

#### **4565.01 Purpose.**

The purpose of this chapter is to establish policies, procedures, and conditions for the provision of certain Community Reinvestment Area (CRA) tax incentives to foster investment in, and the development of, affordable housing in mixed-use, mixed-income neighborhoods throughout the City; and to encourage investment in market-rate and affordable housing in areas and neighborhoods throughout the City that show varying levels of distress.

#### **4565.02 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; 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 rent charged complies with affordable rents at 60%, 80%, and 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 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) *Area Designation*: one of three designations that the Director may assign to a post-1994 CRA or census tract pursuant to the terms and requirements of this Chapter, identified as a Market Ready Area, Ready for Revitalization Area, and Ready for Opportunity Area.
- (D) *Bedroom*: a room complying with the sleeping area requirements in Section 4541.01 and the location requirements of Section 4541.05 of the Columbus Housing Code, and for which no fewer than eighteen (18) cubic feet of clothes closet space has been provided in accordance with Section 4541.06 of the Columbus Housing Code.
- (E) *Cost of Ownership*: the cost of owning a housing unit, as determined by rules adopted by the Director 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.

(F) *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 Director, 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.

(G) *Development Director, or Director*: the Director of the Department of Development, or the designee thereof.

(H) *Distress Criteria*: the factors by which post-1994 CRAs are categorized as a Market Ready Area, a Ready for Revitalization Area or a Ready for Opportunity Area. Each of the following is a criterion included within "Distress Criteria:"

1. *Population Growth*: the percentage change of population for an area over a five-year time period, as measured by the United States Census Bureau in the most recent decennial census or in annual estimates by the United States Census Bureau. An area meets this distress criterion if the population growth rate is below the population growth rate for the City of Columbus.
2. *Median Household Income Growth*: the percentage change in median household income for an area over five (5) years, as measured by the United States Census Bureau in the most recent decennial census or in annual estimates by the United States Census Bureau. An area meets this distress criterion if the median household income growth rate is below the median household income growth rate for the City of Columbus.
3. *Poverty Rate*: the percentage of the population in an area living at or below the federally established poverty level, adjusted for family size. An area meets this distress criterion if the poverty rate is above the poverty rate for the City of Columbus.
4. *Growth in Median Rent*: the percentage change in median monthly price per square foot of residential rental property for an area, as measured using an index or indices selected by the Development Director from real estate or housing industry sources. An area meets this distress criterion if the growth in median rent rate is above the growth in median rent rate for the City of Columbus.
5. *Housing Vacancy Rate*: the percentage of unoccupied housing units in an area, as measured using an index or indices selected by the Development Director from real estate or housing industry sources. An area meets this distress criterion if the housing vacancy rate is above the housing vacancy rate for the City of Columbus.
6. *Tax Delinquency Rate*: the percentage of tax delinquent homes in an area. An area meets this distress criterion if the percentage of tax delinquent properties in an area is above the percentage of tax delinquent homes for the City of Columbus.

(I) Easton Square Place: a post-1994 CRA created by Ordinance 110X-2007 on July 16, 2007, as amended by Ordinance 0709-2014 on March 31, 2014 and by Ordinance 0496-2017 on March 13, 2017;

(J) *Environmental Remediation Expense*: Pertains to the removal or reduction of pollution or contaminants from environmental media such as soil, groundwater, sediment, or surface water to protect people and the environment against the potential harmful effects from exposure, based on assessments of human health and ecological risks, to various radiation sources.

(K) *First Owner*: the first person or entity that acquires ownership of a residential unit pursuant to the affordability requirements contained in this Chapter.

(L) *Gross Annual Income*: annual income as defined by 24 C.F.R. §5.609 and documented at the time of initial occupancy of a unit as required by rules established by the Director.

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

(N) *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.

(O) *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 emergency shelters or facilities such as nursing homes, convalescent homes, hospitals, residential treatment facilities, correctional facilities, halfway houses, bed and breakfast, or dormitories.

(P) *Market Ready Area*: a post-1994 CRA that is comprised of a census tract, portion of a census tract or portions of census tracts that have a median income in the fourth quartile based on the Median Household Income Criteria, or a post-1994 CRA made up of a census tract or census tracts that have a Median Household Income in the second or third quartiles and that also meets no more than one distress criteria in subsection (H) above.

(Q) *Median Household Income Criteria*: The first criterion applied to determine the ~~a~~ Area ~~d~~ Designation assigned to a post-1994 CRA or census tract, which shall be applied as follows: Using the most recently available data from the American Community Survey, the median income of each census tract ~~in Franklin County, including within the corporate boundary of the City of Columbus,~~ shall be ranked from lowest to highest, and those census tracts in the first (lowest) quartile shall be designated Ready for Opportunity and those census tracts in the fourth (highest) quartile shall be Market Ready. For any post-1994 CRA made up of more than one census track, the weighted average median income of the census tracks shall be used.

(R) *Owner-occupied*: a housing unit inhabited as the principal place of residence by the person or persons who holds fee simple absolute title, or a substantially equivalent property interest, as determined by the Director, 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.

- (~~R~~S) *Post-1994 Community Reinvestment Area*: a community reinvestment area (CRA) designated by City Council subsequent to July 21, 1994 and that was issued a CRA designation number by the Ohio Department of Development ~~Services Agency~~.
- (~~S~~T) *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.
- (~~T~~U) *Ready for Opportunity Area*: a post-1994 CRA comprised of a census tract, portion of a census tract or portions of census tracts that have a median household income in the first quartile pursuant to the Median Household Income Criteria per subsection (P) above, or a post-1994 CRA made up of a census tract, portion of a census tract or portions of census tracts that have a Median Household Income in the second or third quartiles and that meets more than four (4) distress criteria in subsection (H) above.
- (~~U~~V) *Ready for Revitalization Area*: a post-1994 CRA that is comprised of a census tract, portion of a census tract or portions of census tracts that have a Median Household Income in the second or third quartile pursuant to the Median Household Income Criteria in subsection (O) above, and that meets at least two (2), but no more than four (4), distress criteria in subsection (H) above.
- (~~V~~W) *Redesignation Date*: July 31, 2022, then July 31, 2025 and every third year thereafter.
- (~~W~~X) *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.

#### **4565.03 Area ~~d~~Designation for Post-1994 CRAs.**

- (A) The Director shall have the authority to designate a post-1994 CRA (with the exception of Easton Square Place prior to December 31, 2028) as a Market Ready Area, Ready for Revitalization Area, or Ready for Opportunity Area pursuant to this Chapter. On the Redesignation Date, the Director shall have the authority to change the Area Designation of any post-1994 CRA or census tract consistent with the requirements of this Chapter.
- (B) One year prior to the Redesignation Date, the Director shall begin to assess the Area Designations in post-1994 CRAs and census tracts for purposes of classifying the property as Market Ready, Ready for Opportunity, or Ready for Revitalization. Consistent therewith, the Director shall determine whether each designated post-1994 CRA or census tract will retain its then-current Area Designation or receive a new Area Designation. If the Director determines that any post-1994 CRA or census tract meets the requirement for a new Area Designation, the Director shall assign such new Area Designation to be effective upon the Redesignation Date.

- (C) The Director shall provide a report to Council upon designating, or redesignating, existing post-1994 CRAs as either Market Ready, Ready for Revitalization, or Ready for Opportunity. The report shall include the distress criteria for each area designated by the Director.
- (D) Prior to the creation of a new CRA for housing by City Council, the Director shall designate the area as either Market Ready, Ready for Revitalization, or Ready for Opportunity and shall provide the report as required by this Section prior to Council's vote to establish the CRA.
- (E) Annually, the Director shall provide to City Council with a report, no later than September 30<sup>th</sup> of each calendar year, identifying the real property tax abatements, ~~a~~Area ~~d~~Designations and the type of affordable housing within each Post-1994 CRA or census tract for the prior year.

#### **4565.04 General requirements for Affordable Housing Units.**

- (A) Wherever Affordable Housing Units are required pursuant to this Chapter, they shall be dispersed throughout the Development Project and shall be comparable to the design and quality of market-rate units within the Development Project in terms of appearance, materials, and finish.
- (B) The distribution of unit sizes across the Affordable Housing Units shall mirror the distribution of unit sizes across the entire Development Project (i.e., if twenty percent of the units within the Development Project are two-bedroom units, then twenty percent of the Affordable Housing Units must be two-bedroom units). For Development Projects with unique mix configurations, and that do not easily lend themselves to the prescribed affordable set-aside percentages, the Director of Development is authorized to negotiate Affordable Housing Unit set asides on a case by case basis, with the understanding that the overall goal of mixed income housing within the Development Project is achieved.
- (C) Throughout the term of the CRA abatement, the Affordable Housing Units provided in a Development Project may be located in different physical units over time (Affordable Housing Units may "float" through the Development Project over time), while at the same time complying with subsections (A) and (B) above. However, the Project Sponsor shall not congregate all or most of the Affordable Housing Units in one building or in one primary area of the Development Project for projects of four (4) or more housing units.
- (D) Affordable Housing Units shall be constructed within a similar timeline as non-Affordable Housing Units within the Development Project.
- (E) Affordable Housing Units shall be provided access to amenities and recreational facilities within the Development Projects on equal terms to market-rate housing units. However, nothing in this section prohibits or dissuades the provision of amenities and recreational facilities to Affordable Housing Unit residents at a lesser rate than that charged to non-Affordable Housing Units.
- (F) Affordable Housing Units shall be rented or sold only to qualified persons whose annual household income does not exceed sixty percent (60%) AMI, eighty percent (80%) AMI, one hundred percent (100%) AMI, or one hundred twenty percent (120%) AMI for the household size for which the housing

unit was designed, as applicable, and for home sales, the Cost of Ownership does not exceed 35% of the household's gross annual income.

- (G) To qualify as an Affordable Housing Unit, the housing unit must be occupied as the principal residence of the occupant or occupants.
- (H) Any fee charged by the Project Sponsor to the prospective tenant or purchaser of an Affordable Housing Unit must be a usual, customary transaction fee normally incurred in a residential transaction. The Director may establish a range of fees that are presumptively usual and customary in such transactions based on industry data in use at the time that the tax abatement is granted.
- (I) The Director is authorized to adopt and implement such rules, standards, and processes as are necessary to administer this chapter and that are consistent with the City's goal of providing Affordable Housing Units within Development Projects that receive a CRA tax exemption.
- (J) Development Projects that are not completed due to a major casualty, condemnation or other force majeure event as determined by the Director of Development, are required to provide a proportional percentage of Affordable Housing Units as measured against the total housing units constructed (i.e., if the Development Project was supposed to construct 4 apartment buildings with 40 units each, and 40 units were required to be Affordable Housing Units, and if the Developer constructed 2 apartment buildings, then each of the 2 buildings constructed must have 10 Affordable Housing Units).

#### **4565.05 Additional requirements for Owner Occupied Affordable Housing Units.**

- (A) To be eligible for a CRA tax abatement under this chapter, Project Sponsors developing projects that include owner-occupied housing units shall, in addition to the applicable agreement requirements set forth in Sections 4565.07, 4565.08, and 4565.09 of this chapter, be required to enter into an agreement with the City, (which as set forth in Sections 4565.07 and 4565.08 shall ~~may~~ include executing restrictive covenants), as ~~are~~ determined necessary by the Director, in consultation with the City Attorney, to ensure that all owner-occupied Affordable Housing Units remain affordable for the duration of any abatement provided under this chapter.
- (B) *Initial Pricing.* The initial sale price of an owner-occupied Affordable Housing Unit less down payment and/or affordability assistance from a governmental entity or comparable organization, including a lender, must be set at a level that is at or below 120% AMI and the Cost of Ownership shall not exceed 35% of the household's annual gross income.
- (C) *Resale:* For Development Projects of four (4) or more owner-occupied housing units, the Director shall adopt rules to establish the resale price of owner-occupied Affordable Housing Units subject to this chapter. Such rules shall consider the purposes of this chapter to encourage the construction of affordable

housing throughout the City while enabling owner-occupant sellers of Affordable Housing Units to realize a reasonable return on the sale of the housing unit, including consideration of improvements made to the housing unit by the owner-occupant. For Development Projects consisting of three (3) or fewer owner-occupied housing units in Market Ready and Ready for Revitalization Areas, the real property tax abatement provided under this chapter shall cease upon transfer of the property or any unit thereon that does not conform with deed restrictions that ensure its continued affordability for the duration of the abatement. If a Project Sponsor paid a fee-in-lieu rather than providing the required number of rental Affordable Housing Units for its Development Project, and all or some of the units on the property were subsequently converted to owner-occupied units during the abatement term, the real property tax abatement shall be revoked unless the new owner-occupant's gross annual income is at or below one hundred and twenty percent (120%) AMI and for which the annual cost of ownership does not exceed thirty-five percent (35%) of the household's gross annual income.

- (D) The Project Sponsor shall be responsible for reporting to the Director the number of Affordable Housing Units in the Development Project for the duration of the abatement period, which requirement shall be included as a restrictive covenant running with the land.

#### **4565.06 Availability of incentives.**

- (A) CRA tax incentives for Development Projects containing four (4) or more housing units within post-1994 CRAs designated Market Ready Areas, Ready for Revitalization Areas, or Ready for Opportunity Areas require the Project Sponsor to apply for an abatement and enter into an agreement with the City per the deadlines included in the Director's Rules. A Project Sponsor may request that this time-frame be extended for good cause, subject to approval by the Director. The agreement required herein must include the terms specified in Section 4565.07 for Market Ready Areas, Section 4565.08 for Ready for Revitalization Areas, and 4565.09 for Ready for Opportunity Areas.
- (B) Development Projects shall not be artificially divided to avoid the agreement requirements within this chapter.
- (C) For a Development Project involving the remodeling of a structure containing not more than three (3) owner-occupied housing units, and that otherwise qualifies for real property tax abatement, the Project Sponsor shall be required to apply for an abatement and enter into an agreement with the City per the deadlines included in the Director's Rules and if the remodeled structure for homeownership is located in a Market Ready or Ready for Revitalization Area, all remodeled units within the Development Project must be Affordable Housing Units affordable to owners with household incomes that are at or below one hundred twenty percent (120%) AMI and for which the annual cost of ownership does not exceed thirty-five percent (35%) of the household's gross annual income to be eligible for the tax abatement. Payment of a fee is not available in lieu of meeting this affordability requirement for owner-occupants in three or fewer units that have been remodeled.  
If the remodeled structure containing not more than three (3) housing units for rental is located in a Market Ready or Ready for Revitalization Area, at least one (1) remodeled unit within the Development Project must be an Affordable Housing Unit for rent to occupants with household incomes that are at or below sixty percent (60%) AMI to be eligible for the tax abatement.

- (D) For a Development Project involving the construction of new structure(s) resulting in not more than three (3) owner-occupied housing units, and that otherwise qualifies for real property tax abatement, the Project Sponsor shall be required to apply for an abatement and enter into an agreement with the City per the deadlines included in the Director's Rules and if the new structure(s) will be located in a Market Ready Area or Ready for Revitalization Area, all owner-occupied housing units within the Development Project must be Affordable Housing Units, as defined in this chapter, for occupants whose annual household income is at or below one hundred twenty percent (120%) AMI and for which the annual cost of ownership does not exceed thirty-five percent (35%) of the household's gross annual income to be eligible for the tax abatement. Payment of a fee is not available in lieu of meeting the Affordable Housing Unit requirement for Development Projects consisting of three or fewer owner-occupied housing units.

If the new structure contains three or fewer rental housing units and is located in a Market Ready or Ready for Revitalization Area, at least one (1) new units for rent within the Development Project must be affordable to occupants with household incomes that are at or below sixty percent (60%) AMI to be eligible for the tax abatement.

- (E) For a Development Project within ~~post-1994 CRAs designated as~~ Ready for Opportunity Areas that include three or fewer housing units (whether rented or owner-occupied) shall receive an abatement of property taxes on one hundred percent (100%) of the increase in the assessed valuation of the structure(s) for a period of fifteen (15) years. These Development Projects in Ready for Opportunity Areas do not require the Project Sponsor to enter into an agreement with the City, however, the Project Sponsor must apply for the abatement per the timeframe in the Director's Rules.
- (F) The statement of required terms in Sections 4565.05, 4565.07, 4565.08, and 4565.09 shall not be construed to limit the authority of the Director to prescribe additional agreement terms by rule, subject to approval as to form by the City Attorney, provided such rules are consistent with the intent of this Chapter to incentivize the construction of Affordable Housing Units in CRAs in consideration of receiving a tax abatement.

#### **4565.07 Required terms for incentive agreements in Market Ready Areas.**

~~This section includes~~ The stated terms and conditions applicable to required in agreements required for Market Ready Areas per division (A) of Section 4565.06 of this Chapter. ~~They~~ are not self-executing terms for purposes of receiving an abatement.

- (A) A Project Sponsor of a Development Project containing four (4) or more housing units in a Market Ready Area must elect one of the requirements specified below (whether rented or owner-occupied, as applicable) in order to 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 first year the Development Project would be first taxable as described in ORC Section 3735.67(D) and 3735.67(F). ~~date of the issuance of a certificate of occupancy (or an earlier date, if elected by the Project Sponsor with the City's consent, subject to the approval of the Franklin County Auditor of such earlier date):~~
- a. 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 to occupants with a household income at or below sixty percent (60%) AMI, and an additional ten percent (10%) or more of the housing units in the development are Affordable Housing Units rented to occupants with household incomes at or below eighty percent (80%) AMI.
  - b. For the duration of the incentive, a minimum of thirty percent (30%) of the housing units in the Development Project are Affordable Housing Units rented to occupants with



a household income at or below eighty percent (80%) AMI.

- c. For the duration of the incentive, all housing units in the Development Project are Affordable Housing Units sold to occupants with a household income at or below one hundred and twenty percent (120%) AMI and for which the annual Cost of Ownership does not exceed thirty-five percent (35%) of the household's gross annual income.

(B) The Project Sponsor may receive credit equal to one (1) Affordable Housing Unit for each of the following, with (a), (b) and (c) applicable to owner-occupied or rental units, and with (d) applicable to rental units only:

- a. For every one million dollars (\$1,000,000.00) of environmental remediation expenses associated with the Development Project;
- b. For every twenty-five thousand (25,000) square feet of Class A office space constructed as part of an affiliated commercial development, or remodel within the same structure, as where the Affordable Housing Unit(s) would otherwise be required. The Director may establish rules defining what is an affiliated commercial development or remodel, taking into consideration their usual and customary business definitions.
- c. If the project is to remodel of a property listed on the Columbus Register of Historic Properties, then the Affordable Housing Unit requirements shall not apply and no agreement under Section 4565.06 shall be required.
- d. For rental projects, the Project Sponsor may make a one-time payment to the City of Columbus, Department of Development in lieu of providing Affordable Housing Units; the one-time fee-in-lieu payment shall be computed starting with a base amount of \$32,000 per required Affordable Housing Unit increased by the product of the base amount multiplied by the percentage increase in the Consumer Price Index (CPI), as calculated every August 1 with the first multiplier being the change in the CPI from August 1, 2022 to August 1, 2023, increased further by five percentage points. This calculation will constitute the new base amount for the succeeding year and will be adjusted annually based on the change in the CPI plus five percentage points thereafter. Project Sponsors may opt to include some amount of Affordable Housing Units in a Development Project and provide fee-in-lieu for the remaining number of required Affordable Housing Units. If a Project Sponsor opts to provide fee-in-lieu for ~~buy-out~~ all of the required rental Affordable Housing Units in a Development Project, the Project Sponsor is required to make a fee-in-lieu payment equal to 20% of the total number of units in the Development Project.

(C) Default on Affordable Housing Unit Requirement.

1. If the required number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) 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 or less, 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.

2. If the required number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) AMI or eighty percent (80%) AMI, as applicable, which remains below the minimum requirements prescribed in division (A) of this Section, for a period of more than ninety (90) but less than one hundred eighty (180) days, the Project Sponsor shall be responsible for making payment to the City of Columbus, Department of Development in an amount determined by reference to the following table:

Affordable Housing Shortfall (by % below required number of units)	Required Payment (by % of annual real property tax abated)
Up to 25%	20%
>25% up to 50%	40%
>50% up to 75%	65%
>75%	90%

If the payment required by this subsection is less than what the fee-in-lieu would be under division 4565.07(B)(d) of this section for the Affordable Housing Unit shortfall, the Project Sponsor shall pay the fee-in-lieu amount to the City rather than the amount provided by this subsection.

3. If the number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) 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 Director 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 the fee amount as described in Section 4565.07(B)(d) 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.

4. 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.

**4565.08 Required terms for incentive agreements in Ready for Revitalization Areas.**

The stated terms and conditions applicable to agreements required for Ready for Revitalization Areas by division (A) of Section 4565.06 are not self-executing terms for receipt of an abatement.

(A) A Project Sponsor of a Development Projects containing four (4) or more housing units in a Ready for Revitalization Area must elect one of the requirements specified below in order to 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 first year the Development Project would be first taxable as described in ORC Section 3735.67(D) and 3735.67(F). ~~date of the issuance of a certificate of occupancy (or an earlier date, if elected by the Project Sponsor with the City's consent, subject to the approval of the Franklin County Auditor of such earlier date.~~ Subsections (a) and (b) apply to rental units and subsection (c) applies to owner-occupied units:

a) For the duration of the incentive, a minimum 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 sixty percent (60%) AMI, and an additional ten percent (10%) or more of the housing units in the development are affordable housing units rented to occupants with household income at or below eighty percent (80%) AMI.

- b) For the duration of the incentive, a minimum thirty percent (30%) of the housing units in the Development Project are Affordable Housing Units rented to occupants with household income at or below eighty percent (80%) AMI.
- c) For the duration of the incentive, all housing units in the Development Project are Affordable Housing Units sold to occupants with household incomes at or below one hundred and twenty percent (120%) AMI and for which the annual cost of ownership does not exceed thirty-five percent (35%) of the household's gross annual income.

(B) The Project Sponsor may receive credit equal to one (1) Affordable Housing Unit for each of the following, with (a), (b) and (c) applicable to owner-occupied or rental units, and with (d) applicable to rental units only:

- a. For every one million dollars (\$1,000,000.00) of environmental remediation expenses required to construct the Development Project;
- b. For every twenty-five thousand (25,000) square feet of Class A office space constructed as part of an affiliated commercial development or remodel within the area. The Director may establish rules defining what is an affiliated commercial development or remodel, taking into consideration their usual and customary business definitions.
- c. If the Development Project is a renovation of a property listed on the Columbus Register of Historic Properties, then the Affordable Housing Unit requirements shall not apply and no agreement under Section 4565.06 shall be required.
- d. The Project Sponsor may make a one-time payment to the City of Columbus, Department of Development in lieu of providing rental Affordable Housing Units; the one-time fee-in-lieu payment shall be computed starting with a base amount of \$16,000 per required Affordable Housing Unit increased by the product of the base amount multiplied by the percentage increase in the Consumer Price Index (CPI), as calculated every August 1 with the first multiplier being the change in the CPI from August 1, 2022 to August 1, 2023, increased further by five percentage points. This calculation will constitute the new base amount for the succeeding year and will be adjusted annually based on the change in the CPI plus five percentage points thereafter. Project Sponsors may opt to include some amount of Affordable Housing Units in a Development Project and provide fee-in-lieu payments for the remaining number of required Affordable Housing Units. If a Project Sponsor opts to provide fee-in-lieu payments for all of the required Affordable Housing Units in a Development Project, the Project Sponsor is required to make a fee-in-lieu payment equal to 20% of the total number of units in the Development Project.

(C) Development Projects providing the Affordable Housing Units required under division (A) of this section, or those receiving credits or paying a fee-in-lieu instead of providing Affordable Housing Units required under division (A) of this section, shall be eligible for a real property tax abatement of one hundred percent (100%), of the assessed value of the structure(s) constructed, for a period of fifteen (15) years from the first year the Development Project would be first taxable as described in ORC Section 3735.67(D) and 3735.67(F) date of the of a certificate of occupancy (or an earlier date,

if elected by the Project Sponsor with the City's consent), and subject to the approval of the Franklin County Auditor of such earlier date.

(D) Default on Affordable Housing Unit Requirement.

1. If the number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) AMI or is at or below eighty percent (80%) AMI, as applicable, which falls below the proportions prescribed by division (A) for a period of ninety (90) days or more but less than 180 days, the Project Sponsor or Owner, as applicable, must provide written notice of the shortfall to the Director within ten (10) business days.
2. If the number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) AMI or is at or below eighty percent (80%) AMI, as applicable, which remains below that prescribed in division (A) of this Section for a period of one hundred eighty (180) days but less than two years, the Project Sponsor shall be responsible for making payment to the City of Columbus, Department of Development in an amount determined by the following table:

Affordable Housing Shortfall (by % below required number of units)	Required Payment (by % of annual real property tax abated)
Up to 25%	20%
>25% up to 50%	40%
>50% up to 75%	65%
>75%	90%

If the payment required by this subsection is less than the fee-in-lieu amount would be under division Section 4565.08(B)(d) of this section for the Affordable Housing Unit shortfall, the Project Sponsor shall pay the fee-in-lieu amount to the City rather than the amount provided by this subsection.

3. If the number of Affordable Housing Units rented by persons whose household income is at or below sixty percent (60%) AMI or is at or below eighty percent (80%) AMI, as applicable, which remains below fifty percent (50%) of that prescribed in division (A) of this Section for a period of two years or more, the Director shall have cause to take such action as necessary to cause the abatement to terminate and return the property to full 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-in-lieu amount for the Affordable Housing Unit shortfall for the remaining duration of the abatement. The fee-in-lieu amount shall be as described in Section 4565.07(B)(d) 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.

4. 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.

**4565.09 Required terms for incentive agreements in Ready for Opportunity Areas**

The stated terms and conditions applicable to agreements required for Ready for Opportunity Areas by division (A) of Section 4565.06 are not self-executing terms for receipt of an abatement.

- (A) A Project Sponsor of a Development Projects containing four (4) or more rental housing units in a Ready for Opportunity Area shall be eligible for one of the incentives below:
- a) One hundred percent (100%) of the increase in assessed value of the structure for a period of fifteen (15) years if, for the duration of the incentive, a minimum ten percent (10%) of the housing units in the Development Project are Affordable Housing Units rented to occupants with household income at or below eighty percent (80%) AMI, and an additional ten percent (10%) or more of the housing units in the development are Affordable Housing Units rented to occupants with household income at or below one hundred percent (100%) AMI.
- (B) The Project Sponsor may receive credit equal to one (1) Affordable Housing Unit rental for each of the following:
- a) For every one million dollars (\$1,000,000.00) of environmental remediation expenses required to construct the Development Project;
  - b) For every twenty-five thousand (25,000) square feet of Class A office space constructed as part of an affiliated commercial development or remodel within the area. The Director may establish rules defining what is an affiliated commercial development or remodel, taking into consideration their usual and customary business definitions.
  - c) If the Development Project is a renovation of a property listed on the Columbus Register of Historic Properties, then the Affordable Housing Unit requirements shall not apply and no agreement under Section 4565.06 shall be required.
  - d) The Project Sponsor may make a one-time payment to the City of Columbus, Department of Development, in lieu of providing Affordable Housing Units; the one-time fee-in-lieu payment shall be computed starting with a base amount of \$5,000 per required Affordable Housing Unit multiplied by the percentage increase in the Consumer Price Index (CPI), as calculated every August 1 with the first multiplier being the change in the CPI from August 1, 2022 to August 1, 2023, increased further by five percentage points. This calculation will constitute the new base amount for the succeeding year and will be adjusted annually based on the CPI plus five percentage points thereafter. Project Sponsors may opt to include some amount of Affordable Housing Units in a Development Project and buy-out the remaining number of required Affordable Housing Units. If a Project Sponsor opts to provide a fee-in-lieu for all of the required Affordable Housing Units in a Development Project, the Project Sponsor is required to make a fee-in-lieu payment equal to 20% of the total number of units in the Development Project.

(C) Development Projects providing the Affordable Housing Units required under division (A) of this section, or those receiving credits or paying a fee-in-lieu of providing Affordable Housing Units required under division (A) of this section, shall be eligible for a real property tax abatement of one hundred percent (100%), of the assessed value of the structure(s) constructed, for a period of fifteen (15) years from the first year the Development Project would be first taxable as described in ORC Section 3735.67(D) and 3735.67(F). ~~date of the issuance of a certificate of occupancy (or an earlier date, if elected by the Project Sponsor with the City's consent, subject to the approval of the Franklin County Auditor of such earlier date).~~

(D) Default on Affordable Housing Unit Requirement.

1. If the number of Affordable Housing Units rented by persons whose household income is at or below eighty percent (80%) AMI or is at or below one hundred percent (100%) AMI, as applicable, which falls below the proportions prescribed by division (A) for a period of ninety (90) days or more but less than 180 days, the owner must provide written notice of the shortfall to the Director within ten (10) business days.
2. If the number of Affordable Housing Units rented by persons whose household income is at or below eighty percent (80%) AMI or is at or below one hundred percent (100%) AMI, as applicable, which remains below that prescribed in division (A) of this Section for one hundred eighty (180) or more days but less than two years, the Project Sponsor shall be responsible for making payment to the City of Columbus, in an amount determined by the following table:

Affordable Housing Shortfall (by % below required number of units)	Required Payment (by % of annual real property tax abated)
Up to 25%	20%
>25% up to 50%	40%
>50% up to 75%	65%
>75%	90%

If the payment required by this subsection is less than the what the fee-in-lieu would be under division 4565.09(B)(d) of this section for the Affordable Housing Unit shortfall, the Project Sponsor shall pay the fee-in-lieu amount to the City rather than the amount provided by this subsection.

3. If the number of Affordable Housing Units rented by persons whose household income is at or below eighty percent (80%) AMI or at or below one hundred percent (100%) AMI, as applicable, which remains below fifty percent (50%) of that prescribed in division (A) of this Section for two years or more, the Director shall have cause to take such action as necessary to cause the abatement to terminate and return the property to full 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-in-lieu for the Affordable Housing Unit shortfall for the remaining duration of the abatement. The fee-in-lieu amount shall be as described in Section 4565.09(B)(d) 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.
4. 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.

**4565.10 Waiver of Affordability Requirements for Owner-Occupied Units**

- (a) **Application for Waiver of Affordability Requirements.** A Project Sponsor may apply for a waiver of the affordability requirements under Section 4565.05(B) regarding the Initial Pricing of owner-occupied Affordable Housing Units as applied to owner occupied units in a Development Project if the following conditions are satisfied:
1. The Development Project must have a minimum of 100 owner-occupied dwelling units; and
  2. The Project Sponsor has committed to at least thirty percent (30%) of the owner-occupied units in the Development Project being Affordable Housing Units, meaning the units are occupied by the legal owner(s) of the unit, and whose annual household income is 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) **Form of Waiver of Application.** The form of the application for a waiver under this Section shall be established by the Director's Rules.
- (c) **Director Evaluation of Waiver Application.** The Director or their designee shall evaluate each application for waiver under this Section. The Director may, within the Director's reasonable discretion, grant the application for waiver if the Director determines that granting the application for waiver satisfies the overall goals of this Chapter with regard to increasing the number of affordable housing units within the City and is in the best interests of the City. For purposes of this Section, the Director of the Department of Development, or their designee, is considered the housing officer as provided for in ORC Sections 3735.65 through 3735.70.
- (d) **Right of Appeal from Denial of Waiver Application.** If the waiver application of a Project Sponsor is denied, the Project Sponsor may appeal the denial to the CRA Housing Council established pursuant to ORC Section 3736.69.
- (e) **Hearing of Appeal.** The CRA Housing Council shall hear the appeal from a waiver application pursuant to ORC Section 3735.70. The Housing Council may affirm, modify, or reverse the denial after hearing. The Housing Council may impose such requirements and conditions on the Project Sponsor regarding the minimum number of Affordable Housing Units required for the waiver above the minimum requirements set forth in division (a) as it deems necessary to carry out the intent and purpose of this Chapter. The decision of the Housing Council shall be final and appealable pursuant to Chapter 2506 of the Ohio Revised Code.
- (f) **Burden of Proof.** Under this Section, the Project Sponsor bears the burden of demonstrating that a waiver of the affordability requirements for owner-occupied units satisfies the overall goals of this Chapter with regard to increasing the number of affordable housing units within the City and is in the best interests of the City.