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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,” “OVERALL HOUSING**  
9 **EXPENSE,” AND “MEDIAN HOUSEHOLD INCOME;” AND ARTICLE 2**  
10 **“ADMINISTRATION,” DIVISION 3 “PERMITS,” ADDING A NEW**  
11 **SECTION 23.2-39 “AFFORDABLE/WORKFORCE HOUSING**  
12 **PROGRAM,” PROVIDING FOR AN AFFORDABLE/WORKFORCE**  
13 **HOUSING PROGRAM WITHIN THE CITY OF LAKE WORTH BEACH;**  
14 **AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION**  
15 **AND AN EFFECTIVE DATE**  
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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  
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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  
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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  
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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  
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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  
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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  
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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  
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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.

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

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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.

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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:

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

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

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71           Overall Housing Expense: Total homeowner expenses for mortgage, mortgage  
72 insurance, property insurance and taxes.

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

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78           **Section 2:** 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:

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

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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 aforementioned 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.

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107 c) Application and Review Process.

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

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

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

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

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

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

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;

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

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

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

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153 (e) Does the ratio mix of affordable unit types reflect the same ratio mix of unit  
154 types as for the entire project?

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

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

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

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

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

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

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187 6. For fee simple ownership, the limits provided above may be increased by fifteen  
188 (15%) based on unit type and shall include the overall housing expense.

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

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

Family Income for Palm Beach County, as published annually by the US Department of Housing and Urban Development.

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

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

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

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 demonstrate the project is not meeting the requirements of the Affordable/Workforce Housing Program, the project owner shall pay the city an amount no less than fifteen dollars (\$15) per square foot for each unit that does not comply with the program’s requirements. Said amount shall be due annually for each year remaining under the restrictive covenant recorded for the project. Or Said amount shall be due annually for each unit that does not comply.

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 fifteen percent (15%) of the dwelling units available after the density increase incentive remain affordable for a guaranteed twenty (20) 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 either the 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;

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- 245 2. For a one-bedroom dwelling unit, a one-time payment of \$60,000 or 75%
- 246 percent of the area median income, whichever is greater;
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- 248 3. For a two-bedroom dwelling unit, a one-time payment of \$80,000 or 100%
- 249 percent of the area median income, whichever is greater;
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- 251 4. For a three-bedroom dwelling unit, a one-time payment of \$100,000 or 125%
- 252 percent of the area median income, whichever is greater;
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- 254 5. For a four or more-bedroom dwelling unit, a one-time payment of \$120,000 or
- 255 150% percent of the area median income, whichever is greater;
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- 257 6. For a fee simple ownership dwelling unit, an additional one-time payment of
- 258 \$25,000 may be provided; and
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- 260 7. Payments shall be made at time of dwelling units receiving a final certificate of
- 261 occupancy or certificate of completion.
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263 g) Affordability extension(s). The City shall have the express right to extend the

264 affordability deed restrictions and covenants for another period of no less than

265 twenty (20) years) through the provision of a then current economic incentive

266 based on unit size.

- 267 1. The City shall provide formal notice of intent to extend affordability of units a
- 268 minimum of six (6) months prior to the expiration of the affordability deed
- 269 restrictions and covenants.
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- 271 2. The City's notice shall include the number and type of units having affordability
- 272 extended and the economic incentive to be provided for those units.
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- 274 3. The affordability extension may not exceed the original number and type of
- 275 units governed by the Affordable/Workforce Housing Program.
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- 277 4. There shall be no limit on the number of affordability extensions the city may
- 278 fund for a project.
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280 h) Policies and Procedures. The city's director for community sustainability is hereby

281 authorized to establish policies and procedures including covenants, accountability

282 and reporting to ensure effective implementation of the Affordable/Workforce

283 Housing Program and clarify the requirements and procedures as set forth herein.

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

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

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

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

289 portions thereof.

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**Section 5:** Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6:** 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 7:** 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 Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

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 Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk