

AMENDMENT 2

To

ORDINANCE NO. BL2016-342

Mr. President-

I move to amend Ordinance No. BL2016-342 by deleting Section 1 in its entirety and replacing it with the following:

Section 1. Title 2 of the Metropolitan Code is hereby amended by adding the following new Chapter 2.213 – Affordable and Workforce Housing Incentive Grants.

2.213.010 Definitions.

As used in this Chapter:

“Affordable housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning sixty percent (60%) or less than the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

“ECD” means the mayor’s office of economic and community development.

“Household” means all people who occupy a housing unit regardless of relationship. A household may consist of a family, a person living alone, or unrelated individuals living together, provided that no more than three unrelated persons shall occupy the same dwelling unit. In order to be counted as an eligible household for purposes of affordable and/or workforce housing incentive grants, the total household income shall not exceed the median household income for the applicable affordable or workforce income category as defined in this section.

“OEOE” means the mayor’s office of economic opportunity and empowerment (OEOE).

“Qualified developer” means a developer of affordable and/or workforce housing that the metropolitan government determines is willing and able to increase the affordable and/or workforce housing stock within Nashville and Davidson County.

“Third party entity” means an entity providing administrative services to the metropolitan government to assist in the management of the housing program.

“Urban Zoning Overlay (UZO)” means the urban zoning overlay district established pursuant to Article XII of Chapter 17.36 of the metropolitan zoning code.

“Workforce housing” means housing that, on an annual basis, costs thirty percent (30%) or less than the estimated median household income for households earning more than sixty percent (60%) and not in excess of one hundred twenty percent (120%) of the median household income for Davidson County based on the number of persons in the household, as established by the “Median Household Income in the Past 12 Months by Household Size” from the most recently available United States Census Bureau American Community Survey.

2.213.020 Incentive grants for new units.

- A. The metropolitan government may make incentive grants to qualified developers to assist with the development of new affordable and/or workforce housing within the boundaries of the metropolitan government. Incentive grants may be made both for rental developments and owner-occupied units. Such grant funds shall be disbursed on a monthly basis.
 - 1. Rental developments. Owners/developers of new construction rental developments, including developments under construction at the time of application, within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps may apply for a workforce and/or affordable housing incentive grant. The amount of the incentive grant will be the difference between the average rent for an occupied unrestricted rental housing unit and the average rent for an occupied affordable or workforce housing unit multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing. The average rent for an occupied unrestricted rental housing unit will be calculated on a square footage basis using the rent charged for the three unrestricted units within the same development that are most comparable to each individual affordable or workforce housing unit. For purposes of this section, “average rent” includes all ancillary fees charged to all tenants of the development, including parking fees, application fees, association fees, and charges for amenities.
 - 2. Owner-occupied units. The amount of the incentive grant will be a one-time payment of \$10,000 per unit for properties located outside of the urban zoning overlay (UZO) district, and \$20,000 per unit for properties located within the UZO or along a multimodal corridor designated in the Major and Collector Street Plan, excluding Expressways, Freeways, and Ramps. All grants for owner-occupied units shall be conditioned upon the recording of deed restrictions with the Register of Deeds ensuring the units remain designated for affordable and/or workforce housing for the duration provided in the grant agreement. The form of the deed restrictions shall be established in the grant agreement.
- B. The maximum amount of a grant to any one qualified developer of affordable or workforce housing rental units shall not exceed fifty (50) percent of the difference between the annual post-development and pre-development real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable. In the event that grant payments for any calendar year exceed the maximum amount, the director of finance, in consultation with OEOE and the grantee, is authorized to take corrective action in accordance with the written policies and procedures.

2.213.030 Standards for Occupancy and Construction of Affordable and/or Workforce Housing

- A. To ensure livability, the calculation of bedrooms per affordable or workforce housing units shall be similar to the calculation of bedrooms per market rate units in the project.
- B. Exteriors of the affordable and/or workforce housing units shall closely resemble the exteriors of other units within the development, and shall use similar construction materials.

2.213.040 Incentive grants for the optional conversion of existing rental units.

Owners of existing rental housing developments shall be eligible for an annual incentive grant if they voluntarily convert market-based rental units to affordable or workforce housing units. Owners of existing affordable and/or workforce rental housing units shall also be eligible to receive an incentive grant if they agree to continue to maintain such units as affordable and/or workforce housing units. The amount of the incentive grant will be the difference between the average rent for an occupied unrestricted rental housing unit and the average rent for an occupied affordable or workforce housing unit multiplied by the number of occupied affordable or workforce housing rental units for the duration that housing rental units remain affordable or workforce housing. The average rent for an occupied unrestricted rental housing unit will be calculated on a square footage basis using the rent charged for comparable unrestricted units within the same census tract that are most comparable to each individual affordable or workforce housing unit, as determined by OEOE. In no event shall the amount of the annual grant be greater than twenty percent (20%) of the real property ad valorem tax assessment for the calendar year for which an incentive grant is applicable.

2.213.050 Administration of grant program.

- A. The affordable and workforce housing grant program shall be administered by OEOE, with assistance from ECD, the finance department, the department of codes administration, and the planning department.
- B. The OEOE may procure the services of a third party entity to assist with administration of the grant program.
- C. The director of finance and the director of OEOE shall have the authority and responsibility to develop written policies, procedures, rules, and/or regulations to implement this chapter. Such policies shall include the factors to be considered in determining whether a developer is a qualified developer and a mechanism for grantees to request monthly grant payments. Such policies shall be effective upon filing with the metropolitan clerk. Any amendments or modifications to such policies shall be effective upon filing with the metropolitan clerk, with a copy provided to the metropolitan council office.
- D. Incentive grants may be awarded to a qualified developer for either affordable or workforce housing units, or both, provided OEOE shall take reasonable measures to ensure an equitable distribution of grant funds for both affordable and workforce housing.
- E. Any grant made in accordance with the provisions of this section will be memorialized by an agreement between the metropolitan government and the qualified developer, which shall be approved by the metropolitan council by resolution. The maximum term for an incentive grant awarded pursuant to this chapter for rental units shall be fifteen (15) years. All owner-occupied units for which one-time incentive grant payments have been

made shall be maintained as for-sale affordable/workforce housing for thirty (30) years from the date of initial occupancy. For new developments, the grant agreements shall be finalized prior to a building permit being issued.

- F. All grants awarded pursuant to this chapter shall be approved by the director of the OEOE, metropolitan director of finance, and the metropolitan director of law.

2.213.060 Annual certification.

- A. Not later than February 15 of each year, the grantee shall submit a certification to the OEOE and the finance department for review covering the previous calendar year. The annual certification shall include at a minimum for each occupied affordable and/or workforce housing rental unit:
 - 1. The number of months and partial months the unit was occupied;
 - 2. The Median Household Income level applicable to the unit;
 - 3. The rent charged for the unit; and
 - 4. The market value rent of the unit calculated based on the three closest comparable units on a square footage basis.
- B. The annual certification shall also include the total number of occupied affordable and/or workforce housing units in the development compared to the total number of affordable and/or workforce housing units required pursuant to the grant agreement. The annual certification shall also compare the total grant payments for all occupied affordable and/or workforce housing units and the maximum annual grant allowable for the calendar year.
- C. The annual certification shall include a certification from the chief executive officer of the grantee that the information is true, correct and complete and that each occupied affordable and/or workforce housing rental unit was occupied by an eligible household.
- D. The annual certification shall be accompanied by an examination conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants conducted by a reputable and licensed independent accountant giving an opinion that the amount of the incentive being requested represents, in all material respects, the incentive grant payment owed in conformity with the grant agreement. The independent accountant shall examine, on a test basis, documentation supporting the eligibility of the occupants of the affordable and/or workforce housing units. Additional reporting requirements may be specified in each grant agreement.
- E. The incentive grant payment shall be remitted to the developer monthly.
- F. Upon review of the annual certification, if it is determined that a grantee received an overpayment in a calendar year, the grantee shall reimburse the metropolitan government by July 31st of the year following the year for which the overpayment was made. In the event that a grant was underpaid in a calendar year, the metropolitan government shall pay the amount of the underpayment to the grantee by July 31st of the year following the year for which the underpayment accrued.

2.213.070 Cap on total amount of grant awards.

Beginning with fiscal year 2017-2018, the annual amount of all grants awarded pursuant to this chapter including related administrative costs in the aggregate shall not exceed two million dollars (\$2,000,000) exclusive of other grants or contributions made specifically for the purpose of funding the incentive grants. The aggregate grant amount may be increased by resolution of

the metropolitan council. The amount budgeted annually will be based upon estimates of subsequent year awards and subject to the maximum set forth in this section. The director of finance and the director of the OEOE shall review the incentive grant program on an annual basis to determine whether the demand for grant funds significantly exceeds the amount of the cap, and shall make a recommendation to the metropolitan council regarding whether the amount of the cap should be adjusted. Any adjustments to the amount of the cap shall be approved by the metropolitan council by resolution prior to becoming effective.

2.213.080 Noncompliance.

In the event a grantee fails to provide the number of affordable and/or workforce units required for the specified grant term pursuant to the grant agreement, the director of finance shall have the authority to require the grantee to repay the metropolitan government for all grant funds disbursed for affordable and/or workforce housing units in accordance with the provisions of the grant agreement. The director of finance shall have the authority to pursue all other remedies at law or in equity to ensure the availability of the affordable and/or workforce housing units required under the grant agreement.

2.213.090 Grants subject to funding availability.

All agreements for affordable and/or workforce housing incentive grants to be funded by the metropolitan government shall expressly provide that the metropolitan government's financial obligations thereunder are conditioned upon the appropriation of funds by the metropolitan council. The metropolitan government shall have no obligation to make an affordable and/or workforce housing incentive grant if adequate funds are not available. If an incentive grant payment is not made as a result of lack of funding pursuant to this section, the grantee shall be relieved from the obligation to maintain the required number of affordable and/or workforce housing units.

2.213.100 Sunset provision.

The provisions of this chapter shall expire and be null and void ~~three years after its enactment on~~ December 31, 2019 ("sunset date") unless extended by resolution of the metropolitan council. This provision, commonly known as a "sunset provision," is included to ensure that the effectiveness and necessity of this chapter is reviewed by the metropolitan council after its adoption. If the provisions of this chapter are not extended by resolution of the metropolitan council before the sunset date, no incentive grants shall be awarded after the sunset date. This sunset provision shall not operate to terminate any existing grant agreement in effect on the sunset date, except for a lack of available funds in accordance with Section 2.213.090.

Introduced by:

Member of Council