

**INTRODUCTORY\***  
**CITY OF BALTIMORE**  
**COUNCIL BILL \_\_\_\_\_**

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Introduced by: Councilmembers Young, Clarke, Holton

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A BILL ENTITLED

AN ORDINANCE concerning

**Inclusionary Housing**

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

By adding

Article 13 - Housing and Urban Renewal  
Sections 2B-1 through 2B-72, to be under the new subtitle designation,  
“Subtitle 2B. Inclusionary Housing Requirements”  
Baltimore City Code  
(Edition 2000)

By adding

Article 28 - Taxes  
Section 10-16  
Baltimore City Code  
(Edition 2000)

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

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

By adding

Article - Zoning

Section 3-206 and Sections 8-501 through 8-506, to be under the new subtitle designation,  
“Subtitle 5. Inclusionary Housing Overlay District”

Baltimore City Revised Code  
(Edition 2000)

By repealing and reordaining, with amendments

Article - Zoning

Sections 9-210(a), 9-310(a), and 9-410(a)

Baltimore City Revised Code  
(Edition 2000)

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

**Baltimore City Code**

**Article 13. Housing and Urban Renewal**

**SUBTITLE 2B. INCLUSIONARY HOUSING REQUIREMENTS**

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

**§ 2B-1. DEFINITIONS – GENERAL.**

(A) *IN GENERAL.*

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

(B) *BOARD.*

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

(C) *DEVELOPER.*

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

(D) *HOUSING COMMISSIONER.*

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

(E) *INCLUDES; INCLUDING.*

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

(F) *MAJOR PUBLIC SUBSIDY.*

(1) *IN GENERAL.*

“MAJOR PUBLIC SUBSIDY” MEANS THE NEGOTIATED PROVISION BY THE CITY OR ANY OF ITS AGENTS OR CONTRACTORS OF FUNDS, RESOURCES, OR FINANCIAL ASSISTANCE FOR A PROJECT THAT NEEDS THESE FUNDS, RESOURCES, OR ASSISTANCE TO PROCEED.

(2) *INCLUSIONS.*

“MAJOR PUBLIC SUBSIDY” INCLUDES:

- (I) THE SALE OR TRANSFER OF LAND SUBSTANTIALLY BELOW ITS APPRAISED VALUE;
- (II) PAYMENT IN LIEU OF TAXES;
- (III) TAX INCREMENT FINANCING;
- (IV) GRANTS OR LOANS; OR
- (V) EXCEPT AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION, INSTALLATION OR REPAIR OF PHYSICAL INFRASTRUCTURE.

(3) *EXCLUSIONS.*

“MAJOR PUBLIC SUBSIDY” DOES NOT INCLUDE INFRASTRUCTURE REPAIRS OR IMPROVEMENTS UNDERTAKEN AS PART OF A REGULARLY PLANNED PROGRAM.

(G) *NEIGHBORHOOD.*

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

(H) *PLANNING DIRECTOR.*

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

(I) *RESIDENTIAL PROJECT.*

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

(J) *SIGNIFICANT REZONING.*

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

- (1) THAT INCREASES THE NUMBER OF RESIDENTIAL UNITS ALLOWED; AND
- (2) ON THE AUTHORITY OF WHICH A RESIDENTIAL PROJECT PROPOSES TO INCLUDE MORE UNITS THAN WERE PERMITTED BEFORE THE REZONING OR CHANGE.

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

(A) *MANDATORY TERMS.*

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

(B) *PROHIBITORY TERMS.*

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

(C) *PERMISSIVE TERMS.*

“MAY” IS PERMISSIVE.

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

(A) *IN GENERAL.*

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

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

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

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

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

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

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

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

(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.

(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.

(E) *AMI.*

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

(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.

(G) *MARKET RATE.*

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

**§ 2B-4. FINDINGS AND POLICY.**

(A) *IN GENERAL.*

THE MAYOR AND CITY COUNCIL OF BALTIMORE FINDS AS FOLLOWS.

(B) *BENEFITS OF ECONOMIC DIVERSITY.*

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

(C) *LIMITATIONS OF PRIVATE SECTOR.*

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

(D) *CAPABILITIES OF CITY.*

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

(2) THESE BENEFITS INCLUDE:

- (i) THE DISPOSITION OF PUBLICLY OWNED LAND;
- (ii) THE EXPENDITURE OF PUBLIC FUNDS, INCLUDING STATE AND FEDERAL FUNDS UNDER THE CITY'S CONTROL;
- (iii) TAX RELIEF; AND
- (iv) THE ADOPTION OF LAND USE STANDARDS THAT PROMOTE THE INCLUSION OF AFFORDABLE HOMES.

(E) *CITY POLICY.*

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

**§ 2B-5. RULES OF CONSTRUCTION.**

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING RULES OF CONSTRUCTION APPLY.

(B) *MORE STRINGENT PROVISIONS APPLY.*

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

(C) *APPLYING PERCENTAGES.*

IN APPLYING PERCENTAGES REFERRED TO IN THIS SUBTITLE:

- (1) ANY PORTION OF A PERCENT LESS THAN ONE-HALF IS DISREGARDED; AND
- (2) ANY PORTION OF A PERCENT ONE-HALF OR GREATER IS ROUNDED UP TO THE NEXT WHOLE NUMBER.

**§ 2B-6. RULES AND REGULATIONS.**

(A) *IN GENERAL.*

THE INCLUSIONARY HOUSING BOARD, THE HOUSING COMMISSIONER, AND THE PLANNING COMMISSION MUST EACH ADOPT RULES AND REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE FOR WHICH THEY ARE RESPONSIBLE.

(B) *SCOPE.*

THESE RULES AND REGULATIONS MAY INCLUDE PROVISIONS FOR:

- (1) DEFINING, CLARIFYING, OR CONSTRUING TERMS USED IN THIS SUBTITLE;
- (2) SETTING OR REFINING STANDARDS FOR MODIFICATIONS OR WAIVERS;
- (3) DETERMINING ELIGIBILITY TO PURCHASE OR RENT AFFORDABLE UNITS; AND
- (4) SETTING STANDARDS FOR SALE OR RENTAL PRICES FOR AFFORDABLE UNITS.

(C) *ADVERTISING FOR COMMENT.*

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

(2) THE ADVERTISEMENT MUST INCLUDE:

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

(II) INFORMATION ON HOW A PERSON:

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

(B) SUBMIT COMMENTS ON THEM BEFORE THEIR ADOPTION.

(D) *FILING WITH LEGISLATIVE REFERENCE.*

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

**§§ 2B-7 TO 2B-10. {RESERVED}**

***PART II. INCLUSIONARY HOUSING BOARD***

**§ 2B-11. BOARD ESTABLISHED.**

THERE IS AN INCLUSIONARY HOUSING BOARD.

**§ 2B-12. COMPOSITION.**

(A) *IN GENERAL.*

THE BOARD COMPRISES THE FOLLOWING 11 MEMBERS:

- (1) 9 MEMBERS APPOINTED BY THE MAYOR AND CONFIRMED BY THE CITY COUNCIL IN ACCORDANCE WITH CITY CHARTER ARTICLE IV, § 6;
- (2) THE HOUSING COMMISSIONER; AND
- (3) THE PLANNING DIRECTOR.

(B) *QUALIFICATIONS – GENERAL.*

OF THE 9 MEMBERS APPOINTED BY THE MAYOR:

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

(C) *QUALIFICATIONS – RESIDENCY.*

AT LEAST A MAJORITY OF THE MEMBERS MUST BE RESIDENTS OF THE CITY.

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

(A) *CHAIR.*

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

(B) *COMPENSATION.*

THE MEMBERS OF THE BOARD:

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

**§ 2B-14. MEETINGS; QUORUM; VOTING.**

(A) *MEETINGS.*

THE BOARD MEETS ON THE CALL OF THE CHAIR AS FREQUENTLY AS REQUIRED TO PERFORM ITS DUTIES.

(B) *QUORUM.*

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

(c) *VOTING.*

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

**§ 2B-15. STAFF.**

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

**§ 2B-16. ANNUAL REPORT.**

(A) *REQUIRED.*

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

(B) *CONTENTS GENERALLY.*

THE REPORT MUST INCLUDE:

- (1) THE TOTAL NUMBER AND PROPORTION (AS TO THE TOTAL OF ALL HOUSING UNITS DEVELOPED) OF AFFORDABLE HOUSING UNITS GENERATED UNDER THIS SUBTITLE;
- (2) THE NUMBER AND PROPORTION GENERATED UNDER EACH OF THE VARIOUS PROVISIONS OF THIS SUBTITLE (E.G., MAJOR PUBLIC SUBSIDY OR SIGNIFICANT REZONING);
- (3) THE NUMBER AND PROPORTION GENERATED AT VARIOUS AFFORDABLE COSTS;
- (4) A LIST AND DESCRIPTION OF ALL WAIVERS, MODIFICATIONS , OR VARIANCES REQUESTED, GRANTED, AND DENIED UNDER THIS SUBTITLE, WITH A SUMMARY OF THE REASONS GRANTING OR DENYING EACH REQUEST;
- (5) THE PERCENT OF CITY RESIDENTS WHO ARE HOUSING BURDENED (HOMEOWNER AND RENTAL);
- (6) THE PERCENT OF UNITS IN THE CITY THAT ARE OCCUPIED;
- (7) THE AMOUNT AND PERCENT OF RESIDENTIAL PROPERTY TAX-BASE INCREASE;
- (8) THE PERCENT OF HOUSEHOLDS THAT THE CITY HAS RETAINED;
- (9) THE GROWTH IN CITY HOUSEHOLDS;
- (10) THE NUMBER OF UNITS FOR WHICH THE HOUSING COMMISSIONER OR ELIGIBLE HOUSING PROVIDERS HAD A RIGHT OF FIRST REFUSAL UNDER § 2B-34 {"RIGHT OF FIRST REFUSAL"} OR § 2B-52(C) {"RESALES DURING AFFORDABILITY PERIOD –

FIRST REFUSAL”}, AND THE NUMBER OF THOSE UNITS ON WHICH THAT RIGHT WAS EXERCISED;

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

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

(C) *TARGETS.*

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

**§ 2B-17. DUTIES.**

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

- (1) REVIEWING AND APPROVING OR DISAPPROVING, AS APPROPRIATE, REQUESTS FOR MODIFICATIONS OR WAIVERS UNDER § 2B-21 {“PROJECT RECEIVING MAJOR PUBLIC SUBSIDY”}, § 2B-22 {“PROJECT BENEFITTING FROM SIGNIFICANT REZONING”}, AND § 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS”};
- (2) REVIEWING AND APPROVING OR DISAPPROVING, AS APPROPRIATE, REQUESTS FOR OFF-SITE SUBSTITUTIONS UNDER PART V {“OFF-SITE SUBSTITUTION”}; AND
- (3) ADVISING THE HOUSING COMMISSIONER AND THE PLANNING DIRECTOR IN THE PERFORMANCE OF THEIR RESPECTIVE DUTIES UNDER THIS SUBTITLE.

**§§ 2B-18 TO 2B-20. {RESERVED}**

***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.

(C) *MODIFICATIONS OR WAIVERS.*

- (1) IN HIS OR HER OWN DISCRETION, THE HOUSING COMMISSIONER MAY APPLY TO THE INCLUSIONARY HOUSING BOARD TO GRANT A MODIFICATION OF OR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION.
- (2) THE APPLICATION MUST STATE THE REASONS THE HOUSING COMMISSIONER BELIEVES THAT GRANTING THE MODIFICATION OR WAIVER WOULD FURTHER THE GOAL OF INCREASING INCLUSIONARY HOUSING IN BALTIMORE CITY.
- (3) THE BOARD MAY GRANT THE MODIFICATION OR WAIVER IF IT FINDS THAT:
  - (I) HOMES WILL BE PROVIDED FOR FAMILIES AT LOWER AFFORDABILITY LEVELS THAN THOSE REQUIRED UNDER THIS SECTION;
  - (II) BECAUSE OF LIMITED CITY RESOURCES, MORE AFFORDABLE UNITS IN MIXED-INCOME HOUSING WILL BE CREATED OVER A 2-YEAR PERIOD THAN WOULD BE CREATED IF THE MODIFICATION OR WAIVER WERE NOT GRANTED;
  - (III) MORE EFFECTIVE USE OF ALTERNATE PUBLIC PROGRAMS OR SOURCES OF SUBSIDY WILL BE MADE TO FURTHER 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 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;
    - (B) THE PLANNING DIRECTOR; AND
    - (C) THE CITY COUNCIL; AND
  - (III) POST A COPY OF THE DECISION ON THE CITY'S WEBSITE.

**§ 2B-22. PROJECT BENEFITTING FROM SIGNIFICANT 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 A SIGNIFICANT REZONING.

(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.

(C) *MODIFICATIONS OR WAIVERS.*

- (1) ON APPLICATION BY A DEVELOPER TO THE INCLUSIONARY HOUSING BOARD, THE BOARD MAY GRANT A MODIFICATION OF OR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE BOARD FINDS THAT:
  - (I) HOMES WILL BE PROVIDED FOR FAMILIES AT LOWER AFFORDABILITY LEVELS THAN THOSE REQUIRED UNDER THIS SECTION;
  - (II) THE DEVELOPMENT WOULD NOT BE ECONOMICALLY FEASIBLE IN EXISTING MARKET CONDITIONS WITH THE NUMBER OF INCLUSIONARY UNITS REQUIRED UNDER THIS SECTION AND GRANTING A MODIFICATION OR WAIVER WOULD CREATE MORE AFFORDABLE UNITS IN MIXED-INCOME HOUSING OVER A 2-YEAR PERIOD THAN WOULD BE CREATED IF THE MODIFICATION OR WAIVER WERE NOT GRANTED ; OR
  - (III) 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.
- (2) THE BOARD 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;
    - (B) THE PLANNING DIRECTOR; AND
    - (C) THE CITY COUNCIL; AND

(III) POST A COPY OF THE DECISION ON THE CITY’S WEBSITE.

**§ 2B-23. OTHER PROJECTS – 30 OR MORE UNITS.**

(A) *APPLICABILITY OF SECTION.*

THIS SECTION APPLIES TO ANY RESIDENTIAL PROJECT THAT:

- (1) PROVIDES 30 OR MORE RESIDENTIAL UNITS; AND
- (2) IS NOT OTHERWISE SUBJECT TO § 2B-21 {“PROJECT RECEIVING MAJOR PUBLIC SUBSIDY”} OR § 2B-22 {“PROJECT BENEFITTING FROM SIGNIFICANT REZONING”}.

(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.
- (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.
- (4) (i) THE EXTENT TO WHICH FUNDS ARE AVAILABLE SHALL BE DETERMINED BY THE 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.

(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>			
	<u>60% AMI</u>	<u>80% AMI</u>	<u>100% AMI</u>	<u>120% 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.
- (ii) 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:

<u>COST OFFSET</u>	<u>POINT VALUES</u>
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:

<u>COST OFFSET</u>	<u>POINT VALUES</u>
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.

(D) *COST-OFFSETS FOR RENTAL UNITS.*

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

- (1) FOR DEVELOPMENTS PROVIDING RENTAL UNITS AT OR BELOW A MODERATE AFFORDABLE RENT, THE DEVELOPER IS ENTITLED TO A PROPERTY TAX CREDIT

EQUAL TO THE REDUCTION IN NET OPERATING INCOME ATTRIBUTABLE TO AFFORDABLE HOUSING UNITS, UP TO A MAXIMUM OF 20% OF THE AFFORDABLE HOUSING UNITS, AS PROVIDED IN CITY CODE ARTICLE 28, § 10-16.

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

(E) *MODIFICATIONS OR WAIVERS.*

- (1) ON APPLICATION BY A DEVELOPER TO THE INCLUSIONARY HOUSING BOARD, THE BOARD MAY GRANT A MODIFICATION OF OR A WAIVER FROM THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION IF THE BOARD FINDS 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 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;
- (B) THE PLANNING DIRECTOR; AND
- (C) THE CITY COUNCIL; AND
- (III) POST A COPY OF THE DECISION ON THE CITY'S WEBSITE.

**§ 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 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) 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) COMPLEMENTARY TO THE MARKET RATE UNITS IN THE SAME PROJECT AS TO THEIR EXTERIOR APPEARANCE ; AND
- (2) COMPARABLE TO THE MARKET RATE UNITS IN THE SAME PROJECT AS TO:
  - (i) NUMBER OF BEDROOMS; AND
  - (ii) OVERALL QUALITY OF CONSTRUCTION.

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

**§ 2B-32. PLACEMENT.**

(A) *IN GENERAL.*

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

(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 PLANNING DIRECTOR TO CLUSTER AFFORDABLE UNITS WITHIN THE PROJECT.
- (2) WITHIN 45 DAYS OF THE REQUEST, THE PLANNING DIRECTOR MUST, IN HIS OR HER SOLE DISCRETION, PROVIDE A WRITTEN DETERMINATION AS TO WHETHER THE PROPOSAL ADEQUATELY DEMONSTRATES THAT:
  - (i) THE PROPOSED DESIGN MEETS THE GOALS OF THIS SUBTITLE; AND

(II) A VARIANCE SHOULD BE ALLOWED.

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

**§ 2B-33. SIMULTANEOUS OFFERING.**

(A) *IN GENERAL.*

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

(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 PROVISION OF AFFORDABLE UNITS WILL NOT BE ADVERSELY AFFECTED OR DELAYED BY THE VARIANCE.

(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 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.

(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.

(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 AGREEMENT THAT CONTAINS DETAILED INFORMATION ABOUT THE DEVELOPMENT AND THE AFFORDABLE UNITS.

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

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

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

(D) *INITIAL RESERVATION.*

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

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

(E) *NOTICE TO ACQUIRE.*

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

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

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

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

(III) COMMUNICATIONS WITH THE DEVELOPER.

(F) *ACQUISITION.*

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

(2) THE HOUSING COMMISSIONER AND DESIGNATED HOUSING PROVIDERS MUST EXECUTE AND RETURN THE CONTRACTS OR AGREEMENTS WITHIN 30 DAYS OF THEIR RECEIPT

BUT NO LATER THAN 60 DAYS BEFORE THE ESTIMATED DATE OF DELIVERY OF THE UNIT.

(G) *LIMITATIONS ON OPTIONS.*

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

(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.

(B) *FIRST PREFERENCE FOR NEIGHBORS, ETC.*

THESE PROVISIONS MUST PROVIDE SPECIAL PRIORITY FOR OTHERWISE-QUALIFIED INDIVIDUALS WHO:

- (1) WERE DISPLACED BY THE PROJECT; OR
- (2) RESIDE WITHIN THE SAME NEIGHBORHOOD IN WHICH THE RESIDENTIAL PROJECT IS LOCATED.

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

AN AFFORDABLE UNIT THAT IS SOLD UNDER THIS SUBTITLE AT AN AFFORDABLE OWNERSHIP COST MUST BE OWNER OCCUPIED.

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

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

**§§ 2B-38 TO 2B-40. {RESERVED}**

***PART V. OFF-SITE SUBSTITUTION***

**§ 2B-41. “OFF-SITE” DEFINED.**

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

**§ 2B-42. SCOPE OF PART.**

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

- (1) § 2B-22 {“PROJECT BENEFITTING FROM SIGNIFICANT REZONING”}; OR
- (2) § 2B-23 {“OTHER PROJECTS – 30 OR MORE UNITS”}.

**§ 2B-43. IN GENERAL.**

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

**§ 2B-44. APPLICATION.**

(A) *IN GENERAL.*

THE APPLICATION FOR OFF-SITE UNITS MUST BE MADE TO THE INCLUSIONARY HOUSING BOARD.

(B) *ACCOMPANYING REPORT.*

THE APPLICATION MUST BE ACCOMPANIED BY A REPORT THAT INCLUDES:

- (1) CONDITIONS AFFECTING THE PROJECT THAT PREVENT THE DEVELOPER FROM MEETING THE REQUIREMENTS OF § 2B-22 {"PROJECT BENEFITTING FROM SIGNIFICANT REZONING"} OR § 2B-23 {"OTHER PROJECTS – 30 OR MORE UNITS"}, AS THE CASE MAY BE;
- (2) INDEPENDENT DATA, INCLUDING APPROPRIATE FINANCIAL INFORMATION, THAT SUPPORT THE DEVELOPER’S POSITION THAT CONSTRUCTING THE REQUIRED AFFORDABLE UNITS ON SITE IS NOT FEASIBLE; AND
- (3) AN ANALYSIS OF HOW THE OFF-SITE SUBSTITUTION WILL FURTHER MIXED-INCOME HOUSING OPPORTUNITIES IN THE NEIGHBORHOOD IN WHICH THE RESIDENTIAL PROJECT IS LOCATED.

**§ 2B-45. MINIMUM CRITERIA.**

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

- (1) THEY WILL BE PROVIDED AT ANOTHER LOCATION IN THE SAME NEIGHBORHOOD AS THE RESIDENTIAL PROJECT TO WHICH THEY ARE BEING CREDITED; AND
- (2) IN THE AGGREGATE, THE OFF-SITE UNITS AND ANY AFFORDABLE UNITS PROVIDED ON-SITE AT THE RESIDENTIAL PROJECT ARE NO FEWER THAN THE NUMBER OF AFFORDABLE UNITS REQUIRED BY § 2B-22 {"PROJECT BENEFITTING FROM SIGNIFICANT REZONING"} OR § 2B-23 {"OTHER PROJECTS – 30 OR MORE UNITS"}, AS THE CASE MAY BE.

**§ 2B-46. BOARD REVIEW.**

(A) *IN GENERAL.*

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

(B) *CRITERIA FOR APPROVAL.*

THE BOARD MAY APPROVE A REQUEST IF IT DETERMINES, IN ITS SOLE DISCRETION, THAT THE REQUESTED VARIANCE WILL PROMOTE MIXED-INCOME HOUSING OPPORTUNITIES IN BALTIMORE CITY TO AN EXTENT EQUAL TO OR GREATER THAN COMPLIANCE WITH THIS SUBTITLE.

**§§ 2B-47 TO 2B-50. {RESERVED}**

***PART VI. CONTINUED AFFORDABILITY***

**§ 2B-51. RENTAL UNITS.**

(A) *AFFORDABILITY PERIOD.*

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

(B) *LEASE AND SUBLEASE RESTRICTIONS.*

DURING THE AFFORDABILITY PERIOD, THE OWNER MAY NOT RENT OR LEASE THE UNIT AND A TENANT MAY NOT SUB-RENT OR SUBLEASE THE UNIT EXCEPT:

- (1) TO AN ELIGIBLE HOUSEHOLD; AND
- (2) AT A RENT THAT DOES NOT EXCEED AN AFFORDABLE RENT, LOW OR MODERATE, APPLICABLE TO THAT UNIT.

(C) *RENT INCREASES.*

- (1) DURING THE AFFORDABILITY PERIOD, RENT INCREASES MAY BE IMPOSED ONLY AS PROVIDED IN THIS SECTION.
- (2) THE PERCENTAGE INCREASE IN ANNUAL RENT MAY NOT EXCEED:
  - (I) THE PERCENTAGE INCREASE IN THE COST OF LIVING, BASED ON AN APPROPRIATE INFLATOR INDEX AS DETERMINED BY THE COMMISSIONER; OR
  - (II) A GREATER AMOUNT TO THE EXTENT:
    - (A) NECESSITATED BY DOCUMENTED HARDSHIP OR OTHER EXCEPTIONAL CIRCUMSTANCES; AND
    - (B) APPROVED IN WRITING BY THE HOUSING COMMISSIONER.
- (3) IN ANY EVENT, THE RENT AS INCREASED MAY NOT EXCEED THE AFFORDABLE RENT, LOW OR MODERATE, APPLICABLE TO THAT UNIT.

(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) *RESALES 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) *RESALES 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.
- (2) IF NEITHER THE COMMISSIONER NOR ELIGIBLE HOUSING PROVIDERS EXERCISE THIS RIGHT, THE HOUSING COMMISSIONER MAY EXTEND THE OPTION TO ELIGIBLE HOUSEHOLDS.
- (3) THE HOUSING COMMISSIONER’S RULES AND REGULATION MUST INCLUDE PROVISIONS GOVERNING THE PERIOD AND PROCEDURES FOR EXERCISING THIS RIGHT.

(D) *RESALES AFTER AFFORDABILITY PERIOD.*

- (1) AFTER THE AFFORDABILITY PERIOD EXPIRES, THE UNIT MAY BE SOLD AT MARKET PRICE, BUT THERE IS A SHARED INTEREST IN THE PROCEEDS OF SALE.
- (2) THE SELLER IS ENTITLED TO RETAIN:
  - (i) THAT PORTION OF THE SALES PRICE THAT EQUALS THE AMOUNT CALCULATED UNDER SUBSECTION (B) OF THIS SECTION; PLUS
  - (ii) 50% OF THE PORTION OF THE SALES PRICE THAT EXCEEDS THE AMOUNT CALCULATED UNDER SUBSECTION (B) OF THIS SECTION.

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

(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 FUND***

### **§ 2B-61. FUND ESTABLISHED.**

(A) *IN GENERAL.*

THERE IS A BALTIMORE CITY INCLUSIONARY HOUSING TRUST FUND.

(B) *NATURE OF FUND.*

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

### **§ 2B-62. REVENUE SOURCES.**

(A) *IN GENERAL.*

THE TRUST FUND COMPRISES:

- (1) MONEY APPROPRIATED TO THE TRUST FUND IN THE ANNUAL ORDINANCES OF ESTIMATES; AND
- (2) GRANTS OR DONATIONS MADE TO THE TRUST 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.

### **§ 2B-63. USE OF FUND – GENERAL.**

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

- (1) TO FINANCE THE IMPLEMENTATION AND ADMINISTRATION OF THIS SUBTITLE, INCLUDING THE PROVISION OF COST OFFSETS UNDER THIS SUBTITLE; AND

(2) OTHERWISE TO PROMOTE ECONOMICALLY DIVERSE HOUSING IN CITY NEIGHBORHOODS, INCLUDING:

- (i) PROVIDING ASSISTANCE, BY LOAN, GRANT, OR OTHERWISE, FOR THE PLANNING, PRODUCTION, MAINTENANCE, OR EXPANSION OF AFFORDABLE HOUSING IN THE CITY;
- (ii) PROVIDING ASSISTANCE, BY LOAN, GRANT, OR OTHERWISE, TO PERSONS UNABLE TO OBTAIN AFFORDABLE HOUSING; AND
- (iii) OTHERWISE INCREASING HOUSING OPPORTUNITIES FOR WORKING FAMILIES AND OTHER PERSONS OF LOW AND MODERATE INCOME.

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

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

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

AT LEAST HALF OF THE HOUSEHOLDS THAT RECEIVE ASSISTANCE FROM THE TRUST FUND MUST HAVE EARNINGS OF NOT MORE THAN 60% OF THE AML.

**§ 2B-66. ADMINISTRATION.**

(A) *COMMISSIONER TO ADMINISTER..*

- (1) THE TRUST FUND IS ADMINISTERED BY THE HOUSING COMMISSIONER CONSISTENT WITH THIS SUBTITLE.
- (2) THE HOUSING COMMISSIONER MAY PRESCRIBE PROCEDURES FOR ADMINISTERING THE TRUST FUND.

(B) *BOARD TO ADVISE.*

THE INCLUSIONARY HOUSING BOARD ADVISES THE HOUSING COMMISSIONER ON THE PRIORITIES FOR WHICH TRUST FUND MONEY IS BEST USED TO PROMOTE ECONOMICALLY DIVERSE HOUSING IN THE CITY.

**§ 2B-67. REPORTING TO BOARD.**

(A) *IN GENERAL.*

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

(B) *INCLUSIONS.*

THE INFORMATION MUST INCLUDE:

- (1) EXPENDITURES FROM THE TRUST FUND;

- (2) A LIST OF PROJECTS FUNDED THROUGH THE TRUST FUND;
- (3) THE NUMBER AND INCOME LEVELS OF HOUSEHOLDS ASSISTED BY THE TRUST FUND;
- (4) FUNDS LEVERAGED BY TRUST FUND FUNDS;
- (5) NUMBER OF AFFORDABLE UNITS PRODUCED OR PRESERVED;
- (6) NUMBER OF HOUSEHOLDS PREVENTED FROM BECOMING OR REMAINING HOMELESS;  
AND
- (7) OTHER INFORMATION THAT THE BOARD REQUESTS ABOUT THE TRUST FUND’S IMPACT.

**§§ 2B-68 TO 2B-70. {RESERVED}**

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

**§ 2B-71. ADMINISTRATIVE APPEALS.**

(A) *RIGHT OF APPEAL.*

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

(B) *HOW AND WHEN TAKEN.*

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

(C) *HEARING AND DECISION.*

THE BOARD:

- (1) MUST HOLD A HEARING ON THE APPEAL AS SOON AS PRACTICABLE; AND
- (2) MAY AFFIRM, MODIFY, OR REVERSE THE ACTION FROM WHICH THE APPEAL WAS TAKEN.

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

(A) *JUDICIAL REVIEW.*

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

(B) *APPELLATE REVIEW.*

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

**Article 28. Taxes**

**Subtitle 10. Credits**

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

(A) *QUALIFICATIONS.*

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

- (1) PROVIDING AFFORDABLE UNITS AS REQUIRED BY CITY CODE ARTICLE 13, SUBTITLE 2B;
- (2) FILING AN APPLICATION FOR THE CREDIT NO LATER THAN 90 DAYS AFTER A CERTIFICATE OF OCCUPANCY IS ISSUED FOR THE AFFORDABLE UNITS; AND
- (3) SATISFYING ALL OTHER CONDITIONS IMPOSED BY THE REGULATIONS OF THE DIRECTOR OF FINANCE.

(B) *AMOUNT OF CREDIT.*

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

## **Baltimore City Revised Code**

### **Article – Zoning**

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

##### **Subtitle 2. Bulk Regulations**

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

FOR A RESIDENTIAL PROJECT THAT, UNDER CITY CODE ARTICLE 13, § 2B-23(C)(4) {“30 OR MORE UNITS: COST-OFFSETS”}, IS ENTITLED TO BONUS UNITS, THE LOT AREA PER DWELLING UNIT OTHERWISE REQUIRED BY THIS ARTICLE IS REDUCED TO THE EXTENT NEEDED TO ACCOMMODATE THOSE BONUS UNITS.

##### **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.

###### **§ 8-502. 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.

(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, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

**§ 8-503. CLASSIFICATION.**

ALL PROPERTIES THAT ARE THE SUBJECT OF AN INCREASED-CAPACITY REZONING, FOR WHATEVER PURPOSE, RETAIN THEIR NEW ZONING CLASSIFICATION WITH THE ADDITION OF THE SUFFIX “I”.

**§§ 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, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

**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, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

***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, SUBTITLE 2B {“INCLUSIONARY HOUSING REQUIREMENTS”}.

***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
- (2) AN ADDITIONAL 20% FOR A RESIDENTIAL PROJECT THAT PROVIDES AT LEAST THE NUMBER OF AFFORDABLE UNITS REQUIRED BY CITY CODE ARTICLE 5, SUBTITLE 2B {"INCLUSIONARY HOUSING REQUIREMENTS"}.

**SECTION 2. AND BE IT FURTHER ORDAINED, That:**

- (a) within 42 months of the effective date of this Ordinance, the Commissioner of Housing and Community Development and the Director of Planning shall:
  - (i) present to the Mayor and City Council an evaluation of the effectiveness of this Ordinance during its first 3 years of operation; and
  - (ii) recommend its continuance, modification, or termination; and
- (b) present a similar report annually for each subsequent year during which this Ordinance is in effect.

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

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

- (1) is a transfer of land for which the request for proposals, invitation to bid, or similar document was issued before the effective date of this Ordinance;
- (2) is a payment in lieu of taxes or tax increment financing for which the authorizing legislation was enacted before the effective date of this Ordinance; or
- (3) is a grant or loan for which the notice of funding availability or similar notice was published before the effective date of this Ordinance.

**SECTION 5. AND BE IT FURTHER ORDAINED,** That Article 5, § 2B-22 {"Projects benefitting from significant rezoning"}, as enacted by this Ordinance, does not apply if the rezoning in question was approved within 18 months after the effective date of this Ordinance.

**SECTION 6. AND BE IT FURTHER ORDAINED,** That Article 5, § 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:

- (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 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 8. AND BE IT FURTHER ORDAINED,** That, except as provided in Sections 4 through 7 of this Ordinance, this Ordinance takes effect on the 30<sup>th</sup> day after the date it is enacted.