

PONTIAC CITY COUNCIL

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It is this Council's mission "To serve the citizens of Pontiac by committing to help provide an enhanced quality of life for its residents, fostering the vision of a family-friendly community that is a great place to live, work and play."

Garland S. Doyle, M.P.A.
Interim City Clerk

SPECIAL MEETING

July 16, 2019

5:00 P.M.

104th Session of the 10th Council

Call to order

Roll Call

Authorization to Excuse Councilmembers

Approval of the Agenda

Discussion

Community Benefits Ordinance

Public Comment

Adjournment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND CHAPTER 42, "COMMUNITY DEVELOPMENT", TO ADD ARTICLE VII, ENTITLED "COMMUNITY BENEFIT AGREEMENTS".

THE CITY OF PONTIAC ORDAINS:

Section 1. Short Title; Purpose.

- (a) This Ordinance shall be known and may be cited as the "Pontiac Community Benefit Ordinance".
- (b) This Ordinance shall require developers of certain types of developments, herein referred to as "Qualified Developments", to enter into agreements, herein referred to as "Community Benefit Agreements", that identify potential negative aspects of developments and identify proportional community benefits to the City of Pontiac to rectify those negative aspects as a condition for development subsidies and other considerations by the City of Pontiac.

Section 2. Definitions

As used in the Chapter 42, Article VII, the following words and phrases shall mean the following:

- (a) **Community Benefit Agreement:** An Agreement between the City of Pontiac and Developer providing mutual consideration intended to rectify mutually acknowledged potential negative aspects associated with the proposed Qualified Development.
- (b) **Developer:** The person, firm, partnership, company, corporation, cooperative, or any other entity that is the recipient of a Development Subsidy.
- (c) **Development Subsidies:** Any economic incentives of value granted on a discretionary basis by the City of Pontiac to attract or retain a Qualified Development or jobs associated therewith; may include federal, state, or local economic incentives; and include but are not limited to economic incentives associated with, as amended: the Brownfield Redevelopment Financing Act, Commercial Development Act, Commercial Rehabilitation Act, Corridor Improvement Authority Act, Historical neighborhood Tax Increment Financing Act, Local Development Financing Act, Plant Rehabilitation and Industrial Development Districts Act, Principal Shopping Districts and Business Improvement Districts Act. Additionally, the lease or transfer of a city-owned building or property shall constitute a Development Subsidy.
- (d) **Qualified Development:** Shall be classified as either a Tier 1 or Tier 2. Tier 1 Qualified Developments shall be those developments granted license to operate under City

Ordinance 2357. Tier 2 Qualified Developments shall be those developments being granted Development Subsidies by the City of Pontiac with a total economic incentive, as determined in the sole discretion of the City of Pontiac, of greater than \$50,000.00.

Section 3. Community Benefits

A Community Benefit agreed upon by the Developer of the Qualified Development and the City of Pontiac is a benefit conferred upon the community of the City of Pontiac intended to ameliorate the potential negative aspects imposed upon the City of Pontiac by the Qualified Development. Although Community Benefits may differ based upon the Qualified Development, and this is not intended to be an exhaustive list, the City of Pontiac recognizes amenities, benefits, or commitments for the following purposes as Community Benefits, by Tier of Qualified Development:

Tier 1: Infrastructure, Youth Recreation, Police and Fire Services, Job Training

Tier 2: Designated Projects, Infrastructure, Youth Recreation, Police and Fire Services, Parks

Section 4. Community Benefits Agreement

The Community Benefits Agreement shall be entered into between the City of Pontiac and the Developer of the Qualified Development.

The Community Benefits Agreement shall set forth the Community Benefit proposed by the Developer of the Qualified Development and, if applicable, the interval of such Community Benefit.

Community Benefit Agreements shall be timely recorded on the deed, and shall run with the land, on Qualified Developments for the duration of the Community Benefit Agreement.

The term of a Community Benefit Agreement for a Tier 1 Qualified Development shall be not less than the term of its License to operate under City Ordinance 2357, including any extension or renewal thereof. The term of a Community Benefit Agreement for a Tier 2 Qualified Development shall be not less than the length of the Development Subsidy, including any extension or renewal thereof.

Community Benefits Agreements are not transferrable by the Developer without approval through a City Council Resolution.

Section 5. Community Benefits Agreement Required for Every Qualified Development

All Qualified Developments are subject to a Community Benefit Agreement. All Qualified Developments must be approved by the Mayor and City Council, and such approval may only be

subject to the execution of a valid Community Benefits Agreement with the Developer of that Qualified Development.

Section 6. Exemptions

If a Qualified Development and/or Developer believe they should be exempt from a Community Development Agreement, they may file an exemption request with the City Clerk. An Exemption requires approval of the Mayor and City Council.

Section 7. Annual Reporting and Compliance

A Developer shall provide a comprehensive, audited report detailing compliance with obligations under its Community Benefit Agreement for the prior year (or partial year) by January 1 of each year. The report shall include backup documentation for all donations made or funds expended related to the Community Development Agreement.

Section 8. Breach of Community Benefits Agreement; Termination; Appeal

If the City Department of Economic Development finds a Qualified Development and/or its Developer to be in breach of its (their) Community Development Agreement, it shall send a written Notice of Breach of Community Benefits Agreement to the Qualified Development and its Developer by certified mail. If the Breach of Community Benefits Agreement is not cured within fourteen (14) days after the date the Notice of Breach of Community Benefits Agreement was sent, the Mayor may terminate the Agreement.

If the Qualified Development and/or Developer believe that the termination was made in error, it (they) may Appeal in writing to the City Council within thirty (30) days after the date the Notice of Breach of Community Benefits Agreement was sent. The City Council shall only overturn a decision of the Mayor if it finds the decision was arbitrary or capricious. The determination of the City Council may only be reviewed by the Court of competent jurisdiction within the state of Michigan.

Section 9. Severability.

This ordinance and the various parts, sections, and clauses are hereby declared severable. If any clause, sentence, or paragraph or part of this ordinance shall, for any reason, be adjudged or decreed to be invalid by any Court of competent jurisdiction, such judgment or decree shall not effect, impair, or invalidate the remainder of this ordinance, but such judgment or decree shall be confined in its operation to the clause, sentence, paragraph, or part thereof, directly involved in the controversy in which such judgment or decrees shall have been entered.

Section 10. Repealer.

That all ordinances or parts of ordinances, of the City of Pontiac in conflict herewith are hereby repealed.

Section 11. Publication.

The Clerk shall publish this Ordinance in a newspaper of general circulation prior to its effective date.

Section 12. Effective Date.

This Ordinance shall be effective ten days after date of adoption.

I hereby certify this ordinance was brought for a first reading at a meeting of the City Council of the City of Pontiac on the _____ day of _____, 2019.

Garland Doyle, Interim City Clerk

I further hereby certify this ordinance was adopted at a second reading of the ordinance by the City Council of the City of Pontiac on the _____ day of _____, 2019.

Garland Doyle, Interim City Clerk

I further hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council and was published verbatim in a publication of general circulation on the _____ day of _____, 2019.

Garland Doyle, Interim City Clerk