

PROPOSED AMENDED ORDINANCE NO. 12 - 23

By: Matt Klingler

An ordinance to amend Section 886 of the Bexley Codified Ordinances, in order to amend the Bexley Community Reinvestment Area program.

WHEREAS, existing Community Reinvestment Areas ("CRAs") along Main Street, North Cassady Avenue, and in the southwest area of Bexley provide for incentives to rejuvenate and rehabilitate these areas of the City; and

WHEREAS, in 2015, City Council expanded the existing residential tax abatement program within these CRAs to provide more robust incentives for the creation of new affordable housing stock; and

WHEREAS, more sophisticated models for incentivizing mixed-income housing in the region have emerged, and the City wishes to refine the affordable housing criteria of these CRAs; and

WHEREAS, additional amendments are proposed in order to streamline incentives and focus on more robust reinvestment in these areas; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY:

Section 1.

That Chapter 886 of the Bexley Codified Ordinances be amended as follows:

886.01 Purpose.

The purpose of this chapter is to establish policies, procedures, and conditions for the provision of certain community reinvestment area tax incentives to foster investment in, and the development of, market rate and affordable housing in mixed-use and commercial districts throughout the City.

886.02 Definitions

(A) *Affordable Housing Unit:* includes the following:

1. ***Rentals:*** housing consisting of an appropriate number of bedrooms based on the household size, as determined by city code, rented to tenants whose annual household income is at or below sixty percent (60%) of area median income (AMI) as defined below; at or below eighty percent (80%) of AMI; at or below one hundred percent (100%) of AMI; or at or below one hundred and twenty percent (120%) of AMI, and for which the annual rent charged complies with affordable rents at 60%, 80%, 100% and 120% AMI as defined by the U.S. Department of Housing and Urban Development (HUD).

2. ***Owner-occupied:*** housing occupied by the legal owner or owners of the housing unit, whose annual household income is at or below sixty percent (60%) of area median income (AMI) as defined below; at or below eighty percent (80%) of AMI; or at or below one hundred percent (100%) of AMI; or at or below one hundred and twenty percent (120%) of AMI; and for

which the annual cost of ownership does not exceed thirty-five percent (35%) of the household's gross annual income.

(B) *Area Median Income (AMI)*: the area median income, as calculated annually by HUD for various household sizes within the Columbus, Ohio Metropolitan Statistical Area.

(C) *Cost of Ownership*: the annual cost of owning a housing unit, as determined by rules adopted by the Housing Officer taking into consideration the following:

1. principal, interest, private mortgage insurance, and amortization of a loan to finance purchase of the property;
2. property taxes and assessments;
3. fire and casualty insurance covering replacement value of the property improvements;
4. non-optional homeowner or condominium association fees;
5. space rent if the housing unit is situated upon rented land.

(D) *Development Project*: the new construction or remodel of housing units, whether single-family (one to three housing units), or multifamily (four or more housing units) structures. A single Development Project may consist of varying housing units within a single structure, or housing units contained in different structures. A single Development Project within a CRA may consist of multiple single-family structures as determined by the Housing Officer, with such determination criteria including but not limited to proximity to the site, common plan of financing, and common ownership. For a Development Project consisting of housing units in different structures, each structure or dwelling unit must independently satisfy the minimum investment requirements set forth in Chapter 3735.67 of the Ohio Revised Code.

(E) *Household*: all individuals residing in a housing unit.

(F) *Household Income*: the gross annual income of all individuals residing in a housing unit who have reached the age of eighteen (18) years old and are not enrolled as full-time students. An individual who has reached the age of eighteen (18) years old and is enrolled as a full-time student has the first \$480.00 of the student's income counted in household income.

(G) *Housing Unit*: one or more rooms arranged, intended, and designed and used solely for independent residential occupancy by an individual, group of individuals, or family for living and sleeping purposes. The unit must include cooking, bathing, and toilet facilities within the unit for the use of the unit's occupants. For purposes of this chapter, housing unit does not include facilities such as nursing homes, convalescent homes, hospitals, or residential treatment facilities.

(H) *Owner-occupied*: a housing unit inhabited as the principal place of residence by the person who holds fee simple absolute title, or a substantially equivalent property interest, as determined by the Housing Officer, in a manner that ensures the unit is not rented or used as a primary residence by a person not a member of the household.

(I) *Project Sponsor*: an applicant seeking approval to construct a Development Project that contains residential housing within the boundaries of a CRA as provided in this chapter.

(J) *Rent*: the cost of tenancy in a housing unit, including the rental rate stated in the lease, any non-refundable, non-optional fee or surcharge, and an allowance for reasonable utility expenses as defined in 26 CFR 1.42-10, as may be amended from time to time. The Director shall define reasonable utility expenses consistent with that code provision. Pet fees or surcharges shall not be considered "rent" for purposes of this chapter.

886.03 HOUSING OFFICER.

The Mayor or the Mayor's designee shall serve as the "Housing Officer" for all "community reinvestment areas" established by resolution of Council, and the Housing Officer is authorized and directed to administer and implement Sections 3735.65 to 3735.69 of the Ohio Revised Code. The Housing Officer shall also verify the construction of a new structure and shall determine whether the costs of remodeling meet the requirements for an exemption under Section 3735.67 of the Ohio Revised Code.

886.04 COMMUNITY REINVESTMENT AREA PROGRAM.

(a) The City of Bexley shall utilize the procedures described under Section 3735.65 to 3735.69 of the Ohio Revised Code in review of proposals for the establishment of new Community Reinvestment Areas .

(b) The Housing Officer shall forward each such proposal, which satisfies the requirements of the state statute in all particulars, to City Council for consideration. Each proposal shall be accompanied by legislation pursuant to Section 3735.66 of the Ohio Revised Code and recommendation for approval or disapproval from the Housing Officer.

(c) The legislation prepared pursuant to Section 3735.66 of the Ohio Revised Code shall describe the boundaries of the Community Reinvestment Area under consideration, establish that conditions described under Division (B) of Section 3735.65 of the Ohio Revised Code exist in the area and establish the amount and period of tax exemptions within the limits authorized by Section 3735.67 of the Ohio Revised Code and the Tax Incentive Program, Policy and Procedures Plan as adopted by Council. Legislation adopted and approved pursuant to this subsection shall be published in a newspaper of general circulation once a week for two consecutive weeks immediately following its adoption as required by Section 3735.66 of the Ohio Revised Code.

886.05 APPLICATION FOR TAX EXEMPTION.

The owner of eligible real property located in a Community Reinvestment Area may file an application for an exemption from real property taxation for a new structure or remodeling completed after the effective date of the legislation adopted pursuant to Section 886.04(c) (for residential properties) or after the execution of a written Community Reinvestment Area Agreement pursuant to Section 886.08 (for commercial and industrial properties) with the Housing Officer.

886.06 VERIFICATION BY HOUSING OFFICER.

The Housing Officer shall verify the construction of the new structure or the cost of remodeling and the facts asserted in the application. The Housing Officer shall determine whether the construction or the cost of remodeling meets the requirements for an exemption. In cases involving a structure of historical or architectural significance, the Housing Officer shall not determine whether the remodeling meets the requirements for a tax exemption unless the appropriateness of the remodeling has been certified, in writing, by the society, association, agency, or legislative authority that has designated the structure or by any organization or person authorized, in writing, by such society, association, agency, legislative authority to certify the appropriateness of the remodeling.

886.07 FILING OF APPLICATIONS WITH FRANKLIN COUNTY AUDITOR.

The Housing Officer shall forward applications which meet the requirements for the exemption to the Franklin County Auditor with a certification as to the division of Section 3735.67 of the Ohio Revised Code under which the exemption is granted and the period of the exemption as determined by the legislative authority by legislation pursuant to Section 886.04(c).

886.08 TAX EXEMPTION.

For residential projects, the tax exemption shall first apply in the tax year in which the exemption application described in Section 886.05 is filed by the property owner. For commercial projects, the tax exemption shall first apply in the first tax year for which the new construction or remodeling would first be taxable but for the CRA exemption. If the remodeling qualifies for an exemption under Section 886.10, during the period of exemption the dollar amount by which the remodeling increased the market value of the structure shall be exempt from real property taxation. If the construction of a new structure qualifies for an exemption under Section 886.10, the assessed value of the new structure shall be exempt from real property taxation.

886.09 FEES.

All commercial and industrial projects are required to comply with the State of Ohio application fee requirements under Section 3735.672(C) of the Ohio Revised Code and the local processing fees outlined pursuant to legislation and in the Tax Incentive Program, Policy and Procedures Plan as adopted by Council.

886.10 DECLARATION OF PUBLIC PURPOSE.

The construction of new structures and the remodeling of existing structures are hereby declared to be a public purpose for which exemptions from real property taxation may be granted in accordance with this Chapter 886.

886.11 RESIDENTIAL NEW CONSTRUCTION INCENTIVES

For Community Reinvestment Areas in which property tax abatements are provided for newly constructed residential multi-unit residential properties, abatements shall be provided based upon the following schedule and subject to the following conditions and requirements:

- a) All residential new construction properties consisting of four (4) or more housing units shall be eligible for a one hundred (100%) percent abatement of the increase in assessed value of the structure for a period of fifteen (15) years from the date of the issuance of a**

certificate of occupancy (or an earlier date, if elected by the Project Sponsor with the City's consent), provided they meet the following requirements:

- i) **For the duration of the incentive, a minimum of ten percent (10%) of the housing units in the Development Project are affordable housing units rented or sold to occupants with household income at or below one hundred percent (100%) AMI, and an additional ten percent (10%) or more of the housing units in the development are affordable housing units rented or sold to occupants with household income at or below eighty percent (80%) AMI.**
- b) **Default on Affordable Housing Unit Requirement.**
 - i) **If the required number of Affordable Housing Units rented or owned by persons whose household income is at or below one hundred percent (100%) AMI or eighty percent (80%) AMI, as applicable, falls below the minimum requirements prescribed by division (A) of this Section, for a period of ninety (90) days, the Project Sponsor or owner as applicable must provide written notice of the shortfall to the Director within ten (10) business days of such shortfall.**
 - ii) **If the required number of Affordable Housing Units rented or owned by persons whose household income is at or below one hundred percent (100%) AMI or eighty percent (80%) AMI, as applicable, falls below the minimum requirements prescribed by division (A) of this Section, for a period of one hundred eighty (180) days, the Project Sponsor shall be responsible for making payment to the City of Bexley in an amount determined by reference to the following table:**
- iii) **If the number of Affordable Housing Units rented or owned by persons whose household income is at or below one hundred percent (100%) AMI, or at or below eighty percent (80%) AMI, as applicable, and remains below fifty percent (50%) of the number of Affordable Housing Units prescribed in division (a) of this Section, for a period of two consecutive years, the Housing Officer shall have cause to take such action as necessary to cause the abatement to cease and return the property to fully taxable status. In the alternative, the Project Sponsor and the City may execute an addendum to the agreement by which the Project Sponsor agrees to pay a fee for the Affordable Housing Unit shortfall for the remaining duration of the abatement, which amount shall be \$35,000 for each unit that is required to be an Affordable Unit, divided by 15, multiplied by the number of years remaining in the abatement period.**

iv) The remedies provided for default herein are not intended, and shall not be so construed, to limit the City's ability to avail itself of other remedies at law or in equity for breach of the agreement.

886.12 MAIN STREET RE/DEVELOPMENT DISTRICT COMMUNITY REINVESTMENT AREA.

- 1) Within the Main Street Re/Development District Community Reinvestment Area, as described in and established by Ordinance 68-02, only (i) residential properties, and (ii) commercial properties for mixed-use development consisting of any combination of residential, commercial and retail uses including hotel, conference center and lodging facilities; corporate headquarters; high technology, computer and other information-based operations are eligible to apply for tax exemption. To apply for the tax exemptions, the properties must be consistent with the applicable zoning regulations, municipal plans for development or redevelopment, and the Main Street Design Guidelines.
- 2) For commercial properties for mixed-use development (as described above), exemptions shall be available for new construction and remodeling of existing structures, and shall be negotiated on a case-by-case basis in advance of construction, all in accordance with Section 3735.67 of the Ohio Revised Code and generally consistent with the Tax Incentive Program, Policy and Procedures Plan adopted by Council. The results of the negotiation of any exemption shall be set forth in writing in a Community Reinvestment Area Agreement pursuant to and in accordance with Section 3735.671 of the Ohio Revised Code, each of which shall be approved by City Council.
- 3) **Residential New Construction Properties.**
 - i) **Tax abatements shall be provided for Residential New Construction Properties in accordance with Section 886.11.**
 - 4) Such exemptions shall be granted upon application by the property owner and certification thereof by the Housing Officer. For purposes of the Main Street Re/Development District Community Reinvestment Area, residential properties include stand-alone residential buildings, residential properties that are part of a multiple-unit residential building, common area or limited common area portions of multiple-unit residential buildings, residential properties that are part of a mixed-use building, and common area or limited common area portions of a mixed-use building that may be used only for the benefit of the residential properties within the mixed-used building.
 - 5) No industrial properties shall be eligible for exemption.

886.13 NORTH CASSADY/DELMAR DRIVE RE/DEVELOPMENT DISTRICT COMMUNITY REINVESTMENT AREA.

Within the North Cassady/Delmar Drive Re/Development District Community Reinvestment Area, as described in and established by Ordinance 71-06, new construction and/or remodeling of ~~all qualifying structures, whether residential, commercial or industrial with a minimum investment of \$25,000~~ are eligible to apply for tax exemption. To apply for the tax exemptions, the properties must be consistent with the applicable zoning regulations.

For commercial and industrial properties, exemptions shall be available for new construction and remodeling of existing structures, and shall be negotiated on a case-by-case basis in advance of construction, all in accordance with Section 3735.67 of the Ohio Revised Code and generally consistent with the Tax Incentive Program, Policy and Procedures Plan adopted by City Council. The percentage of exemption for commercial and industrial projects is set forth in the schedule below. The results of the negotiation of any exemption shall be set forth in writing in a Community Reinvestment Area Agreement pursuant to and in accordance with Section 3735.671 of the Ohio Revised Code, each of which shall be approved by City Council.

All **qualifying** residential new construction and/or remodeling shall be eligible for tax exemptions for the increase in the assessed valuation resulting from the improvements as described in O.R.C. Section 3735.67 as under the schedule described below. For purposes of the North Cassady/Delmar Drive Re/Development District Community Reinvestment Area, residential properties include stand-alone residential buildings, residential properties that are part of a multiple-unit residential building, common area or limited common area portions of multiple-unit residential buildings, residential properties that are part of a mixed-use building, and common area or limited common area portions of a mixed-use building that may be used only for the benefit of the residential properties within the mixed-used building.

Exemption Terms and Percentages For North Cassady/Delmar Drive Re/Development District Community Reinvestment Area

Project Type	% Abated	Maximum Term
1 & 2 Family Dwelling Remodeling	50%	5 years
3+ Family Dwelling Remodeling	50%	5 years
Commercial/Industrial Remodeling in excess of \$200,000 of new investment	75%	10 years
3+ Family New Construction	50%	10 years
Commercial/Industrial New Construction	75%	10 years
Mixed Use New Construction	75%	12 years

Additionally, Residential New Construction projects shall qualify for property tax abatements in accordance with 886.11.

886.14 SOUTHWEST BEXLEY COMMUNITY REINVESTMENT AREA.

Within the Southwest Bexley Community Reinvestment Area, new construction and/or remodeling of ~~all qualifying structures, whether residential, commercial or industrial with a minimum investment which is the lesser of \$25,000, or 25% of the Franklin County Auditor's valuation of the land and improvements as of the date of the certificate of occupancy of the improvements,~~ are eligible to apply for tax exemption. To apply for tax exemptions, properties must be consistent with the applicable zoning regulations.

For commercial and industrial properties, exemptions shall be available for new construction and remodeling of existing structures, and shall be negotiated on a case-by-case basis in advance of construction, all in accordance with Section 3735.67 of the Ohio Revised Code and generally consistent with the Tax Incentive Program, Policy and Procedures Plan adopted by City Council. The percentage of exemption for commercial and industrial projects shall be negotiated on a case-by-case basis, subject to approval by City Council. The results of the negotiation of any exemption shall be set forth in writing in a Community Reinvestment Area agreement pursuant to and in accordance with Section 3735.671 of the Ohio Revised Code, each of which shall be approved by City Council.

All residential new construction and/or remodeling shall be eligible for tax exemptions for the increase in the assessed valuation resulting from the improvements as described in O.R.C. Section 3735.67 as under the schedule described below. For purposes of the Southwest Bexley Community Reinvestment Area, residential properties include stand-alone residential buildings, residential properties that are part of a multiple-unit residential building, common area or limited common area portions of multiple-unit residential buildings, residential properties that are part of a mixed-use building, and common area or limited common area portions of a mixed-use building that may be used only for the benefit of the residential properties within the mixed-use building.

Exemption Terms and Percentages for Southwest Bexley Community Reinvestment Area

Project Type	% Abated	Maximum Term
Residential—Remodeling in excess of \$100,000 of new investment	50%	10 years
Residential—New Construction	75%	15 years
Commercial/Industrial/Mixed Use Remodeling & New Construction	Case-by-Case	Case-by-Case

Additionally, Residential New Construction projects shall qualify for property tax abatements in accordance with 886.11.

886.15 Income and Asset Verification.

(A) The Housing Officer shall establish rules by which the annual household income of prospective tenants and purchasers of affordable housing units subject to this chapter shall be verified. The Housing Officer shall also establish rules by which the asset holdings of prospective tenants and purchasers of affordable housing units subject to this chapter shall be verified, as well as a means of imputing income to these assets where appropriate.

(B) Project sponsors or (if the project sponsor has divested its ownership or control of the development project) the condominium association or homeowners' association, or other successor in interest of the project sponsor, shall provide an annual report, in a form to be established by the Housing Officer, attesting that it has verified that households occupying affordable housing units in the development project are qualifying households. Project sponsors shall be subject to an audit of any verification documentation required to be collected by the rules established by the Director under division (A) of this section. For owner-occupied affordable housing units, a statement attesting to occupation by a qualifying household shall only be required upon transfer of title.

886.16 ANNUAL INSPECTIONS.

The Housing Officer shall make annual inspections of the properties within the Community Reinvestment Area upon which are located new structures or remodeling for which an exemption has been granted. If the Housing Officer finds that the property has not been properly maintained or repaired due to the neglect of the owner, the Housing Officer may revoke the tax exemption at any time after the first year of exemption. The Housing Officer shall notify the Franklin County Auditor and the owner of the property that the tax exemption no longer applies. If the Housing Officer revokes a tax exemption, the Housing Officer shall send a report of the revocation to the Community Reinvestment Area Housing Council established pursuant to this chapter below containing a statement of the Housing Officer's findings as to the maintenance and repair of the property and the Housing Officer's reason revoking the exemption.

886.17 COMMUNITY REINVESTMENT AREA HOUSING COUNCIL.

(a) A Community Reinvestment Area Housing Council shall be appointed for each Community Reinvestment Area, pursuant to Section 3735.69 of the Ohio Revised Code. The Council shall be composed of two members appointed by the Mayor, two members appointed by the Council, and one member appointed by the Planning Commission. The majority of the foregoing members shall then appoint two additional members who shall be residents within the area. Terms of the members shall be for three years. Unexpired terms resulting from a vacancy in the Council shall be filled in the same manner as the initial appointment was made.

(b) The Community Reinvestment Area Housing Council shall make an annual inspection of the properties within the Community Reinvestment Area for which an exemption has been granted.

The Council shall also hear appeals under Section 886.12, pursuant to Section 3735.70 of the Ohio Revised Code.

886.18 TAX INCENTIVE REVIEW COUNCIL.

A Tax Incentive Review Council shall be established pursuant to Section 5709.85 of the Ohio Revised Code, and shall consist of three members appointed by the Board of County Commissioners, two representatives of the City, appointed by the Mayor with Council concurrence, the County Auditor or designee and a representative of the Bexley Board of Education. At least two members shall be residents of the City. The Tax Incentive Review Council shall review annually the compliance of all agreements involving the granting of exemptions for commercial or industrial real property improvements under Section 3735.671 of the Ohio Revised Code and make written recommendations to this Council as to continuing, modifying or terminating said agreement based upon the performance of the agreement.

886.19 APPEALS BY AGGRIEVED PERSONS.

Any person aggrieved under this chapter may appeal to the Community Reinvestment Area Housing Council, which shall have the authority to overrule any decision of the Housing Officer. Appeals may be taken from a decision of the Council to the Franklin County Court of Common Pleas.

Section 2.

That this ordinance shall go into effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Troy Markham, President of Council

Attest: _____
Matt McPeek, Clerk of Council

Approved: _____, 2023

Ben Kessler, Mayor

First Reading:

Second Reading:

Third Reading: