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ORDINANCE 2024-05 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND DEVELOPMENT REGULATIONS,” SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING PROGRAM,” AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, the City wishes to amend Chapter 23, Article 2 “Administration,” Section 23.2-39 – Affordable/Workforce Housing Program; and

WHEREAS, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Planning and Zoning Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the Historic Resources Preservation Board, in its capacity as the local planning agency, considered the proposed amendments at a duly advertised public hearing; and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, that:

Section 1: The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this ordinance as if set forth herein.

Section 2: Chapter 23 “Land Development Regulations,” Article 2 “Administration,” is hereby amended by adding thereto a new Section 23.2-39 “Affordable/Workforce Housing Program” to read as follows:

Sec. 23.2-39. – Affordable/Workforce Housing Program.

- a) *Intent.* The Affordable/Workforce Housing Program is intended to implement Objective 3.1.2 of the city comprehensive plan future land use element and provisions therein regarding affordable and workforce housing. The Affordable/Workforce Housing Program

52 provides for a density bonus and a reduction in overall housing unit areas for
53 developments that incorporate residential units with restrictive covenants that meet the
54 requirements of the program.
55

56 b) *Purpose.* The purpose of the Affordable/Workforce Housing Program is to encourage the
57 inclusion of affordable and workforce housing units within both residential and mixed-use
58 projects as well as planned developments of all types to provide for broader and more
59 accessible housing options within the City. The Affordable/Workforce Housing Program
60 offers the following as “Program Incentives”;
61

62 1. Tier One: may apply to all development projects consistent with the provisions of
63 this section

64 (a) Up to a fifteen percent (15%) increase in overall project density;

65 (b) Up to a fifteen percent (15%) reduction in the gross area requirements based
66 on unit type;

67 (c) Up to a twenty five percent (25%) reduction in required parking, provided that
68 each residential dwelling unit is provided at least one (1) parking space. This
69 reduction may not be combined with other parking reduction provisions of
70 these LDRs;

71 (d) Any additional density and/or other benefits provided under this tier shall
72 require that those units benefiting from the provisions be restricted as
73 affordable/workforce housing meeting the requirements of this section
74 through a restrictive covenant.

75 (e) Additional financial incentives may be considered on a case by case basis by
76 the applicable decision-making entity if the project provides more
77 affordable/workforce units that the minimum required.

78 (f) Any lot within either any residential or any mixed-use zoning district and any
79 project with a partial unit of additional density allowed under the calculations
80 in (a) is entitled to at least one (1) additional affordable/workforce unit
81 governed by a restrictive covenant meeting this section.

82 (g) Any platted lot of record within the CRA area boundaries, regardless of lot
83 width or lot area, is entitled to one (1) additional affordable/workforce unit
84 governed by a restrictive covenant meeting this section, even where the
85 platted lot(s) of record are combined into a single parcel.

86 2. Tier Two: applies to all projects utilizing other city incentive and/or bonus
87 program(s)

88 (a) ~~For all projects utilizing any other city incentive or bonus program(s), Fifteen~~
89 ~~percent (15%) of the total number of dwelling units within added to the project~~
90 ~~through the increased density under any other city incentive or bonus~~
91 ~~program(s) without using Tier One incentives~~ must be restricted as
92 affordable/workforce dwelling units meeting the requirements of this section
93 through a restrictive covenant.

94 (b) Any combination of Tier One incentives with other city incentive and/or bonus
95 program(s) related to density, intensity and/or height shall require that all units
96 benefiting from these increases and/or incentives be restricted as
97 affordable/workforce dwelling units meeting the requirements of this section
98 through a restrictive covenant.
99

100 c) *Application and Review Process.*
101

- 102 1. *Application.* All development proposals seeking increased density of up to fifteen
 103 percent (15%) and/or reductions in overall unit sizes of up to fifteen percent (15%)
 104 shall submit an affordable/workforce housing program application as provided by the
 105 department of community sustainability. The application shall accompany the
 106 standard City of Lake Worth Beach Universal Development Application for the
 107 development proposal. The affordable/workforce housing program application shall
 108 include all of the following:
 109
- 110 (a) A project fact sheet with building specifications including the number of additional
 111 units, unit types and unit sizes proposed.
 - 112
 - 113 (b) The affordability criteria for each unit proposed to be included in the project.
 - 114
 - 115 (c) Draft restrictive covenant should the City's version not be submitted.
 - 116
 - 117 (d) Any other additional information to ensure the timely and efficient evaluation of the
 118 project by city staff to ensure that the requirements of the Affordable/Workforce
 119 Housing Program are being met.
 - 120
- 121 2. *Review/decision.* The development review official shall review the application along
 122 with the zoning approvals otherwise required of the development proposal under these
 123 LDRs. Development applications that require further review or approval by a decision-
 124 making board shall also include the development review official's recommendation
 125 regarding the award of additional density and/or unit size reduction under the
 126 Affordable/Workforce Housing Program. Any decision on the award shall be made by
 127 the planning and zoning board, the historic resources planning board, or the city
 128 commission as applicable. A decision on an award may be appealed under the
 129 procedures applicable to the development application with which it is associated. No
 130 waiver or variance may be granted regarding the award. The award of bonus density,
 131 height or intensity under the Affordable/Workforce Housing Program shall be based
 132 on the following criteria:
 133
- 134 (a) Is the award calculated correctly, consistent with the density and unit size
 135 reduction(s) that are allowed under the Affordable/Workforce Housing Program,
 136 including that the affordable/workforce housing unit type mix be reflective of the
 137 overall unit type mix for the entire project;
 - 138
 - 139 (b) Do the proposed income restrictions meet the intent of the Affordable/Workforce
 140 Housing Program;
 - 141
 - 142 (c) Do the proposed annual rents and/or mortgage costs meet the intent of the
 143 Affordable/Workforce Housing Program; and
 - 144
 - 145 (d) Do the proposed restrictive covenants to maintain affordability meet the intent of
 146 the Affordable/Workforce Housing Program?
 - 147
- 148 d) *Qualifying income restrictions.* The following provisions outline the required income limits
 149 and overall percentage of household income to qualify units as being affordable/workforce
 150 under the Affordable/Workforce Housing Program. All income values shall be based on
 151 the then current area (County) median household income published annually by the US
 152 Department of Housing & Urban Development. Whether with a rental unit or for a fee

153 simple, for sale unit, the overall housing expense (rent, mortgage, property taxes, and
154 insurances) for the unit shall not exceed thirty percent (30%) of the income limit provided
155 for each unit type, based upon the number of bedrooms.

- 156
157 1. For a studio unit, the annual gross household income shall not exceed forty five
158 percent (45%) of area median income and minimum household size is one (1) person,
159 not to exceed two (2) people.
160
161 2. For a one-bedroom unit, the annual gross household income shall not exceed sixty
162 five percent (65%) of the area median income and minimum household size of one (1)
163 person, not to exceed two (2) people.
164
165 3. For a two-bedroom unit, the annual gross household income shall not exceed eighty
166 five percent (85%) of the area median income and minimum household size of two (2)
167 people, not to exceed two (2) people per bedroom.
168
169 4. For a three-bedroom unit, the annual gross household income shall not exceed one
170 hundred and five percent (105%) of the area median income and minimum household
171 size of three (3) people, not to exceed two (2) people per bedroom.
172
173 5. For a four or more-bedroom unit, the annual gross household income shall not exceed
174 one hundred and twenty five percent (125%) of the area median income and minimum
175 household size of four (4) people, not to exceed two (2) people per bedroom.
176
177 6. For fee simple ownership, the limits provided above may be increased by fifteen (15%)
178 based on unit type and shall include the overall housing expense.
179
180 7. Alternatively, the income restrictions may adhere to the following guidelines singularly
181 or in combination.

182
183 a. "Affordable Housing Eligible Households" means a household with an annual
184 gross household income at or less than eighty percent (80%) of the Area
185 Median Income, calculated as percentages of the Median Family Income for
186 Palm Beach County, as published annually by the US Department of Housing
187 and Urban Development.

188
189 b. "Workforce Housing Eligible Households" means a household with an annual
190 gross household income within the following income categories: Moderate
191 (80%-100%) and Middle (101%-140%) of the Area Median Income, calculated
192 as percentages of the Median Family Income for Palm Beach County, as
193 published annually by the US Department of Housing and Urban Development.

194
195 e) *Additional restrictions.* The following requirements outline the restrictive covenant that
196 shall be recorded and maintained on each unit awarded under the Affordable/Workforce
197 Housing Program.

- 198
199 1. The restrictive covenant shall be in a legal form acceptable to the department of
200 community sustainability and the city attorney's office or as otherwise provided by the
201 city and shall require each unit awarded be maintained at the awarded level of
202 affordability, in accordance with the Affordable/Workforce Housing Program, for a
203 minimum of twenty (20) years.

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2. The restrictive covenant shall include the more restrictive program requirements, which shall govern the project if other affordable/workforce housing incentives are combined with use of the Affordable/Workforce Housing Program.
 3. The restrictive covenant shall require an annual report of the project's compliance with the restrictive covenants and the requirements of the Affordable/Workforce Housing Program be provided to the City or its designee for evaluation, review and approval. Should the annual report not be submitted or should it demonstrate the project is not meeting the requirements of the Affordable/Workforce Housing Program, the project owner shall pay the city, as a penalty, an amount no less than fifteen dollars (\$15) per square foot for each unit that did not comply with the program's requirements for the previous year, or portion thereof. If the report is not submitted, the penalty payment will be calculated as though no units met the requirements of the Affordable/Workforce Housing Program for the reporting period. The per square foot penalty value may increase based on the annual U.S. Consumer Price Index (CPI) and shall be reflected in the City's adopted annual Schedule of Fees and Charges. Any required penalty payment shall be made within ten (10) days of notification from the city of the calculated payment based on the report or failure to submit the report and the annual penalty value as adopted by the city.
 4. The restrictive covenant shall provide for extension of the affordability period, as set forth in this section.
- f) *Financial incentives.* The following are parameters for financial incentive values based on unit type, which may be utilized to ensure more than the required fifteen percent (15%) of the dwelling units available after the density increase incentive remain affordable for a guaranteed twenty-five (25) year period as governed through a covenant and/or deed restriction. Values may be paid through utilization of Sustainable Bonus Incentive Values, Transfer Development Right Values or cash payments from the City from the Affordable/Workforce Housing Program Trust Fund, Sustainable Bonus Incentive Trust Account or the Transfer Development Rights Trust Account or other legally approved funding source(s).
1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent of the area median income, whichever is greater;
 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75% percent of the area median income, whichever is greater;
 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100% percent of the area median income, whichever is greater;
 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125% percent of the area median income, whichever is greater;
 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or 150% percent of the area median income, whichever is greater;
 6. For a fee simple ownership dwelling unit, an additional one-time payment of \$25,000 may be provided; and

- 255 7. Payments shall be made at time of dwelling units receiving a final certificate of
256 occupancy or certificate of completion.
257
- 258 g) *Affordability extension(s)*. The City shall have the express right, in its sole discretion, to
259 extend the affordability deed restrictions and covenants for another period of no less than
260 twenty-five (25) years) through the provision of a then current economic incentive payment
261 based on unit size.
262
- 263 1. The City shall provide formal notice of intent to extend affordability of units a minimum
264 of six (6) months prior to the expiration of the affordability deed restrictions and
265 covenants.
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 - 267 2. The City's notice shall include the number and type of units having affordability
268 extended and the economic incentive to be provided for those units.
269
 - 270 3. The affordability extension may not exceed the original number and type of units
271 governed by the Affordable/Workforce Housing Program.
272
 - 273 4. There shall be no limit on the number of affordability extensions the city may fund for
274 a project.
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 - 276 5. The extension incentive payment shall follow the parameters as set forth in f) of this
277 section based on the values established for the year that the extension is authorized.
278
- 279 h) *Policies and Procedures*. The city's director for community sustainability is hereby
280 authorized to establish policies and procedures including covenants, accountability and
281 reporting to ensure effective implementation of the Affordable/Workforce Housing
282 Program and clarify the requirements and procedures as set forth herein.
283
- 284 i) *Trust Fund*. There is hereby established an Affordable/Workforce Housing Program Trust
285 Fund. The trust fund will be a separate line item in the City's budget.
286
- 287 1. Payments required by the Affordable/Workforce Housing Program due to non-
288 compliance with restrictive covenants shall be paid into the trust fund.
289
 - 290 2. Funds in the trust fund will be used to fund the financial incentives and the affordability
291 extensions under the Affordable/Workforce Housing Program.
292
 - 293 3. At least once each fiscal period, the city manager shall present to the city commission
294 a report on funds held in the trust fund, including any accrued interest, and any
295 proposed use thereof. Monies, including any accrued interest, not assigned in any
296 fiscal period shall be retained in the trust fund until the next fiscal period.
297
- 298 j) *In Lieu Payment Provision*. In some instances, projects including Density, Intensity and/or
299 Height Bonuses may not be appropriate for participation in the Program. In these cases,
300 the project may pay an in lieu of payment based on the following provisions;
301
- 302 1. The fee shall be calculated on fifteen percent (15%) of the gross area of the
303 bonuses requested for the project.
304
 - 305 2. The fee shall be a one-time payment of \$50 or 0.0625% of the area median
income, whichever is greater, per gross square foot.
 3. Projects eligible for an in lieu of payment may include the following:

- 306 i. Single or multiple use projects that do not include a residential use;
- 307 ii. Mixed use projects that include residential and fewer than 25 residential
- 308 units;
- 309 iii. Residential only projects that include fewer than 15 residential units;
- 310 iv. Any project that includes a residential use(s) and all of the dwelling units
- 311 are for sale, home ownership such as condominiums, townhouses and/or
- 312 single-family residences of which none are deed restricted as
- 313 affordable/workforce housing.
- 314 4. Fee payment shall be due prior to issuance of any building permits related to the
- 315 project.
- 316

317 k) *Exemptions.* Projects in specific locations are exempt from the requirements of this
 318 section due to their maximum allowed density and/or to their allowed uses.

- 319 1. Individual residential dwelling units in the Single Family Residential (SF-R) and
- 320 Single Family/Two Family Residential (SF/TF) Zoning Districts unless units are
- 321 part of a project requesting additional densities under the provisions of one of the
- 322 city’s incentive programs.
- 323 2. Projects within the Public (P), Public Recreation and Open Space (PROS), Beach
- 324 and Casino (BAC), Conservation (C) and Industrial Park of Commerce (I-POC)
- 325 Zoning Districts.
- 326

327 **Section 3:** Severability. If any section, subsection, sentence, clause, phrase or portion
 328 of this Ordinance is for any reason held invalid or unconstitutional by any court of competent
 329 jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and
 330 such holding shall not affect the validity of the remaining portions thereof.

331 **Section 4:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict
 332 herewith are hereby repealed to the extent of such conflict.

333 **Section 5:** Codification. The sections of the ordinance may be made a part of the City
 334 Code of Laws and ordinances and may be re-numbered or re-lettered to accomplish such, and
 335 the word “ordinance” may be changed to “section”, “division”, or any other appropriate word.

336 **Section 6:** Effective Date. This ordinance shall become effective 10 days after
 337 passage.

338 The passage of this ordinance on first reading was moved by Vice Mayor Malega,
 339 seconded by Commissioner Diaz, and upon being put to a vote, the vote was as follows:

344		
345	Mayor Betty Resch	AYE
346	Vice Mayor Sarah Malega	NAY
347	Commissioner Christopher McVoy	AYE
348	Commissioner Mimi May	NAY
349	Commissioner Reinaldo Diaz	AYE

350 The Mayor thereupon declared this ordinance duly passed on first reading on the 7th day
 351 of May, 2024.

352 The passage of this ordinance on second reading was moved by _____,
 353 seconded by _____, and upon being put to a vote, the vote was as follows:

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Mayor Betty Resch
Vice Mayor Sarah Malega
Commissioner Christopher McVoy
Commissioner Mimi May
Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2024.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, MMC, City Clerk