

NOTICE OF ENACTMENT

TO: THE PEOPLE OF THE CITY OF DETROIT, MICHIGAN

On November 23, 2021, the City Council passed the following ordinance:

**ORDINANCE NO. 2021-4
CHAPTER 12
ARTICLE VIII**

AN ORDINANCE to amend Chapter 12 of the 2019 Detroit City Code, *Community Development*, by amending Article VIII, *Community Benefits*, by amending Section 12-8-2, *Definitions*, to add a representative from the Legislative Policy Division and the Neighborhood Advisory Council to the definition of the Enforcement Committee; and Section 12-8-3, *Tier 1 Projects*, to add additional provisions to the Community Engagement Process for Public Meeting, to add additional provisions to the requirements related to the Neighborhood Advisory Council, to add additional provisions to the Community Benefits Report, to provide additional provisions to the Enforcement Committee, and to make other technical amendments.

IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT THAT:

Section 1. Chapter 12 of the 2019 Detroit City Code, *Community Development*, Article VIII, *Community Benefits*, be amended by amending Section 12-8-2 and Section 12-8-3, to read as follows:

**CHAPTER 12. COMMUNITY DEVELOPMENT
ARTICLE VIII. COMMUNITY BENEFITS**

Sec. 12-8-2. Definitions.

Community Benefits Provision means the agreement made by and between the Planning Director and the developer which specifically addresses the issues raised by the Neighborhood Advisory Council.

Enforcement Committee means a committee led by the Corporation Counsel and composed of representatives from the Planning and Development Department, Law Department, Human Rights Department, the Legislative Policy Division, relevant City departments as determined by the Planning Director, and a member of the respective Neighborhood Advisory Council as a non-voting member.

Impact area means an area determined by the Planning Director that includes all census tracts or census block groups in which the Tier 1 Project is located, and any other areas as determined by the Planning Director.

Planning Director means the Director of the City of Detroit Planning and Development Department, or a member of the Planning Director's staff working on behalf of the Planning Director.

Tier 1 Development Project means a development project in the City that is expected to incur the investment of \$75,000,000.00 or more during the construction of facilities, or to begin or expand operations or renovate structures, where the developer of the project is negotiating public support for investment in one or both of the following forms:

(1) Any transfer to the developer of City-owned land parcels that have a cumulative market value of \$1,000,000.00 or more, as determined by the City Assessor or independent appraisal, without open bidding and priced below market rates where allowed by law; or

(2) Provision or approval by the City of tax abatements or other tax breaks that abate more than \$1,000,000.00 of City taxes over the term of the abatement that inure directly to the developer, but not including Neighborhood Enterprise Zone tax abatements.

Tier 2 Development Project means a development project in the City that does not qualify as a Tier 1 Project and is exposed to incur the investment of \$3,000,000.00 or more, during the construction of facilities, or to begin or expand operations or renovate structures, where the developer is negotiating public support for investment in one or both of the following forms:

(1) Land transfers that have a cumulative market value of \$300,000.00 or more, as determined by the City Assessor or independent appraisal, without open bidding and priced below market rates; or

(2) Tax abatements that abate more than \$300,000.00 of City taxes over the term of the abatement that inure directly to the developer, but not including Neighborhood Enterprise Zone tax abatements.

Sec. 12-8-3. Tier 1 Projects.

(a) *Community Engagement Process for Public Meeting.*

(1) Prior to submitting to City Council a request for approval of Land transfers or Tax abatements related to a Tier 1 Project, the Planning Director shall hold no fewer than five public meetings, subsequent to the seating of the Neighborhood Advisory Council, in the impact area as defined in Section 12-8-2 of this Code, unless a majority of the Neighborhood Advisory Council vote to waive one or more of the required meetings.

(2) The City Clerk shall forward notice of the first public meeting via First Class Mail no less than ten days before such meeting to all City of Detroit residents within 300 radial feet of the Tier 1 Project Impact Area. The notice shall include:

a. The time, date and location of the public meeting;

b. General information about the Tier 1 Project;

c. A description of the impact area and the location of the Tier 1 Project; and

d. Information related to potential impacts of the Tier 1 Project and possible mitigation strategies.

(3) In addition to the notice requirement contained in Subsection (a) (2) of this section, the Planning Director shall work with the District Council Member or Members representing the district or districts where the Tier 1 Project is located and at least one At-large Council Member to ensure that local residents, businesses, and organizations, especially those located in the impact area and those expected to be directly impacted by the Tier 1 project are informed of the public meeting.

(4) At the first public meeting, which shall allow for questions from the community, the Planning Director will present the Community Benefits Ordinance process in detail, which shall include but not be limited to, information on the following:

a. General information about the Tier 1 Project and the manner in which the Tier 1 Project is anticipated to impact the local community;

b. Preliminarily identified measures by which the developer and the Planning Director plan to address or mitigate anticipated negative impacts of the Tier 1 Project;

c. Manner in which the Neighborhood Advisory Council fits within the broader Community Benefits Ordinance process;

b. Responsibilities of the Neighborhood Advisory Council;

c. Proposed timeline for the Neighborhood Advisory Council meetings;

d. Outcomes and best practices utilized by previous Neighborhood Advisory Councils;

(5) City Council shall appoint a liaison from the Legislative Policy Division to monitor the community engagement process and provide updates to the City Council.

(6) The Planning Director shall provide notice to the liaison of all upcoming meetings and activities associated with the community engagement process related to the Tier 1 Project.

(b) Neighborhood Advisory Council.

(1) The Planning Director will accept nominations to the Neighborhood Advisory Council from any person that resides in the impact area.

(2) All residents over the age of 18 that reside in the impact area are eligible for nomination, provided that, any person who is an agent, employee, or official of the developer, or an employee of a City department or authority directly involved in the development, must disclose such relationship prior to the selection of the Neighborhood Advisory Council members, provided that if a conflict exists, the person is prohibited from serving on the Neighborhood Advisory Council. A conflict of interest for this purpose means any financial interest held personally or by an immediate family member in the Tier 1 Development Project developer entity.

(3) The Neighborhood Advisory Council shall consist of nine members who are selected as follows:

a. Two Members selected by residents of the impact area chosen from the resident nominated candidates;

b. Four Members selected by the Planning Director from the resident nominated candidates, with preference given to individuals the Planning Director expects to be directly impacted by the Tier 1 Project;

c. One Member selected by the Council Member in whose district contains the largest portion of the impact area from the resident nominated candidates; and

d. One Member selected by each of the At-Large Council Members from the resident nominated candidates.

(4) If the Planning Director receives less than nine nominations, the Planning Director may seek out additional nominations from individuals that live outside the impact area but within the City Council district or districts where the Tier 1 Project is located.

(5) All actions of the Neighborhood Advisory Council may be taken with the consent of a majority of Neighborhood Advisory Council members serving.

(6) Unless advance written notice, including electronic transmission, is provided to the Neighborhood Advisory Council, attendance is mandatory for members at all meetings.

(7) Should any Neighborhood Advisory Council Member miss more than one meeting, a permanent replacement may be appointed by, and at the discretion of, the Neighborhood Advisory Council.

(c) Distribution of essential information.

(1) The Planning Department and the Detroit Economic Growth Corporation shall provide all essential documents to the Neighborhood Advisory Council Members, all City Council Members in whose district the development takes place, and the At-Large City Council Members as follows:

a. Documents shall be provided within 72 hours of the selection of the Neighborhood Advisory Council;

b. Documents shall include:

i. A copy of the current Community Benefits Ordinance;

ii. All development agreements between the City and the respective developer;

iii. Projected revenue from the development;

iv. The developer's RFP response;

v. All renderings related to the project;

vi. The But/For economic analysis conducted by the Detroit Economic Growth Corporation;

vii. All environmental studies completed on the respective property; and

viii. Documents related to Brownfield funding.

(d) Engagement with developer.

(1) In addition to the meeting requirement in Subsection (a)(1) of this section, the Planning Director shall facilitate at least one meeting between the Neighborhood Advisory Council and the developer to allow the Neighborhood Advisory Council to learn more details about the project and to provide an opportunity for the Neighborhood Advisory Council to make developer aware of concerns raised by the Neighborhood Advisory Council.

(2) City Council by a two-thirds vote of members present or the Planning Director may facilitate meetings which the developer, or the developer's designee, shall participate in as directed.

(3) As part of community engagement the developer, or their designee, shall be required to meet as directed.

(e) Community Benefits Report.

(1) The Planning Director shall provide a Community Benefits Report to City Council regarding the Tier 1 Project prior to the request for any approvals related to the Tier 1 Project.

(2) The Community Benefits Report shall contain:

a. A detailed account of how notice was provided to organize the public meeting;

b. A list of the Neighborhood Advisory Council members, and how they were selected;

c. An itemized list of the concerns raised by the Neighborhood Advisory Council;

d. A method for addressing each of the concerns raised by the Neighborhood Advisory Council, or why a particular concern will not be addressed; and

e. A detailed list of community outreach strategies, inclusive of a language access plan, that have been used to solicit and record feedback.

(3) The Planning Director, where possible, shall provide a copy of the Community Benefits Report to the Neighborhood Advisory Council prior to submission to City Council, said Neighborhood Advisory Council shall have at least one week to review the Community Benefits Agreement prior to receiving a request from the City to either vote to approve or sign letter in support of the proposed benefits, provided that, if a majority of the Neighborhood Advisory Council votes against the proposal, then additional time shall be provided for discussion and negotiation.

(4) To ensure an expeditious community engagement process, the Planning Director, where possible, shall submit the initial Community Benefits Report within six weeks from the date the notice is sent of the public meeting.

(5) The Planning Director shall work with City Council to assure that, to the maximum extent possible, all of the approvals required of City Council may be considered simultaneously and subject to one approval vote.

(6) The Planning Director shall work with other City departments to facilitate that Tier 1 Projects receive expedited City-required approvals.

(f) **Development Agreement.**

(1) All development agreements made between the developer and the City related to the land transfers or tax abatements associated with a Tier 1 Project shall include the Community Benefits Provision, which shall include:

a. Enforcement mechanisms for failure to adhere to Community Benefits Provision, that may include but are not limited to, clawback of City-provided benefits, revocation of land transfers or land sales, debarment provisions and proportionate penalties and fees; and

b. The procedure for community members to report violations of the Community Benefits Provision to the Neighborhood Advisory Council;

c. The length of time that Annual Compliance Reports as outlined in Subsection (g)(2) of this section, are required to be submitted; and

d. Continued community engagement or community meeting requirements.

(2) The developer shall not be required to enter into a legally binding agreement with any individual or organization other than the City for the express purpose of fulfilling the requirements of this ordinance or other City-mandated community engagement processes.

(3) The developer may voluntarily enter into any contract or agreement related to the Tier 1 Project that does not pose a conflict of interest with the City.

(g) **Enforcement.**

(1) An Enforcement Committee shall be established to monitor Tier 1 Projects.

a. The Enforcement Committee shall be comprised of, at minimum, the following four individuals:

i. Corporation Council for the City of Detroit; or their designee;

ii. A representative from the Planning and Development Department;

iii. A representative from the Law Department;

iv. A representative from the Human Rights Department;

v. A representative from the Legislative Policy Division; and

vi. A member from the respective Neighborhood Advisory Council as a non-voting member.

b. In addition to the members of the Enforcement Committee as identified in Subsection (1)a of this section, the Planning Director may require that other departments participate in the Enforcement Committee as needed.

(2) The Enforcement Committee shall provide a biannual compliance report to the City Council and the Neighborhood Advisory Council for the time period identified in the Community Benefits Provision.

(3) The Planning Director shall facilitate at least one meeting per calendar year between the Neighborhood Advisory Council and the developer to discuss the status of the Tier 1 Project for the time period identified in the Community Benefits Provision.

(4) The Neighborhood Advisory Council shall review any allegations of violations of the Community Benefits Provision provided to it by the community, and may report violations to the Enforcement Committee in writing.

(5) Upon receipt of written notification of allegations of violation from the Neighborhood Advisory Council, the Enforcement Committee shall investigate such allegations and shall present their written findings to the Neighborhood Advisory Council based upon the following:

a. Whether the developer is in compliance with the Community Benefits Provision; and

b. How the Community Benefits Provision will be enforced or how violations will be mitigated.

(6) The findings of the Enforcement Committee shall be presented to the Neighborhood Advisory Council no later than 21 days from the date the violations were reported to the Enforcement Committee, unless the need for additional time is reported to City Council and the Neighborhood Advisory Council within the original 21-day time frame.

(6) The findings of the Enforcement Committee shall be presented to the Neighborhood Advisory Council no later than 21 days from the date the violations were reported to the Enforcement Committee, unless the need for additional time is reported to City Council and the Neighborhood Advisory Council within the original 21-day time frame.

(7) If the Neighborhood Advisory Council disagrees with the findings of the Enforcement Committee or determines that the Enforcement Committee is not diligently pursuing the enforcement or mitigation steps outlined in its findings, the Neighborhood Advisory Council may send notice to the Enforcement Committee, and the Enforcement Committee shall have 14 days from receipt of notice to respond to the concerns outlined.

(8) If the Neighborhood Advisory Council is not satisfied with the Enforcement Committee's response, the Neighborhood Advisory Council may petition the City Clerk and request that City Council schedule a hearing with opportunity for both the Enforcement Committee and the Neighborhood Advisory Council to present information related to the alleged violations of the Community Benefits Provision and any enforcement or mitigation efforts that have occurred.

(9) If City Council elects to hold a hearing, or based upon the written information submitted, City Council shall determine whether the Enforcement Committee has made reasonable efforts to ensure that the developer has complied with the Community Benefits Provision.

a. If City Council determines that the Enforcement Committee has made reasonable efforts, City Council shall notify the Neighborhood Advisory Council and the Enforcement steps that need to be taken to comply with the Community Benefits Provision.

i. The Enforcement Committee shall provide City Council and the Neighborhood Advisory Council monthly updates on compliance actions until City Council adopts a resolution declaring that the developer is in compliance with the Community Benefits Provision or has taken adequate steps to mitigate violations.

ii. City Council may hold additional hearings related to enforcement of the Community Benefits Provision as needed.

Sec. 12-8-4. Tier 2 Projects.

(a) Developers shall:

(1) Partner with the City, and when appropriate, a workforce development agency to promote the hiring, training and employability of Detroit residents consistent with State and Federal Law.

(2) Partner with the Planning Director to address and mitigate negative impact that the Tier 2 Project may have on the community and local residents.

(b) The Developer's commitment as identified in Subsection (a) of this section shall be included in the development agreements related to any land transfers or tax abatements associated with the Tier 2 Project for which the Developer seeks approval.

Section 12-8-5. Exemptions.

The requirements of this ordinance may be waived by resolution of the City Council upon submission by either the Planning Director or the Developer identifying reasons that the requirements of this ordinance are impractical or infeasible and identifying how the Developer will otherwise provide community benefits.

Section 2. This ordinance is declared necessary to preserve the public peace, health, safety, and welfare of the People of the City of Detroit.

Section 3. All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.

Section 4. In the event this ordinance is passed by two-thirds majority of City Council Members serving, it shall be given immediate effect and become effective upon publication in accordance with Section 4-118 of the 2012 Detroit City Charter. Where this ordinance is passed by less than two-thirds majority of City Council Members serving, it shall become effective on the 30th day after enactment, or on the first business day thereafter, in accordance with Section 4-118 of the 2012 Detroit City Charter.

(J.C.C. Page): October 19, 2021
Passed: November 23, 2021
Approved: November 29, 2021
 December 8, 2021
Effective: December 8, 2021

JANICE M. WINFREY
City Clerk