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ORDINANCE 2024-__ - 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.

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

- b) *Purpose.* The purpose of the Affordable/Workforce Housing Program is to encourage the inclusion of affordable and workforce housing units within both residential and mixed-use projects as well as planned developments of all types to provide for broader and more accessible housing options within the City. The Affordable/Workforce Housing Program offers the following as “Program Incentives”;
 - 1. Tier One: may apply to all development projects consistent with the provisions of this section
 - (a) Up to a fifteen percent (15%) increase in overall project density;
 - (b) Up to a fifteen percent (15%) reduction in the gross area requirements based on unit type;
 - (c) Up to a twenty five percent (25%) reduction in required parking, provided that each residential dwelling unit is provided at least one (1) parking space. This reduction may not be combined with other parking reduction provisions of these LDRs;
 - (d) Any additional density and/or other benefits provided under this tier shall require that those units benefiting from the provisions be restricted as affordable/workforce housing meeting the requirements of this section through a restrictive covenant.
 - (e) Additional financial incentives may be considered on a case by case basis by the applicable decision-making entity if the project provides more affordable/workforce units that the minimum required.
 - (f) Any lot within either any residential or any mixed-use zoning district is entitled to at least one (1) additional affordable/workforce unit governed by a restrictive covenant meeting this section.
 - (g) Any platted lot of record within the CRA area boundaries, regardless of lot width or lot area, is entitled to one (1) additional affordable/workforce unit governed by a restrictive covenant meeting this section, even where the platted lot(s) of record are combined into a single parcel.
 - 2. Tier Two: applies to all projects utilizing other city incentive and/or bonus program(s)
 - (a) For all projects utilizing any other city incentive or bonus program(s), Fifteen percent (15%) of the total number of dwelling units within added to the project through the increased density under any other city incentive or bonus program(s) without using Tier One incentives must be restricted as affordable/workforce dwelling units meeting the requirements of this section through a restrictive covenant.

98 (b) Any combination of Tier One incentives with other city incentive and/or
99 bonus program(s) related to density, intensity and/or height shall
100 require that all units benefiting from these increases and/or incentives
101 be restricted as affordable/workforce dwelling units meeting the
102 requirements of this section through a restrictive covenant.
103

104 c) *Application and Review Process.*
105

106 1. *Application.* All development proposals seeking increased density of up to
107 fifteen percent (15%) and/or reductions in overall unit sizes of up to fifteen
108 percent (15%) shall submit an affordable/workforce housing program
109 application as provided by the department of community sustainability. The
110 application shall accompany the standard City of Lake Worth Beach Universal
111 Development Application for the development proposal. The
112 affordable/workforce housing program application shall include all of the
113 following:
114

115 (a) A project fact sheet with building specifications including the number of
116 additional units, unit types and unit sizes proposed.
117

118 (b) The affordability criteria for each unit proposed to be included in the project.
119

120 (c) Draft restrictive covenant should the City's version not be submitted.
121

122 (d) Any other additional information to ensure the timely and efficient evaluation
123 of the project by city staff to ensure that the requirements of the
124 Affordable/Workforce Housing Program are being met.
125

126 2. *Review/decision.* The development review official shall review the application
127 along with the zoning approvals otherwise required of the development
128 proposal under these LDRs. Development applications that require further
129 review or approval by a decision-making board shall also include the
130 development review official's recommendation regarding the award of
131 additional density and/or unit size reduction under the Affordable/Workforce
132 Housing Program. Any decision on the award shall be made by the planning
133 and zoning board, the historic resources planning board, or the city commission
134 as applicable. A decision on an award may be appealed under the procedures
135 applicable to the development application with which it is associated. No waiver
136 or variance may be granted regarding the award. The award of bonus density,
137 height or intensity under the Affordable/Workforce Housing Program shall be
138 based on the following criteria:
139

140 (a) Is the award calculated correctly, consistent with the density and unit size
141 reduction(s) that are allowed under the Affordable/Workforce Housing
142 Program, including that the affordable/workforce housing unit type mix be
143 reflective of the overall unit type mix for the entire project;
144

- 145 (b) Do the proposed income restrictions meet the intent of the
- 146 Affordable/Workforce Housing Program;
- 147
- 148 (c) Do the proposed annual rents and/or mortgage costs meet the intent of the
- 149 Affordable/Workforce Housing Program; and
- 150
- 151 (d) Do the proposed restrictive covenants to maintain affordability meet the
- 152 intent of the Affordable/Workforce Housing Program?
- 153

154 d) *Qualifying income restrictions.* The following provisions outline the required
155 income limits and overall percentage of household income to qualify units as being
156 affordable/workforce under the Affordable/Workforce Housing Program. All
157 income values shall be based on the then current area (County) median household
158 income published annually by the US Department of Housing & Urban
159 Development. Whether with a rental unit or for a fee simple, for sale unit, the
160 overall housing expense (rent, mortgage, property taxes, and insurances) for the
161 unit shall not exceed thirty percent (30%) of the income limit provided for each unit
162 type, based upon the number of bedrooms.

- 164 1. For a studio unit, the annual gross household income shall not exceed forty five
165 percent (45%) of area median income and minimum household size is one (1)
166 person, not to exceed two (2) people.
- 167
- 168 2. For a one-bedroom unit, the annual gross household income shall not exceed
169 sixty five percent (65%) of the area median income and minimum household
170 size of one (1) person, not to exceed two (2) people.
- 171
- 172 3. For a two-bedroom unit, the annual gross household income shall not exceed
173 eighty five percent (85%) of the area median income and minimum household
174 size of two (2) people, not to exceed two (2) people per bedroom.
- 175
- 176 4. For a three-bedroom unit, the annual gross household income shall not exceed
177 one hundred and five percent (105%) of the area median income and minimum
178 household size of three (3) people, not to exceed two (2) people per bedroom.
- 179
- 180 5. For a four or more-bedroom unit, the annual gross household income shall not
181 exceed one hundred and twenty five percent (125%) of the area median income
182 and minimum household size of four (4) people, not to exceed two (2) people
183 per bedroom.
- 184
- 185 6. For fee simple ownership, the limits provided above may be increased by fifteen
186 (15%) based on unit type and shall include the overall housing expense.
- 187
- 188 7. Alternatively, the income restrictions may adhere to the following guidelines
189 singularly or in combination.
- 190
- 191 a. "Affordable Housing Eligible Households" means a household with an
192 annual gross household income at or less than eighty percent (80%) of

193 the Area Median Income, calculated as percentages of the Median
194 Family Income for Palm Beach County, as published annually by the US
195 Department of Housing and Urban Development.

196
197 b. "Workforce Housing Eligible Households" means a household with an
198 annual gross household income within the following income categories:
199 Moderate (80%-100%) and Middle (101%-140%) of the Area Median
200 Income, calculated as percentages of the Median Family Income for
201 Palm Beach County, as published annually by the US Department of
202 Housing and Urban Development.

203
204 e) *Additional restrictions.* The following requirements outline the restrictive covenant
205 that shall be recorded and maintained on each unit awarded under the
206 Affordable/Workforce Housing Program.

207
208 1. The restrictive covenant shall be in a legal form acceptable to the department
209 of community sustainability and the city attorney's office or as otherwise
210 provided by the city and shall require each unit awarded be maintained at the
211 awarded level of affordability, in accordance with the Affordable/Workforce
212 Housing Program, for a minimum of twenty (20) years.

213
214 2. The restrictive covenant shall include the more restrictive program
215 requirements, which shall govern the project if other affordable/workforce
216 housing incentives are combined with use of the Affordable/Workforce Housing
217 Program.

218
219 3. The restrictive covenant shall require an annual report of the project's
220 compliance with the restrictive covenants and the requirements of the
221 Affordable/Workforce Housing Program be provided to the City or its designee
222 for evaluation, review and approval. Should the annual report not be submitted
223 or should it demonstrate the project is not meeting the requirements of the
224 Affordable/Workforce Housing Program, the project owner shall pay the city, as
225 a penalty, an amount no less than fifteen dollars (\$15) per square foot for each
226 unit that did not comply with the program's requirements for the previous year,
227 or portion thereof. If the report is not submitted, the penalty payment will be
228 calculated as though no units met the requirements of the Affordable/Workforce
229 Housing Program for the reporting period. The per square foot penalty value
230 may increase based on the annual U.S. Consumer Price Index (CPI) and shall
231 be reflected in the City's adopted annual Schedule of Fees and Charges. Any
232 required penalty payment shall be made within ten (10) days of notification from
233 the city of the calculated payment based on the report or failure to submit the
234 report and the annual penalty value as adopted by the city.

235
236 4. The restrictive covenant shall provide for extension of the affordability period,
237 as set forth in this section.

238
239 f) *Financial incentives.* The following are parameters for financial incentive values
240 based on unit type, which may be utilized to ensure more than the required fifteen

241 percent (15%) of the dwelling units available after the density increase incentive
242 remain affordable for a guaranteed twenty-five (25) year period as governed
243 through a covenant and/or deed restriction. Values may be paid through utilization
244 of Sustainable Bonus Incentive Values, Transfer Development Right Values or
245 cash payments from the City from the Affordable/Workforce Housing Program
246 Trust Fund, Sustainable Bonus Incentive Trust Account or the Transfer
247 Development Rights Trust Account or other legally approved funding source(s).

- 248
- 249 1. For a studio dwelling unit, a one-time payment of \$40,000 or 50% percent of
250 the area median income, whichever is greater;
- 251
- 252 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%
253 percent of the area median income, whichever is greater;
- 254
- 255 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%
256 percent of the area median income, whichever is greater;
- 257
- 258 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125%
259 percent of the area median income, whichever is greater;
- 260
- 261 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or
262 150% percent of the area median income, whichever is greater;
- 263
- 264 6. For a fee simple ownership dwelling unit, an additional one-time payment of
265 \$25,000 may be provided; and
- 266
- 267 7. Payments shall be made at time of dwelling units receiving a final certificate of
268 occupancy or certificate of completion.

269

270 g) *Affordability extension(s)*. The City shall have the express right, in its sole
271 discretion, to extend the affordability deed restrictions and covenants for another
272 period of no less than twenty-five (25) years) through the provision of a then current
273 economic incentive payment based on unit size.

- 274
- 275 1. The City shall provide formal notice of intent to extend affordability of units a
276 minimum of six (6) months prior to the expiration of the affordability deed
277 restrictions and covenants.
- 278
- 279 2. The City's notice shall include the number and type of units having affordability
280 extended and the economic incentive to be provided for those units.
- 281
- 282 3. The affordability extension may not exceed the original number and type of
283 units governed by the Affordable/Workforce Housing Program.
- 284
- 285 4. There shall be no limit on the number of affordability extensions the city may
286 fund for a project.
- 287

- 288 5. The extension incentive payment shall follow the parameters as set forth in f)
 289 of this section based on the values established for the year that the extension
 290 is authorized.
 291
- 292 h) *Policies and Procedures.* The city's director for community sustainability is hereby
 293 authorized to establish policies and procedures including covenants, accountability
 294 and reporting to ensure effective implementation of the Affordable/Workforce
 295 Housing Program and clarify the requirements and procedures as set forth herein.
 296
- 297 i) *Trust Fund.* There is hereby established an Affordable/Workforce Housing
 298 Program Trust Fund. The trust fund will be a separate line item in the City's budget.
 299
- 300 1. Payments required by the Affordable/Workforce Housing Program due to non-
 301 compliance with restrictive covenants shall be paid into the trust fund.
 302
- 303 2. Funds in the trust fund will be used to fund the financial incentives and the
 304 affordability extensions under the Affordable/Workforce Housing Program.
 305
- 306 3. At least once each fiscal period, the city manager shall present to the city
 307 commission a report on funds held in the trust fund, including any accrued
 308 interest, and any proposed use thereof. Monies, including any accrued interest,
 309 not assigned in any fiscal period shall be retained in the trust fund until the next
 310 fiscal period.
 311
- 312 j) *In Lieu Payment Provision.* In some instances, projects including Density, Intensity
 313 and/or Height Bonuses may not be appropriate for participation in the Program. In
 314 these cases, the project may pay an in lieu of payment based on the following
 315 provisions;
- 316 1. The fee shall be calculated on fifteen percent (15%) of the gross area of the
 317 bonuses requested for the project.
 318
- 319 2. The fee shall be a one-time payment of \$50 or 0.0625% of the area median
 320 income, whichever is greater, per gross square foot.
 321
- 322 3. Projects eligible for an in lieu of payment may include the following:
 323 i. Single or multiple use projects that do not include a residential use;
 324 ii. Mixed use projects that include residential and fewer than 25
 325 residential units;
 326 iii. Residential only projects that include fewer than 15 residential units;
 327 iv. Any project that includes a residential use(s) and all of the dwelling
 328 units are for sale, home ownership such as condominiums,
 329 townhouses and/or single-family residences of which none are deed
 330 restricted as affordable/workforce housing.
 331
- 332 4. Fee payment shall be due prior to issuance of any building permits related
 333 to the project.
 334
- 335 k) *Exemptions.* Projects in specific locations are exempt from the requirements of
 this section due to their maximum allowed density and/or to their allowed uses.
 1. Individual residential dwelling units in the Single Family Residential (SF-R)
 and Single Family/Two Family Residential (SF/TF) Zoning Districts unless

units are part of a project requesting additional densities under the provisions of one of the city’s incentive programs.

- 2. Projects within the Public (P), Public Recreation and Open Space (PROS), Beach and Casino (BAC), Conservation (C) and Industrial Park of Commerce (I-POC) Zoning Districts.

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

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

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

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

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

- Mayor _____
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

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

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

- Mayor _____
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Mimi May
- Commissioner Reinaldo Diaz

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

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LAKE WORTH BEACH CITY COMMISSION

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389

By: _____
Betty Resch, Mayor

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393 ATTEST:

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397 _____
Melissa Ann Coyne, MMC, City Clerk

398