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3 **ORDINANCE 2022-12 - AN ORDINANCE OF THE CITY OF LAKE**
4 **WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 “LAND**
5 **DEVELOPMENT REGULATIONS,” ARTICLE 1 “GENERAL**
6 **PROVISIONS,” DIVISION 2 “DEFINITIONS,” SECTION 23.1-12**
7 **“DEFINITIONS,” ADDING A NEW DEFINITIONS “ANNUAL GROSS**
8 **HOUSEHOLD INCOME,” “GROSS RENT” AND “OVERALL HOUSING**
9 **EXPENSE;” AND ARTICLE 2 “ADMINISTRATION,” DIVISION 3**
10 **“PERMITS,” ADDING A NEW SECTION 23.2-39**
11 **“AFFORDABLE/WORKFORCE HOUSING PROGRAM,” PROVIDING**
12 **FOR AN AFFORDABLE/WORKFORCE HOUSING PROGRAM WITHIN**
13 **THE CITY OF LAKE WORTH BEACH; AND PROVIDING FOR**
14 **SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE**
15 **DATE**

16
17 **WHEREAS**, as provided in Section 2(b), Article VIII of the Constitution of the State
18 of Florida, and Section 166.021(1), Florida Statutes, the City of Lake Worth Beach (the
19 “City”), enjoys all governmental, corporate, and proprietary powers necessary to conduct
20 municipal government, perform municipal functions, and render municipal services, and
21 may exercise any power for municipal purposes, except as expressly prohibited by law;
22 and

23
24 **WHEREAS**, as provided in Section 166.021(3), Florida Statutes, the governing
25 body of each municipality in the state has the power to enact legislation concerning any
26 subject matter upon which the state legislature may act, except when expressly prohibited
27 by law; and

28
29 **WHEREAS**, the City wishes to amend Chapter 23 Land Development
30 Regulations,” Article 1 “General Provisions,” Division 2 “Definitions,” Section 23.1.12
31 definitions, to add definitions and to define “Annual Gross Household Income,” “Gross
32 Rent” and “Overall Housing Expense;” and

33
34 **WHEREAS**, the City wishes to amend Chapter 23, Article 2 “Administration,” to
35 establish a new section, Section 23.2-39 – Affordable/Workforce Housing Program to
36 establish an affordable/workforce housing program within the City of Lake Worth Beach;
37 and

38
39 **WHEREAS**, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted
40 municipality having such power and authority conferred upon it by the Florida Constitution
41 and Chapter 166, Florida Statutes; and

42
43 **WHEREAS**, the Planning and Zoning Board, in its capacity as the local planning
44 agency, considered the proposed amendments at a duly advertised public hearing; and

45
46 **WHEREAS**, the Historic Resources Preservation Board, in its capacity as the local
47 planning agency, considered the proposed amendments at a duly advertised public
48 hearing; and

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

53
54 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**
55 **CITY OF LAKE WORTH BEACH, FLORIDA, that:**

56
57 **Section 1:** The foregoing “WHEREAS” clauses are ratified and confirmed as
58 being true and correct and are made a specific part of this ordinance as if set forth herein.

59
60 **Section 2:** Chapter 23 “Land Development Regulations,” Article 1 “General
61 Provisions,” Division 2 “Definitions,” Section 23.1-12 “Definitions,” is hereby amended by
62 adding thereto new definitions “Annual Gross Household Income,” “Gross Rent” and
63 “Overall Housing Expense” to read as follows:

64
65 Annual Gross Household Income: Total gross income of all wage-earning
66 residents residing within a single dwelling unit.

67
68 Gross Rent: Total all-inclusive dollar amount required from a lessee by a lessor for
69 a single dwelling unit.

70
71 Median Household Income: Gross income for 4 people, also known as Area
72 Median Income, published annually for Palm Beach County by the U.S. Department of
73 Housing and Urban Development.

74
75 Overall Housing Expense: Total homeowner expenses for mortgage, mortgage
76 insurance, property insurance and taxes.

77
78 **Section 3:** Chapter 23 “Land Development Regulations,” Article 2
79 “Administration,” is hereby amended by adding thereto a new Section 23.2-39
80 “Affordable/Workforce Housing Program” to read as follows:

81
82 **Sec. 23.2-39. – Affordable/Workforce Housing Program.**

- 83
84 a) Intent. The Affordable/Workforce Housing Program is intended to implement
85 Objective 3.1.2 of the city comprehensive plan future land use element and
86 provisions therein regarding affordable and workforce housing. The
87 Affordable/Workforce Housing Program provides for a density bonus and a
88 reduction in overall housing unit areas for developments that incorporate
89 residential units with restrictive covenants that meet the requirements of the
90 program.
- 91
92 b) Purpose. The purpose of the Affordable/Workforce Housing Program is to
93 encourage the inclusion of affordable and workforce housing units within both
94 residential and mixed-use projects as well as planned developments of all types to
95 provide for broader and more accessible housing options within the City. The
96 Affordable/Workforce Housing Program offers the following as “Program
97 Incentives”; (a) up to a fifteen percent (15%) increase in overall project density; (b)

98 up to a fifteen percent (15%) reduction in the gross area requirements based on
99 unit type; (c) up to a twenty five percent (25%) reduction in required parking; (d)
100 financial incentives to be considered on a case by case basis; and (e) the
101 mentioned incentives may be combined with other incentive and bonus
102 programs related to density, height and intensity predicated that any increase in
103 density, intensity and/or height must include a reservation of at least fifteen percent
104 (15%) of the total number of dwelling units within a project benefiting from any
105 density, intensity and/or height increases as affordable.

106
107 c) Application and Review Process.

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

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

120
121 (b) The affordability criteria for each unit proposed to be included in the project.

122
123 (c) Draft restrictive covenants should the City's version not be submitted.

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

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

142
143 (a) Is the award calculated correctly, consistent with the density and unit size
144 reduction(s) that are allowed under the Affordable/Workforce Housing
145 Program;

146 (b) Do the proposed income restrictions meet the intent of the
147 Affordable/Workforce Housing Program;

148
149 (c) Do the proposed annual rents and/or mortgage costs meet the intent of the
150 Affordable/Workforce Housing Program; and

151
152 (d) Do the proposed restrictive covenants to maintain affordability meet the
153 intent of the Affordable/Workforce Housing Program?

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

164
165 1. For a studio unit, the annual gross household income shall not exceed forty five
166 percent (45%) of area median income and minimum household size is one (1)
167 person, not to exceed two (2) people.

168
169 2. For a one-bedroom unit, the annual gross household income shall not exceed
170 sixty five percent (65%) of the area median income and minimum household
171 size of one (1) person, not to exceed two (2) people.

172
173 3. For a two-bedroom unit, the annual gross household income shall not exceed
174 eighty five percent (85%) of the area median income and minimum household
175 size of two (2) people, not to exceed two (2) people per bedroom.

176
177 4. For a three-bedroom unit, the annual gross household income shall not exceed
178 one hundred and five percent (105%) of the area median income and minimum
179 household size of three (3) people, not to exceed two (2) people per bedroom.

180
181 5. For a four or more-bedroom unit, the annual gross household income shall not
182 exceed one hundred and twenty five percent (125%) of the area median income
183 and minimum household size of four (4) people, not to exceed two (2) people
184 per bedroom.

185
186 6. For fee simple ownership, the limits provided above may be increased by fifteen
187 (15%) based on unit type and shall include the overall housing expense.

188
189 7. Alternatively, the income restrictions may adhere to the following guidelines
190 singularly or in combination.

191
192 a. "Affordable Housing Eligible Households" means a household with an
193 annual gross household income at or less than eighty percent (80%) of

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

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

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

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

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

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

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

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

242 percent (15%) of the dwelling units available after the density increase incentive
243 remain affordable for a guaranteed twenty (20) year period as governed through a
244 covenant and/or deed restriction. Values may be paid through utilization of
245 Sustainable Bonus Incentive Values, Transfer Development Right Values or cash
246 payments from the City from either **the Affordable/Workforce Housing Program**
247 **Trust Fund**, Sustainable Bonus Incentive Trust Account or the Transfer
248 Development Rights Trust Account or other legally approved funding source(s).

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

270

271 g) Affordability extension(s). The City shall have the express right, **in its sole**
272 **discretion**, to extend the affordability deed restrictions and covenants for another
273 period of no less than twenty (20) years) through the provision of a then current
274 economic incentive based on unit size.

- 275
- 276 1. The City shall provide formal notice of intent to extend affordability of units a
277 minimum of six (6) months prior to the expiration of the affordability deed
278 restrictions and covenants.
- 279
- 280 2. The City's notice shall include the number and type of units having affordability
281 extended and the economic incentive to be provided for those units.
- 282
- 283 3. The affordability extension may not exceed the original number and type of
284 units governed by the Affordable/Workforce Housing Program.
- 285
- 286 4. There shall be no limit on the number of affordability extensions the city may
287 fund for a project.
- 288

- 289 h) Policies and Procedures. The city’s director for community sustainability is hereby
- 290 authorized to establish policies and procedures including covenants, accountability
- 291 and reporting to ensure effective implementation of the Affordable/Workforce
- 292 Housing Program and clarify the requirements and procedures as set forth herein.
- 293
- 294 i) Trust Fund. There is hereby established an Affordable/Workforce Housing
- 295 Program Trust Fund. The trust fund will be a separate line item in the City’s budget.
- 296
- 297 1. Payments required by the Affordable/Workforce Housing Program due to non-
- 298 compliance with restrictive covenants shall be paid into the trust fund.
- 299
- 300 2. Funds in the trust fund will be used to fund the financial incentives and the
- 301 affordability extensions under the Affordable/Workforce Housing Program.
- 302
- 303 3. At least once each fiscal period, the city manager shall present to the city
- 304 commission a report on funds held in the trust fund, including any accrued
- 305 interest, and any proposed use thereof. Monies, including any accrued interest,
- 306 not assigned in any fiscal period shall be retained in the trust fund until the next
- 307 fiscal period.
- 308

309 **Section 4:** Severability. If any section, subsection, sentence, clause, phrase or

310 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of

311 competent jurisdiction, such portion shall be deemed a separate, distinct, and

312 independent provision, and such holding shall not affect the validity of the remaining

313 portions thereof.

314

315 **Section 5:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in

316 conflict herewith are hereby repealed to the extent of such conflict.

317

318 **Section 6:** Codification. The sections of the ordinance may be made a part of

319 the City Code of Laws and ordinances and may be re-numbered or re-lettered to

320 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or

321 any other appropriate word.

322

323 **Section 7:** Effective Date. This ordinance shall become effective 10 days after

324 passage.

325

326 The passage of this ordinance on first reading was moved by Commissioner

327 Malega, seconded by Commissioner Stokes, and upon being put to a vote, the vote was

328 as follows:

329

330	Mayor Betty Resch	AYE
331	Vice Mayor Christopher McVoy	AYE
332	Commissioner Sarah Malega	AYE
333	Commissioner Kimberly Stokes	AYE
334	Commissioner Reinaldo Diaz	AYE

335

336 The Mayor thereupon declared this ordinance duly passed on first reading on the
337 2nd day of August, 2022.

338
339
340 The passage of this ordinance on second reading was moved by
341 _____, seconded by _____, and upon being put to a vote,
342 the vote was as follows:

- 343
344 Mayor Betty Resch
345 Vice Mayor Christopher McVoy
346 Commissioner Sarah Malega
347 Commissioner Kimberly Stokes
348 Commissioner Reinaldo Diaz

349
350 The Mayor thereupon declared this ordinance duly passed on the _____ day of
351 _____, 2022.

352 LAKE WORTH BEACH CITY COMMISSION

353
354
355
356 By: _____
357 Betty Resch, Mayor

358 ATTEST:

359
360
361
362 _____
363 Melissa Ann Coyne, City Clerk
364