

Date: January 11, 2023

To: Mayor Aftab Pureval
From: Emily Smart Woerner, City Solicitor *EESW*
Subject: **Ordinance – Residential CRA Policy**

Transmitted herewith is an ordinance captioned as follows:

ESTABLISHING certain policies and conditions regarding the application of residential Community Reinvestment Area real property tax abatements.

EESW/EVK(lnk)
Attachment
372637

City of Cincinnati

EVK

EESW

An Ordinance No. _____ - 2023

ESTABLISHING certain policies and conditions regarding the application of residential Community Reinvestment Area real property tax abatements.

WHEREAS, pursuant to Ordinance No. 274-2017, passed on September 27, 2017, as amended by Ordinance No. 166-2018, passed on June 27, 2018, and Ordinance No. 370-2020, passed on November 12, 2020 (the “2020 CRA Ordinance”), City Council designated the area within the corporate boundaries of the City of Cincinnati as a Community Reinvestment Area (the “CRA”) pursuant to Ohio Revised Code Sections 3735.65 through 3735.70 (the “Statute”), which authorized up to the maximum real property tax abatements for newly constructed and remodeled one-, two-, three-, and four-dwelling unit residential structures (including owner-occupied residential condominium structures) (collectively, “Residential Improvements”) permitted pursuant to the Statute within the CRA; and

WHEREAS, Ordinance No. 276-2017, passed on September 27, 2017 (as amended by the 2020 CRA Ordinance, the “Residential Policy Ordinance”), set forth certain additional policies, conditions, and limitations regarding newly constructed or remodeled residential structures in the CRA (such policy, as amended, being referred to herein as the “Residential CRA Policy”); and

WHEREAS, Motion Nos. 201801401 and 201900467, as adopted by Council on October 3, 2018, and April 3, 2019, respectively, established the Property Tax Working Group to (i) study trends related to real property taxes, especially the issue of rising real property taxes in areas of significant levels of development; (ii) make recommendations to City Council aimed at helping to keep senior citizens in their homes and communities; (iii) report on best practices in other cities and states facing similar challenges; and (iv) review the City’s Residential CRA Policy; and

WHEREAS, Motion No. 202000945, as adopted by this Council on September 2, 2020, set forth certain short-term and long-term recommendations from the Property Tax Working Group related to the Residential CRA Policy, including exploring a neighborhood-based tiering of the Residential CRA Policy based upon extensive study (collectively with Motion Nos. 201801401 and 201900467, the “PTWG Motions”); and

WHEREAS, pursuant to the PTWG Motions, Ordinance No. 333-2020, passed on September 30, 2020 (the “Study Ordinance”), appropriated funding for the research and design of a tiered Residential CRA Policy and recognized that tax abatements for Residential Improvements are vital to the growth of the City’s housing stock and tax base, and need to be reassessed to determine if changes to the City’s Residential CRA Policy are appropriate; and

WHEREAS, in furtherance of the Study Ordinance, the City commissioned HR&A Advisors, Inc. to provide professional services for a housing study to analyze current information on the City of Cincinnati’s housing market and the availability and affordability of single-family

and multi-family housing for the purpose of better targeting the City’s housing incentive programs, including the Residential CRA Policy, to maximize the overall housing stock available within the City of Cincinnati (the “Study”); and

WHEREAS, the Study recommended that the Residential Policy Ordinance be modified to align the level of incentive more closely with the amount of development a neighborhood within the City of Cincinnati is experiencing; and

WHEREAS, in furtherance of the results of the Study, City Council wishes to revise its Residential CRA Policy to incentivize development in neighborhoods where residential CRA tax abatements are historically underutilized to enhance the opportunities for growth and housing preservation in these areas; and

WHEREAS, the City Administration and the Mayor’s Office recommend this ordinance based upon engagement with key stakeholder groups and the Housing Advisory Board (collectively, the “Engagement”); and

WHEREAS, to achieve the City’s current policy goals, in furtherance of the Engagement, and pursuant to the Study, City Council desires to establish a three-tiered Residential CRA Policy tailored to address future housing market changes based upon objective data; and

WHEREAS, City Council desires to encourage the development of real property in a more environmentally friendly manner; and

WHEREAS, City Council desires to incentivize development that is accessible to senior citizens and individuals with mobility impairments; and

WHEREAS, City Council desires to incentivize the preservation of the City’s historic housing stock; and

WHEREAS, the Director of the City’s Department of Community and Economic Development intends to adopt formal rules and regulations for the operation of the residential CRA program, which include, without limitation: (i) modifications to the application to require that applicants certify that property under their or any of their affiliates’ control or is currently meeting all requirements of the City’s Building Code, (ii) certifications as to whether a condominium unit is owner-occupied to address the use of such units on a long-term basis as short-term rentals, and (iii) to encourage the sustainable development of Residential Improvements in an environmentally friendly manner; and

WHEREAS, City Council desires to modify the terms and conditions applicable to CRA real property tax abatements with respect to the remodeling and new construction of Residential Improvements to further the aforementioned policy objectives; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That City Council approves real property tax abatements for one-, two-, three-, and four-dwelling unit residential structures (collectively, “Residential Improvements”) in the amounts and for the durations listed on the applicable table within Exhibit A attached hereto and fully incorporated herein, *provided that* the Residential Improvements satisfy all other requirements for a real property tax abatement under this ordinance, the ordinance establishing the City of Cincinnati Community Reinvestment Area (“CRA”), Ordinance No. 274-2017, passed on September 27, 2017, as amended by Ordinance No. 166-2018, passed on June 27, 2018, and Ordinance No. 370-2020, passed on November 12, 2020 (as amended, the “Reauthorizing Ordinance”), and all applicable state law. For the purposes of this ordinance, each owner-occupied residential condominium unit is considered a separate structure containing one-dwelling unit. For the avoidance of doubt, a Residential Improvement constructed pursuant to a permit for an addition constitutes remodeling and not new construction.

Section 2. That City Council finds that neighborhoods in the City of Cincinnati are experiencing differing amounts of development, and, therefore, neighborhoods in the City of Cincinnati need varying levels of incentives to encourage the construction and remodeling of Residential Improvements. Accordingly, City Council adopts the following framework for determining the level of incentive on a neighborhood-basis in accordance with Exhibits A and B hereto, as designated by the community council boundaries for such neighborhood and depicted on maps adopted by the Housing Officer (as defined below):

- (A) Criteria: The following criteria (collectively, the “Criteria” and each, a “Criterion”) are equally weighted to determine whether a neighborhood constitutes a “Lift,” “Expand,” or “Sustain” neighborhood (each as defined below):

1. **Average Household Income**: the average of the median household income weighted proportionally based on the population for each census tract in a

neighborhood, as measured by the United States Census Bureau. A neighborhood meets this Criterion if the weighted average of the median household income for each census tract in such neighborhood, calculated in accordance with the foregoing sentence, is equal to or greater than the Cincinnati, OH-KY-IN Metropolitan Statistical Area median household income, as determined by the United States Census Bureau, which as of the date of passage of this ordinance is \$63,654.

2. **Poverty Rate:** the percentage of the population in a neighborhood living at or below the federally established poverty level, adjusted for family size. A neighborhood meets this Criterion if the poverty rate for such neighborhood is equal to or less than the poverty rate for the City of Cincinnati, which as of the date of passage of this ordinance is 26.3%.
3. **Housing Value:** the percentage of owner-occupied housing units in a neighborhood demonstrating a concentration of housing with values in excess of \$500,000 or such other value as may be designated by the housing officer based upon market conditions (such person as designated pursuant to Section 4 of the Reauthorizing Ordinance, as may be amended, being referred to herein as the "Housing Officer"), using data from the United State Census Bureau or any other indices selected by the Housing Officer from real estate or housing industry sources. As of the date of this ordinance, a neighborhood meets this Criterion if 10% or more of the housing units in a neighborhood have a value over \$500,000, as measured by the United States Census Bureau.

4. **Mortgage Applications Approved and Originated:** the percentage of mortgage applications in a neighborhood that are approved and originated, as measured using an index or indices selected by the Housing Officer from real estate or housing industry sources. A neighborhood meets this Criterion if the percentage of mortgage applications that are approved and originated in such neighborhood is equal to or greater than the percentage of mortgage applications that are approved and originated in the City of Cincinnati, which as of the date of passage of this ordinance is 54.65%.
5. **Market Value Change:** the percentage of total market value change (including both land and improvements) for one-to-three-unit parcels in a neighborhood from 2010-2021 (or such other time period in the future that the Housing Officer deems appropriate to reflect market change), as measured by any index or indices selected by the Housing Officer from real estate or housing industry sources. A neighborhood meets this Criterion if its percentage of total market value change (including both land and improvements) for one-to-three-unit parcels is equal to or greater than the City of Cincinnati's percentage of total market change for one-to-three-unit parcels, which as of the date of passage of this ordinance is 26.36%.
6. **New Construction Permit Activity:** the percentage of one-to-three-unit parcels (or, when such data becomes available one-to-four-unit parcels) in a neighborhood with a new construction permit issued since 2017 (or such other date as determined by the Housing Officer), as measured using City of Cincinnati permit data and any index or indices selected by the Housing Officer from real estate or housing industry sources. A neighborhood meets this Criterion if the percentage of new construction permits issued for one-to-three-unit parcels (or,

when such data becomes available, one-to-four-unit parcels) in such neighborhood is equal to or greater than such percentage of new construction permits issued in the City of Cincinnati, which as of the date of this ordinance is 0.8%.

(B) Neighborhood Designations: As more particularly described within Exhibit B hereto, City Council adopts the following neighborhood designations:

1. **Lift**: a neighborhood that meets zero to two of the Criteria.
2. **Expand**: a neighborhood that meets three to four of the Criteria.
3. **Sustain**: a neighborhood that meets five to six of the Criteria.

(C) Re-Evaluation of Neighborhood Tiers: City Council requests that the Housing Officer reassess the neighborhood designations in Section 2(B) based upon the Criteria considering any updates to the data supporting the Criteria every three years. City Council requests that the Housing Officer present such first reassessment to City Council for approval no later than September 1, 2026, and every three years thereafter so that City Council may re-evaluate the neighborhood designations.

Section 3. That, for the avoidance of doubt, City Council recognizes the Housing Officer's administrative authority to adopt and amend rules and regulations to efficiently administer and operate the CRA program for Residential Improvements in accordance with this ordinance and prior ordinances governing such program. Further, City Council authorizes the Housing Officer to certify additional environmental programs by promulgating rules and regulations for additional incentives in accordance with this ordinance, provided that such programs are consistent with the policies and goals of City Council to encourage the sustainable development of Residential Improvements in an environmentally friendly manner (the "Certified Environmental Programs").

Section 4. That in order to be eligible for the corresponding (a) U.S. Green Building Council Leadership in Energy and Environmental Design (“LEED”) or (b) Living Building Challenge (“LBC”) Net Zero, Full, or Petal (which must comply with the requirements of “Energy Petal” of the LBC) (collectively, “LBC Qualified,” and the attainment of such criteria being “LBC Qualification”) bonus to a real property tax abatement, an applicant must provide the City with evidence of the certification of the completed structure to the required LEED standard (Silver, Gold, or Platinum) by the U.S. Green Building Council or of LBC Qualification with reference to the applicable LBC standards and certifications provided by the International Living Future Institute, as applicable, and satisfy all other requirements for a real property tax abatement under this ordinance.

Section 5. That in order for a remodeled Residential Improvement to be eligible for a Home Energy Rating System (“HERS”) bonus to a real property tax abatement, an applicant must (a) have a certified Home Energy Rater conduct a home energy rating (“Initial Rating”), and (b) (i) if the structure’s initial index score from the Initial Rating is equal to or above 85, the applicant must reduce the structure’s index score to at most 70, or (ii) if the structure’s initial index score from the Initial Rating is below 85, the applicant must reduce their HERS score by at least 20% (each of the foregoing (1) as confirmed by a certified Home Energy Rater conducting a second home energy rating (“Subsequent Rating”) and (2) will make the Residential Improvement “HERS Qualified”). Documentation establishing the index score from Initial Rating and the Subsequent Rating must be provided to the City for the remodeled Residential Improvement to be HERS Qualified.

Section 6. That for the new construction or remodeling of a Residential Improvement to be eligible for a visitability and universal design certification bonus, an applicant must initiate the visitability and universal design certification process at the beginning of the permit application

process with the City’s Department of Buildings and Inspections. At the final permit inspection, a building inspector will verify whether the applicant has met the standards attached hereto as Exhibit C (the “Cincinnati Visitability and Universal Design Standards”). If the inspector determines that the structure meets the Cincinnati Visitability and Universal Design Standards, the building inspector shall indicate visitability and universal design certification on the final certificate of occupancy, if applicable. If the remodeling of a Residential Improvement does not require a permit, to be eligible for the visitability and universal design certification (a) such dwelling shall meet the Cincinnati Visitability and Universal Design Standards and (b) the remodeling of the Residential Improvement must directly enhance the visitability and universal design of such structure.

Section 7. That to be eligible for a historic restoration bonus to a real property tax abatement, (a) a remodeled Residential Improvement must have been built no later than 1945, as memorialized in the Hamilton County Auditor’s records and (b) during the term of the abatement, no Residential Improvements that constitute “new construction” shall be constructed on the subject property (“Historic Restoration”).

Section 8. That to be eligible for a tax abatement pursuant to this ordinance and as required by state law, the cost of the remodeling or new construction of (a) a Residential Improvement containing one- or two-dwelling units must be at least \$2,500 and (b) a Residential Improvement containing three- or four-dwelling units must be at least \$5,000.

Section 9. That it is hereby found and determined that any abatements (a) granted pursuant to or under the legal authority of Ordinance No. 119-2007, passed on March 28, 2007, as amended, or under Ordinance No. 276-2017, passed on September 27, 2017, as amended (collectively, the “Existing Policy Ordinances”), and (b) granted after the date of this ordinance pursuant to or under the legal authority of (i) Ordinance No. 189-2021, passed on May 26, 2021, and (ii) Ordinance No.

229-2021, passed on June 16, 2021 (the “Sanctuary Green Ordinance”) related to applications received by the City on or before January 1, 2026, with respect to the Property as defined in the Sanctuary Green Ordinance, shall not be in any way modified or impacted by the passage of this ordinance. Any applications made and abatements granted pursuant to the Existing Policy Ordinances shall continue in full force and effect in accordance with the provisions of the Existing Policy Ordinances as it applied to that application or abatement, subject to any legal rights the City may have to revoke, terminate, or modify the abatements or otherwise exercise remedies.

Section 10. That, except as noted in the above section, this ordinance shall only apply to applications for tax abatements for Residential Improvements where, if a permit is required pursuant to applicable law, the permit application for the construction or remodeling is deemed complete by the City’s Department of Buildings and Inspections on and after September 1, 2023 (“Permit Acceptance Date”). If a permit application for Residential Improvements is deemed complete by the City’s Department of Buildings and Inspections prior to the Permit Acceptance Date and actual construction does not begin on the Residential Improvements within one year after such permit is issued, then such Residential Improvements are subject to this ordinance. If permits are not required by applicable law, the construction or remodeling must commence on and after September 1, 2023, as determined by evidence acceptable to the Housing Officer, for this ordinance to apply to such Residential Improvements.

Section 11. That proper application shall be made by a property owner at any time during the period in which the abatement would have applied if the abatement had been approved in the year the new construction or remodeling would first have been taxable, except that no abatement may be claimed for any tax year in that period that precedes the tax year in which the application is filed.

Section 12. That property abatements administered by the Hamilton County Auditor pursuant to the Existing Policy Ordinances and this ordinance shall be assessed in accordance with this Section and Ohio Revised Code Sections 3735.65-3735.70. The maximum abatement level of the eligible structure or improvements shall be calculated at the time of the original City Council approval of the abatement policy for such property. The value of the abatement may vary annually with changes to assessed property values. If the assessed value exceeds the maximum abatement level in any year, then the property owner shall receive only the maximum level of abatement, as designated by the applicable ordinance.

Section 13. That the proper City officials are hereby authorized to do all things necessary to carry out the provisions of this ordinance.

Section 14. That the Clerk of Council is directed to send a certified copy of this ordinance to the Hamilton County Auditor as a matter of information.

Section 15. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

Exhibit A

(Residential CRA Program)

The applicable City officials are hereby authorized to award real property tax abatements in the below amounts and durations, based upon the conditions present in the Residential Improvement and in accordance with this ordinance, the Reauthorizing Ordinance, and all applicable state law. For the avoidance of doubt, in the event a property is subject to multiple real property tax abatements at a given time pursuant to this ordinance and the Existing Policy Ordinances (if applicable), at no point shall the total value of the abatements exceed the applicable maximum increase in assessed market improvement value per the tables below.

Baseline Incentive Table:

| LIFT (0-2 Criteria) | Abatement Term Length | Maximum Increase in Assessed Market Improvement Value |
|-------------------------------|------------------------------|--|
| Remodeling | 15 years | \$350,000 |
| New Construction | 15 years | \$300,000 |
| EXPAND (3-4 Criteria) | Abatement Term Length | Maximum Increase in Assessed Market Improvement Value |
| Remodeling | 12 years | \$350,000 |
| New Construction | 10 years | \$300,000 |
| SUSTAIN (5-6 Criteria) | Abatement Term Length | Maximum Increase in Assessed Market Improvement Value |
| Remodeling | 8 years | \$250,000 |
| New Construction | 5 years | \$200,000 |

Bonus for Environmental Sustainability, Visitability, and Historic Restoration:

| Bonus Incentive | Additional Amount of Increase to Assessed Market Improvement Value |
|--|---|
| LEED Silver HERS Qualified Certified Environmental Programs | \$200,000 |
| LEED Gold or Platinum LBC Qualified Net Zero, Full, or Petal – must include “Energy Petal” | \$300,000 |
| Meets the Cincinnati Visitability and Universal Design Standards | \$50,000 |
| Historic Restoration (remodeling only) | \$50,000 |

In addition to the maximum increases in assessed market improvement value in the Baseline Incentive Table, an additional incentive is available if the Residential Improvements satisfy one or

more of the following: meet LEED (Silver, Gold, or Platinum), LBC Qualified (Net Zero, Full, or Petal), are HERS Qualified, meet the requirements of a Certified Environmental Program, meet the Cincinnati Visitability and Universal Design Standards, and/or constitute a Historic Restoration at the corresponding amounts listed in the Bonus Incentive Table. For the avoidance of doubt, only one environmental bonus incentive is available for each Residential Improvement project.

For example, if an applicant is remodeling and the applicant's Residential Improvements are in a neighborhood in the designated "Lift" tier, then the applicant is eligible for a 15-year tax abatement on \$350,000 of increase to the property's assessed market improvement value. However, if the applicant qualifies for additional incentives, like LEED Silver, then the applicant may receive an additional bonus above the amounts listed in the Baseline Incentive Table. In this scenario, if the applicant qualifies for LEED Silver, then the applicant is eligible for an abatement on a total increased assessed market improvement value of \$550,000.

Bonus incentives are also cumulative. For example, if an applicant is remodeling and the applicant's Residential Improvements are in a neighborhood in the designated "Sustain" tier, then the applicant is eligible for an 8-year tax abatement on \$250,000 of increase to the property's assessed market improvement value. If the applicant also qualifies for LEED Gold and meets the Cincinnati Visitability and Universal Design Standards, then the applicant is eligible for an additional \$300,000 from the LEED Gold certification and an additional \$50,000 for meeting the Cincinnati Visitability and Universal Design Standards, for an abatement on a total increased assessed market improvement value of \$600,000.

Exhibit B

(Residential Tax Abatement Neighborhood Tiers)

Based upon the Criteria, as of the date of this ordinance, City Council hereby categorizes the fifty-two neighborhoods of the City of Cincinnati in accordance with the below tables for the purposes of determining the level of incentive for each neighborhood, as designated by the community council boundaries for such neighborhood and depicted on maps adopted by the Housing Officer. City Council intends to re-evaluate the below designations upon receipt of the Housing Officer's recommendations every three years.

| SUSTAIN (5-6 Criteria) | |
|------------------------|-------------|
| Columbia Tusculum | Mt. Adams |
| Hyde Park | Mt. Lookout |
| Linwood | Oakley |

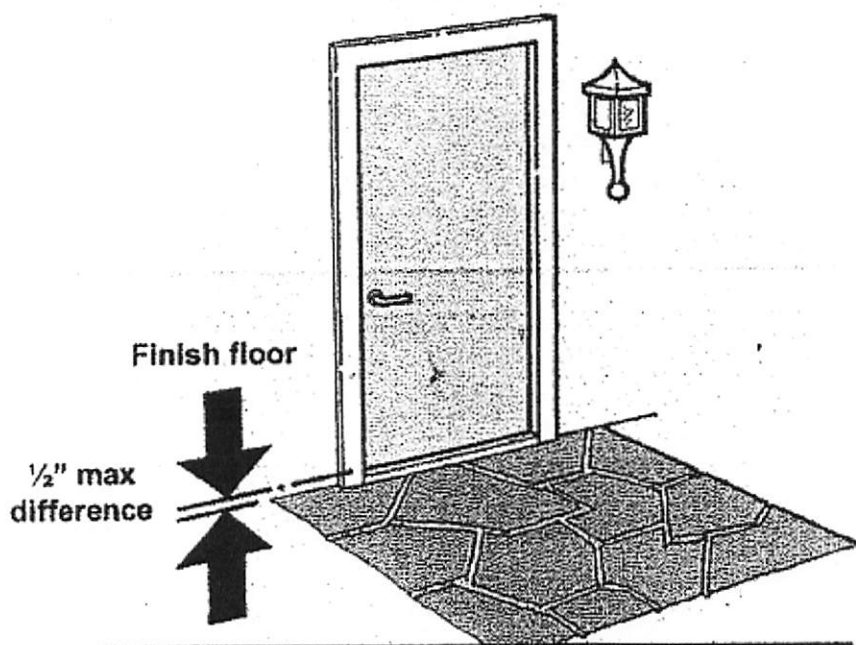
| EXPAND (3-4 Criteria) | |
|-----------------------|----------------|
| California | Madisonville |
| Clifton | Northside |
| Downtown | Over-the-Rhine |
| East End | Pendleton |
| East Walnut Hills | Pleasant Ridge |

| LIFT (0-2 Criteria) | |
|---------------------|-----------------------|
| Avondale | Mt. Washington |
| Bond Hill | North Avondale |
| Camp Washington | North Fairmount |
| Carthage | Paddock Hills |
| College Hill | Queensgate |
| Corryville | Riverside |
| CUF | Roselawn |
| East Price Hill | Sayler Park |
| East Westwood | Sedamsville |
| English Woods | South Cumminsville |
| Evanston | South Fairmount |
| Hartwell | Spring Grove Village |
| Heights | Villages at Roll Hill |
| Kennedy Heights | Walnut Hills |
| Lower Price Hill | West End |
| Millvale | West Price Hill |
| Mt. Airy | Westwood |
| Mt. Auburn | Winton Hills |

Exhibit C

(Cincinnati Visitability and Universal Design Standards)

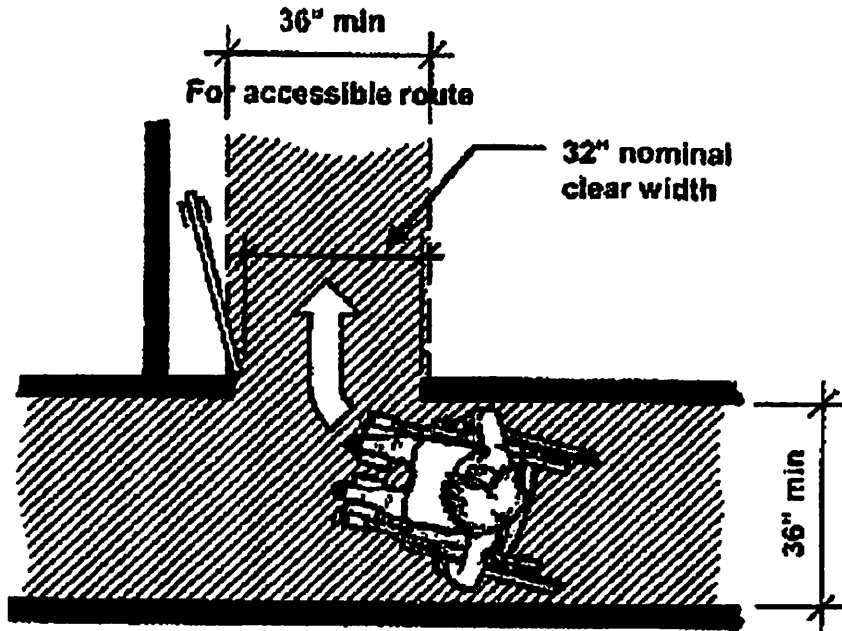
(A) No Step Entrance. The dwelling unit must provide at least one “No Step Entrance.” The required No Step Entrance must be visitable from the driveway or public way via a Visitable Path. “No Step” means no greater than a one-half inch ($\frac{1}{2}$ ”) elevation change unless access is provided using a code compliant ramp under the Residential Code of Ohio or the Ohio Building Code, as applicable.



1. At least one
no step entrance
via a visitable path

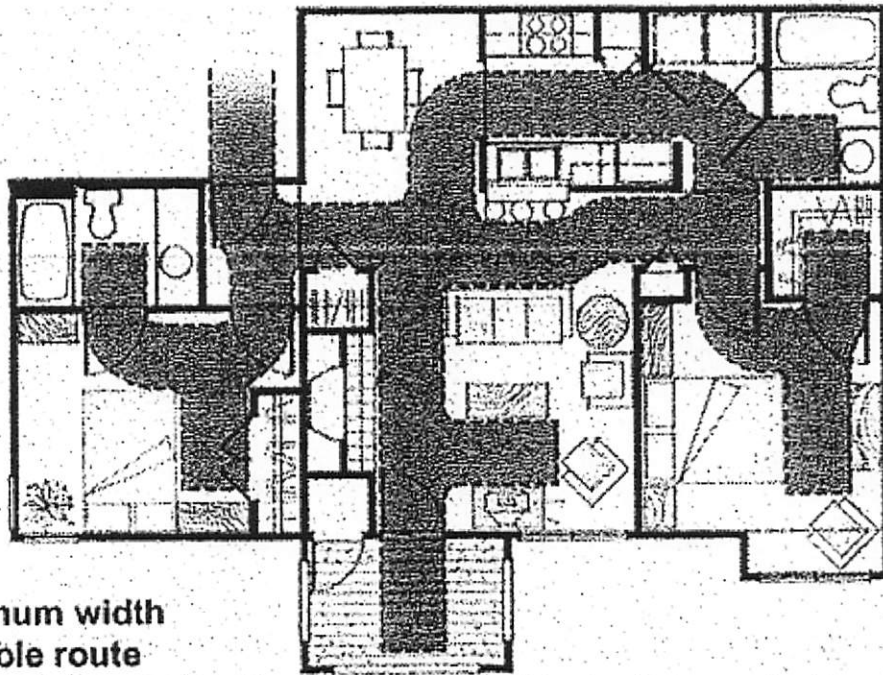
(B) Visitable Path. All hallways and corridors from the No Step Entrance to the central gathering place of the residence (e.g., great room, living room, or family room) (the “Central

Gathering Place”) and the Visitable Bathroom must be Visitable Paths. A “Visitable Path” means a No Step path of travel with a continuous minimum net clear width of at least thirty-six inches (36”).



2. Doors and openings along the visitable route shall have a minimal net clear width of 32”.

(C) Doors/Openings. All doors and openings along the Visitable Path from the No Step Entrance to the Central Gathering Place shall have a minimum net clear width of at least thirty-two inches (32”), including the doorway to at least one Visitable Bathroom along the Visitable Path.



**36" minimum width
accessible route**

3. Hallways and corridors from the no step entrance to at least one visitable common living space are at least 36" wide.

(D) Visitable Bathroom. There shall be at least one Visitable Bathroom located on a Visitable Path between the Central Gathering Place and the No Step Entrance. "Visitable Bathroom" means a full bathroom, half bathroom, or powder room having a clear floor space of at least thirty inches by forty-eight inches (30" x 48").