

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 06-558

Introduced by: Councilmembers Young, Clarke, Holton, Branch, Reisinger, Rawlings Blake,
Conaway, Curran, Harris, Kraft, D'Adamo, Welch, Mitchell

Introduced and read first time: December 4, 2006

Assigned to: Land Use and Transportation Committee

Committee Report: Favorable with Amendments

Council action: Adopted

Read second time: June 11, 2007

AN ORDINANCE CONCERNING

Inclusionary Housing

1
2 FOR the purpose of requiring certain residential projects to provide units at affordable ownership
3 costs or affordable rents; defining certain terms; authorizing certain modifications, waivers,
4 or substitutions under certain circumstances; providing for certain cost-offsets for certain
5 purposes; setting certain standards for affordable units; granting the ~~Housing Commissioner~~
6 City and certain designated housing providers right of first refusal to purchase or rent certain
7 units; requiring the continued affordability of units for a certain period; establishing an
8 Inclusionary Housing Board and providing for its powers and duties; authorizing ~~the Board,~~
9 ~~the Housing Commissioner, and the Planning Commission~~ to adopt certain rules and
10 regulations; establishing an Inclusionary Housing ~~Trust Offset~~ Fund for certain purposes and
11 providing for its governance; establishing an inclusionary-housing ~~property-tax credit tax~~
12 exemption, contingent on ~~enactment of~~ State enabling legislation; authorizing certain
13 adjustments to lot area per dwelling requirements; establishing an Inclusionary Housing
14 Overlay Zoning District for certain rezoned properties; providing for certain special effective
15 dates; requiring reauthorization of this Ordinance; and generally relating to the promotion of
16 affordable residential units.

17 BY adding
18 Article 13 - Housing and Urban Renewal
19 Sections 2B-1 through 2B-72, to be under the new subtitle designation,
20 "Subtitle 2B. Inclusionary Housing Requirements"
21 Baltimore City Code
22 (Edition 2000)

23 BY adding
24 Article 28 - Taxes
25 Section ~~10-16~~ 9-6
26 Baltimore City Code
27 (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.
~~Strike out~~ indicates matter stricken from the bill by
amendment or deleted from existing law by amendment.

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1 BY adding
2 Article - Zoning
3 Section 3-206 and Sections 8-501 through 8-506, to be under the new subtitle designation,
4 “Subtitle 5. Inclusionary Housing Overlay District”
5 Baltimore City Revised Code
6 (Edition 2000)

7 BY repealing and reordaining, with amendments
8 Article - Zoning
9 Sections 9-210(a), 9-310(a), and 9-410(a)
10 Baltimore City Revised Code
11 (Edition 2000)

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

14 **Baltimore City Code**

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

16 **SUBTITLE 2B. INCLUSIONARY HOUSING REQUIREMENTS**

17 ***PART I. DEFINITIONS; GENERAL PROVISIONS***

18 **§ 2B-1. DEFINITIONS – GENERAL.**

19 (A) *IN GENERAL.*

20 IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

21 (B) *BOARD.*

22 “BOARD” MEANS THE INCLUSIONARY HOUSING BOARD ESTABLISHED BY THIS SUBTITLE.

23 (C) *DEVELOPER.*

24 “DEVELOPER” MEANS ANY PERSON, FIRM, PARTNERSHIP, ASSOCIATION, JOINT VENTURE,
25 CORPORATION, OR OTHER ENTITY OR COMBINATION OF ENTITIES THAT UNDERTAKES A
26 RESIDENTIAL PROJECT.

27 (D) *HOUSING COMMISSIONER.*

28 “HOUSING COMMISSIONER” MEANS THE COMMISSIONER OF HOUSING AND COMMUNITY
29 DEVELOPMENT OR THE COMMISSIONER’S DESIGNEE.

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1 (E) HOUSING FUNDS.

2 “HOUSING FUNDS” MEANS FEDERAL, STATE, OR CITY FUNDS DESIGNATED EXPLICITLY FOR
3 THE PURPOSE OF PROVIDING AFFORDABLE HOUSING.

4 (F) (F) INCLUDES; INCLUDING.

5 “INCLUDES” OR “INCLUDING” MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF
6 LIMITATION.

7 (G) (F) MAJOR PUBLIC SUBSIDY.

8 (1) *IN GENERAL.*

9 “MAJOR PUBLIC SUBSIDY” MEANS THE ~~NEGOTIATED~~ PROVISION BY THE CITY OR ANY
10 OF ITS AGENTS OR CONTRACTORS OF FUNDS, RESOURCES, OR FINANCIAL ASSISTANCE
11 FOR A RESIDENTIAL MIXED-INCOME PROJECT THAT NEEDS THESE FUNDS, RESOURCES,
12 OR ASSISTANCE TO PROCEED.

13 (2) *INCLUSIONS.*

14 “MAJOR PUBLIC SUBSIDY” INCLUDES:

15 (I) THE SALE OR TRANSFER OF LAND SUBSTANTIALLY BELOW ITS APPRAISED
16 VALUE;

17 (II) PAYMENT IN LIEU OF TAXES;

18 (III) TAX INCREMENT FINANCING;

19 (IV) GRANTS OR LOANS THAT EQUAL OR EXCEED 15% OF TOTAL PROJECTED
20 PROJECT COSTS; OR

21 (V) EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, INSTALLATION
22 OR REPAIR OF PHYSICAL INFRASTRUCTURE DIRECTLY RELATED TO THE
23 RESIDENTIAL PROJECT AND WITH VALUE EQUAL TO OR EXCEEDING 5% OF
24 TOTAL PROJECTED PROJECT COSTS.
25

26 (3) *EXCLUSIONS.*

27 “MAJOR PUBLIC SUBSIDY” DOES NOT INCLUDE:

28 (I) INFRASTRUCTURE REPAIRS OR IMPROVEMENTS UNDERTAKEN AS PART OF A
29 REGULARLY PLANNED PROGRAM; OR

30 (II) HOUSING FUNDS.

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1 ~~(H) (G)~~ *NEIGHBORHOOD.*

2 “NEIGHBORHOOD” MEANS AN AREA DELINEATED BY COMMONLY ACCEPTED BOUNDARY,
3 AS DETERMINED BY THE PLANNING DIRECTOR.

4 ~~(I) (H)~~ *PLANNING DIRECTOR.*

5 “PLANNING DIRECTOR” MEANS THE DIRECTOR OF THE DEPARTMENT OF PLANNING OR THE
6 DIRECTOR’S DESIGNEE.

7 ~~(J) (H)~~ *RESIDENTIAL PROJECT.*

8 “RESIDENTIAL PROJECT” MEANS ANY NEW CONSTRUCTION OR ANY SUBSTANTIAL
9 RENOVATION OF AN EXISTING BUILDING THAT IS DESIGNED, IN WHOLE OR IN PART, TO
10 PROVIDE RESIDENTIAL UNITS.

11 ~~(K)~~ *SIGNIFICANT LAND USE AUTHORIZATION.*

12 “SIGNIFICANT LAND USE AUTHORIZATION” MEANS THE ADOPTION OF A PLANNED UNIT
13 DEVELOPMENT OR A LEGISLATIVELY APPROVED AMENDMENT TO A PLANNED UNIT
14 DEVELOPMENT, EITHER OF WHICH INCREASES THE PERMISSIBLE NUMBER OF RESIDENTIAL
15 UNITS BY 30 OR MORE UNITS ABOVE THE NUMBER PERMITTED BEFORE ADOPTION OF THE
16 PLANNED UNIT DEVELOPMENT OR AMENDMENT.

17 ~~(L) (H)~~ *SIGNIFICANT REZONING.*

18 ~~“SIGNIFICANT REZONING” MEANS ANY REZONING, ADOPTION OR CHANGE IN A PLANNED~~
19 ~~UNIT DEVELOPMENT, OR CHANGE IN AN URBAN RENEWAL PLAN:~~

20 ~~(1) THAT INCREASES THE NUMBER OF RESIDENTIAL UNITS ALLOWED; AND~~

21 ~~(2) ON THE AUTHORITY OF WHICH A RESIDENTIAL PROJECT PROPOSES TO INCLUDE~~
22 ~~MORE UNITS THAN WERE PERMITTED BEFORE THE REZONING OR CHANGE.~~

23 “SIGNIFICANT REZONING” MEANS ANY REZONING THAT PERMITS RESIDENTIAL UNITS
24 WHERE NONE WERE PERMITTED PREVIOUSLY.

25 ~~(M)~~ *SUBSTANTIAL RENOVATION.*

26 “SUBSTANTIAL RENOVATION” MEANS A RENOVATION TO A VACANT DWELLING THAT IS
27 NEEDED TO BRING THE DWELLING INTO COMPLIANCE WITH APPLICABLE LOCAL LAWS AND
28 REGULATIONS.

29 ~~(N)~~ *VACANT DWELLING.*

30 “VACANT DWELLING” MEANS RESIDENTIAL REAL PROPERTY THAT:

31 (1) HAS BEEN VACANT OR ABANDONED FOR 1 YEAR, AS CITED ON A VIOLATION NOTICE
32 ISSUED UNDER THE BUILDING, FIRE, AND RELATED CODES OF BALTIMORE CITY;
33 OR

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1 (2) HAS BEEN OWNED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY FOR 1
2 YEAR AND IS IN NEED OF SUBSTANTIAL RENOVATION.

3 **§ 2B-2. DEFINITIONS – MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS.**

4 (A) *MANDATORY TERMS.*

5 “MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A REQUIREMENT
6 OR TO IMPOSE A DUTY.

7 (B) *PROHIBITORY TERMS.*

8 “MUST NOT”, “MAY NOT”, AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS
9 USED TO ESTABLISH A PROHIBITION.

10 (C) *PERMISSIVE TERMS.*

11 “MAY” IS PERMISSIVE.

12 **§ 2B-3. DEFINITIONS – AFFORDABILITY STANDARDS.**

13 (A) *IN GENERAL.*

14 IN THIS SUBTITLE, THE FOLLOWING TERMS RELATING TO AFFORDABILITY STANDARDS
15 HAVE THE MEANINGS INDICATED.

16 (B) ~~*AFFORDABLE OWNERSHIP COST: LOW AND MODERATE*~~

17 “~~AFFORDABLE OWNERSHIP COST~~” MEANS A SALES PRICE THAT REQUIRES A MONTHLY
18 PAYMENT, INCLUDING MORTGAGE PRINCIPAL AND INTEREST, TAXES, INSURANCE, AND
19 HOMEOWNER ASSOCIATION FEES AND OTHER ASSESSMENTS, AS FOLLOWS:

20 (1) ~~FOR A “LOW AFFORDABLE OWNERSHIP COST”, NOT MORE THAN 1/12 OF 30% OF~~
21 ~~80% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE; AND~~

22 (2) ~~FOR A “MODERATE AFFORDABLE OWNERSHIP COST”, MORE THAN 1/12 OF 30% OF~~
23 ~~80% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE, BUT NO MORE THAN 1/12 OF~~
24 ~~30% OF 120% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE.~~

25 (C) ~~*AFFORDABLE RENT: LOW AND MODERATE.*~~

26 “~~AFFORDABLE RENT~~” MEANS A MONTHLY PAYMENT FOR LEASE, SUBLET, LET, OR OTHER
27 RIGHTS TO OCCUPY A RESIDENTIAL UNIT, AS FOLLOWS:

28 (1) ~~FOR A “LOW AFFORDABLE RENT”, NOT MORE THAN 1/12 OF 30% OF 60% OF THE~~
29 ~~AMI, ADJUSTED FOR HOUSEHOLD SIZE, LESS A REASONABLE ALLOWANCE FOR~~
30 ~~UTILITIES; AND~~

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(2) FOR A “MODERATE AFFORDABLE RENT”, MORE THAN 1/12 OF 30% OF 60% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE, BUT NO MORE THAN 1/12 OF 30% OF 120% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE, LESS A REASONABLE ALLOWANCE FOR UTILITIES.

(B) AFFORDABLE HOUSING COST: EXTREMELY LOW, VERY LOW, LOW, AND MODERATE.

(1) AN “EXTREMELY LOW” HOUSING COST EQUALS AN AMOUNT NOT MORE THAN 1/12 OF 30% OF 30% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE.

(2) A “VERY LOW” HOUSING COST EQUALS AN AMOUNT GREATER THAN 1/12 OF 30% OF 30% OF THE AMI, BUT NOT MORE THAN 1/12 OF 30% OF 60% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE.

(3) A “LOW” HOUSING COST EQUALS AN AMOUNT GREATER THAN 1/12 OF 30% OF 60% OF THE AMI, BUT NOT MORE THAN 1/12 OF 30% OF 80% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE.

(4) A “MODERATE” HOUSING COST EQUALS AN AMOUNT GREATER THAN 1/12 OF 30% OF 80% OF THE AMI, BUT NOT MORE THAN 1/12 OF 30% OF 120% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE.

(C) ~~(D)~~ AFFORDABLE UNIT.

“AFFORDABLE UNIT” MEANS A RESIDENTIAL UNIT THAT IS REQUIRED BY THIS SUBTITLE TO BE PROVIDED AT AN ~~AFFORDABLE RENT OR AFFORDABLE OWNERSHIP COST~~ EXTREMELY LOW, VERY LOW, LOW, OR MODERATE AFFORDABLE HOUSING COST.

(D) ~~(E)~~ AMI.

“AMI” MEANS THE AREA MEDIAN INCOME FOR THE ~~AREA~~ METROPOLITAN REGION THAT ENCOMPASSES BALTIMORE CITY, AS PUBLISHED AND ANNUALLY UPDATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(E) ~~(F)~~ ELIGIBLE HOUSEHOLD.

“ELIGIBLE HOUSEHOLD” MEANS A HOUSEHOLD THAT EARNS:

(1) ~~FOR A MODERATE AFFORDABLE OWNERSHIP OR MODERATE AFFORDABLE RENT, NOT MORE THAN 120% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE;~~

(2) ~~FOR A LOW AFFORDABLE OWNERSHIP COST, NOT MORE THAN 80% OF THE AMI, ADJUSTED FOR HOUSEHOLD SIZE; AND~~

(3) ~~FOR A LOW AFFORDABLE RENT, NOT MORE THAN 60% OF THE AMI.~~

“ELIGIBLE HOUSEHOLD” MEANS:

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1 (1) FOR A UNIT PROVIDED AT AN EXTREMELY LOW HOUSING COST, A HOUSEHOLD
2 HAVING AN INCOME AT OR BELOW 30% AMI;

3 (2) FOR A UNIT PROVIDED AT A VERY LOW HOUSING COST, A HOUSEHOLD HAVING AN
4 INCOME GREATER THAN 30% BUT NOT MORE THAN 60% AMI;

5 (3) FOR A UNIT PROVIDED AT A LOW HOUSING COST, A HOUSEHOLD HAVING AN
6 INCOME GREATER THAN 60% BUT NOT MORE THAN 80% AMI; AND

7 (4) FOR A UNIT PROVIDED AT A MODERATE HOUSING COST, A HOUSEHOLD HAVING AN
8 INCOME GREATER THAN 80% BUT NOT MORE THAN 120% AMI.

9 (F) *HOUSING COST.*

10 “HOUSING COST” MEANS:

11 (1) FOR OWNERSHIP UNITS, A SALES PRICE THAT REQUIRES A MONTHLY PAYMENT,
12 INCLUDING MORTGAGE PRINCIPAL AND INTEREST, TAXES, INSURANCE,
13 HOMEOWNER ASSOCIATION FEES, AND OTHER ASSESSMENTS; AND

14 (2) FOR RENTAL UNITS, A MONTHLY PAYMENT FOR LEASE, SUBLET, LET, OR OTHER
15 RIGHTS TO OCCUPY A RESIDENTIAL UNIT.

16 (G) *MARKET RATE.*

17 “MARKET RATE” MEANS NOT RESTRICTED TO AN AFFORDABLE RENT OR AFFORDABLE
18 OWNERSHIP COST.

19 **§ 2B-4. FINDINGS AND POLICY.**

20 (A) *IN GENERAL.*

21 THE MAYOR AND CITY COUNCIL OF BALTIMORE FINDS AS FOLLOWS.

22 (B) *BENEFITS OF ECONOMIC DIVERSITY.*

23 ECONOMIC DIVERSITY IN OUR NEIGHBORHOODS, ANCHORED BY A STRONG AND STABLE
24 MIDDLE CLASS AND INCLUDING HOMES FOR THE FULL RANGE OF THE CITY’S WORKFORCE,
25 AS WELL AS FOR SENIORS AND OTHERS ON FIXED INCOMES, WILL STIMULATE ECONOMIC
26 INVESTMENT, PROMOTE NEIGHBORHOOD STABILITY, AND INCREASE PUBLIC SAFETY FOR
27 ALL.

28 (C) *LIMITATIONS OF PRIVATE SECTOR.*

29 THE PRIVATE SECTOR, AS THE PRIMARY SOURCE OF HOUSING AND ECONOMIC
30 DEVELOPMENT ACTIVITY IN BALTIMORE CITY, IS NOT SOLELY, THROUGH ITS INDIVIDUAL
31 DEVELOPMENT ACTIONS, ABLE TO CREATE ECONOMICALLY DIVERSE NEIGHBORHOODS OR
32 DEVELOPMENTS OR TO DEVELOP HOUSING FOR THE BROAD RANGE OF INCOMES THAT WILL
33 LEAD TO ECONOMIC DIVERSITY.

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1 (D) *CAPABILITIES OF CITY.*

2 (1) BALTIMORE CITY CAN PROVIDE BENEFITS TO THE PRIVATE SECTOR, TO PROMOTE
3 ECONOMIC DIVERSITY AND HOUSING FOR A BROAD RANGE OF INCOMES IN
4 NEIGHBORHOODS AND RESIDENTIAL DEVELOPMENTS, IN A MANNER THAT RECOGNIZES
5 THE CENTRAL ROLE THAT PRIVATE INVESTMENT MUST PLAY FOR THE CONTINUED
6 GROWTH AND WELL-BEING OF THE CITY, INCLUDING THE OPPORTUNITY TO EARN
7 REASONABLE AND CUSTOMARY LEVELS OF PROFITABILITY.

8 (2) THESE BENEFITS INCLUDE:

9 (I) THE DISPOSITION OF PUBLICLY OWNED LAND;

10 (II) THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING STATE AND FEDERAL FUNDS
11 UNDER THE CITY'S CONTROL;

12 (III) TAX RELIEF; AND

13 (IV) THE ADOPTION OF LAND USE STANDARDS THAT PROMOTE THE INCLUSION OF
14 AFFORDABLE HOMES.

15 (E) *CITY POLICY.*

16 IT IS THE POLICY OF BALTIMORE CITY TO ENCOURAGE ECONOMIC DIVERSITY AND
17 BALANCED NEIGHBORHOODS BY ~~ENSURING~~ PROMOTING THE INCLUSION OF HOUSING
18 OPPORTUNITIES FOR RESIDENTS WITH A BROAD RANGE OF INCOMES IN ALL RESIDENTIAL
19 PROJECTS THAT CONTAIN 30 OR MORE RESIDENTIAL UNITS.

20 (F) *NO ADDITIONAL FINANCIAL BURDENS.*

21 THIS SUBTITLE IS NOT INTENDED TO IMPOSE ADDITIONAL FINANCIAL BURDENS ON A
22 DEVELOPER OR A RESIDENTIAL PROJECT. RATHER, THE INTENT OF THIS SUBTITLE IS THAT
23 THE COST OFFSETS AND OTHER INCENTIVES AUTHORIZED UNDER IT WILL FULLY OFFSET
24 ANY FINANCIAL IMPACT RESULTING FROM THE INCLUSIONARY REQUIREMENTS IMPOSED.

25 **§ 2B-5. RULES OF CONSTRUCTION.**

26 (A) *IN GENERAL.*

27 IN THIS SUBTITLE, THE FOLLOWING RULES OF CONSTRUCTION APPLY.

28 (B) *MORE STRINGENT PROVISIONS APPLY.*

29 FOR RESIDENTIAL PROJECTS SUBJECT TO FEDERAL, STATE, OR OTHER LOCAL AFFORDABLE
30 HOUSING REQUIREMENTS IMPOSING AN AFFORDABILITY RESTRICTION, IF THE TERMS OF
31 THIS SUBTITLE REGARDING THE LENGTH OF A RESTRICTION OR THE LEVEL OF
32 AFFORDABILITY ARE MORE STRINGENT THAN THE APPLICABLE FEDERAL, STATE, OR OTHER
33 LOCAL REQUIREMENTS, THE TERMS OF THIS SUBTITLE APPLY.

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1 (C) *APPLYING PERCENTAGES.*

2 IN APPLYING PERCENTAGES REFERRED TO IN THIS SUBTITLE:

3 (1) ANY PORTION OF A PERCENT LESS THAN ONE-HALF IS DISREGARDED; AND

4 (2) ANY PORTION OF A PERCENT ONE-HALF OR GREATER IS ROUNDED UP TO THE NEXT
5 WHOLE NUMBER.

6 **§ 2B-6. SCOPE AND APPLICABILITY.**

7 (A) *INCENTIVES NOT MADE AVAILABLE.*

8 IF COST OFFSETS AND OTHER INCENTIVES ARE NOT MADE AVAILABLE TO A RESIDENTIAL
9 PROJECT IN ACCORDANCE WITH THIS SUBTITLE, THE RESIDENTIAL PROJECT IS NOT SUBJECT
10 TO THE REQUIREMENTS OF THIS SUBTITLE.

11 (B) *CITY'S OBLIGATIONS.*

12 (1) WHENEVER A RESIDENTIAL PROJECT IS GRANTED A WAIVER OR IS OTHERWISE EXEMPT
13 FROM THIS SUBTITLE, THE CITY IS NOT REQUIRED TO PROVIDE RESOURCES TO THE
14 PROJECT OR TO THE INCLUSIONARY HOUSING OFFSET FUND.

15 (2) THIS SUBTITLE DOES NOT OBLIGATE THE CITY TO EXPEND OR COMMIT ANY FUNDS
16 BEYOND THAT WHICH MAY BE APPROPRIATED THROUGH THE ANNUAL ORDINANCE OF
17 ESTIMATES.

18 (C) *INCENTIVES INSUFFICIENT TO OFFSET FINANCIAL IMPACT.*

19 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, IF THE HOUSING
20 COMMISSIONER DETERMINES THAT THE COST OFFSETS OR OTHER INCENTIVES AVAILABLE
21 TO A RESIDENTIAL PROJECT ARE INSUFFICIENT TO OFFSET THE FINANCIAL IMPACT ON THE
22 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 COST
26 OFFSETS OR OTHER INCENTIVES AVAILABLE ARE SUFFICIENT TO OFFSET THE
27 FINANCIAL 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
30 THIS SUBTITLE.

31 (D) *SUBSIDIZED PROJECT.*

32 A RESIDENTIAL PROJECT IS EXEMPT FROM THIS SUBTITLE IF:

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1 (1) IT IS SUBSIDIZED BY A PUBLIC PROGRAM; AND

2 (2) IT SATISFIES THE AFFORDABILITY REQUIREMENTS OF § 2B-21(B) OF THIS SUBTITLE.

3 **§ 2B-7 § 2B-6. RULES AND REGULATIONS.**

4 (A) *IN GENERAL.*

5 THE HOUSING COMMISSIONER, IN CONSULTATION WITH THE INCLUSIONARY HOUSING
6 BOARD, ~~THE HOUSING COMMISSIONER,~~ AND THE PLANNING COMMISSION, MUST EACH
7 ADOPT RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE ~~FOR~~
8 ~~WHICH THEY ARE RESPONSIBLE.~~

9 (B) *SCOPE – GENERAL.*

10 THESE RULES AND REGULATIONS MAY INCLUDE PROVISIONS FOR:

11 (1) DEFINING, CLARIFYING, OR CONSTRUING TERMS USED IN THIS SUBTITLE;

12 (2) SETTING OR REFINING STANDARDS FOR MODIFICATIONS OR WAIVERS;

13 (3) DETERMINING ELIGIBILITY TO PURCHASE OR RENT AFFORDABLE UNITS; AND

14 (4) SETTING STANDARDS FOR SALE OR RENTAL PRICES FOR AFFORDABLE UNITS.

15 (C) *SCOPE – REQUIRING TIMELY RESPONSE.*

16 (1) THE RULES AND REGULATIONS MUST

17 (I) REQUIRE THE INCLUSIONARY HOUSING BOARD, THE HOUSING COMMISSIONER,
18 AND THE PLANNING DEPARTMENT TO PROVIDE TIMELY AND DEFINITIVE
19 RESPONSES TO ALL SUBMISSIONS REQUIRED FROM A DEVELOPER UNDER THIS
20 SUBTITLE; AND

21 (II) ASSURE TO THE GREATEST EXTENT PRACTICABLE THAT THE COMPLETION OF
22 RESIDENTIAL PROJECTS IS NOT DELAYED BY IMPLEMENTATION OF THIS
23 SUBTITLE.

24 (2) DETERMINATIONS BY THE HOUSING COMMISSIONER REGARDING THE SUFFICIENCY OF
25 POTENTIAL COST OFFSETS AND OTHER INCENTIVES MUST BE MADE WITHIN 45 DAYS
26 FROM SUBMISSION BY A DEVELOPER, IN ACCORDANCE WITH THIS SUBTITLE, OF A
27 RESIDENTIAL PROJECT TO THE HOUSING COMMISSIONER, PLANNING DEPARTMENT, OR
28 OTHER BODY, AS REQUIRED.

29 (D) *SCOPE – WRITTEN COMMITMENTS.*

30 THE RULES AND REGULATIONS MUST ASSURE THAT THE CITY EVIDENCES IN WRITING ITS
31 DECISIONS TO PROVIDE COST OFFSETS OR OTHER INCENTIVES TO A DEVELOPER OR
32 RESIDENTIAL PROJECT UNDER THIS SUBTITLE.

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1 ~~(E)~~ ~~(E)~~ *ADVERTISING FOR COMMENT.*

2 (1) ~~ALL A~~ NOTICE OF THE PROPOSED ADOPTION OF ALL RULES AND REGULATIONS
3 ~~PROPOSED FOR ADOPTION~~ UNDER THIS SUBTITLE MUST BE ADVERTISED IN A NEWSPAPER
4 OF GENERAL CIRCULATION AT LEAST 45 DAYS BEFORE THEIR PROPOSED ADOPTION.

5 (2) THE ADVERTISEMENT MUST INCLUDE:

6 (I) A ~~DESCRIPTION~~ SUMMARY OF THE PROPOSED RULES AND REGULATIONS; AND

7 (II) INFORMATION ON HOW A PERSON CAN:

8 (A) OBTAIN A COPY OF THE PROPOSED RULES AND REGULATIONS; AND

9 (B) SUBMIT COMMENTS ON THEM BEFORE THEIR ADOPTION.

10 ~~(F)~~ ~~(F)~~ *FILING WITH LEGISLATIVE REFERENCE.*

11 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE FILED
12 WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME EFFECTIVE.

13 §§ 2B-8 ~~2B-7~~ 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 THE FOLLOWING 11 MEMBERS:

20 (1) 9 MEMBERS APPOINTED BY THE MAYOR AND CONFIRMED BY THE CITY COUNCIL IN
21 ACCORDANCE WITH CITY CHARTER ARTICLE IV, § 6;

22 (2) THE HOUSING COMMISSIONER; AND

23 (3) THE PLANNING DIRECTOR.

24 (B) *QUALIFICATIONS – GENERAL.*

25 OF THE 9 MEMBERS APPOINTED BY THE MAYOR:

26 (1) 1 MUST BE A REPRESENTATIVE OF A NONPROFIT ENTITY THAT PROVIDES HOUSING
27 SERVICES IN THE CITY.

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- 1 (2) 1 MUST BE A NEIGHBORHOOD ASSOCIATION LEADER.
- 2 (3) 1 MUST BE A CIVIL ENGINEER PRACTICING IN THE CITY.
- 3 (4) 1 MUST BE AN ARCHITECT PRACTICING IN THE CITY.
- 4 (5) 1 MUST BE A LENDER EXPERIENCED IN LENDING PRACTICES FOR RESIDENTIAL
- 5 PROJECTS.
- 6 (6) 1 MUST BE A BUILDER OR DEVELOPER IN THE CITY OF SINGLE-FAMILY DETACHED OR
- 7 ATTACHED DWELLINGS.
- 8 (7) 1 MUST BE A BUILDER OR DEVELOPER IN THE CITY OF MULTIPLE-FAMILY
- 9 DWELLINGS.
- 10 (8) 1 MUST BE A REPRESENTATIVE OF A NONPROFIT ENTITY THAT ADVOCATES FOR
- 11 AFFORDABLE HOUSING IN THE CITY.
- 12 (9) 1 MUST BE A REPRESENTATIVE OF A LABOR UNION THAT REPRESENTS MUNICIPAL OR
- 13 OTHER WORKERS IN THE CITY.

14 (C) *QUALIFICATIONS – RESIDENCY.*

- 15 (1) ~~AT LEAST A MAJORITY~~ ALL OF THE MEMBERS MUST BE RESIDENTS OF THE CITY.
- 16 (2) AT LEAST 1 MEMBER MUST BE A MEMBER OF AN EXTREMELY LOW OR VERY LOW
- 17 INCOME HOUSEHOLD.

18 **§ 2B-13. BOARD OFFICERS; EXPENSES.**

19 (A) *CHAIR.*

- 20 (1) THE MAYOR DESIGNATES 1 OF THE APPOINTED MEMBERS TO BE THE CHAIR OF THE
- 21 BOARD.
- 22 (2) THE BOARD MAY APPOINT A VICE-CHAIR AND OTHER OFFICERS AS NECESSARY OR
- 23 APPROPRIATE.

24 (B) *COMPENSATION.*

25 THE MEMBERS OF THE BOARD:

- 26 (1) RECEIVE NO COMPENSATION FOR SERVICES RENDERED AS MEMBERS OF THE BOARD;
- 27 BUT
- 28 (2) ARE ENTITLED TO REIMBURSEMENT FOR NECESSARY AND PROPER EXPENSES
- 29 INCURRED IN PERFORMING THEIR DUTIES AS A MEMBER.

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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
4 ITS DUTIES.

5 (B) *QUORUM.*

6 A MAJORITY OF THE MEMBERS CONSTITUTES A QUORUM FOR THE TRANSACTION OF
7 BUSINESS.

8 (C) *VOTING.*

9 AN AFFIRMATIVE VOTE OF AT LEAST A MAJORITY OF A QUORUM IS NEEDED FOR ANY
10 OFFICIAL ACTION.

11 **§ 2B-15. STAFF.**

12 THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT MUST PROVIDE STAFF FOR
13 THE BOARD.

14 **§ 2B-16. ANNUAL REPORT.**

15 (A) *REQUIRED.*

16 ON OR BEFORE ~~DECEMBER~~ OCTOBER 31 OF EACH YEAR, THE BOARD MUST SUBMIT A
17 REPORT TO THE MAYOR AND THE CITY COUNCIL AND TO THE PLANNING COMMISSION
18 THAT ASSESSES EFFORTS DURING THE PRECEDING FISCAL YEAR TO CREATE AND SUSTAIN
19 INCLUSIONARY HOUSING IN THE CITY.

20 (B) *CONTENTS GENERALLY.*

21 THE REPORT MUST INCLUDE:

22 (1) THE TOTAL NUMBER AND PROPORTION (AS TO THE TOTAL OF ALL HOUSING UNITS
23 DEVELOPED) OF AFFORDABLE HOUSING UNITS GENERATED UNDER THIS SUBTITLE;

24 (2) THE NUMBER AND PROPORTION GENERATED UNDER EACH OF THE VARIOUS
25 PROVISIONS OF THIS SUBTITLE (E.G., MAJOR PUBLIC SUBSIDY OR SIGNIFICANT
26 REZONING);

27 (3) THE NUMBER AND PROPORTION GENERATED AT VARIOUS AFFORDABLE COSTS;

28 (4) A LIST AND DESCRIPTION OF ALL WAIVERS, MODIFICATIONS , OR VARIANCES
29 REQUESTED, GRANTED, AND DENIED UNDER THIS SUBTITLE, WITH A SUMMARY OF
30 THE REASONS FOR GRANTING OR DENYING EACH REQUEST;

31 ~~(5) THE PERCENT OF CITY RESIDENTS WHO ARE HOUSING BURDENED (HOMEOWNER AND
32 RENTAL);~~

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1 (5) ~~(6)~~ AN ESTIMATE OF THE PERCENT OF UNITS IN THE CITY THAT ARE OCCUPIED;

2 (6) ~~(7)~~ THE AMOUNT AND PERCENT OF RESIDENTIAL PROPERTY TAX-BASE INCREASE;

3 (7) ~~(8)~~ THE PERCENT OF HOUSEHOLDS THAT THE CITY HAS RETAINED;

4 (8) ~~(9)~~ AN ESTIMATE OF THE GROWTH IN CITY HOUSEHOLDS;

5 (9) ~~(10)~~ THE NUMBER OF UNITS FOR WHICH THE ~~HOUSING COMMISSIONER CITY~~ OR
6 ELIGIBLE HOUSING PROVIDERS HAD A RIGHT OF FIRST REFUSAL UNDER § 2B-34
7 {“RIGHT OF FIRST REFUSAL”} OR § 2B-52(C) {“RESALES DURING AFFORDABILITY
8 PERIOD – FIRST REFUSAL”}, AND THE NUMBER OF THOSE UNITS ON WHICH THAT
9 RIGHT WAS EXERCISED;

10 (10) ~~(11)~~ RECOMMENDATIONS MADE BY THE BOARD UNDER § 2B-66B
11 {“ADMINISTRATION: BOARD TO ADVISE”} ON PRIORITIES FOR WHICH
12 INCLUSIONARY ~~TRUST~~ HOUSING OFFSET FUND MONEY IS BEST USED; AND

13 (11) ~~(12)~~ A SUMMARY OF ALL INFORMATION FOR THE FISCAL YEAR THAT THE
14 INCLUSIONARY ~~TRUST~~ HOUSING OFFSET FUND SUBMITS TO THE BOARD UNDER
15 § 2B-67 {“REPORTING TO BOARD”}.

16 (C) *TARGETS.*

17 FOR EACH OF THE MEASURES LISTED IN SUBSECTION (B) OF THIS SECTION, THE REPORT
18 ~~MUST~~ MAY ALSO SPECIFY TARGETS THAT THE CITY SHOULD SEEK TO ACHIEVE IN ENSUING
19 FISCAL YEARS.

20 **§ 2B-17. DUTIES.**

21 IN ADDITION TO THE OTHER DUTIES SPECIFIED ELSEWHERE IN THIS SUBTITLE, THE BOARD IS
22 RESPONSIBLE FOR:

23 (1) ~~REVIEWING AND APPROVING OR DISAPPROVING, AS APPROPRIATE, REQUESTS FOR~~
24 MODIFICATIONS OR WAIVERS UNDER § 2B-21 {“PROJECT RECEIVING MAJOR PUBLIC
25 SUBSIDY”}, § 2B-22 {“ PROJECT BENEFITTING FROM SIGNIFICANT LAND USE
26 AUTHORIZATION OR REZONING”}, AND § 2B-23 {“OTHER PROJECTS – 30 OR MORE
27 UNITS”} AND ADVISING THE HOUSING COMMISSIONER WITHIN 20 DAYS OF REFERRAL
28 BY THE COMMISSIONER, IN A MANNER DETERMINED BY THE BOARD;

29 ~~(2) REVIEWING AND APPROVING OR DISAPPROVING, AS APPROPRIATE, REQUESTS FOR OFF-~~
30 ~~SITE SUBSTITUTIONS UNDER PART V {“OFF-SITE SUBSTITUTION”}; AND~~

31 (2) ~~(3)~~ ADVISING THE HOUSING COMMISSIONER AND THE PLANNING DIRECTOR IN THE
32 PERFORMANCE OF THEIR RESPECTIVE DUTIES UNDER THIS SUBTITLE.

33 **§§ 2B-18 TO 2B-20. {RESERVED}**

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PART III. INCLUSIONARY REQUIREMENTS

§ 2B-21. PROJECT RECEIVING MAJOR PUBLIC SUBSIDY.

(A) APPLICABILITY OF SECTION.

THIS SECTION APPLIES TO ANY RESIDENTIAL PROJECT THAT:

- (1) PROVIDES 30 OR MORE RESIDENTIAL UNITS; AND
- (2) RECEIVES A MAJOR PUBLIC SUBSIDY.

(B) AFFORDABLE UNITS REQUIRED.

(1) IN EVERY RESIDENTIAL PROJECT SUBJECT TO THIS SECTION, AT LEAST 20% OF ALL RESIDENTIAL UNITS MUST BE AFFORDABLE UNITS.

~~(2) OF THESE AFFORDABLE UNITS:~~

~~(i) AT LEAST HALF OF THEM MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A LOW AFFORDABLE OWNERSHIP COST OR LOW AFFORDABLE RENT; AND~~

~~(ii) THE OTHERS MAY BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A MODERATE AFFORDABLE OWNERSHIP COST OR MODERATE AFFORDABLE RENT.~~

(2) (i) FOR RENTAL UNITS:

- 1. AT LEAST 30% MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT AN EXTREMELY LOW RENTAL COST;
- 2. AT LEAST 25% MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT OR BELOW A VERY LOW RENTAL COST;
- 3. AT LEAST 25% MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT OR BELOW A LOW RENTAL COST; AND
- 4. THE REMAINDER MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A RENTAL COST THAT DOES NOT EXCEED 1/12 OF 30% OF 100% OF THE AMI.

(ii) FOR OWNERSHIP UNITS:

- 1. AT LEAST 25% MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A VERY LOW OWNERSHIP COST;
- 2. AT LEAST 50% MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A LOW OWNERSHIP COST; AND
- 3. THE REMAINDER MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A MODERATE OWNERSHIP COST.

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1 (C) CASH SUBSIDIES.

2 IF THE HOUSING COMMISSIONER DETERMINES THAT THE MAJOR PUBLIC SUBSIDY IS
3 INSUFFICIENT TO OFFSET THE FINANCIAL IMPACT ON THE DEVELOPER OF PROVIDING THE
4 AFFORDABLE UNITS REQUIRED BY THIS SUBTITLE, THE CITY MAY GRANT A CASH SUBSIDY
5 TO THE DEVELOPER FROM THE INCLUSIONARY HOUSING OFFSET FUND OR OTHER
6 AVAILABLE SOURCES IN AN AMOUNT SUFFICIENT TO OFFSET THE FINANCIAL IMPACT.

7 (D) MODIFICATIONS OR WAIVERS – HOUSING COMMISSIONER.

8 IF THE HOUSING COMMISSIONER DETERMINES THAT THE MAJOR PUBLIC SUBSIDY OR CASH
9 SUBSIDIES AVAILABLE TO A RESIDENTIAL PROJECT ARE INSUFFICIENT TO OFFSET THE
10 FINANCIAL IMPACT ON THE DEVELOPER OF PROVIDING THE AFFORDABLE UNITS REQUIRED
11 BY THIS SUBTITLE:

12 (1) THE HOUSING COMMISSIONER SHALL EITHER:

13 (I) EXEMPT THE RESIDENTIAL PROJECT FROM THIS SUBTITLE; OR

14 (II) MODIFY THE NUMBER OF AFFORDABLE UNITS REQUIRED SO THAT THE MAJOR
15 PUBLIC SUBSIDY OR CASH SUBSIDIES AVAILABLE ARE SUFFICIENT TO OFFSET
16 THE FINANCIAL IMPACT; AND

17 (2) NEITHER THE DEVELOPER NOR THE HOUSING COMMISSIONER NEED OBTAIN THE
18 APPROVAL OF THE BOARD OF ESTIMATES FOR A MODIFICATION OR WAIVER UNDER
19 THIS SUBSECTION.

20 (E) ~~(E)~~ MODIFICATIONS OR WAIVERS – BOARD OF ESTIMATES.

21 (1) ~~IN HIS OR HER OWN DISCRETION, IN ADDITION TO THE MODIFICATIONS AND WAIVERS~~
22 PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION, THE HOUSING COMMISSIONER,
23 WITH APPROVAL FROM THE BOARD OF ESTIMATES, MAY APPLY TO THE INCLUSIONARY
24 ~~HOUSING BOARD TO GRANT A MODIFICATION OF OR A WAIVER FROM THE~~
25 REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE FINDINGS REQUIRED BY
26 PARAGRAPH (3) OF THIS SUBSECTION ARE MADE.

27 (2) ~~THE APPLICATION~~ HOUSING COMMISSIONER MUST STATE THE REASONS THE HOUSING
28 ~~COMMISSIONER THAT HE OR SHE BELIEVES THAT GRANTING THE MODIFICATION OR~~
29 WAIVER WOULD FURTHER THE GOAL OF INCREASING INCLUSIONARY HOUSING IN
30 BALTIMORE CITY.

31 (3) ~~THE BOARD~~ HOUSING COMMISSIONER AND THE BOARD OF ESTIMATES MAY GRANT THE
32 MODIFICATION OR WAIVER IF ~~IT FINDS~~ THEY FIND THAT:

33 (I) HOMES WILL BE PROVIDED FOR FAMILIES IN A MIXED-INCOME SETTING AT
34 LOWER AFFORDABILITY LEVELS THAN THOSE REQUIRED UNDER THIS SECTION;

35 (II) BECAUSE OF LIMITED CITY RESOURCES, MORE AFFORDABLE UNITS IN MIXED-
36 INCOME HOUSING WILL BE CREATED OVER A 2-YEAR PERIOD THAN WOULD BE
37 CREATED IF THE MODIFICATION OR WAIVER WERE NOT GRANTED;

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(III) MORE EFFECTIVE USE OF ~~ALTERNATE~~ PUBLIC PROGRAMS OR SOURCES OF SUBSIDY WILL ~~BE MADE TO FURTHER~~ BETTER ADDRESS MIXED-INCOME HOUSING IN BALTIMORE CITY; OR

(IV) THE MODIFICATION OR WAIVER WILL PROMOTE THE CREATION OF UNITS THAT ARE MORE EXPENSIVE TO CONSTRUCT THAN TYPICAL UNITS BECAUSE THEY ARE SPECIALLY DESIGNED AND DESIGNATED FOR PEOPLE WITH DISABILITIES OR BUILT TO BE SUBSTANTIALLY MORE ENERGY EFFICIENT THAN CUSTOMARY UNITS.

(4) THE ~~BOARD~~ HOUSING COMMISSIONER MUST:

(I) ISSUE A WRITTEN DECISION ON THE APPLICATION WITHIN 45 DAYS OF ITS RECEIPT;

~~(H) PROVIDE A COPY OF THAT DECISION TO:~~

~~(A) THE HOUSING COMMISSIONER;~~

~~(B) THE PLANNING DIRECTOR; AND~~

~~(C) THE CITY COUNCIL; AND~~

(II) ~~(H)~~ POST A COPY OF THE DECISION ON THE CITY’S WEBSITE.

(F) INVESTMENT THRESHOLD.

(1) “ADDITIONAL COST” MEANS THE DIFFERENCE IN THE AMOUNT OF MAJOR PUBLIC SUBSIDY FOR AN ENTIRE DEVELOPMENT BETWEEN WHAT WOULD BE REQUIRED TO MAKE THE DEVELOPMENT FEASIBLE WITH THE AFFORDABLE UNITS REQUIRED BY THIS SUBSECTION COMPARED TO THE AMOUNT OF MAJOR PUBLIC SUBSIDY THAT WOULD BE REQUIRED TO MAKE THE DEVELOPMENT FEASIBLE IF IT DID NOT INCLUDE THE AFFORDABLE UNITS REQUIRED BY THIS SUBSECTION.

(2) IN THIS SUBSECTION, “INVESTMENT THRESHOLD” PER UNIT MEANS THE ADDITIONAL COST PER AFFORDABLE UNIT OF CREATING INCLUSIONARY UNITS AT A GIVEN INCOME TIER AS DETAILED BELOW:

(I) FOR RENTAL DEVELOPMENT:

UNITS AT OR BELOW EXTREMELY LOW COST \$125,000

UNITS AT OR BELOW VERY LOW COST \$100,000

UNITS AT OR BELOW LOW COST \$ 50,000

UNITS AT OR BELOW MODERATE COST \$ 25,000

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(II) FOR OWNERSHIP DEVELOPMENT:

| | |
|-------------------------------------------|------------------|
| <u>UNITS AT OR BELOW VERY LOW COST OR</u> | |
| <u>EXTREMELY LOW COST</u> | <u>\$125,000</u> |
| <u>UNITS AT OR BELOW LOW COST</u> | <u>\$100,000</u> |
| <u>UNITS AT OR BELOW MODERATE COST</u> | <u>\$ 50,000</u> |

(3) IF THE HOUSING COMMISSIONER DETERMINES THAT THE ADDITIONAL COST PER AFFORDABLE UNIT EXCEEDS THE BASIC INVESTMENT THRESHOLD, THE HOUSING COMMISSIONER SHALL, EXCEPT BY MUTUAL AGREEMENT OF THE CITY AND THE DEVELOPER:

(I) EXEMPT THE RESIDENTIAL PROJECT FROM THE REQUIREMENT TO PROVIDE AFFORDABLE UNITS; AND

(II) REQUIRE THE DEVELOPER TO DEPOSIT INTO THE INCLUSIONARY HOUSING OFFSET FUND AN AMOUNT EQUAL TO THE LESSER OF THE FOLLOWING AMOUNTS, BUT ONLY IF THE MAJOR PUBLIC SUBSIDY HAS BEEN INCREASED TO FULLY OFFSET THE COST TO THE DEVELOPER OF MAKING THE DEPOSIT:

(A) THE BASIC PER UNIT INVESTMENT THRESHOLD AS INDICATED IN THIS SUBSECTION; OR

(B) 20% OF THE ADDITIONAL COST THAT WOULD HAVE BEEN REQUIRED TO ACHIEVE THE AFFORDABILITY TARGETS SPECIFIED IN § 2B-21(B)(2) OF THIS SUBTITLE.

§ 2B-22. PROJECT BENEFITTING FROM SIGNIFICANT LAND USE AUTHORIZATION OR REZONING.

(A) *APPLICABILITY OF SECTION.*

THIS SECTION APPLIES TO ANY RESIDENTIAL PROJECT THAT:

- (1) PROVIDES 30 OR MORE RESIDENTIAL UNITS; AND
- (2) IS WHOLLY OR PARTIALLY ON PROPERTY FOR WHICH THERE HAS BEEN:

(I) A SIGNIFICANT LAND USE AUTHORIZATION; OR

(II) A SIGNIFICANT REZONING.

(B) *AFFORDABLE UNITS REQUIRED.*

(1) IN EVERY RESIDENTIAL PROJECT SUBJECT TO THIS SECTION, AT LEAST ~~20%~~ 10% OF ALL RESIDENTIAL UNITS MUST BE AFFORDABLE UNITS.

(2) OF THESE AFFORDABLE UNITS:

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(I) ~~AT LEAST HALF OF THEM~~ MUST BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT OR BELOW A LOW AFFORDABLE OWNERSHIP COST OR LOW AFFORDABLE RENT COST FOR OWNERSHIP UNITS OR AT OR BELOW A VERY LOW AFFORDABLE COST FOR RENTAL UNITS; AND

(II) THE OTHERS MAY BE PROVIDED TO ELIGIBLE HOUSEHOLDS AT A MODERATE AFFORDABLE OWNERSHIP COST OR MODERATE AFFORDABLE RENT.

(C) DENSITY BONUSES.

THE RESIDENTIAL PROJECT MAY APPLY TO THE BOARD OF MUNICIPAL AND ZONING APPEALS TO RECEIVE BONUS UNITS UP TO 20% OF THE UNITS OTHERWISE ALLOWED IN THE RESIDENTIAL PROJECT, COMPUTED AS SET FORTH IN ZONING CODE § 3-206, BUT ONLY IF THE HOUSING COMMISSIONER FIRST DETERMINES THAT THE RESIDENTIAL PROJECT:

(1) WOULD NOT BE ECONOMICALLY FEASIBLE IF IT PROVIDED THE NUMBER OF INCLUSIONARY UNITS REQUIRED BY THIS SUBTITLE, BUT

(2) WOULD BE ECONOMICALLY FEASIBLE IF IT PROVIDED THE NUMBER OF INCLUSIONARY UNITS REQUIRED BY THIS SUBTITLE AND RECEIVED THE DENSITY BONUS DESCRIBED IN THIS SUBSECTION.

(D) EXEMPTION.

(1) A RESIDENTIAL PROJECT IS EXEMPT FROM THE REQUIREMENTS OF THIS SUBTITLE IF:

(I) THE BOARD OF MUNICIPAL AND ZONING APPEALS DENIES THE DENSITY BONUS DESCRIBED IN SUBSECTION (C) OF THIS SECTION; OR

(II) THE HOUSING COMMISSIONER DETERMINES THAT THE PROJECT WOULD NOT BE ECONOMICALLY FEASIBLE IF IT PROVIDED THE NUMBER OF INCLUSIONARY UNITS REQUIRED BY THIS SUBTITLE, EVEN IF THE PROJECT RECEIVED THE DENSITY BONUS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.

(2) NEITHER THE DEVELOPER NOR THE HOUSING COMMISSIONER NEED OBTAIN THE APPROVAL OF THE BOARD OF ESTIMATES FOR AN EXEMPTION UNDER THIS SUBSECTION.

(E) ~~(E)~~ MODIFICATIONS OR WAIVERS.

~~(1) ON APPLICATION BY A DEVELOPER TO THE INCLUSIONARY HOUSING BOARD, THE BOARD~~ IN ADDITION TO THE EXEMPTION PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION, THE HOUSING COMMISSIONER, WITH APPROVAL FROM THE BOARD OF ESTIMATES, MAY GRANT A MODIFICATION OF OR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE BOARD HOUSING COMMISSIONER FINDS THAT:

(I) HOMES WILL BE PROVIDED FOR FAMILIES AT LOWER AFFORDABILITY LEVELS IN A MIXED-INCOME SETTING THAN THOSE REQUIRED UNDER THIS SECTION;

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1 (II) THE DEVELOPMENT WOULD NOT BE ECONOMICALLY FEASIBLE ~~IN GIVEN~~
2 EXISTING MARKET CONDITIONS WITH THE NUMBER OF INCLUSIONARY UNITS
3 REQUIRED UNDER THIS SECTION, ADDITIONAL DENSITY BONUSES ARE NOT
4 AVAILABLE, AND GRANTING A MODIFICATION OR WAIVER WOULD CREATE MORE
5 AFFORDABLE UNITS IN MIXED-INCOME HOUSING OVER A 2-YEAR PERIOD THAN
6 WOULD BE CREATED IF THE MODIFICATION OR WAIVER WERE NOT GRANTED ; OR

7 (III) THE MODIFICATION OR WAIVER WILL PROMOTE THE CREATION OF UNITS THAT
8 ARE MORE EXPENSIVE TO CONSTRUCT THAN TYPICAL UNITS BECAUSE THEY ARE
9 SPECIALLY DESIGNED AND DESIGNATED FOR PEOPLE WITH DISABILITIES OR
10 BUILT TO BE SUBSTANTIALLY MORE ENERGY EFFICIENT THAN CUSTOMARY
11 UNITS.

12 (2) ~~THE BOARD~~ HOUSING COMMISSIONER MUST:

13 (I) ISSUE A WRITTEN ~~DECISION ON THE APPLICATION~~ RECOMMENDATION TO THE
14 BOARD OF ESTIMATES WITHIN 45 DAYS OF ~~ITS~~ THE APPLICATION'S RECEIPT;
15 AND

16 (II) PROVIDE A COPY OF THAT ~~DECISION~~ RECOMMENDATION TO:

17 (A) ~~THE HOUSING COMMISSIONER~~ INCLUSIONARY HOUSING BOARD;

18 (B) THE PLANNING DIRECTOR; AND

19 (C) THE CITY COUNCIL; ~~AND~~.

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.**

28 (A) *APPLICABILITY OF SECTION.*

29 THIS SECTION APPLIES TO ANY RESIDENTIAL PROJECT THAT:

30 (1) PROVIDES 30 OR MORE RESIDENTIAL UNITS; AND

31 (2) IS NOT OTHERWISE SUBJECT TO § 2B-21 {"PROJECT RECEIVING MAJOR PUBLIC
32 SUBSIDY"} OR § 2B-22 {" PROJECT BENEFITTING FROM SIGNIFICANT LAND USE
33 AUTHORIZATION OR REZONING"}

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(B) AFFORDABLE UNITS REQUIRED.

(1) IN EVERY RESIDENTIAL PROJECT SUBJECT TO THIS SECTION, 10% OF ALL RESIDENTIAL UNITS MUST BE AT AN AFFORDABLE COST FOR HOUSEHOLDS EARNING NOT MORE THAN 120% OF THE AMI PROVIDED TO ELIGIBLE HOUSEHOLDS AT OR BELOW A MODERATE AFFORDABLE COST.

(2) THE RESIDENTIAL PROJECT IS ENTITLED TO A CERTAIN COST-OFFSETS, AS PROVIDED IN THIS SECTION, SUBJECT TO THE AVAILABILITY OF CITY FUNDS TO PROVIDE THESE COST OFFSETS.

~~(3) ADDITIONAL COST-OFFSETS ARE MADE AVAILABLE, AS PROVIDED IN THIS SECTION AND SUBJECT TO THE AVAILABILITY OF FUNDS, TO ENCOURAGE THE PROVISION OF ADDITIONAL AFFORDABLE UNITS OR UNITS TARGETED TO A LOWER INCOME LEVEL.~~

~~(3) (1) THE EXTENT TO WHICH FUNDS ARE AVAILABLE SHALL BE DETERMINED BY THE HOUSING COMMISSIONER IN ACCORDANCE WITH ANY MAXIMUM LIMITS SET IN THE ORDINANCE OF ESTIMATES.~~

(II) THE DEVELOPER OF A PROJECT SUBJECT TO THIS SECTION SHALL BE INFORMED AT THE TIME OF SITE PLAN REVIEW WHETHER THE CITY HAS THE FUNDS AVAILABLE TO PROVIDE COST OFFSETS UNDER THIS SECTION. IF NO COST OFFSETS ARE AVAILABLE, THE REQUIREMENT TO PROVIDE AFFORDABLE UNITS DO NOT APPLY NO LATER THAN THE TIME OF A PRE-DEVELOPMENT MEETING WITH THE PLANNING DEPARTMENT WHETHER THE CITY HAS THE FUNDS AVAILABLE IN THE INCLUSIONARY HOUSING OFFSET FUND TO PROVIDE CASH SUBSIDIES UNDER THIS SECTION.

~~(C) COST-OFFSETS FOR OWNERSHIP AND RENTAL UNITS.~~

~~(1) POINTS MATRIX.~~

~~(i) A DEVELOPER SUBJECT TO THIS SECTION ACCRUES POINTS FOR AN ENTIRE RESIDENTIAL PROJECT BASED ON INCOME AFFORDABILITY LEVELS, IN ACCORDANCE WITH THE FOLLOWING TABLE:~~

| <u>AFFORDABILITY LEVEL</u> | | | |
|----------------------------|------------|------------|------------|
| 60% | 80% | 100% | 120% |
| <u>AMI</u> | <u>AMI</u> | <u>AMI</u> | <u>AMI</u> |
| 10% OF UNITS | 9 POINTS | 6 POINTS | 4 POINTS |
| | | | 3 POINTS |

~~(ii) THE HOUSING COMMISSIONER MUST ADD AN ADDITIONAL POINT TO EACH ITEM ON THE TABLE FOR EACH FULL PERCENTAGE POINT INCREASE IN THE PRIME INTEREST RATE ABOVE 7.0%.~~

~~(2) ALLOCATION OF POINTS — IN GENERAL.~~

~~(i) A DEVELOPER MAY ALLOCATE THE POINTS ACCRUED UNDER SUBSECTION (C) OF THIS SECTION AMONG THE FOLLOWING COST OFFSETS, IN ACCORDANCE WITH THE POINT VALUES SPECIFIED FOR THESE COST OFFSETS.~~

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~~(H) EACH COST OFFSET MAY BE USED ONLY ONCE ON ANY GIVEN RESIDENTIAL PROJECT.~~

~~(3) ALLOCATION – OWNERSHIP UNITS.~~

~~THE FOLLOWING COST OFFSETS ARE AVAILABLE FOR ALL OWNERSHIP UNITS IN A DEVELOPMENT:~~

~~COST OFFSET _____ POINT VALUES~~

~~REBATE AT CLOSING EQUAL TO AMOUNT OF THE CITY TRANSFER AND RECORDATION TAXES PAID ON SALES OF ALL UNITS OF THE DEVELOPMENT _____ 2~~

~~A DIRECT CASH SUBSIDY OF \$30,000 PER AFFORDABLE UNIT _____ 1~~

~~WAIVER OF THE FEES ON, OR ALLOCABLE PRO RATA TO, ALL UNITS IN THE RESIDENTIAL PROJECT FOR THE FOLLOWING: BUILDING PERMITS, STREET CLOSINGS, BUILDING INSPECTIONS, DEVELOPMENT IMPACT FEES, AND CONTRACTOR PERMITS _____ 1~~

~~(4) ALLOCATION – NOT MORE THAN 80%/60% AMI.~~

~~(I) THE FOLLOWING COST OFFSETS ARE AVAILABLE ONLY IF ALL OF THE AFFORDABLE UNITS ARE AT AN AFFORDABLE OWNERSHIP COST OF NOT MORE THAN 80% OF THE AMI OR AT AN AFFORDABLE RENT OF NOT MORE THAN 60% OF THE AMI:~~

~~COST OFFSET _____ POINT VALUES~~

~~BONUS UNITS EQUAL TO 20% OF THE UNITS ORIGINALLY ALLOWED IN THE RESIDENTIAL PROJECT, COMPUTED AS SET FORTH IN CITY ZONING CODE § 3-206 _____ 6~~

~~BONUS UNITS EQUAL TO 10% OF THE UNITS ORIGINALLY ALLOWED IN THE RESIDENTIAL PROJECT, COMPUTED AS SET FORTH IN CITY ZONING CODE § 3-206 _____ 3~~

~~(II) THE NUMBER OF AFFORDABLE UNITS REQUIRED IS 10% OF ALL UNITS, INCLUDING BONUS UNITS.~~

(C) COST OFFSETS.

(1) IF ALL OF THE AFFORDABLE UNITS PROVIDED UNDER THIS SECTION ARE AT OR BELOW A LOW AFFORDABLE HOUSING COST, THE RESIDENTIAL PROJECT MAY APPLY TO THE BOARD OF MUNICIPAL AND ZONING APPEALS FOR BONUS UNITS EQUAL TO 20% OF THE UNITS OTHERWISE ALLOWED IN THE RESIDENTIAL PROJECT, COMPUTED AS SET FORTH IN THE CITY ZONING CODE, § 3-206. IN THAT CASE, THE NUMBER OF AFFORDABLE UNITS REQUIRED IS 10% OF ALL UNITS, INCLUDING BONUS UNITS.

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1 (2) IF THE BOARD OF MUNICIPAL AND ZONING APPEALS DENIES THE DENSITY BONUS
2 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION OR THE HOUSING COMMISSIONER
3 DETERMINES THAT THE BONUS UNITS PROVIDED UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION ARE INSUFFICIENT TO OFFSET THE FINANCIAL IMPACT ON THE DEVELOPER
5 OF PROVIDING THE AFFORDABLE UNITS REQUIRED BY THIS SUBTITLE, THE CITY MAY
6 PROVIDE CASH SUBSIDIES TO THE DEVELOPER FROM THE INCLUSIONARY HOUSING
7 OFFSET FUND OR OTHER AVAILABLE SOURCES IN AN AMOUNT SUFFICIENT TO OFFSET
8 THE FINANCIAL IMPACT.

9 (D) MODIFICATIONS OR WAIVERS – HOUSING COMMISSIONER.

10 IF THE HOUSING COMMISSIONER DETERMINES THAT THE DENSITY BONUS AND CASH
11 SUBSIDIES AVAILABLE TO A RESIDENTIAL PROJECT ARE INSUFFICIENT TO OFFSET THE
12 FINANCIAL IMPACT ON THE DEVELOPER OF PROVIDING THE AFFORDABLE UNITS REQUIRED
13 BY THIS SUBTITLE:

14 (1) THE HOUSING COMMISSIONER SHALL EITHER:

15 (I) EXEMPT THE RESIDENTIAL PROJECT FROM THIS SUBTITLE; OR

16 (II) MODIFY THE NUMBER OF AFFORDABLE UNITS REQUIRED SO THAT THE
17 DENSITY BONUS OR CASH SUBSIDIES AVAILABLE ARE SUFFICIENT TO OFFSET
18 THE FINANCIAL IMPACT; AND

19 (2) NEITHER THE DEVELOPER NOR THE HOUSING COMMISSIONER NEED OBTAIN THE
20 APPROVAL OF THE BOARD OF ESTIMATES FOR A MODIFICATION OR WAIVER UNDER
21 THIS SUBSECTION.

22 ~~(D) COST-OFFSETS FOR RENTAL UNITS.~~

23 ~~A DEVELOPER PROVIDING AFFORDABLE RENTAL UNITS UNDER THIS SECTION IS ENTITLED~~
24 ~~TO THE FOLLOWING COST-OFFSETS, SUBJECT TO ANY MAXIMUM TOTAL AMOUNT OF TAX~~
25 ~~CREDITS ENACTED AS PART OF THE ORDINANCE OF ESTIMATES.:~~

26 ~~(1) FOR DEVELOPMENTS PROVIDING RENTAL UNITS AT OR BELOW A MODERATE~~
27 ~~AFFORDABLE RENT, THE DEVELOPER IS ENTITLED TO A PROPERTY TAX CREDIT~~
28 ~~EQUAL TO THE REDUCTION IN NET OPERATING INCOME ATTRIBUTABLE TO~~
29 ~~AFFORDABLE HOUSING UNITS, UP TO A MAXIMUM OF 20% OF THE AFFORDABLE~~
30 ~~HOUSING UNITS, AS PROVIDED IN CITY CODE ARTICLE 28, § 10-16.~~

31 ~~(2) FOR DEVELOPMENTS PROVIDING RENTAL UNITS AT OR BELOW A LOW AFFORDABLE~~
32 ~~RENT, THE DEVELOPER IS ENTITLED TO A PROPERTY TAX CREDIT EQUAL TO 110% OF~~
33 ~~THE REDUCTION IN NET OPERATING INCOME ATTRIBUTABLE TO AFFORDABLE~~
34 ~~HOUSING UNITS, UP TO A MAXIMUM OF 20% OF THE AFFORDABLE HOUSING UNITS,~~
35 ~~AS PROVIDED IN CITY CODE ARTICLE 28, § 10-16.~~

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(E) MODIFICATIONS OR WAIVERS – BOARD OF ESTIMATES.

(1) ~~ON~~ IN ADDITION TO THE EXEMPTION PROVIDED FOR IN SUBSECTION (D) OF THIS SECTION, ON APPLICATION BY A DEVELOPER TO THE ~~INCLUSIONARY HOUSING BOARD HOUSING COMMISSIONER~~, THE ~~BOARD~~ COMMISSIONER WITH APPROVAL FROM THE BOARD OF ESTIMATES MAY GRANT A MODIFICATION OF OR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF ~~THE BOARD FINDS~~ THEY FIND THAT:

- (I) EVEN IF WITH AVAILABLE COST OFFSETS, THE ECONOMIC RETURN TO THE DEVELOPER FOR THE ENTIRE DEVELOPMENT WOULD BE LESS THAN IT WOULD BE ABSENT A REQUIREMENT FOR AFFORDABLE UNITS;
- (II) EXCEPTIONALLY HIGH ONGOING OCCUPANCY COSTS MAKE IT INFEASIBLE TO INCLUDE AFFORDABLE UNITS ON THE SITE; OR
- (III) IN A NEIGHBORHOOD THAT COMPRISES PRIMARILY LOW- AND MODERATE-COST HOUSING AND FOR WHICH A DEVELOPMENT PLAN FOR MIXED-INCOME (INCLUDING AFFORDABLE) HOUSING HAS BEEN ADOPTED BY THE PLANNING COMMISSION, THE DEVELOPER’S PROJECT FULFILLS THAT PART OF THE PLAN THAT CALLS FOR MARKET-RATE HOUSING.

(2) ~~THE BOARD~~ HOUSING COMMISSIONER MUST:

- (I) ISSUE A WRITTEN DECISION ON THE APPLICATION WITHIN 45 DAYS OF ITS RECEIPT;
- (II) PROVIDE A COPY OF THAT DECISION TO:
 - (A) ~~THE HOUSING COMMISSIONER~~ INCLUSIONARY HOUSING BOARD;
 - (B) THE PLANNING DIRECTOR; AND
 - (C) THE CITY COUNCIL; AND
- (III) POST A COPY OF THE DECISION ON THE CITY’S WEBSITE.

(F) INVESTMENT THRESHOLD.

(1) IF THE COST OFFSETS THAT WOULD NEED TO BE PROVIDED UNDER THIS SECTION EXCEED THE PER UNIT INVESTMENT THRESHOLD AMOUNTS SPECIFIED BELOW, THE HOUSING COMMISSIONER, IN HIS OR HER DISCRETION, MAY OPT NOT TO REQUIRE AFFORDABLE UNITS IN THE DEVELOPMENT.

(2) INVESTMENT THRESHOLD FOR RENTAL DEVELOPMENT:

| | |
|----------------------------------------|------------------|
| <u>UNITS AT OR BELOW VERY LOW COST</u> | <u>\$115,000</u> |
| <u>UNITS AT OR BELOW MODERATE COST</u> | <u>\$ 40,000</u> |

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(3) INVESTMENT THRESHOLD FOR OWNERSHIP DEVELOPMENT:

UNITS AT OR BELOW LOW COST \$110,000

UNITS AT OR BELOW MODERATE COST \$ 50,000

§ 2B-24. OTHER PROJECTS – LESS THAN 30 UNITS.

A DEVELOPER OF A PROJECT WITH LESS THAN 30 RESIDENTIAL UNITS MAY REQUEST THE HOUSING COMMISSIONER ~~FOR TO PROVIDE~~ COST OFFSETS UNDER § 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS”} IF THE DEVELOPER VOLUNTARILY INCLUDES AFFORDABLE HOUSING IN THE PROJECT IN ACCORDANCE WITH SUBSECTION ~~(C)~~(B) OF THAT SECTION.

§§ 2B-25 TO 2B-30. {RESERVED}

PART IV. STANDARDS FOR AFFORDABLE UNITS

§ 2B-31. COMPARABLE DESIGN.

(A) IN GENERAL.

THE AFFORDABLE UNITS REQUIRED BY THIS SUBTITLE ~~MUST BE~~:

(1) MUST BE COMPLEMENTARY TO THE MARKET RATE UNITS IN THE SAME PROJECT AS TO THEIR EXTERIOR APPEARANCE ; ~~AND~~

(2) MUST BE COMPARABLE TO THE MARKET RATE UNITS IN THE SAME PROJECT AS TO:

(I) NUMBER OF BEDROOMS; AND

(II) OVERALL QUALITY OF CONSTRUCTION; AND

(3) MAY VARY IN SIZE AND FINISH, CONSISTENT WITH STANDARDS SET FORTH IN THE HOUSING COMMISSIONER’S RULES AND REGULATIONS.

(B) VARIANCE.

(1) THE DEVELOPER MAY REQUEST A VARIANCE FROM THE REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION BY SUBMITTING A WRITTEN REQUEST TO THE HOUSING COMMISSIONER.

(2) THE HOUSING COMMISSIONER MAY APPROVE A REQUEST IF THE COMMISSIONER DETERMINES, IN HER OR HIS SOLE DISCRETION, THAT THE AFFORDABLE UNITS ARE OF GOOD QUALITY AND CONSISTENT WITH CONTEMPORARY STANDARDS FOR NEW HOUSING.

(3) THE HOUSING COMMISSIONER MUST ISSUE A WRITTEN DECISION ON THE REQUEST WITHIN 45 DAYS OF ITS RECEIPT.

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1 (4) THE HOUSING COMMISSIONER MUST PERIODICALLY REPORT TO THE INCLUSIONARY
2 HOUSING BOARD ON ALL APPLICATIONS MADE UNDER THIS SUBSECTION AND THEIR
3 DISPOSITION.

4 **§ 2B-32. PLACEMENT.**

5 (A) *IN GENERAL.*

6 THE AFFORDABLE UNITS REQUIRED BY THIS SUBTITLE MUST BE DISPERSED THROUGHOUT
7 THE RESIDENTIAL PROJECT.

8 (B) *VARIANCE.*

9 (1) THE DEVELOPER MAY REQUEST A VARIANCE FROM THE REQUIREMENTS OF SUBSECTION
10 (A) OF THIS SECTION BY SUBMITTING A WRITTEN REQUEST TO THE ~~PLANNING DIRECTOR~~
11 HOUSING COMMISSIONER TO CLUSTER AFFORDABLE UNITS WITHIN THE PROJECT.

12 (2) WITHIN 45 DAYS OF THE REQUEST, THE ~~PLANNING DIRECTOR~~ HOUSING COMMISSIONER
13 MUST, IN HIS OR HER SOLE DISCRETION, PROVIDE A WRITTEN DETERMINATION AS TO
14 WHETHER THE PROPOSAL ADEQUATELY DEMONSTRATES THAT:

15 (I) THE PROPOSED DESIGN MEETS THE GOALS OF THIS SUBTITLE; AND

16 (II) A VARIANCE SHOULD BE ALLOWED.

17 (3) THE HOUSING COMMISSIONER MUST PERIODICALLY REPORT TO THE INCLUSIONARY
18 HOUSING BOARD ON ALL APPLICATIONS MADE UNDER THIS SUBSECTION AND THEIR
19 DISPOSITION.

20 **§ 2B-33. SIMULTANEOUS OFFERING.**

21 (A) *IN GENERAL.*

22 THE AFFORDABLE UNITS REQUIRED BY THIS SUBTITLE MUST BE CONSTRUCTED AND
23 COMPLETED IN THE SAME TIME FRAME AS THE MARKET RATE UNITS IN THE PROJECT.

24 (B) *VARIANCE.*

25 (1) THE DEVELOPER MAY REQUEST A VARIANCE FROM THE REQUIREMENTS OF SUBSECTION
26 (A) OF THIS SECTION BY SUBMITTING A WRITTEN REQUEST TO THE HOUSING
27 COMMISSIONER.

28 (2) THE HOUSING COMMISSIONER MAY APPROVE A REQUEST IF:

29 (I) THE COMMISSIONER DETERMINES, IN HER OR HIS SOLE DISCRETION, THAT THE
30 PROVISION OF AFFORDABLE UNITS WILL NOT BE ADVERSELY AFFECTED OR
31 DELAYED BY THE VARIANCE; OR

32 (II) AFFORDABLE UNITS ARE TO BE PROVIDED OFF-SITE UNDER PART V OF THIS
33 SUBTITLE.

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(3) THE HOUSING COMMISSIONER MUST ISSUE A WRITTEN DECISION ON THE REQUEST WITHIN 45 DAYS OF ITS RECEIPT.

(4) THE HOUSING COMMISSIONER MUST PERIODICALLY REPORT TO THE INCLUSIONARY HOUSING BOARD ON ALL APPLICATIONS MADE UNDER THIS SUBSECTION AND THEIR DISPOSITION.

§ 2B-34. RIGHT OF FIRST REFUSAL.

(A) IN GENERAL.

THE HOUSING COMMISSIONER CITY AND DESIGNATED HOUSING PROVIDERS HAVE A RIGHT OF FIRST REFUSAL TO PURCHASE OR RENT UP TO ONE-THIRD OF AFFORDABLE UNITS PROVIDED IN A RESIDENTIAL PROJECT UNDER THIS SUBTITLE.

(B) DESIGNATED HOUSING PROVIDERS.

(1) FROM TIME TO TIME, THE HOUSING COMMISSIONER MAY DESIGNATE HOUSING PROVIDERS AUTHORIZED TO PURCHASE OR RENT AFFORDABLE UNITS UNDER THIS SECTION, ACCORDING TO REGULATION AND PROCEDURES ADOPTED BY THE COMMISSIONER.

(2) TO BE ELIGIBLE FOR THIS DESIGNATION, A HOUSING PROVIDER MUST DEMONSTRATE ITS FINANCIAL ABILITY TO ACQUIRE AND TO SATISFACTORILY OPERATE, MAINTAIN, AND MANAGE AFFORDABLE UNITS ON A LONG-TERM BASIS. THE CITY OR DESIGNATED HOUSING PROVIDERS MAY RENT OR RESELL UNITS ACQUIRED UNDER THIS SECTION TO ELIGIBLE HOUSEHOLDS.

(C) TIME FOR EXERCISE.

THE CITY OR DESIGNATED HOUSING PROVIDER MUST DECIDE WHETHER TO EXERCISE ITS RIGHT OF FIRST REFUSAL WITHIN 45 DAYS OF SUBMISSION BY A DEVELOPER, PURSUANT TO THE RULES AND REGULATIONS ADOPTED UNDER THIS SUBTITLE, OF AN OFFER TO SELL THE AFFORDABLE UNITS.

(3) IN SELECTING AMONG VARIOUS HOUSING PROVIDERS, THE HOUSING COMMISSIONER MAY CONSIDER:

(i) THE RELATIVE NEEDS AND REQUIREMENTS OF THE PROVIDERS AND THEIR CLIENTELE;

(ii) THE READINESS AND ABILITY OF A HOUSING PROVIDER TO ACQUIRE AND OPERATE, MAINTAIN, AND MANAGE AFFORDABLE UNITS; AND

(iii) THE NUMBER OF UNITS PREVIOUSLY OBTAINED BY A HOUSING PROVIDER.

(C) OFFERING AGREEMENT.

(1) THE DEVELOPER OF A RESIDENTIAL PROJECT PROVIDING AFFORDABLE UNITS UNDER THIS SUBTITLE MUST PROVIDE THE HOUSING COMMISSIONER WITH AN OFFERING

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1 ~~AGREEMENT THAT CONTAINS DETAILED INFORMATION ABOUT THE DEVELOPMENT AND~~
2 ~~THE AFFORDABLE UNITS.~~

3 ~~(2) ON RECEIPT OF THIS INFORMATION, THE COMMISSIONER MUST:~~

4 ~~(I) NOTIFY ALL DESIGNATED HOUSING PROVIDERS OF THE OFFERING; AND~~

5 ~~(II) PROVIDE THEM WITH A COPY OF OFFERING AGREEMENT RECEIVED FROM THE~~
6 ~~DEVELOPER.~~

7 ~~(D) INITIAL RESERVATION:~~

8 ~~(1) WITHIN 21 CALENDAR DAYS FROM RECEIPT OF AN OFFERING AGREEMENT, THE~~
9 ~~HOUSING COMMISSIONER MUST IDENTIFY TO THE DEVELOPER ANY UNITS THAT THE~~
10 ~~COMMISSIONER OR DESIGNATED HOUSING PROVIDERS WANT TO RESERVE FOR POSSIBLE~~
11 ~~ACQUISITION.~~

12 ~~(2) THIS TIME PERIOD MAY BE EXTENDED, AT THE COMMISSIONER'S DISCRETION, IF THE~~
13 ~~COMMISSIONER REQUIRES MORE TIME IN WHICH TO MAKE A DECISION.~~

14 ~~(E) NOTICE TO ACQUIRE:~~

15 ~~(1) WITHIN 45 DAYS FROM RECEIPT OF AN OFFERING AGREEMENT, THE HOUSING~~
16 ~~COMMISSIONER AND DESIGNATED HOUSING PROVIDERS MUST NOTIFY THE DEVELOPER~~
17 ~~OF THEIR RESPECTIVE DECISIONS ON THE ACQUISITION OF THE UNITS THAT HAD BEEN~~
18 ~~RESERVED.~~

19 ~~(2) DURING THIS 45-DAY PERIOD, THE HOUSING COMMISSIONER IS RESPONSIBLE FOR:~~

20 ~~(I) ALL DECISIONS ON UNIT SELECTIONS AND ON THE READINESS AND PRIORITY OF~~
21 ~~DESIGNATED HOUSING PROVIDERS;~~

22 ~~(II) RESOLUTION OF DISPUTES AMONG DESIGNATED HOUSING PROVIDERS; AND~~

23 ~~(III) COMMUNICATIONS WITH THE DEVELOPER.~~

24 ~~(F) ACQUISITION:~~

25 ~~(1) ON RECEIPT OF A NOTICE TO ACQUIRE, THE DEVELOPER MUST DELIVER SALES~~
26 ~~CONTRACTS OR LEASE AGREEMENTS AT LEAST 90 DAYS BEFORE THE ESTIMATED~~
27 ~~DELIVERY OF THE UNITS.~~

28 ~~(2) THE HOUSING COMMISSIONER AND DESIGNATED HOUSING PROVIDERS MUST EXECUTE~~
29 ~~AND RETURN THE CONTRACTS OR AGREEMENTS WITHIN 30 DAYS OF THEIR RECEIPT BUT~~
30 ~~NO LATER THAN 60 DAYS BEFORE THE ESTIMATED DATE OF DELIVERY OF THE UNIT.~~

31 ~~(G) LIMITATIONS ON OPTIONS:~~

32 ~~(1) THE HOUSING COMMISSIONER AND DESIGNATED HOUSING PROVIDERS, COLLECTIVELY,~~
33 ~~MAY NOT:~~

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~~(i) PURCHASE OR LEASE MORE THAN ONE-THIRD OF ALL AFFORDABLE UNITS BEING PROVIDED; OR~~

~~(ii) PURCHASE OR LEASE MORE THAN ONE-THIRD OF EACH TYPE OF AFFORDABLE UNIT BEING PROVIDED, UNLESS THE DEVELOPER AND THE COMMISSIONER AGREE TO ANOTHER PERCENTAGE.~~

~~(2) FOR PURPOSES OF THIS SUBSECTION, "TYPE OF UNIT" REFERS TO UNITS WITH SUBSTANTIAL DIFFERENCES, SUCH AS:~~

~~(i) END OR INTERIOR UNIT PLACEMENT;~~

~~(ii) NUMBER OF BEDROOMS; AND~~

~~(iii) ARCHITECTURAL FEATURES.~~

~~(H) REPORTS — BY COMMISSIONER.~~

~~IF THE HOUSING COMMISSIONER OPTS NOT TO PURCHASE OR LEASE UNITS FOR WHICH HE OR SHE HAS A RIGHT OF FIRST REFUSAL, THE COMMISSIONER MUST SUBMIT TO THE INCLUSIONARY HOUSING BOARD AN EXPLANATION OF WHY HE OR SHE DID NOT EXERCISE THAT RIGHT.~~

~~(i) REPORTS — BY DESIGNATED PROVIDERS.~~

~~(1) EVERY DESIGNATED HOUSING PROVIDERS MUST SUBMIT A BIENNIAL REPORT TO THE HOUSING COMMISSIONER ON ITS ACTIVITIES UNDER THIS SUBTITLE.~~

~~(2) THE REPORT MUST INCLUDE:~~

~~(i) NUMBER OF UNITS CURRENTLY IN THE DESIGNATED HOUSING PROVIDER'S PROGRAM;~~

~~(ii) THE MONTHLY RENTAL RATE FOR EACH UNIT;~~

~~(iii) THE GROSS HOUSEHOLD INCOME AND HOUSEHOLD COMPOSITION OF TENANTS; AND~~

~~(iv) THE NUMBER OF UNITS THAT HAVE BEEN RESOLD AND, FOR EACH OF THESE, THE CIRCUMSTANCES OF THE SALE, THE SALES PRICE OF THE UNIT, AND THE PURCHASER.~~

§ 2B-35. ELIGIBILITY TO PURCHASE OR RENT.

(A) *IN GENERAL.*

THE RULES AND REGULATIONS ADOPTED BY THE HOUSING COMMISSIONER UNDER THIS SUBTITLE MUST INCLUDE PROVISIONS FOR DETERMINING ELIGIBILITY TO PURCHASE OR RENT AFFORDABLE UNITS.

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1 (B) COUNSELING.

2 THESE PROVISIONS MUST REQUIRE APPROPRIATE HOUSING COUNSELING FROM A HUD
3 QUALIFIED COUNSELING AGENCY IN A MANNER DETERMINED BY THE HOUSING
4 COMMISSIONER.

5 (C) ~~(B)~~ FIRST PREFERENCE FOR NEIGHBORS, ETC.

6 THESE PROVISIONS MUST SHALL ATTEMPT, CONSISTENT WITH OTHER GOVERNING
7 REQUIREMENTS, TO PROVIDE SPECIAL PRIORITY FOR OTHERWISE-QUALIFIED INDIVIDUALS
8 WHO:

9 (1) WERE DISPLACED BY THE PROJECT; OR

10 (2) RESIDE WITHIN THE SAME NEIGHBORHOOD IN WHICH THE RESIDENTIAL PROJECT IS
11 LOCATED.

12 § 2B-36. OWNER-OCCUPANCY OF OWNERSHIP UNITS.

13 AN AFFORDABLE UNIT THAT IS SOLD UNDER THIS SUBTITLE ~~AT AN AFFORDABLE OWNERSHIP~~
14 ~~COST~~ TO AN ELIGIBLE HOUSEHOLD MUST BE OWNER-OCCUPIED.

15 § 2B-37. MANAGEMENT OF RENTAL UNITS.

16 AN AFFORDABLE RENTAL UNIT PROVIDED UNDER THIS SUBTITLE MUST BE MANAGED UNDER
17 THE SAME MANAGEMENT STANDARDS AS ALL MARKET-RATE RENTAL UNITS IN THE
18 DEVELOPMENT.

19 §§ 2B-38 TO 2B-40. {RESERVED}

20 *PART V. OFF-SITE SUBSTITUTION*

21 § 2B-41. “OFF-SITE” DEFINED.

22 IN THIS PART V, “OFF-SITE” MEANS OUTSIDE THE METES AND BOUNDS OF THE PROPERTY ON
23 WHICH A RESIDENTIAL PROJECT IS LOCATED.

24 ~~§ 2B-42. SCOPE OF PART.~~

25 ~~THIS PART V APPLIES ONLY TO A RESIDENTIAL PROJECT THAT IS SUBJECT TO:~~

26 (1) ~~§ 2B-22 {“PROJECT BENEFITTING FROM SIGNIFICANT REZONING”}; OR~~

27 (2) ~~§ 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS”}.~~

28 § 2B-42. § 2B-43. IN GENERAL.

29 THE DEVELOPER OF A RESIDENTIAL PROJECT MAY APPLY TO PROVIDE OFF-SITE AFFORDABLE
30 RESIDENTIAL UNITS IN WHOLE OR PARTIAL SUBSTITUTION FOR THE UNITS REQUIRED BY § 2B-22
31 {“PROJECT BENEFITTING FROM SIGNIFICANT LAND-USE AUTHORIZATION OR REZONING”} OR
32 § 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS }, AS THE CASE MAY BE.

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1 ~~§ 2B-43. § 2B-44. APPLICATION.~~

2 (A) *IN GENERAL.*

3 THE APPLICATION FOR OFF-SITE UNITS MUST BE MADE TO THE ~~INCLUSIONARY HOUSING~~
4 ~~BOARD~~ HOUSING COMMISSIONER.

5 (B) *ACCOMPANYING REPORT.*

6 THE APPLICATION MUST BE ACCOMPANIED BY A REPORT THAT INCLUDES:

7 (1) CONDITIONS AFFECTING THE PROJECT THAT PREVENT THE DEVELOPER FROM
8 MEETING THE REQUIREMENTS OF § 2B-22 {“ PROJECT BENEFITTING FROM
9 SIGNIFICANT LAND USE AUTHORIZATION OR REZONING”} OR § 2B-23 {“OTHER
10 PROJECTS – 30 OR MORE UNITS }, AS THE CASE MAY BE;

11 (2) INDEPENDENT DATA, INCLUDING APPROPRIATE FINANCIAL INFORMATION, THAT
12 SUPPORT THE DEVELOPER’S POSITION THAT CONSTRUCTING THE REQUIRED
13 AFFORDABLE UNITS ON SITE IS NOT FEASIBLE; AND

14 (3) AN ANALYSIS OF HOW THE OFF-SITE SUBSTITUTION WILL FURTHER MIXED-INCOME
15 HOUSING OPPORTUNITIES IN THE NEIGHBORHOOD IN WHICH THE RESIDENTIAL
16 PROJECT IS LOCATED.

17 ~~§ 2B-44. § 2B-45. MINIMUM CRITERIA.~~

18 OFF-SITE UNITS MAY BE ALLOWED UNDER THIS PART V ONLY IF:

19 (1) THEY WILL BE PROVIDED AT ANOTHER LOCATION IN THE SAME NEIGHBORHOOD OR
20 COMPARABLE CONTIGUOUS GEOGRAPHIC AREA AS THE RESIDENTIAL PROJECT TO WHICH
21 THEY ARE BEING CREDITED, AS DETERMINED BY THE PLANNING DIRECTOR, OR IN A
22 RESIDENTIAL PROJECT APPROVED BY THE HOUSING COMMISSIONER WITHIN 2,000 FEET
23 OF A RAPID TRANSIT STOP; AND

24 (2) IN THE AGGREGATE, THE OFF-SITE UNITS AND ANY AFFORDABLE UNITS PROVIDED ON-
25 SITE AT THE RESIDENTIAL PROJECT ARE NO FEWER THAN THE NUMBER OF AFFORDABLE
26 UNITS REQUIRED BY § 2B-22 {“ PROJECT BENEFITTING FROM SIGNIFICANT LAND USE
27 AUTHORIZATION OR REZONING”} OR § 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS },
28 AS THE CASE MAY BE.

29 ~~§ 2B-45. § 2B-46. BOARD REVIEW REVIEW.~~

30 (A) ~~*IN GENERAL.*~~

31 ~~THE INCLUSIONARY HOUSING BOARD MUST REVIEW EACH REQUEST MADE UNDER THIS~~
32 ~~PART V.~~

33 (B) ~~*CRITERIA FOR APPROVAL.*~~

34 ~~THE BOARD MAY APPROVE A REQUEST IF IT DETERMINES, IN ITS SOLE DISCRETION, THAT~~
35 ~~THE REQUESTED VARIANCE WILL PROMOTE MIXED-INCOME HOUSING OPPORTUNITIES IN~~

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1 ~~BALTIMORE CITY TO AN EXTENT EQUAL TO OR GREATER THAN COMPLIANCE WITH THIS~~
2 ~~SUBTITLE.~~

3 THE HOUSING COMMISSIONER, WITH APPROVAL BY THE BOARD OF ESTIMATES, MAY APPROVE
4 A REQUEST IF THE REQUESTED VARIANCE WILL PROMOTE MIXED-INCOME HOUSING
5 OPPORTUNITIES IN BALTIMORE CITY TO AN EXTENT EQUAL TO OR GREATER THAN COMPLIANCE
6 WITH THIS SUBTITLE.

7 §§ 2B-46 ~~2B-47~~ TO 2B-50. {RESERVED}

8 *PART VI. CONTINUED AFFORDABILITY*

9 § 2B-51. RENTAL UNITS.

10 (A) *AFFORDABILITY PERIOD.*

11 EVERY AFFORDABLE RENTAL UNIT SUBJECT TO THIS SUBTITLE MUST REMAIN AT AN
12 AFFORDABLE RENT, AS PROVIDED IN THIS SECTION, FOR A PERIOD OF NOT LESS THAN 30
13 YEARS FROM THE DATE OF ITS INITIAL OCCUPANCY.

14 (B) *LEASE AND SUBLEASE RESTRICTIONS.*

15 DURING THE AFFORDABILITY PERIOD, THE OWNER OF THE RENTAL PROPERTY MAY NOT
16 RENT OR LEASE ~~THE~~ ANY AFFORDABLE UNIT AND A TENANT MAY NOT SUB-RENT OR
17 SUBLEASE THE UNIT EXCEPT:

18 ~~(1) TO AN ELIGIBLE HOUSEHOLD; AND~~

19 ~~(2) AT A RENT THAT DOES NOT EXCEED AN AFFORDABLE RENT, LOW OR MODERATE,~~
20 ~~APPLICABLE TO THAT UNIT.~~

21 (C) *RENT INCREASES.*

22 (1) DURING THE AFFORDABILITY PERIOD, RENT INCREASES MAY BE IMPOSED ONLY AS
23 PROVIDED IN THIS SECTION.

24 (2) THE PERCENTAGE INCREASE IN ANNUAL RENT MAY NOT EXCEED:

25 (I) THE PERCENTAGE INCREASE IN THE COST OF LIVING, BASED ON AN APPROPRIATE
26 INFLATOR INDEX AS DETERMINED BY THE HOUSING COMMISSIONER; OR

27 (II) A GREATER AMOUNT TO THE EXTENT:

28 (A) NECESSITATED BY DOCUMENTED HARDSHIP OR OTHER EXCEPTIONAL
29 CIRCUMSTANCES; AND

30 (B) APPROVED IN WRITING BY THE HOUSING COMMISSIONER.

31 ~~(3) IN ANY EVENT, THE RENT AS INCREASED MAY NOT EXCEED THE AFFORDABLE RENT,~~
32 ~~LOW OR MODERATE, APPLICABLE TO THAT UNIT.~~

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(D) OWNER'S MAINTENANCE.

THE OWNER OF AN AFFORDABLE RENTAL UNIT:

(1) AT ALL TIMES MUST COMPLY WITH ALL BUILDING, FIRE, SAFETY, AND OTHER CODES APPLICABLE TO RENTAL UNITS; AND

(2) IN PROVIDING MAINTENANCE AND OTHER SERVICES TO RENTAL UNITS IN THE RESIDENTIAL PROJECT, MAY NOT DISCRIMINATE IN ANY WAY AGAINST AFFORDABLE UNITS.

(E) REPORTS TO COMMISSIONER.

(1) OWNERS OF AFFORDABLE RENTAL UNITS SUBJECT TO THIS SUBTITLE MUST PERIODICALLY REPORT TO THE HOUSING COMMISSIONER ON THEIR COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION.

(2) THESE REPORTS MUST BE MADE IN THE FORM AND WITH THE FREQUENCY THAT THE HOUSING COMMISSIONER REQUIRES.

§ 2B-52. OWNERSHIP UNITS.

~~(A) AFFORDABILITY PERIOD:~~

~~(1) EVERY UNIT SOLD AT AN AFFORDABLE COST UNDER THIS SUBTITLE MUST REMAIN AT AN AFFORDABLE COST, AS PROVIDED IN THIS SECTION, FOR AN INITIAL PERIOD OF NOT LESS THAN 10 YEARS FROM THE DATE OF ITS INITIAL OCCUPANCY.~~

~~(2) IF THE UNIT IS RESOLD DURING THIS INITIAL 10-YEAR PERIOD, THE AFFORDABILITY PERIOD RESETS FOR AN ADDITIONAL 10 YEARS FROM TIME OF PURCHASE, REGARDLESS OF WHO PURCHASES THE UNIT.~~

~~(B) REALES DURING AFFORDABILITY PERIOD — PRICE LIMITATIONS:~~

~~DURING THE AFFORDABILITY PERIOD, THE OWNER OF THE UNIT MAY RESELL IT ONLY AT A PRICE THAT DOES NOT EXCEED THE AGGREGATE OF:~~

~~(1) THE ORIGINAL AFFORDABLE COST FOR WHICH THE UNIT WAS PURCHASED;~~

~~(2) A PERCENTAGE INCREASE EQUAL TO THE PERCENTAGE INCREASE IN THE CONSUMER PRICE INDEX FOR THE BALTIMORE METROPOLITAN STATISTICAL AREA; AND~~

~~(3) THE VALUE OF ANY DOCUMENTED IMPROVEMENTS TO THE UNIT.~~

~~(C) REALES DURING AFFORDABILITY PERIOD — FIRST REFUSAL:~~

~~(1) IF A UNIT IS RESOLD DURING THE AFFORDABILITY PERIOD, THE HOUSING COMMISSIONER AND DESIGNATED HOUSING PROVIDERS, SELECTED AS PROVIDED IN § 2B-34 {"RIGHT OF FIRST REFUSAL"}, HAVE A RIGHT OF FIRST REFUSAL TO PURCHASE THE UNIT.~~

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1 (2) IF NEITHER THE COMMISSIONER NOR ELIGIBLE HOUSING PROVIDERS EXERCISE THIS
2 RIGHT, THE HOUSING COMMISSIONER MAY EXTEND THE OPTION TO ELIGIBLE
3 HOUSEHOLDS:

4 (3) THE HOUSING COMMISSIONER'S RULES AND REGULATION MUST INCLUDE PROVISIONS
5 GOVERNING THE PERIOD AND PROCEDURES FOR EXERCISING THIS RIGHT:

6 ~~(D) RESALES AFTER AFFORDABILITY PERIOD:~~

7 ~~(1) AFTER THE AFFORDABILITY PERIOD EXPIRES, THE UNIT MAY BE SOLD AT MARKET PRICE,
8 BUT THERE IS A SHARED INTEREST IN THE PROCEEDS OF SALE:~~

9 ~~(2) THE SELLER IS ENTITLED TO RETAIN:~~

10 ~~(i) THAT PORTION OF THE SALES PRICE THAT EQUALS THE AMOUNT CALCULATED
11 UNDER SUBSECTION (B) OF THIS SECTION; PLUS~~

12 ~~(ii) 50% OF THE PORTION OF THE SALES PRICE THAT EXCEEDS THE AMOUNT
13 CALCULATED UNDER SUBSECTION (B) OF THIS SECTION:~~

14 ~~(3) THE BALANCE OF THE SALES PRICE MUST BE DEPOSITED IN THE INCLUSIONARY
15 HOUSING TRUST FUND, TO BE USED TO FURTHER THE PURPOSES OF THIS SUBTITLE:~~

16 (A) CITY'S RIGHT OF FIRST REFUSAL.

17 THE CITY HAS THE RIGHT OF FIRST REFUSAL TO PURCHASE AT MARKET RATE ANY
18 AFFORDABLE UNIT INITIALLY PROVIDED UNDER THIS SUBTITLE.

19 (B) IDENTIFYING PUBLIC INVESTMENT.

20 (1) AT THE TIME OF INITIAL SALE, THE HOUSING COMMISSIONER SHALL IDENTIFY THE
21 AMOUNT OF PUBLIC INVESTMENT IN THE UNIT.

22 (2) FOR UNITS BENEFITTING FROM SIGNIFICANT REZONING OR BONUS UNITS, THE PUBLIC
23 INVESTMENT IS DEEMED TO BE AN AMOUNT EQUAL TO THE OWNER'S INITIAL PURCHASE
24 PRICE.

25 (C) ALLOCATION OF PROCEEDS.

26 AT THE TIME OF ANY SUBSEQUENT SALE, THE PROCEEDS OF THE SALE SHALL BE
27 ALLOCATED AS FOLLOWS:

28 (1) THE OWNER RECEIVES THE INITIAL PURCHASE PRICE PAID BY THE OWNER PLUS THE
29 VALUE OF DOCUMENTED IMPROVEMENTS.

30 (2) THE CITY RECEIVES AN AMOUNT EQUAL TO ITS PUBLIC INVESTMENT IN THE
31 AFFORDABLE UNIT, BUT ONLY TO THE EXTENT THAT THE PROCEEDS OF THE SALE
32 EXCEED THE INITIAL PURCHASE PRICE AND THE VALUES OF DOCUMENTED
33 IMPROVEMENTS.

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(3) ANY PROCEEDS OF SALE BEYOND THE PURCHASE PRICE AND THE INITIAL CITY INVESTMENT SHALL BE ALLOCATED TO THE OWNER AND THE CITY IN THE SAME PROPORTION AS THE OWNER’S INITIAL PURCHASE PRICE COMPARED TO THE INITIAL PUBLIC INVESTMENT. HOWEVER, IF THE SALE OCCURS WITHIN 10 YEARS OF THE OWNER’S PURCHASE, THE OWNER’S SHARE OF THESE PROCEEDS IS LIMITED TO 10% OF THE OWNER’S PROPORTIONAL SHARE FOR EACH FULL YEAR OF THE OWNER’S OWNERSHIP.

(D) ~~(E)~~ *AFFORDABLE HOUSING AGREEMENT.*

THE HOUSING COMMISSIONER’S RULES AND REGULATIONS MUST INCLUDE PROVISIONS FOR THE EXECUTION AND FILING IN THE LAND RECORDS OF AFFORDABILITY HOUSING AGREEMENTS THAT EMBODY THE REQUIREMENTS OF THIS SECTION.

§§ 2B-53 TO 2B-60. {RESERVED}

PART VII. INCLUSIONARY HOUSING ~~TRUST-OFFSET~~ FUND

§ 2B-61. FUND ESTABLISHED.

(A) *IN GENERAL.*

THERE IS A BALTIMORE CITY INCLUSIONARY HOUSING ~~TRUST-OFFSET~~ FUND.

(B) *NATURE OF FUND.*

THE BALTIMORE CITY INCLUSIONARY HOUSING ~~TRUST-OFFSET~~ FUND IS A CONTINUING, NONLAPSING FUND ESTABLISHED BY AUTHORITY OF CITY CHARTER ARTICLE I, § 10.

§ 2B-62. REVENUE SOURCES.

~~(A) *IN GENERAL.*~~

THE ~~TRUST-OFFSET~~ FUND COMPRISES:

(1) MONEY APPROPRIATED TO THE ~~TRUST-OFFSET~~ FUND IN THE ANNUAL ORDINANCES OF ESTIMATES, AND

(2) GRANTS OR DONATIONS MADE TO THE ~~TRUST-OFFSET~~ FUND.

~~(B) *TAX REVENUES.*~~

~~IT IS THE INTENT OF THE MAYOR AND CITY COUNCIL OF BALTIMORE THAT, IN EACH FISCAL YEAR, AT LEAST 20% OF THE REVENUES DERIVED FROM THE CITY’S RECORDATION TAX (CITY CODE ARTICLE 28, SUBTITLE 16) AND TRANSFER TAX (CITY CODE ARTICLE 28, SUBTITLE 17) BE APPROPRIATED TO THE TRUST FUND IN THE ANNUAL ORDINANCE OF ESTIMATES.~~

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1 **§ 2B-63. USE OF FUND – GENERAL.**

2 MONEY DEPOSITED IN THE ~~TRUST-OFFSET~~ FUND, ALONG WITH ANY INTEREST EARNED ON THAT
3 MONEY, MAY BE USED ONLY FOR THE FOLLOWING PURPOSES:

- 4 (1) TO FINANCE THE IMPLEMENTATION AND ADMINISTRATION OF THIS SUBTITLE,
5 INCLUDING THE PROVISION OF COST OFFSETS UNDER THIS SUBTITLE; AND
- 6 (2) OTHERWISE TO PROMOTE ECONOMICALLY DIVERSE HOUSING IN CITY NEIGHBORHOODS,
7 INCLUDING:
- 8 (I) PROVIDING ASSISTANCE, BY LOAN, GRANT, OR OTHERWISE, FOR THE PLANNING,
9 PRODUCTION, MAINTENANCE, OR EXPANSION OF AFFORDABLE HOUSING IN THE
10 CITY;
- 11 (II) PROVIDING ASSISTANCE, BY LOAN, GRANT, OR OTHERWISE, TO PERSONS UNABLE
12 TO OBTAIN AFFORDABLE HOUSING; AND
- 13 (III) OTHERWISE INCREASING HOUSING OPPORTUNITIES FOR WORKING FAMILIES AND
14 OTHER PERSONS OF LOW AND MODERATE INCOME.

15 **§ 2B-64. USE OF FUND – ADMINISTRATION.**

16 NO MORE THAN 5% OF THE MONEY IN THE ~~TRUST-OFFSET~~ FUND MAY BE USED IN ANY FISCAL
17 YEAR FOR PERSONNEL OR OTHER COSTS OF ADMINISTERING THE ~~TRUST-OFFSET~~ FUND.

18 **§ 2B-65. USE OF FUND – PUBLIC ASSISTANCE.**

19 AT LEAST HALF OF THE HOUSEHOLDS THAT RECEIVE ASSISTANCE FROM THE ~~TRUST-OFFSET~~
20 FUND MUST HAVE EARNINGS OF NOT MORE THAN 60% OF THE AMI.

21 **§ 2B-66. ADMINISTRATION.**

22 (A) ~~COMMISSIONER TO ADMINISTER~~ MAY PRESCRIBE PROCEDURES.

23 ~~(1) THE TRUST FUND IS ADMINISTERED BY THE HOUSING COMMISSIONER CONSISTENT~~
24 ~~WITH THIS SUBTITLE.~~

25 ~~(2) THE HOUSING COMMISSIONER MAY PRESCRIBE PROCEDURES FOR ADMINISTERING THE~~
26 ~~TRUST-OFFSET FUND.~~

27 (B) *BOARD TO ADVISE.*

28 THE INCLUSIONARY HOUSING BOARD ADVISES THE HOUSING COMMISSIONER THROUGH ITS
29 ANNUAL REPORT AND AS REQUESTED BY THE COMMISSIONER ON THE ACTIVITIES AND
30 PRIORITIES FOR WHICH ~~TRUST-OFFSET~~ FUND MONEY IS BEST USED TO PROMOTE
31 ECONOMICALLY DIVERSE HOUSING IN THE CITY.

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1 **§ 2B-67. REPORTING TO BOARD.**

2 (A) *IN GENERAL.*

3 THE HOUSING COMMISSIONER MUST PROVIDE THE INCLUSIONARY HOUSING BOARD, ON A
4 REGULAR BASIS, INFORMATION ON THE USES AND IMPACT OF THE ~~TRUST-OFFSET~~ FUND.

5 (B) *INCLUSIONS.*

6 THE INFORMATION MUST INCLUDE:

7 (1) EXPENDITURES FROM THE ~~TRUST-OFFSET~~ FUND;

8 (2) A LIST OF PROJECTS FUNDED THROUGH THE ~~TRUST-OFFSET~~ FUND;

9 (3) THE NUMBER AND INCOME LEVELS OF HOUSEHOLDS ASSISTED BY THE ~~TRUST~~
10 ~~OFFSET~~ FUND;

11 (4) FUNDS LEVERAGED BY ~~TRUST-OFFSET~~ FUND FUNDS;

12 (5) NUMBER OF AFFORDABLE UNITS PRODUCED OR PRESERVED;

13 (6) ~~NUMBER OF HOUSEHOLDS PREVENTED FROM BECOMING OR REMAINING HOMELESS~~
14 INFORMATION AS TO HOW FUND MONEY MAY BE USED FOR DEVELOPMENT EFFORTS
15 ASSISTING THE HOMELESS; AND

16 (7) OTHER INFORMATION THAT THE BOARD REQUESTS ABOUT THE ~~TRUST-OFFSET~~
17 FUND'S IMPACT.

18 **§§ 2B-68 TO 2B-70. {RESERVED}**

19 ***PART VIII. ADMINISTRATIVE AND JUDICIAL REVIEW***

20 **§ 2B-71. ADMINISTRATIVE APPEALS.**

21 (A) *RIGHT OF APPEAL.*

22 ANY PERSON AGGRIEVED BY A DECISION OR RULING OF ~~THE INCLUSIONARY HOUSING~~
23 ~~BOARD~~, THE HOUSING COMMISSIONER; ~~OR THE PLANNING DIRECTOR~~ UNDER THIS
24 SUBTITLE MAY APPEAL THAT DECISION OR RULING TO THE BOARD OF ~~MUNICIPAL AND~~
25 ~~ZONING APPEALS~~ ESTIMATES.

26 (B) *HOW AND WHEN TAKEN.*

27 THE APPEAL MUST BE TAKEN IN WRITING WITHIN 15 DAYS FROM THE DATE OF NOTICE OF
28 THE DECISION OR RULING.

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1 (C) *HEARING AND DECISION.*

2 THE BOARD:

3 (1) MUST HOLD A HEARING ON THE APPEAL AS SOON AS PRACTICABLE; AND

4 (2) MAY AFFIRM, MODIFY, OR REVERSE THE ACTION FROM WHICH THE APPEAL WAS
5 TAKEN.

6 **§ 2B-72. JUDICIAL AND APPELLATE REVIEW.**

7 (A) *JUDICIAL REVIEW.*

8 A PARTY AGGRIEVED BY A FINAL DECISION OF THE BOARD OF ~~MUNICIPAL AND ZONING~~
9 ~~APPEALS-ESTIMATES~~ UNDER § 2B-71 {"ADMINISTRATIVE APPEALS"} OF THIS SUBTITLE
10 MAY SEEK JUDICIAL REVIEW OF THAT DECISION BY PETITION TO THE CIRCUIT COURT FOR
11 BALTIMORE CITY IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE.

12 (B) *APPELLATE REVIEW.*

13 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO THE
14 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF
15 PROCEDURE.

16 **Article 28. Taxes**

17 **~~Subtitle 10. Credits~~**

18 **~~§ 10-16. INCLUSIONARY HOUSING CREDIT.~~**

19 (A) ~~*QUALIFICATIONS.*~~

20 ~~THE OWNER OF A RENTAL RESIDENTIAL DEVELOPMENT MAY QUALIFY FOR THE TAX CREDIT~~
21 ~~AUTHORIZED BY THIS SECTION BY:~~

22 (1) ~~PROVIDING AFFORDABLE UNITS AS REQUIRED BY CITY CODE ARTICLE 13, SUBTITLE~~
23 ~~2B;~~

24 (2) ~~FILING AN APPLICATION FOR THE CREDIT NO LATER THAN 90 DAYS AFTER A~~
25 ~~CERTIFICATE OF OCCUPANCY IS ISSUED FOR THE AFFORDABLE UNITS; AND~~

26 (3) ~~SATISFYING ALL OTHER CONDITIONS IMPOSED BY THE REGULATIONS OF THE~~
27 ~~DIRECTOR OF FINANCE.~~

28 (B) ~~*AMOUNT OF CREDIT.*~~

29 (1) ~~FOR DEVELOPMENTS PROVIDING RENTAL UNITS AT OR BELOW A MODERATE~~
30 ~~AFFORDABLE RENT, AS DEFINED IN CITY CODE ARTICLE 13, SUBTITLE 2B, THE~~
31 ~~PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION EQUALS THE REDUCTION IN NET~~
32 ~~OPERATING INCOME ATTRIBUTABLE TO AFFORDABLE HOUSING UNITS, UP TO A~~
33 ~~MAXIMUM OF 20% OF THE AFFORDABLE HOUSING UNITS.~~

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(2) FOR DEVELOPMENTS PROVIDING RENTAL UNITS AT OR BELOW A LOW AFFORDABLE RENT, AS DEFINED IN CITY CODE ARTICLE 13, SUBTITLE 2B, THE PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION EQUALS 110% OF THE REDUCTION IN NET OPERATING INCOME ATTRIBUTABLE TO AFFORDABLE HOUSING UNITS, UP TO A MAXIMUM OF 20% OF THE AFFORDABLE HOUSING UNITS.

(3) IN ANY EVENT, A PROPERTY TAX CREDIT GRANTED UNDER THIS SECTION MAY NOT EXCEED THE AMOUNT OF PROPERTY TAX IMPOSED ON THE REAL PROPERTY LESS THE AMOUNT ON ANY OTHER CREDIT APPLICABLE IN THAT YEAR.

(C) DETERMINATION OF AMOUNT OF CREDIT.

(1) THE HOUSING COMMISSIONER SHALL DETERMINE THE AMOUNT OF THE CREDIT BASED ON A REASONABLE APPRAISAL OF THE PROJECTED RETURN ON THE DEVELOPMENT.

(2) THE OWNER SHALL PROVIDE TO THE COMMISSIONER THE APPRAISAL OR APPRAISALS ON WHICH FINANCING WAS OBTAINED FOR THE DEVELOPMENT.

(3) IN DETERMINING THE AMOUNT OF THE CREDIT, THE COMMISSIONER IN HIS OR HER DISCRETION MAY MAKE USE OF THAT APPRAISAL OR OBTAIN A SEPARATE APPRAISAL.

(D) CREDIT CONTINGENT OF STATE AUTHORIZATION.

THE PROPERTY TAX CREDIT GRANTED BY THE SECTION IS CONTINGENT ON ENACTMENT BY THE MARYLAND GENERAL ASSEMBLY OF ENABLING LEGISLATION TO AUTHORIZE THE credit.

Subtitle 9. Exemptions

§ 9-6. PROPERTY TAX EXEMPTION – AFFORDABLE AND INCLUSIONARY HOUSING.

(A) DEFINITIONS.

(1) IN GENERAL.

IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

(2) AFFORDABLE RENT.

“AFFORDABLE RENT” MEANS RENT THAT DOES NOT EXCEED 30% OF A HOUSEHOLD’S INCOME.

(3) AREA MEDIAN INCOME.

“AREA MEDIAN INCOME” MEANS THE MEDIAN HOUSEHOLD INCOME, ADJUSTED FOR HOUSEHOLD SIZE, FOR THE METROPOLITAN REGION ENCOMPASSING BALTIMORE CITY, AS PUBLISHED AND ANNUALLY UPDATED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

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1 (4) QUALIFYING DEVELOPMENT.

2 “QUALIFYING DEVELOPMENT” MEANS:

3 (I) A REDEVELOPMENT PROJECT OF 30 OR MORE RESIDENTIAL RENTAL UNITS THAT
4 WILL SET ASIDE 10% OR MORE OF THE DEVELOPMENT’S TOTAL UNITS TO BE
5 RENTED AT AN AFFORDABLE RENT TO A HOUSEHOLD EARNING NOT MORE THAN
6 60% OF THE AREA MEDIAN INCOME; OR

7 (II) A NEW RESIDENTIAL RENTAL DEVELOPMENT PROJECT THAT:

8 (A) IS NEW CONSTRUCTION OR IS A CONVERSION OF A NONRESIDENTIAL
9 STRUCTURE THAT WILL PROVIDE 30 OR MORE UNITS OF HOUSING;

10 (B) HAS A COMBINED PRIVATE CAPITAL INVESTMENT OF EQUITY AND DEBT
11 OF AT LEAST \$10,000,000;

12 (C) SETS ASIDE AT LEAST 10% OF THE DEVELOPMENT’S TOTAL UNITS TO BE
13 RENTED AT AN AFFORDABLE RENT TO A HOUSEHOLD EARNING NOT
14 MORE THAN 60% OF THE AREA MEDIAN INCOME; AND

15 (D) HAS NOT OBTAINED SITE PLAN APPROVAL ON OR BEFORE JUNE 30, 2007.

16 (5) SITE PLAN APPROVAL.

17 “SITE PLAN APPROVAL” MEANS APPROVAL FROM THE PLANNING COMMISSION OF THE
18 LAND DEVELOPMENT PROPOSAL OF A QUALIFIED DEVELOPMENT TO ENSURE ITS
19 CONSISTENCY WITH LAND DEVELOPMENT POLICIES AND REGULATIONS AND ACCEPTED
20 LAND DESIGN PRACTICES.

21 (B) RULES AND REGULATIONS.

22 (1) IN GENERAL.

23 THE DIRECTOR OF FINANCE, AFTER CONSULTATION WITH THE HOUSING
24 COMMISSIONER, MUST ADOPT RULES AND REGULATIONS TO CARRY OUT THE
25 PROVISIONS OF THIS SECTION.

26 (2) FILING WITH LEGISLATIVE REFERENCE.

27 A COPY OF ALL RULES AND REGULATIONS ADOPTED UNDER THIS SECTION MUST BE
28 FILED WITH THE DEPARTMENT OF LEGISLATIVE REFERENCE BEFORE THEY BECOME
29 EFFECTIVE.

30 (C) EXEMPTION GRANTED.

31 A REDEVELOPMENT PROJECT OR NEW RESIDENTIAL RENTAL DEVELOPMENT PROJECT IS
32 EXEMPT FROM BALTIMORE CITY REAL PROPERTY TAXES IF, IN ACCORDANCE WITH THE
33 RULES AND REGULATIONS ADOPTED UNDER THIS SECTION:

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1 (1) THE OWNER OR OWNERS OF THE PROJECT HAVE FILED AN APPLICATION FOR THE
2 EXEMPTION WITHIN THE TIME PERIOD SPECIFIED BY THE RULES AND REGULATIONS
3 ADOPTED UNDER THIS SUBTITLE;

4 (2) THE CITY DETERMINES THAT THE PROJECT IS A QUALIFYING DEVELOPMENT
5 MEETING THE REQUIREMENTS OF THIS SECTION;

6 (3) THE CITY DETERMINES THAT THE EXEMPTION IS NECESSARY TO OFFSET THE
7 OWNER'S OR OWNERS' ADDITIONAL COSTS OF PROVIDING AFFORDABLE UNITS AT
8 THE QUALIFYING DEVELOPMENT;

9 (4) THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT SATISFY A FINANCIAL
10 REVIEW ADMINISTERED BY THE CITY THAT INCLUDES:

11 (I) A DETAILED DESCRIPTION OF THE PROJECT AND THE DEVELOPMENT BUDGET
12 FOR THE PROJECT, INCLUDING THE IDENTIFICATION OF ALL SOURCES OF
13 DEBT AND EQUITY FINANCING;

14 (II) A MULTIYEAR PRO FORMA CASH FLOW ANALYSIS OF THE PROJECT
15 DETAILING ALL INCOMING AND OUTGOING CASH FLOW INCLUDING
16 REVENUES, OPERATING EXPENSES, DEBT SERVICE, TAXES, CAPITAL
17 EXPENDITURES, AND ANY OTHER CASH OUTLAYS;

18 (III) THE PROJECTED RETURN ON INVESTMENT FOR THE OWNER OR OWNERS;

19 (IV) THE AMOUNT OF POTENTIAL REVENUE THAT MAY BE LOST THROUGH THE
20 PROVISION OF AFFORDABLE HOUSING; AND

21 (V) ANY ADDITIONAL INFORMATION SPECIFIED IN THE RULES AND REGULATIONS
22 ADOPTED UNDER THIS SECTION; AND

23 (5) THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT AND THE CITY ENTER
24 INTO AN AGREEMENT, APPROVED BY THE BOARD OF ESTIMATES, THAT:

25 (I) PROVIDES THAT THE OWNER OR OWNERS OF THE QUALIFYING DEVELOPMENT
26 MUST PAY TO THE CITY A NEGOTIATED AMOUNT IN LIEU OF THE PAYMENT
27 OF CITY REAL PROPERTY TAXES;

28 (II) SPECIFIES AN AMOUNT THAT THE OWNER OR OWNERS MUST PAY TO THE
29 CITY EACH YEAR IN LIEU OF THE PAYMENT OF CITY REAL PROPERTY TAXES
30 DURING THE TERM OF THE AGREEMENT THAT IS NOT LESS THAN 75% OF THE
31 ANNUAL PROPERTY TAXES THAT WOULD OTHERWISE BE DUE TO THE CITY
32 FOR THE QUALIFYING DEVELOPMENT IN THE INITIAL YEAR OF THE
33 AGREEMENT; AND

34 (III) IS LIMITED TO A TERM OF NOT MORE THAN 10 YEARS.

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1 (D) EXTENSIONS OF THE AGREEMENT.

2 (1) IN GENERAL.

3 AT THE COMPLETION OF THE TERM OF THE AGREEMENT, THE QUALIFYING
4 DEVELOPMENT MAY SEEK, AND THE BOARD OF ESTIMATES MAY GRANT, AN EXTENSION
5 OF THE AGREEMENT.

6 (2) 10-YEAR LIMIT.

7 EACH EXTENSION IS LIMITED TO A TERM OF NOT MORE THAN 10 YEARS.

8 (E) MAXIMUM AGGREGATE TAX REDUCTION.

9 THE BOARD OF ESTIMATES MAY NOT APPROVE AN AGREEMENT FOR PAYMENT OF A
10 NEGOTIATED AMOUNT IN LIEU OF TAXES UNDER THIS SECTION IF THE AGREEMENT WOULD
11 CAUSE THE TOTAL REDUCTION IN PROPERTY TAX REVENUES FROM ALL AGREEMENTS
12 ENTERED INTO UNDER THIS SECTION TO EXCEED \$2,000,000 IN ANY TAXABLE YEAR.

13 (F) STATE AUTHORIZATION.

14 THE PROPERTY TAX EXEMPTION GRANTED BY THIS SECTION IS CONTINGENT ON THE
15 ENACTMENT AND CONTINUATION OF STATE LEGISLATION THAT AUTHORIZES THE
16 EXEMPTION.

17 **Baltimore City Revised Code**

18 **Article – Zoning**

19 **Title 3. General Rules for Use, Bulk, and Other Regulations**

20 **Subtitle 2. Bulk Regulations**

21 **§ 3-206. INCLUSIONARY HOUSING ADJUSTMENT.**

22 FOR A RESIDENTIAL PROJECT THAT, UNDER CITY CODE ARTICLE 13, ~~§ 2B-23(c)(4)~~ § 2B-22(C)
23 {“PROJECT BENEFITTING FROM SIGNIFICANT LAND USE AUTHORIZATION OR REZONING”} OR
24 § 2B-23(C)(1) {“30 OR MORE UNITS: COST-OFFSETS”}, IS ENTITLED TO BONUS UNITS, THE LOT
25 AREA PER DWELLING UNIT OTHERWISE REQUIRED BY THIS ARTICLE IS REDUCED TO THE EXTENT
26 NEEDED TO ACCOMMODATE THOSE BONUS UNITS.

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Title 8. Overlay Districts

SUBTITLE 5. INCLUSIONARY HOUSING OVERLAY

~~§ 8-501. “INCREASED-CAPACITY REZONING” DEFINED.~~

~~IN THIS SUBTITLE, “INCREASED-CAPACITY REZONING” MEANS ANY REZONING OR OTHER LAND USE ACTION, INCLUDING A CHANGE IN A PLANNED UNIT DEVELOPMENT OR IN AN URBAN RENEWAL PLAN, THAT INCREASES THE NUMBER OF DWELLINGS ALLOWED.~~

§ 8-501. ~~§ 8-502~~. DESIGN.

(A) *IN GENERAL.*

THE INCLUSIONARY HOUSING OVERLAY CLASSIFICATION IS DESIGNED TO FORMALLY DESIGNATE THOSE PARCELS THAT ~~HAVE BENEFITTED FROM INCREASED-CAPACITY REZONING FROM TIME TO TIME~~ BENEFIT FROM SIGNIFICANT REZONING, AS DEFINED IN CITY CODE ARTICLE 13, § 2B-1. THE OVERLAY CLASSIFICATION TERMINATES AUTOMATICALLY ON THE REPEAL OF ARTICLE 13, SUBTITLE 2B.

(B) *PUBLIC NOTICE.*

THE INTENT OF THE DESIGNATION IS TO PROVIDE A FORMAL METHOD OF PUBLIC NOTICE THAT RESIDENTIAL DEVELOPMENT ON THE PROPERTY COULD BE SUBJECT TO THE REQUIREMENTS OF CITY CODE ARTICLE ~~5~~ 13, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

§ 8-502. ~~§ 8-503~~. CLASSIFICATION.

ALL PROPERTIES THAT ARE THE SUBJECT OF ~~AN INCREASED-CAPACITY REZONING~~ SIGNIFICANT REZONING, AS DEFINED IN CITY CODE ARTICLE 13, § 2B-1, FOR WHATEVER PURPOSE, RETAIN THEIR NEW ZONING CLASSIFICATION WITH THE ADDITION OF THE SUFFIX “I”.

§§ ~~8-503~~ ~~8-504~~ TO 8-505. {RESERVED}

§ 8-506. DEVELOPER ON NOTICE.

THE PURCHASER OR DEVELOPER OF PROPERTY WITH AN INCLUSIONARY HOUSING OVERLAY CLASSIFICATION IS ON NOTICE THAT RESIDENTIAL DEVELOPMENT ON THE PROPERTY COULD BE SUBJECT TO AND LIMITED BY THE REQUIREMENTS OF CITY CODE ARTICLE ~~5~~ 13, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

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Title 9. Planned Unit Developments

Subtitle 2. Residential Planned Unit Developments

§ 9-210. Gross density premiums.

(a) *In general.*

To the extent specifically provided in the approved Development Plan, the maximum gross densities specified in § 9-209 {"Gross density"} of this subtitle may be increased by:

- (1) up to 25% in accordance with one or more of the following subsections; AND
- (2) AN ADDITIONAL 20% FOR A RESIDENTIAL PROJECT THAT PROVIDES AT LEAST THE NUMBER OF AFFORDABLE UNITS REQUIRED BY CITY CODE ARTICLE 5 13, ~~SUBTITLE 2B~~ § 2B-22 {"INCLUSIONARY HOUSING REQUIREMENTS; PROJECTS BENEFITTING FROM SIGNIFICANT LAND USE AUTHORIZATION OR REZONING"}.

Subtitle 3. Office-Residential Planned Unit Developments

§ 9-310. Gross density premiums.

(a) *In general.*

To the extent specifically provided in the approved Development Plan, the maximum gross densities specified in § 9-309 {"Gross density"} of this subtitle may be increased by:

- (1) up to 25% in accordance with one or more of the following subsections; AND
- (2) AN ADDITIONAL 20% FOR A RESIDENTIAL PROJECT THAT PROVIDES AT LEAST THE NUMBER OF AFFORDABLE UNITS REQUIRED BY CITY CODE ARTICLE 5 13, ~~SUBTITLE 2B~~ § 2B-22 {"INCLUSIONARY HOUSING REQUIREMENTS; PROJECTS BENEFITTING FROM SIGNIFICANT LAND USE AUTHORIZATION OR REZONING"}.

Subtitle 4. Business Planned Unit Developments

§ 9-410. Gross density premiums.

(a) *In general.*

To the extent specifically provided in the approved Development Plan, the maximum gross densities specified in § 9-409 {"Gross density"} of this subtitle may be increased by:

- (1) up to 25% in accordance with one or more of the following subsections; AND

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1 (2) AN ADDITIONAL 20% FOR A RESIDENTIAL PROJECT THAT PROVIDES AT LEAST THE
2 NUMBER OF AFFORDABLE UNITS REQUIRED BY CITY CODE ARTICLE 5 13, ~~SUBTITLE~~
3 2B-§ 2B-22 {“INCLUSIONARY HOUSING REQUIREMENTS: PROJECTS BENEFITTING
4 FROM SIGNIFICANT LAND USE AUTHORIZATION OR REZONING”}.

5 **SECTION 2. AND BE IT FURTHER ORDAINED,** That, within 120 days of the effective date of
6 this Ordinance, the Commissioner of Housing and Community Development shall adopt rules and
7 regulations to implement this Ordinance.

8 **SECTION 3 2. AND BE IT FURTHER ORDAINED,** That: ~~(a)~~ within 42 months of the effective
9 date of this Ordinance, the Commissioner of Housing and Community Development and the
10 Director of Planning shall:

11 (1) ~~(i)~~ present to the Mayor and City Council an evaluation of the effectiveness of this
12 Ordinance during its first 3 years of operation; and

13 (2) ~~(ii)~~ recommend its continuance, modification, or termination; ~~and,~~

14 ~~(b) present a similar report annually for each subsequent year during which this Ordinance is in~~
15 ~~effect..~~

16 **SECTION 4 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this
17 Ordinance are not law and may not be considered to have been enacted as a part of this or any
18 prior Ordinance.

19 **SECTION 5 4. AND BE IT FURTHER ORDAINED,** That Article 5-13, § 2B-21 {“Projects
20 receiving major public subsidy”}, as enacted by this Ordinance, does not apply if the subsidy in
21 question:

22 (1) is a transfer of land for which the request for proposals, invitation to bid, or similar
23 document was issued before the ~~effective date of~~ adoption of rules and regulations to
24 implement this Ordinance;

25 (2) is a payment in lieu of taxes or tax increment financing for which the authorizing
26 legislation was ~~enacted~~ introduced before the ~~effective date of~~ adoption of rules and
27 regulations to implement this Ordinance; or

28 (3) is a grant or loan for which the notice of funding availability or similar notice was
29 published before the ~~effective date of~~ adoption of rules and regulations to implement this
30 Ordinance.

31 **SECTION 6 5. AND BE IT FURTHER ORDAINED,** That Article 5-13, § 2B-22 {“ Project
32 benefitting from significant land use authorization or rezoning”}, as enacted by this Ordinance,
33 does not apply if:

34 (1) the significant land use authorization or rezoning in question was approved within 18
35 months after the effective date of this Ordinance; or

36 (2) the development has had a Pre-Development Meeting with the Department of Planning
37 before the adoption of rules and regulations to implement this Ordinance.

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SECTION 7 6. AND BE IT FURTHER ORDAINED, That:

(a) (1) Article 5-13, § 2B-23 {"Other projects – 30 or more units"} and § 2B-24 {"Other projects – Less than 30 units"}, as enacted by this Ordinance, do not take effect until: 120 days after the Housing Commissioner certifies that, in the previous year, ¾ of arms-length home sales (excluding homes sold for minimal sales price) had a sales price greater than the level affordable to a household at 80% AMI.

(2) Within 60 days of the end of the calendar year, the Commissioner shall publish this certification online and by report to the City Council and the Inclusionary Housing Board.

(3) For the first calendar year after the effective date of this Ordinance “minimal sales price” means \$50,000. The “minimal sales price” may be adjusted by the Commissioner in subsequent years to a larger amount that corresponds to the average sales price of homes requiring major rehabilitation to be habitable. This adjustment will be made according to methodology determined and published by the Commissioner.

(b) Article 13, § 2B-23 {"Other projects – 30 or more units"} and § 2B-24 {"Other projects – Less than 30 units"}, as enacted by this Ordinance, do not apply to any development that has had a Pre-Development Meeting with the Department of Planning before:

(1) the taking effect of those sections; or

(2) the adoption of rules and regulations to implement this Ordinance.

~~(1) 18 months after the effective date of this Ordinance; and~~

~~(2) either:~~

~~(i) the Housing Commissioner certifies that an amount equal to \$10,000,000 is available in the Inclusionary Housing Trust Fund established by this Ordinance; or~~

~~(ii) the Housing Commissioner certifies that sufficient funds are available for the use of cost offsets for projects that voluntarily include affordable units, in which case the Housing Commissioner may approve that use of cost offsets.~~

SECTION 8 7. AND BE IT FURTHER ORDAINED, That Zoning Code § 8-503 {"Classification"}, as enacted by this Ordinance, takes effect 18 months after the effective date of this Ordinance.

SECTION 9 8. AND BE IT FURTHER ORDAINED, That, except as provided in Sections 4 5 through 7 8 of this Ordinance, this Ordinance takes effect on the 30th day after the date it is enacted. It will remain effective for 5 years, and at the end of that period, with no further action by the Mayor and City Council, this Ordinance will be abrogated and of no further effect.

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

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,

this ____ day of _____, 20__

Chief Clerk

Approved this ____ day of _____, 20__

Mayor, Baltimore City

