

19 [(1-1) Source of income.]

20 [(1) In general.]

21 “Source of income” means any lawful source of money paid directly or indirectly
22 to, or on behalf of, a renter or buyer of housing.]

23 [(2) Inclusions.]

24 “Source of income” includes income from:]

25 [(i) a lawful profession, occupation, or job;]

26 [(ii) any government or private assistance, grant, loan, or rental assistance
27 program, including low-income housing assistance certificates and vouchers
28 issued under the United States Housing Act of 1937; or]

1 [(iii) a gift, an inheritance, a pension, an annuity, alimony, child support, or
2 other consideration or benefit.]

3 [(n) *Vacant dwelling.*]

4 ["Vacant dwelling" means residential real property that:]

5 [(1) has been vacant or abandoned for 1 year, as cited on a violation notice issued
6 under the City Building, Fire, and Related Codes Article; or]

7 [(2) has been owned by the Mayor and City Council of Baltimore City for 1 year
8 and is in need of substantial renovation.]

9 **§ 2B-2. Definitions – Mandatory, prohibitory, and permissive terms.**

10 [(a) *Mandatory terms.*]

11 ["Must" and "shall" are each mandatory terms used to express a requirement or to
12 impose a duty.]

13 [(b) *Prohibitory terms.*]

14 ["Must not", "may not", and "no ... may" are each mandatory negative terms used to
15 establish a prohibition.]

16 [(c) *Permissive terms.*]

17 ["May" is permissive.]

18 **§ 2B-2. [2B-3.] Definitions – Affordability standards.**

19 (a) *In general.*

20 In this Subtitle, the following terms relating to affordability standards have the
21 meanings indicated.

22 (b) *Affordable housing cost: Extremely low, very low, low, and moderate.*

23 (1) An "extremely low" housing cost equals an amount not more than 1/12 of 30% of
24 30% of the AMI, adjusted for household size.

1 (2) A “very low” housing cost equals an amount greater than 1/12 of 30% of 30% of
2 the AMI, but not more than 1/12 of 30% of [60%] 50% of the AMI, adjusted for
3 household size.

4 (3) A “low” housing cost equals an amount greater than 1/12 of 30% of 60% of the
5 AMI, but not more than 1/12 of 30% of [80%] 60% of the AMI, adjusted for
6 household size.

7 (4) A “moderate” housing cost equals an amount greater than 1/12 of 30% of 80% of
8 the AMI, but not more than 1/12 of 30% of [120%] 80% of the AMI, adjusted for
9 household size.

10 (c) Affordable unit.

11 “Affordable unit” means a [residential] DWELLING unit that is required by this subtitle
12 to be provided [at an extremely low, very low, low, or moderate affordable housing
13 cost.] TO A FAMILY EARNING AN INCOME THAT IS EITHER:

14 (1) LOW INCOME;

15 (2) MODERATE INCOME;

16 (3) VERY LOW INCOME; OR

17 (4) EXTREMELY LOW INCOME.

18 (d) AMI.

19 “AMI” means the area median income for the metropolitan region that encompasses
20 Baltimore City, as published and annually updated by the United States Department
21 of Housing and Urban Development.

22 (e) Eligible household.

23 “Eligible household” means[:] A HOUSEHOLD WITH EXTREMELY LOW, VERY LOW, LOW,
24 OR MODERATE INCOME.

25 [(1) for a unit provided at an extremely low housing cost, a household having an
26 income at or below 30% AMI;]

27 [(2) for a unit provided at a very low housing cost, a household having an income
28 greater than 30% but not more than 60% AMI;]

1 [(3) for a unit provided at a low housing cost, a household having an income
2 greater than 60% but not more than 80% AMI; and]

3 [(4) for a unit provided at a moderate housing cost, a household having an income
4 greater than 80% but not more than 120% AMI.]

5 (F) EXTREMELY LOW INCOME.

6 “EXTREMELY LOW INCOME” MEANS A HOUSEHOLD INCOME BELOW 30% AMI.

7 (G) [(f)] Housing cost.

8 “Housing cost” means[:]

9 [(1) for ownership units, a sales price that requires a monthly payment, including
10 mortgage principal and interest, taxes, insurance, homeowner association fees,
11 and other assessments; and]

12 [(2)] for rental units, a monthly payment for lease, sublet, let, or other rights to
13 occupy a residential unit, EXCLUDING UTILITIES, PARKING, AND DISCRETIONARY
14 FEES.

15 (H) LOW INCOME.

16 “LOW INCOME” MEANS A HOUSEHOLD INCOME AT OR BELOW 60% AMI.

17 (I) [(g)] Market rate.

18 “Market rate” means not restricted to an affordable rent or affordable ownership cost.

19 (J) MODERATE INCOME.

20 “MODERATE INCOME” MEANS A HOUSEHOLD INCOME AT OR BELOW 80%
21 AMI.

22 (K) VERY LOW INCOME.

23 “VERY LOW INCOME” MEANS A HOUSEHOLD INCOME AT OR BELOW 50% AMI.

24 **[§ 2B-4. Findings and policy.]**

25 [(a) In general.]

1 [The Mayor and City Council of Baltimore finds as follows.]

2 [(b) *Benefits of economic diversity.*]

3 [Economic diversity in our neighborhoods, anchored by a strong and stable middle
4 class and including homes for the full range of the City’s workforce, as well as for
5 seniors and others on fixed incomes, will stimulate economic investment, promote
6 neighborhood stability, and increase public safety for all.]

7 [(c) *Limitations of private sector.*]

8 [The private sector, as the primary source of housing and economic development
9 activity in Baltimore City, is not solely, through its individual development actions,
10 able to create economically diverse neighborhoods or developments or to develop
11 housing for the broad range of incomes that will lead to economic diversity.]

12 [(d) *Capabilities of City.*]

13 [(1) Baltimore City can provide benefits to the private sector, to promote economic
14 diversity and housing for a broad range of incomes in neighborhoods and
15 residential developments, in a manner that recognizes the central role that
16 private investment must play for the continued growth and well-being of the
17 City, including the opportunity to earn reasonable and customary levels of
18 profitability.]

19 [(2) These benefits include:]

20 [(i) the disposition of publicly owned land;]

21 [(ii) the expenditure of public funds, including state and federal funds under the
22 City’s control;]

23 [(iii) tax relief; and]

24 [(iv) the adoption of land use standards that promote the inclusion of affordable
25 homes.]

1 [(e) *City policy.*]

2 [It is the policy of Baltimore City to encourage economic diversity and balanced
3 neighborhoods by promoting the inclusion of housing opportunities for residents with
4 a broad range of incomes in all residential projects that contain [30] 20 or more
5 residential units.]

6 [(f) *No additional financial burdens.*]

7 [This subtitle is not intended to impose additional financial burdens on a developer or
8 a residential project. Rather, the intent of this subtitle is that the cost offsets and other
9 incentives authorized under it will fully offset any financial impact resulting from the
10 inclusionary requirements imposed.]

11 **[\S 2B-5. Rules of construction.]**

12 [(a) *In general.*]

13 [In this subtitle, the following rules of construction apply.]

14 [(b) *More stringent provisions apply.*]

15 [For residential projects subject to federal, state, or other local affordable
16 housing requirements imposing an affordability restriction, if the terms of this
17 subtitle regarding the length of a restriction or the level of affordability are more
18 stringent than the applicable federal, state, or other local requirements, the terms
19 of this subtitle apply.]

20 [(c) *Applying percentages.*]

21 [In applying percentages referred to in this subtitle:]

22 [(1) any portion of a percent less than one-half is disregarded; and]

23 [(2) any portion of a percent one-half or greater is rounded up to the next
24 whole number.]

1 **[§ 2B-6. Scope and applicability.]**

2 [(a) *Incentives not made available.*]

3 [If cost offsets and other incentives are not made available to a residential project in
4 accordance with this subtitle, the residential project is not subject to the requirements
5 of this subtitle.]

6 [(b) *City's obligations.*]

7 [(1) Whenever a residential project is granted a waiver or is otherwise exempt from
8 this subtitle, the City is not required to provide resources to the project or to the
9 Inclusionary Housing Offset Fund.]

10 [(2) This subtitle does not obligate the City to expend or commit any funds beyond
11 that which may be appropriated through the annual Ordinance of Estimates.]

12 [(c) *Incentives insufficient to offset financial impact.*]

13 [Notwithstanding any other provision of this subtitle, if the Housing Commissioner
14 determines that the cost offsets or other incentives available to a residential project
15 are insufficient to offset the financial impact on the developer of providing the
16 affordable units required by this subtitle:]

17 [(1) the Housing Commissioner shall either:]

18 [(i) exempt the residential project from this subtitle; or]

19 [(ii) modify the number of affordable units required so that the cost offsets or
20 other incentives available are sufficient to offset the financial impact; and]

21 [(2) neither the developer nor the Housing Commissioner need obtain the approval
22 of the Board of Estimates for a modification or waiver under this subtitle.]

23 [(d) *Subsidized project.*]

24 [A residential project is exempt from this subtitle if:]

25 [(1) it is subsidized by a public program; and]

26 [(2) it satisfies the affordability requirements of § 2B-21(b) of this subtitle.]

1 **§ 2B-3. [2B-7.] Rules and regulations.**

2 (a) In general.

3 Subject to Title 4 {“Administrative Procedure Act – Regulations”} of the City
4 General Provisions Article, the [Housing] Commissioner, in consultation with the
5 [Inclusionary Housing Board and the] Planning Commission, must adopt rules and
6 regulations to carry out the provisions of this subtitle.

7 (b) Scope – General.

8 These rules and regulations may include provisions for:

9 (1) defining, clarifying, or construing terms used in this subtitle;

10 [(2) setting or refining standards for modifications or waivers;]

11 (2) [(3)] determining eligibility to [purchase or] rent affordable units; and

12 (3) [(4)] setting standards for [sale or] rental prices for affordable units.

13 (c) Scope – Requiring timely response.

14 (1) The rules and regulations must[:]

15 [(i)] require the Inclusionary Housing Board, the Housing Commissioner,
16 and the Planning Department to provide timely and definitive responses
17 to all submissions required from a developer under this subtitle[; and].

18 [(ii) assure to the greatest extent practicable that the completion of
19 residential projects is not delayed by implementation of this subtitle.]

20 [(2) Determinations by the Housing Commissioner regarding the sufficiency of
21 potential cost offsets and other incentives must be made within 45 days from
22 submission by a developer, in accordance with this subtitle, of a residential
23 project to the Housing Commissioner, Planning Department, or other body, as
24 required.]

25 (2) THE DEPARTMENT SHALL COMPILE THE RULES AND REGULATIONS ADOPTED
26 UNDER THIS SECTION IN A MANUAL AND MAKE THAT MANUAL AVAILABLE TO THE
27 PUBLIC.

28 [(d) Scope – Written commitments.]

1 [The rules and regulations must assure that the City evidences in writing its decisions
2 to provide cost offsets or other incentives to a developer or residential project under
3 this subtitle.]

4 [(e) Advertising for comment.]

5 [(1) A notice of the proposed adoption of all rules and regulations under this
6 subtitle must be advertised in a newspaper of general circulation at least 45
7 days before their proposed adoption.]

8 [(2) The advertisement must include:]

9 [(i) a summary of the proposed rules and regulations; and]

10 [(ii) information on how a person can:]

11 [(A) obtain a copy of the proposed rules and regulations; and]

12 [(B) submit comments on them before their adoption.]

13 **§§ 2B-4 [2B-5] to 2B-10. {Reserved}**

14 **Part II. Inclusionary Housing Board**

15 **§ 2B-11. Board Established.**

16 There is an Inclusionary Housing Board.

17 **§ 2B-12. Composition.**

18 (a) In general.

19 The [board comprises] BOARD IS COMPRISED OF the following [15] 10 members:

20 (1) [9] 4 members appointed by the Mayor and confirmed by the City Council in
21 accordance with City Charter article IV, § 6; AND

22 (2) [4] 3 members nominated by the Council President, appointed by the Mayor,
23 and confirmed by the City Council in accordance with City Charter
24 Article IV, § 6;]

25 (3) the Housing Commissioner OR THE HOUSING COMMISSIONER'S
26 DESIGNEE; [and]

1 (4) the Planning [Director.] DIRECTOR OR THE PLANNING DIRECTOR’S DESIGNEE;
2 AND

3 (5) THE DIRECTOR OF THE OFFICE OF EQUITY AND CIVIL RIGHTS OR THE
4 DIRECTOR’S DESIGNEE, WHO SHALL SERVE AS A NON-VOTING MEMBER OF THE
5 BOARD.

6 (b) Qualifications – General.

7 (1) Of the [13] 4 members appointed by the Mayor:

8 [(1) 1 must be a representative of a nonprofit entity that provides housing
9 services in the City.]

10 [(2) 1 must be a neighborhood association leader.]

11 [(3) 1 must be a civil engineer practicing in the City.]

12 [(4) 1 must be an architect practicing in the City.]

13 [(5) 1 must be a lender experienced in lending practices for
14 residential projects.]

15 [(6) 1 must be a builder or developer in the City of single-family detached
16 or attached dwellings.]

17 [(7) 1 must be a builder or developer in the City of multiple-family dwellings.]

18 [(8) 1 must be a representative of a nonprofit entity that advocates for
19 affordable housing in the City.]

20 [(9) 1 must be a representative of a labor union that represents municipal or
21 other workers in the City.]

22 (i) 1 MUST BE A FOR-PROFIT DEVELOPER WITH EXPERIENCE IN PUBLIC
23 FINANCING;

24 (ii) 1 MUST BE A LENDER OR INVESTOR WITH EXPERIENCE IN MULTI-FAMILY
25 PROJECTS AND PUBLIC FINANCING OR A MIXED INCOME OR MULTI-FAMILY
26 DEVELOPER;

27 (iii) 1 MUST HAVE EXPERIENCE IN HOUSING, COMMUNITY DEVELOPMENT,

1 PLANNING, SOCIAL SERVICES, OR PUBLIC HEALTH; AND

2 (IV) 1 MUST BE A RENTER EARNING AN INCOME AT OR BELOW 60% OF THE
3 AREA MEDIAN INCOME.

4 (2) OF THE 3 MEMBERS NOMINATED BY THE COUNCIL PRESIDENT:

5 (I) 1 MUST BE A FOR-PROFIT MULTI-FAMILY DEVELOPER THAT USES PUBLIC
6 FINANCING, SUBSIDIES, OR TAX CREDITS;

7 (II) 1 MUST BE A NONPROFIT AFFORDABLE HOUSING DEVELOPER; AND

8 (III) 1 MUST BE A RENTER EARNING AN INCOME AT OR BELOW 60% OF THE
9 AREA MEDIAN INCOME.

10 (c) Qualifications – Residency.

11 [(1)] All of the members must be residents of the City.

12 [(2) At least 1 member must be a member of an extremely low or very low
13 income household.]

14 [(3) Each of the 4 members nominated by the Council President must reside in a
15 different City Council district.]

16 **§ 2B-13. Board officers; expenses.**

17 (a) Chair.

18 (1) The Mayor designates 1 of the appointed members to be the Chair of the Board.

19 (2) The Board may appoint a Vice-Chair and other officers as necessary or
20 appropriate.

21 (b) Compensation; expenses.

22 The members of the Board:

23 (1) serve without compensation; but

24 (2) are entitled to reimbursement for reasonable expenses incurred in the
25 performance of their duties, as provided in the Ordinance of Estimates.

1 **§ 2B-14. Meetings; quorum; voting.**

2 (a) Meetings.

3 The Board meets on the call of the Chair as frequently as required to perform its
4 duties.

5 (b) Quorum.

6 A majority of the members constitutes a quorum for the transaction of business.

7 (c) Voting.

8 An affirmative vote of at least a majority of a quorum is needed for any official
9 action.

10 **§ 2B-15. Staff.**

11 The Department of Housing and Community Development must provide staff for the
12 Board.

13 **§ 2B-16. Annual Report.**

14 (a) Required.

15 On or before [October] DECEMBER 31 of each year, the [Board] COMMISSIONER must:

16 (1) submit a report to the Mayor and the City Council, THE BOARD, and to the
17 Planning Commission that assesses efforts during the preceding fiscal year to
18 create and sustain inclusionary housing in the City;

19 (2) POST THE REPORT ON THE DEPARTMENT OF HOUSING AND COMMUNITY
20 DEVELOPMENT’S WEBSITE; AND

21 (3) FILE THE REPORT WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE.

1 **(b) Contents generally.**

2 **The report must include:**

3 (1) [the total number and proportion (as to the total of all housing units
4 developed) of affordable housing units generated under this subtitle] THE
5 TOTAL NUMBER OF NEW AFFORDABLE UNITS CREATED UNDER THIS SUBTITLE
6 FOR THAT YEAR AND CUMULATIVELY FOR MODERATE, LOW, VERY LOW, AND
7 EXTREMELY LOW INCOME HOUSEHOLDS;

8 (2) [the number and proportion generated under each of the various provisions of
9 this subtitle (e.g., major public subsidy or significant rezoning)] FOR THAT
10 YEAR, THE PERCENT OF NEW DWELLING UNITS CREATED IN THE CITY THAT ARE
11 AFFORDABLE UNITS FOR MODERATE, LOW, VERY LOW, AND EXTREMELY LOW
12 INCOME HOUSEHOLDS;

13 [(3) the number generated at various affordable costs;]

14 [(3) AGGREGATED ANNUAL DATA PROVIDED UNDER § 2B-24 {"ANNUAL
15 REPORT - RESIDENTIAL PROJECT."} OF THIS SUBTITLE; AND

16 [(4) ATTACH THE ANNUAL REPORTS FROM THE PROPERTIES WITH NEW AFFORDABLE
17 UNITS CREATED UNDER THIS SUBTITLE.

18 [(4) a list and description of all waivers, modifications, or variances requested,
19 granted, and denied under this subtitle, with a summary of the reasons for
20 granting or denying each request;]

21 [(5) an estimate of the percent of units in the City that are occupied;]

22 [(6) the amount and percent of residential property tax-base increase;]

23 [(7) the percent of households that the City has retained;]

24 [(8) an estimate of the growth in City households;]

1 [(9) the number of units for which the City or eligible housing providers had a
2 right of first refusal under § 2B-34 {"Right of first refusal"} or
3 § 2B-52(c) {"Resales during affordability period – First refusal City’s right
4 of first refusal"}, and the number of those units on which that right
5 was exercised;]

6 [(10) recommendations made by the Board under § 2B-66B
7 {"Administration:Board to advise"} on priorities for which Inclusionary
8 Housing Offset Fund money is best used; and]

9 [(11) a summary of all information for the fiscal year that the Inclusionary
10 Housing Offset Fund submits to the Board under § 2B-67 {"Reporting to
11 Board"}.]

12 **§ 2B-17. Duties.**

13 In addition to the other duties specified elsewhere in this subtitle, the Board is responsible
14 for:

15 [(1) reviewing requests for modifications or waivers under § 2B-21 {"Project
16 receiving major public subsidy"}, § 2B-22 {" Project benefitting from significant
17 land use authorization or rezoning"}, and § 2B-23 {"Other projects – 30 or more
18 units"}] and advising the Housing Commissioner within 20 days of referral by the
19 Commissioner, in a manner determined by the Board; and]

20 [(2) advising the Housing Commissioner and the Planning Director in the
21 performance of their respective duties under this subtitle.]

22 (1) REVIEWING AND PROVIDING COMMENTS ON THE REGULATIONS PROMULGATED
23 UNDER § 2B-3 {"RULES AND REGULATIONS"} OF THIS SUBTITLE; AND

24 (2) REVIEWING AND PROVIDING COMMENTS ON INCLUSIONARY HOUSING PLANS
25 SUBMITTED BY RESIDENTIAL PROJECTS TO THE BOARD AS REQUIRED UNDER § 2B-
26 22 {"INCLUSIONARY HOUSING PLAN"} OF THIS SUBTITLE.

27 **§§ 2B-18 to 2B-20. {Reserved}**

1 Part III. Inclusionary Requirements

2 § 2B-21. [Project receiving major public subsidy] INCLUSIONARY REQUIREMENTS.

3 (a) Applicability of section.

4 This section applies to any residential project [that]:

5 (1) THAT provides [30] 20 or more [residential] DWELLING units; [and]

6 (2) [receives a major public subsidy.] THAT RECEIVES:

7 (i) A MAJOR PUBLIC SUBSIDY; OR

8 (ii) A SIGNIFICANT LAND USE AUTHORIZATION;

9 (3) THAT IS NEWLY CONSTRUCTED, WHOLLY RENOVATED, OR CONVERTED FROM A
10 NON-RESIDENTIAL BUILDING; AND

11 (4) THE COST OF THE CONSTRUCTION OR CONVERSION EXCEEDS \$60,000 PER RENTAL
12 UNIT.

13 (b) Affordable units required.

14 (1) In every residential project subject to this section, at least [20%] 10% of all
15 [residential] DWELLING units FOR RENT must be affordable units TO LOW INCOME
16 HOUSEHOLDS.

17 [(2) (i) For rental units:]

18 [1. at least 30% must be provided to eligible households at an extremely low
19 rental cost;]

20 [2. at least 25% must be provided to [eligible households at or below a very
21 low rental cost;]

22 [3. at least 25% must be provided to eligible households at or below a low
23 rental cost; and]

24 [4. the remainder must be provided to eligible households at a rental cost that
25 does not exceed 1/12 of 30% of 100% of the AMI.]

26 [(ii) For ownership units:]

1 [1. at least 25% must be provided to eligible households at a very low
2 ownership cost;]

3 [2. at least 50% must be provided to eligible households at a low ownership
4 cost; and]

5 [3. the remainder must be provided to eligible households at a moderate
6 ownership cost.]

7 (2) IN EVERY RESIDENTIAL PROJECT WHERE THE DEVELOPER IS OFFERED AN
8 ADDITIONAL SUBSIDY OR OFFERED THE OPPORTUNITY TO APPLY FOR AN
9 ADDITIONAL SUBSIDY FOR AFFORDABLE UNITS FOR VERY LOW INCOME OR
10 EXTREMELY LOW INCOME HOUSEHOLDS, UP TO AN ADDITIONAL 5% OF DWELLING
11 UNITS FOR RENT MUST BE AFFORDABLE TO VERY LOW AND EXTREMELY LOW
12 INCOME HOUSEHOLDS UPON AN AWARD OF THE ADDITIONAL SUBSIDY.

13 [(c) *Cash subsidies.*]

14 [If the Housing Commissioner determines that the major public subsidy is insufficient
15 to offset the financial impact on the developer of providing the affordable units
16 required by this subtitle, the City may grant a cash subsidy to the developer from the
17 Inclusionary Housing Offset Fund or other available sources in an amount sufficient
18 to offset the financial impact.]

19 [(d) *Modifications or waivers – Housing Commissioner.*]

20 [If the Housing Commissioner determines that the major public subsidy or cash
21 subsidies available to a residential project are insufficient to offset the financial
22 impact on the developer of providing the affordable units required by this subtitle:]

23 [(1) the Housing Commissioner shall either:]

24 [(i) exempt the residential project from this subtitle; or]

25 [(ii) modify the number of affordable units required so that the major public
26 subsidy or cash subsidies available are sufficient to offset the financial
27 impact; and]

28 [(2) neither the developer nor the Housing Commissioner need obtain the
29 approval of the Board of Estimates for a modification or waiver under this
30 subsection.]

1 (C) MORE RESTRICTIVE GOVERNS.

2 IF THE CITY NEGOTIATES OR A RESIDENTIAL PROJECT PROMISES TO PROVIDE A
3 GREATER PERCENTAGE OF AFFORDABILITY OR LONGER TIME PERIOD OF
4 AFFORDABILITY, THAT MORE RESTRICTIVE PROVISION GOVERNS OVER THE
5 REQUIREMENTS OF THIS SUBTITLE TO THE EXTENT OF ANY CONFLICT.

6 (D) EXCLUSIONS.

7 THE PROVISIONS OF THIS SECTION DO NOT APPLY TO:

8 (1) DORMITORIES, AS DEFINED IN § 1-305(G) OF THE ZONING CODE;

9 (2) FRATERNITY OR SORORITY HOUSES, AS DEFINED IN § 1-306(P) OF THE ZONING
10 CODE; OR

11 (3) RESIDENTIAL-CARE FACILITIES, AS DEFINED IN § 1-312(P) OF THE ZONING
12 CODE.

13 [(e) Modifications or waivers – Board of Estimates.]

14 [(1) In addition to the modifications and waivers provided for in subsection (d) of
15 this section, the Housing Commissioner, with approval from the Board of
16 Estimates, may grant a modification of or a waiver from the requirements of
17 subsection (b) of this section if the findings required by paragraph (3) of this
18 subsection are made.]

19 [(2) The Housing Commissioner must state the reasons that he or she believes that
20 granting the modification or waiver would further the goal of increasing
21 inclusionary housing in Baltimore City.]

22 [(3) The Housing Commissioner and the Board of Estimates may grant the
23 modification or waiver if they find that:]

24 [(i) homes will be provided for families in a mixed-income setting at lower
25 affordability levels than those required under this section;]

26 [(ii) because of limited City resources, more affordable units in mixed-income
27 housing will be created over a 2-year period than would be created if the
28 modification or waiver were not granted;]

29 [(iii) more effective use of public programs or sources of subsidy will better
30 address mixed-income housing in Baltimore City; or]

1
2 [(iv) the modification or waiver will promote the creation of units that are
3 more expensive to construct than typical units because they are specially
4 designed and designated for people with disabilities or built to be
5 substantially more energy efficient than customary units.]

6 [(4) The Housing Commissioner must:]

7 [(i) issue a written decision on the application within 45 days of its receipt;
8 and]

9 [(ii) post a copy of the decision on the City’s website.]

10 [(f) *Investment Threshold.*]

11 [(1) “Additional cost” means the difference in the amount of major public subsidy for
12 an entire development between what would be required to make the development
13 feasible with the affordable units required by this subsection compared to the
14 amount of major public subsidy that would be required to make the development
15 feasible if it did not include the affordable units required by this subsection.]

16 [(2) In this subsection, “investment threshold” per unit means the additional cost per
17 affordable unit of creating inclusionary units at a given income tier as detailed
18 below:]

19 [(i) for Rental Development:]

20 [Units at or Below Extremely Low Cost \$125,000]

21 [Units at or Below Very Low Cost \$100,000]

22 [Units at or Below Low Cost \$50,000]

23 [Units at or Below Moderate Cost \$25,000]

24 [(ii) for Ownership Development:]

25 [Units at or Below Very Low Cost or]
26 [Extremely Low Cost \$125,000]

27 [Units at or Below Low Cost \$100,000]

28 [Units at or Below Moderate Cost \$50,000]

1 [(3) If the Housing Commissioner determines that the additional cost per affordable
2 unit exceeds the basic investment threshold, the Housing Commissioner shall,
3 except by mutual agreement of the City and the developer:]

4 [(i) exempt the residential project from the requirement to provide affordable
5 units; and]

6 [(ii) require the developer to deposit into the Inclusionary Housing Offset
7 Fund an amount equal to the lesser of the following amounts, but only if
8 the major public subsidy has been increased to fully offset the cost to the
9 developer of making the deposit:]

10 [(A) the basic per unit investment threshold as indicated in this
11 subsection; or]

12 [(B) 20% of the additional cost that would have been required to achieve
13 the affordability targets specified in § 2B-21(b)(2) of this subtitle.]

14 **[\§ 2B-22. Project benefitting from significant land use authorization or rezoning.]**

15 [(a) *Applicability of section.*]

16 [This section applies to any residential project that:]

17 [(1) provides 20 or more residential units; and]

18 [(2) is wholly or partially on property for which there has been:]

19 [(i) a significant land use authorization; or]

20 [(ii) a significant rezoning.]

21 [(b) *Affordable units required.*]

22 [(1) In every residential project subject to this section, at least 10% of all residential
23 units must be affordable units.]

24 [(2) Of these affordable units:]

25 [(i) at least half must be provided to eligible households at or below a low
26 affordable cost for ownership units or at or below a very low affordable cost
27 for rental units; and]

1 [(ii) the others may be provided to eligible households at a moderate
2 affordable ownership cost or moderate affordable rent.]

3 [(c) *Density Bonuses.*]

4 [The residential project may apply to the Board of Municipal and Zoning Appeals to
5 receive bonus units up to 20% of the units otherwise allowed in the residential
6 project, computed as set forth in Zoning Code Table 9-401, but only if the Housing
7 Commissioner first determines that the residential project:]

8 [(1) would not be economically feasible if it provided the number of inclusionary
9 units required by this subtitle, but]

10 [(2) would be economically feasible if it provided the number of inclusionary
11 units required by this subtitle and received the density bonus described in this
12 subsection.]

13 [(d) *Exemption.*]

14 [(1) A residential project is exempt from the requirements of this subtitle if:]

15 [(i) the Board of Municipal and Zoning Appeals denies the density bonus
16 described in subsection (c) of this section; or]

17 [(ii) the Housing Commissioner determines that the project would not be
18 economically feasible if it provided the number of inclusionary units
19 required by this subtitle, even if the project received the density bonus
20 described in subsection (c) of this section.]

21 [(2) Neither the developer nor the Housing Commissioner need obtain the approval
22 of the Board of Estimates for an exemption under this subsection.]

23 [(e) *Modifications or waivers.*]

24 [(1) In addition to the exemption provided for in subsection (d) of this section, the
25 Housing Commissioner, with approval from the Board of Estimates, may grant a
26 modification of or a waiver from the requirements of subsection (b) of this section
27 if the Housing Commissioner finds that:]

1 [(i) homes will be provided for families at lower affordability levels in a
2 mixed income setting than those required under this section;]

3 [(ii) the development would not be economically feasible given existing
4 market conditions with the number of inclusionary units required under this
5 section, additional density bonuses are not available, and granting a
6 modification or waiver would create more affordable units in mixed-income
7 housing over a 2-year period than would be created if the modification or
8 waiver were not granted; or]

9 [(iii) the modification or waiver will promote the creation of units that are
10 more expensive to construct than typical units because they are specially
11 designed and designated for people with disabilities or built to be
12 substantially more energy efficient than customary units.]

13 [(2) The Housing Commissioner must:]

14 [(i) issue a written recommendation to the Board of Estimates within 45 days
15 of the application's receipt; and]

16 [(ii) provide a copy of that recommendation to:]

17 [(A) the Inclusionary Housing Board;]

18 [(B) the Planning Director; and]

19 [(C) the City Council.]

20 [(3) When the Board of Estimates issues its decision, the Housing Commissioner
21 must:]

22 [(i) provide a copy of that decision to:]

23 [(A) the Inclusionary Housing Board;]

24 [(B) the Planning Director; and]

25 [(C) the City Council; and]

26 [(ii) post a copy of the decision on the City's website.]

27 **[§ 2B-23. Other projects – 30 or more units.]**

1 [(a) Applicability of section.]

2 [This section applies to any residential project that:]

3 [(1) provides 30 or more residential units; and]

4 [(2) is not otherwise subject to § 2B-21 {“Project receiving major public subsidy
5 or § 2B-22 {“ Project benefitting from significant land use authorization or
6 rezoning”}.]

7 [(b) Affordable units required.]

8 [(1) In every residential project subject to this section, 10% of all residential units
9 must be provided to eligible households at or below a moderate affordable cost.]

10 [(2) The residential project is entitled to a certain cost-offsets, as provided in this
11 section, subject to the availability of City funds to provide these cost offsets.]

12 [(3) (i) The extent to which funds are available shall be determined by the Housing
13 Commissioner.]

14 [(ii) The developer of a project subject to this section shall be informed no later
15 than the time of a Pre-Development Meeting with the Planning Department
16 whether the City has the funds available in the Inclusionary Housing Offset
17 Fund to provide cash subsidies under this section.]

18 [(c) Cost offsets.]

19 [(1) If all of the affordable units provided under this section are at or below a low
20 affordable housing cost, the residential project may apply to the Board of
21 Municipal and Zoning Appeals for bonus units equal to 20% of the units
22 otherwise allowed in the residential project, computed as set forth in Zoning
23 Code Table 9-401. In that case, the number of affordable units required is 10%
24 of all units, including bonus units.]

25 [(2) If the Board of Municipal and Zoning Appeals denies the density bonus
26 described in paragraph (1) of this subsection or the Housing Commissioner
27 determines that the bonus units provided under paragraph (1) of this subsection
28 are insufficient to offset the financial impact on the developer of providing the
29 affordable units required by this subtitle, the City may provide cash subsidies to
30 the developer from the Inclusionary Housing Offset Fund or other available
31 sources in an amount sufficient to offset the financial impact.]

1 [(d) Modifications or waivers – Housing Commissioner.]

2 [If the Housing Commissioner determines that the density bonus and cash subsidies
3 available to a residential project are insufficient to offset the financial impact on the
4 developer of providing the affordable units required by this subtitle:]

5 [(1) the Housing Commissioner shall either:]

6 [(i) exempt the residential project from this subtitle; or]

7 [(ii) modify the number of affordable units required so that the density
8 bonus or cash subsidies available are sufficient to offset the financial
9 impact; and]

10 [(2) neither the developer nor the Housing Commissioner need obtain the
11 approval of the Board of Estimates for a modification or waiver under this
12 subsection.]

13 [(e) Modifications or waivers – Board of Estimates.]

14 [(1) In addition to the exemption provided for in subsection (d) of this section, on
15 application by a developer to the Housing Commissioner, the Commissioner with
16 approval from the Board of Estimates may grant a modification of or a waiver
17 from the requirements of subsection (b) of this section if they find that:]

18 [(i) even if with available cost offsets, the economic return to the developer
19 for the entire development would be less than it would be absent a
20 requirement for affordable units;]

21 [(ii) exceptionally high ongoing occupancy costs make it infeasible to include
22 affordable units on the site; or]

23 [(iii) in a neighborhood that comprises primarily low- and moderate-cost
24 housing and for which a development plan for mixed-income (including
25 affordable) housing has been adopted by the Planning Commission, the
26 developer’s project fulfills that part of the plan that calls for market-rate
27 housing.]

28 [(2) The Housing Commissioner must:]

29 [(i) issue a written decision on the application within 45 days of its receipt;]

30 [(ii) provide a copy of that decision to:]

1 [(A) the Inclusionary Housing Board;]

2 [(B) the Planning Director; and]

3 [(C) the City Council; and]

4 [(iii) post a copy of the decision on the City’s website.]

5 [(f) Investment threshold.]

6 [(1) If the cost offsets that would need to be provided under this section exceed the
7 per unit investment threshold amounts specified below, the Housing
8 Commissioner, in his or her discretion, may opt not to require affordable units in
9 the development.]

10 [(2) Investment Threshold for Rental Development:]

11 [Units at or Below Very Low Cost \$115,000]

12 [Units at or Below Moderate Cost \$ 40,000]

13 [(3) Investment Threshold for Ownership Development:]

14 [Units at or Below Low Cost \$110,000]

15 [Units at or Below Moderate Cost \$ 50,000]

16 **§ 2B-24. Other projects – Less than 30 units.**

17 [A developer of a project with less than 30 residential units may request the Housing
18 Commissioner to provide cost offsets under § 2B-23 {“Other projects – 30 or more
19 units”} if the developer voluntarily includes affordable housing in the project in
20 accordance with subsection (b) of that section.]

21 **§ 2B-22. INCLUSIONARY HOUSING PLAN.**

22 (A) INCLUSIONARY HOUSING PLAN REQUIRED.

23 RESIDENTIAL PROJECTS SUBJECT TO THE AFFORDABILITY UNIT REQUIREMENTS OF THIS
24 SUBTITLE MUST SUBMIT AN INCLUSIONARY HOUSING PLAN TO THE DEPARTMENT OF
25 HOUSING AND COMMUNITY DEVELOPMENT AND THE INCLUSIONARY HOUSING BOARD
26 WHEN APPLYING FOR A BUILDING PERMIT.

1 (B) INCLUSIONARY HOUSING PLAN REQUIREMENTS.

2 (1) IN GENERAL.

3 RESIDENTIAL PROJECTS REQUIRED TO SUBMIT AN INCLUSIONARY HOUSING PLAN
4 UNDER SUBSECTION (A) MUST SUBMIT A PLAN IN THE FORM ESTABLISHED BY THE
5 COMMISSIONER.

6 (2) AFFIRMATIVE FAIR HOUSING MARKETING.

7 AN INCLUSIONARY HOUSING PLAN MUST INCLUDE A PLAN FOR AFFIRMATIVELY
8 MARKETING THE AFFORDABLE UNITS IN THE RESIDENTIAL PROJECT TO THOSE
9 INDIVIDUALS LEAST LIKELY TO APPLY TO BECOME TENANTS WITHOUT SPECIAL
10 OUTREACH EFFORTS.

11 (C) REVIEW AND COMMENT ON INCLUSIONARY HOUSING PLAN.

12 BEFORE THE CITY ISSUES BUILDING PERMITS FOR A RESIDENTIAL PROJECT THAT IS
13 SUBJECT TO THE AFFORDABILITY UNIT REQUIREMENTS OF THIS SUBTITLE, THE
14 RESIDENTIAL PROJECT'S INCLUSIONARY HOUSING PLAN MUST FIRST BE REVIEWED AND
15 COMMENTED UPON BY THE INCLUSIONARY HOUSING BOARD.

16 (D) COMMISSIONER AUTHORITY TO CREATE INCLUSIONARY HOUSING PLAN FORM.

17 THE COMMISSIONER, WITH THE ADVICE AND CONSENT OF THE INCLUSIONARY
18 HOUSING BOARD, SHALL CREATE AND AMEND AS NECESSARY A FORM FOR AN
19 INCLUSIONARY HOUSING PLAN.

20 **§ 2B-23. [2B-25. Source of income discrimination] FAIR HOUSING LAWS AND**
21 **REGULATIONS.**

22 [(a) Projects subject to affordable housing requirements.]

23 [For any unit in any residential project that meets the requirements of § 2B-21(a)
24 2B-31(a), § 2B-22(a), or, when effective, § 2B-23(a) of this subtitle, a person may
25 not:]

26 [(1) refuse to sell or rent, refuse to negotiate for the sale or rental of, or otherwise
27 make unavailable or deny, a dwelling to any person because of that person's
28 source of income;]

1 [(2) discriminate against any person in the terms, conditions, or privileges of the
2 sale or rental of a dwelling, or rental of a dwelling, or in the provision of
3 services or facilities in connection with the sale or rental of a dwelling,
4 because of that person's source of income;]

5 [(3) make, print, or publish, or cause to be made, printed, or published, any
6 notice, statement, or advertisement with respect to the rental of a dwelling
7 that indicates any preference, limitation, or discrimination based on the
8 source of income that may be used to pay rent;]

9 [(4) represent to any person, because of that person's source of income, that any
10 dwelling is not available for inspection, or rental when the dwelling is
11 available; or]

12 [(5) for profit, induce or attempt to induce any person to sell or rent any dwelling
13 by representations regarding the entry or prospective entry into the
14 neighborhood of a person using a particular source of income.]

15 [(b) *Projects receiving cost offsets for affordable housing.*]

16 [For any unit in any residential project that receives a cost offset from the Housing
17 Commissioner under § 2B-24 of this subtitle, a person may not:]

18 [(1) refuse to sell or rent, refuse to negotiate for the sale or rental of, or otherwise
19 make unavailable or deny, a dwelling to any person because of that person's
20 source of income;]

21 [(2) discriminate against any person in the terms, conditions, or privileges of the
22 sale or rental of a dwelling, or rental of a dwelling, or in the provision of
23 services or facilities in connection with the sale or rental of a dwelling, because
24 of that person's source of income;]

25 [(3) make, print, or publish, or cause to be made, printed, or published, any
26 notice, statement, or advertisement with respect to the rental of a dwelling that
27 indicates any preference, limitation, or discrimination based on the source of
28 income that may be used to pay rent;]

29 [(4) represent to any person, because of that person's source of income, that any
30 dwelling is not available for inspection or rental when the dwelling is
31 available; or]

32 [(5) for profit, induce or attempt to induce any person to sell or rent any dwelling

1 by representations regarding the entry or prospective entry into the
2 neighborhood of a person using a particular source of income.]

3 [(c) Requirements may not be waived.]

4 [The requirements of this section may not be waived or modified under any other
5 provision of this subtitle, and no residential project may be exempted from the
6 requirements of this section under any other provision of this subtitle.]

7 ALL RESIDENTIAL PROJECTS CREATED UNDER THIS SUBTITLE ARE SUBJECT TO APPLICABLE
8 FEDERAL, STATE, AND LOCAL HOUSING LAWS AND REGULATIONS.

9 **§ 2B-24. ANNUAL REPORT – RESIDENTIAL PROJECT .**

10 (A) RESIDENTIAL PROJECTS SUBJECT TO THE AFFORDABILITY REQUIREMENTS OF THIS
11 SUBTITLE MUST SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT AND THE
12 INCLUSIONARY HOUSING BOARD.

13 (B) THE CONTENTS OF THE ANNUAL REPORT REQUIRED UNDER SUBSECTION (A) OF THIS
14 SECTION MUST INCLUDE:

15 (1) THE NUMBER OF AFFORDABLE UNITS IN THE RESIDENTIAL PROJECT FOR EACH
16 INCOME LEVEL APPLICABLE UNDER THIS SUBTITLE;

17 (2) THE SQUARE FOOTAGE OF EACH BEDROOM IN EACH AFFORDABLE UNIT;

18 (3) WHETHER AN AFFORDABLE UNIT IS LEASED AND OCCUPIED AT THE TIME OF
19 THE REPORT AND TO WHICH INCOME LEVEL THE TENANT BELONGS;

20 (4) WHETHER OR NOT THE RESIDENTIAL PROJECT IS IN COMPLIANCE WITH THE
21 INCLUSIONARY HOUSING PLAN;

22 (5) THE NUMBER OF TENANTS, DELINEATED BY GROUP, OCCUPYING AFFORDABLE
23 UNITS WHO WERE IDENTIFIED AS BELONGING TO A GROUP LEAST LIKELY TO
24 LEASE AS A RESULT OF THE AFFIRMATIVE MARKETING REQUIRED UNDER
25 § 2B-22(B) {“INCLUSIONARY HOUSING PLAN REQUIREMENTS”} OF THIS
26 SUBTITLE;

27 (6) AN ACCOUNTING OF THE MONTHLY RENT COLLECTED FOR EACH AFFORDABLE
28 UNIT FOR THAT YEAR, AS PREPARED BY AN INDEPENDENT ACCOUNTANT;

29 (7) A COMPARISON, DISPLAYED AS BOTH A NUMBER AND PERCENTAGE, OF THE
30 MONTHLY RENT COLLECTED FOR EACH AFFORDABLE UNIT AGAINST THE

1 MONTHLY RENT THAT COULD HAVE BEEN COLLECTED IF EACH AFFORDABLE
2 UNIT WAS A MARKET-RATE UNIT, AS PREPARED BY AN INDEPENDENT
3 ACCOUNTANT;

4 (8) AN ACCOUNTING OF THE EFFICACY OF THE HIGH-PERFORMANCE INCLUSIONARY
5 TAX CREDIT;

6 (9) THE TYPE OF MAJOR PUBLIC SUBSIDY THAT MADE THE RESIDENTIAL PROJECT
7 SUBJECT TO THE AFFORDABILITY UNIT REQUIREMENTS OF THIS SUBTITLE; AND

8 (10) ANY ADDITIONAL INFORMATION RELATED TO COMPLIANCE WITH THIS
9 SUBTITLE OR ANY RULES AND REGULATIONS ISSUED UNDER THIS SUBTITLE AS
10 DETERMINED BY THE COMMISSIONER.

11 (C) THE COMMISSIONER WILL PROMINENTLY POST ALL ANNUAL REPORTS REQUIRED
12 UNDER SUBSECTION (A) OF THIS SECTION ON THE CITY’S WEBSITE.

13 **§§ 2B-25 to 2B-30. {Reserved}**

14 **Part IV. Standards for Affordable Units**

15 **§ 2B-31. Comparable design.**

16 [(a) *In general.*]

17 The affordable units required by this subtitle:

18 (1) must be complementary to the market rate units in the same project as to their
19 exterior appearance;

20 (2) must be comparable to the market rate units in the same project as to:

21 (i) number of bedrooms; and

22 (ii) overall quality of construction; and

23 (3) may vary in size and finish, consistent with standards set forth in the
24 [Housing] Commissioner’s rules and regulations.

1 [(b) Variance.]

2 [(1) The developer may request a variance from the requirements of subsection (a) of
3 this section by submitting a written request to the Housing Commissioner.]

4 [(2) The Housing Commissioner may approve a request if it is determined that the
5 affordable units are of good quality and consistent with contemporary standards
6 for new housing.]

7 [(3) The Housing Commissioner must issue a written decision on the request within
8 45 days of its receipt.]

9 [(4) The Housing Commissioner must periodically report to the Inclusionary
10 Housing Board on all applications made under this subsection and their
11 disposition.]

12 **§ 2B-32. Placement.**

13 [(a) In general.]

14 The affordable units required by this subtitle must be dispersed throughout the
15 residential project.

16 [(b) Variance.]

17 [(1) The developer may request a variance from the requirements of subsection (a) of
18 this section by submitting a written request to the Housing Commissioner to
19 cluster affordable units within the project.]

20 [(2) Within 45 days of the request, the Housing Commissioner must, in his or her
21 sole discretion, provide a written determination as to whether the proposal
22 adequately demonstrates that:]

23 [(i) the proposed design meets the goals of this subtitle; and]

24 [(ii) a variance should be allowed.]

25 [(3) The Housing Commissioner must periodically report to the Inclusionary
26 Housing Board on all applications made under this subsection and their
27 disposition.]

1 **§ 2B-33. Simultaneous offering.**

2 [(a) *In general.*]

3 The affordable units required by this subtitle must be constructed and completed in
4 the same time frame as the market rate units in the project.

5 [(b) *Variance.*]

6 [(1) The developer may request a variance from the requirements of subsection (a) of
7 this section by submitting a written request to the Housing Commissioner.]

8 [(2) The Housing Commissioner may approve a request if:]

9 [(i) the Commissioner determines, in her or his sole discretion, that the
10 provision of affordable units will not be adversely affected or delayed by
11 the variance; or]

12 [(ii) affordable units are to be provided off-site under Part V of this subtitle.]

13 [(3) The Housing Commissioner must issue a written decision on the request within
14 45 days of its receipt.]

15 [(4) The Housing Commissioner must periodically report to the Inclusionary
16 Housing Board on all applications made under this subsection and their
17 disposition.]

18 **§ 2B-34. Right of first refusal.**

19 [(a) *In general.*]

20 [The City and designated housing providers have a right of first refusal to purchase or
21 rent up to one-third of affordable units provided in a residential project under this
22 subtitle.]

1 [(b) Designated housing providers.]

2 [(1) From time to time, the Housing Commissioner may designate housing providers
3 authorized to purchase or rent affordable units under this section, according to
4 regulation and procedures adopted by the Commissioner.]

5 [(2) The City or designated housing providers may rent or resell units acquired under
6 this section to eligible households.]

7 [(c) Time for exercise.]

8 [The City or designated housing provider must decide whether to exercise its right of
9 first refusal within 45 days of submission by a developer, pursuant to the rules and
10 regulations adopted under this subtitle, of an offer to sell the affordable units.]

11 **§ [2B-35. Eligibility to purchase or rent.]**

12 [(a) In general.]

13 [The rules and regulations adopted by the Housing Commissioner under this subtitle
14 must include provisions for determining eligibility to purchase or rent affordable
15 units.]

16 [(b) Counseling.]

17 [These provisions must require appropriate housing counseling from a HUD qualified
18 counseling agency in a manner determined by the Housing Commissioner.]

19 [(c) First preference for neighbors, etc.]

20 [These provisions shall attempt, consistent with other governing requirements, to
21 provide special priority for otherwise-qualified individuals who:]

22 [(1) were displaced by the project; or]

23 [(2) reside within the same neighborhood in which the residential project is
24 located.]

25 **§ [2B-36. Owner-occupancy of ownership units.]**

26 [An affordable unit that is sold under this subtitle to an eligible household must be
27 owner-occupied.]

1 [(b) Accompanying report.]

2 [The application must be accompanied by a report that includes:]

3 [(1) conditions affecting the project that prevent the developer from meeting the
4 requirements of § 2B-22 {" Project benefitting from significant land use
5 authorization or rezoning"} or § 2B-23 {"Other projects – 30 or more units},
6 as the case may be;]

7 [(2) independent data, including appropriate financial information, that support the
8 developer’s position that constructing the required affordable units on site is
9 not feasible; and]

10 [(3) an analysis of how the off-site substitution will further mixed-income housing
11 opportunities in the neighborhood in which the residential project is located.]

12 **[§ 2B-44. Minimum criteria.]**

13 [Off-site units may be allowed under this Part V only if:]

14 [(1) they will be provided at another location in the same neighborhood or
15 comparable contiguous geographic area as the residential project to which they
16 are being credited, as determined by the Planning Director, or in a residential
17 project approved by the Housing Commissioner within 2,000 feet of a rapid
18 transit stop; and]

19 [(2) in the aggregate, the off-site units and any affordable units provided on-site at the
20 residential project are no fewer than the number of affordable units required by
21 § 2B-22 {"Project benefitting from significant land use authorization or
22 rezoning"} or § 2B-23 {"Other projects – 30 or more units}, as the case may be.]

23 **[§ 2B-45. Review.]**

24 [The Housing Commissioner, with approval by the Board of Estimates, may approve a
25 request if the requested variance will promote mixed-income housing opportunities in
26 Baltimore City to an extent equal to or greater than compliance with this subtitle.]

1 Part V [VI]. Continued Affordability

2 § 2B-41. [2B-51.] Rental units.

3 (a) Affordability period.

4 (1) Every affordable rental unit subject to this subtitle must remain at an affordable
5 [rent] HOUSING COST, as provided in this section, for a period of not less than 30
6 years from the date of its initial occupancy.

7 (2) 1 YEAR PRIOR TO THE EXPIRATION OF THE AFFORDABILITY PERIOD, THE OWNER
8 SHALL NOTIFY THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
9 OF THE OPPORTUNITY TO MASTER LEASE THE AFFORDABLE UNITS, AT WHICH TIME,
10 THE CITY OR DESIGNATED NONPROFIT HOUSING PROVIDERS MAY HAVE THE FIRST
11 RIGHT OF REFUSAL TO MASTER LEASE THE AFFORDABLE UNITS TO CONTINUE
12 AFFORDABILITY AFTER THE AFFORDABILITY PERIOD EXPIRES.

13 (b) Lease and sublease restrictions.

14 During the affordability period, the owner of the rental property may not rent or lease
15 any affordable unit and a tenant may not sub-rent or sublease the unit except to an
16 eligible household at a rent that does not exceed an affordable rent applicable to that
17 unit.

18 [(c) Rent increases.]

19 [(1) During the affordability period, rent increases may be imposed only as provided
20 in this section.]

21 [(2) The percentage increase in annual rent may not exceed:]

22 [(i) the percentage increase in the cost of living, based on an appropriate
23 inflation index as determined by the Housing Commissioner; or]

24 [(ii) a greater amount to the extent:]

25 [(A) necessitated by documented hardship or other exceptional
26 circumstances; and]

27 [(B) approved in writing by the Housing Commissioner.]

1 (C) AFFORDABILITY VARIANCE.

2 (1) ALL AFFORDABLE UNITS UNDER THIS SECTION MUST BE INITIALLY LEASED TO
3 MODERATE, LOW, VERY LOW, OR EXTREMELY LOW INCOME HOUSEHOLDS, AS
4 OUTLINED IN § 2B-21 OF THIS SUBTITLE {"INCLUSIONARY REQUIREMENTS"}.

5 (2) IF A TENANT'S INCOME INCREASES:

6 (I) THE TENANT WILL BE ALLOWED TO STAY IN THE UNIT; AND

7 (II) THE TENANT'S RENT CAN BE INCREASED AT THE SAME RATIO AS THE
8 ORIGINAL LEASING.

9 (3) IF THE INCOME OF A TENANT IN AN AFFORDABLE UNIT, AS DESCRIBED IN THIS
10 SECTION, INCREASES TO 100% OF AMI:

11 (I) THE TENANT SHALL PAY FULL MARKET RENT; AND

12 (II) ANOTHER UNIT MUST BE MADE AVAILABLE TO COMPLY WITH THE
13 AFFORDABILITY REQUIREMENTS IN THIS SECTION.

14 (d) Owner's maintenance.

15 The owner of an affordable rental unit:

16 (1) at all times must comply with all building, fire, safety, and other codes
17 applicable to rental units; and

18 (2) in providing maintenance and other services to rental units in the residential
19 project, may not discriminate in any way against affordable units.

20 [(e) Reports to Commissioner.]

21 [(1) Owners of affordable rental units subject to this subtitle must periodically report
22 to the Housing Commissioner on their compliance with the requirements of this
23 section.]

24 [(2) These reports must be made in the form and with the frequency that the Housing
25 Commissioner requires.]

1 **[\§ 2B-52. Ownership units.]**

2 [(a) City's right of first refusal.]

3 [The City has the right of first refusal to purchase at market rate any affordable unit
4 initially provided under this subtitle.]

5 [(b) Identifying public investment.]

6 [(1) At the time of initial sale, the Housing Commissioner shall identify the amount
7 of public investment in the unit.]

8 [(2) For units benefitting from significant rezoning or bonus units, the public
9 investment is deemed to be an amount equal to the owner's initial purchase
10 price.]

11 [(c) Allocation of proceeds.]

12 [At the time of any subsequent sale, the proceeds of the sale shall be allocated as
13 follows:]

14 [(1) The owner receives the initial purchase price paid by the owner plus the value
15 of documented improvements.]

16 [(2) The City receives an amount equal to its public investment in the affordable
17 unit, but only to the extent that the proceeds of the sale exceed the initial
18 purchase price and the values of documented improvements.]

19 [(3) Any proceeds of sale beyond the purchase price and the initial City investment
20 shall be allocated to the owner and the City in the same proportion as the
21 owner's initial purchase price compared to the initial public investment.
22 However, if the sale occurs within 10 years of the owner's purchase, the
23 owner's share of these proceeds is limited to 10% of the owner's proportional
24 share for each full year of the owner's ownership.]

25 [(d) Affordable Housing Agreement.]

26 [The Housing Commissioner's rules and regulations must include provisions for the
27 execution and filing in the land records of affordability housing agreements that
28 embody the requirements of this section.]

29 **§§ 2B-42 TO 2B-50. [2B-53 to 2B-60.] {Reserved}**

1 **[Part VII. Inclusionary Housing Offset Fund]**

2 **[\§ 2B-61. Fund established.]**

3 [(a) *In general.*]

4 [There is a Baltimore City Inclusionary Housing Offset Fund.]

5 [(b) *Nature of Fund.*]

6 [The Baltimore City Inclusionary Housing Offset Fund is a continuing, nonlapsing
7 fund established by authority of City Charter Article I, § 10.]

8 **[\§ 2B-62. Revenue sources.]**

9 [The Offset Fund comprises:]

10 [(1) money appropriated to the Offset Fund in the annual Ordinances of Estimates,
11 and]

12 [(2) grants or donations made to the Offset Fund.]

13 **[\§ 2B-63. Use of Fund – General.]**

14 [Money deposited in the Offset Fund, along with any interest earned on that money, may
15 be used only for the following purposes:]

16 [(1) to finance the implementation and administration of this subtitle, including the
17 provision of cost offsets under this subtitle; and]

18 [(2) otherwise to promote economically diverse housing in City neighborhoods,
19 including:]

20 [(i) providing assistance, by loan, grant, or otherwise, for the planning,
21 production, maintenance, or expansion of affordable housing in the City;]

22 [(ii) providing assistance, by loan, grant, or otherwise, to persons unable to
23 obtain affordable housing; and]

1 [(iii) otherwise increasing housing opportunities for working families and other
2 persons of low and moderate income.]

3 **[\S 2B-64. Use of Fund – Administration.]**

4 [No more than 5% of the money in the Offset Fund may be used in any fiscal year for
5 personnel or other costs of administering the Offset Fund.]

6 **[\S 2B-65. Use of Fund – Public assistance.]**

7 [At least half of the households that receive assistance from the Offset Fund must have
8 earnings of not more than 60% of the AMI.]

9 **[\S 2B-66. Administration.]**

10 [(a) Commissioner may prescribe procedures.]

11 [The Housing Commissioner may prescribe procedures for administering the Offset
12 Fund.]

13 [(b) Board to advise.]

14 [The Inclusionary Housing Board advises the Housing Commissioner through its
15 annual report and as requested by the Commissioner on the activities and priorities for
16 which Offset Fund money is best used to promote economically diverse housing in
17 the City.]

18 **[\S 2B-67. Reporting to Board.]**

19 [(a) In general.]

20 [The Housing Commissioner must provide the Inclusionary Housing Board, on a
21 regular basis, information on the uses and impact of the Offset Fund.]

22 [(b) Inclusions.]

23 [The information must include:]

24 [(1) expenditures from the Offset Fund;]

25 [(2) a list of projects funded through the Offset Fund;]

26 [(3) the number and income levels of households assisted by the Offset Fund;]

1 [(4) funds leveraged by Offset Fund funds;]

2 [(5) number of affordable units produced or preserved;]

3 [(6) information as to how Fund money may be used for development efforts
4 assisting the homeless; and]

5 [(7) other information that the Board requests about the Offset Fund’s impact.]

6 **Part VI [VIII]. Administrative Review, [and] Judicial Review, AND PENALTIES**

7 **§ 2B-51. [2B-71.] Administrative appeals.**

8 (a) Right of appeal.

9 Any person aggrieved by a decision or ruling of the [Housing] Commissioner under
10 this subtitle may appeal that decision or ruling to the Board of [Estimates] MUNICIPAL
11 AND ZONING APPEALS.

12 (b) How and when taken.

13 The appeal must be taken in writing within 15 days from the date of notice of the
14 decision or ruling.

15 (c) Hearing and decision.

16 The Board:

17 (1) must hold a hearing on the appeal as soon as practicable; and

18 (2) may affirm, modify, or reverse the action from which the appeal was taken.

19 **§ 2B-52. [2B-72.] Judicial and appellate review.**

20 (a) Judicial review.

21 A party aggrieved by a final decision of the Board of [Estimates] MUNICIPAL AND
22 ZONING APPEALS under § 2B-[71] 51 {“Administrative appeals”} of this subtitle may
23 seek judicial review of that decision by petition to the Circuit Court for Baltimore
24 City in accordance with the Maryland Rules of Procedure.

1 **(b) Appellate review.**

2 A party to the judicial review may appeal the court's final judgment to the Court of
3 Special Appeals in accordance with the Maryland Rules of Procedure.

4 **§ 2B-53. PENALTIES.**

5 **(A) IN GENERAL.**

6 THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT SHALL ISSUE A FINE
7 OF NO MORE THAN \$1,000 TO A PERSON WHO VIOLATES A PROVISION OF THIS SUBTITLE
8 OR A RULE, REGULATION, OR ORDER ADOPTED OR ISSUED UNDER THIS SUBTITLE.

9 **(B) EACH VIOLATION A SEPARATE OFFENSE.**

10 EACH VIOLATION A PERSON COMMITS OF A PROVISION OF THIS SUBTITLE OR A RULE,
11 REGULATION, OR ORDER ADOPTED OR ISSUED UNDER THIS SUBTITLE IS A SEPARATE
12 OFFENSE.

13 **(C) EACH DAY A SEPARATE OFFENSE.**

14 EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE OFFENSE.

15 **SECTION 3. AND BE IT FURTHER ORDAINED,** That, after 400 affordable housing units
16 have been completed and occupied pursuant to this Ordinance, or after 3 years of the
17 program, whichever occurs first:

18 1. The Department of Housing and Community Development shall commission a
19 study that includes:

20 A. An assessment of the effectiveness of this Ordinance in producing and
21 affirmatively marking affordable housing units;

22 B. A summary of the impact of the provisions of this Ordinance on the rental
23 market;

24 C. An estimate of the effective cost of implementation of this Ordinance;

25 D. A compilation of all prior reports relating to this Ordinance; and

26 E. A list of proposed changes to the Code to make this Ordinance more effective;

1 2. The study shall be delivered to the Mayor, City Council, and the general public no
2 later than 120 days after 400 affordable housing units have been completed and
3 occupied pursuant to this Ordinance or 3 years after the enactment date;

4 3. No later than 60 days after the study has been delivered, the City Council shall hold
5 a hearing and make recommendations to revise this Ordinance and any related tax
6 credit Ordinances; and

7 4. This Ordinance shall remain in full force and effect while this evaluation process
8 takes place.

9 **SECTION 4. AND BE IT FURTHER ORDAINED, That the Board shall be appointed by the**
10 **90th day after this Ordinance is enacted.**

11 **SECTION 5. AND BE IT FURTHER ORDAINED, That this Ordinance takes effect on the**
12 **180th day after the date it is enacted.”.**