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ORDINANCE 2020-13 - AN ORDINANCE OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 23 "LAND DEVELOPMENT REGULATIONS," ARTICLE 2, "ADMINISTRATION," DIVISION 3 "PERMITS," BY ADDING A NEW SECTION "EXPIRATION OF DEVELOPMENT ORDERS" TO PROVIDE FINALITY TO APPROVALS AND CONSTRUCTION PROJECTS; AMENDING ARTICLE 1 "GENERAL PROVISIONS," DIVISION 1 "GENERALLY," SECTION 23.1-11 "TIME LIMITATIONS OF APPROVALS," TO PROVIDE UNIFORM TIME LIMITATIONS ON BUILDING PERMITS FOR ALL USES IN THE LAND DEVELOPMENT REGULATIONS AND AMENDING THE SPECIFIC REGULATIONS TO REFLECT THE UNIFORMITY; PROVIDING FOR SEVERABILITY, THE REPEAL OF LAWS IN CONFLICT, CODIFICATION; AND PROVIDING 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"), a municipal corporation, 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 its regulations to provide a final expiration date of no more than three years for approvals without specific expiration dates and for a period of no more than four years when as a condition of approval, an expiration date is included in the development order; and

WHEREAS, the City wishes to amend its regulations to provide time limitations to apply for building permits as it relates to approved projects in the City; and

WHEREAS, this ordinance provides uniformity finality to building permits and approvals throughout the land development regulations; 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

49 **WHEREAS**, the City Commission has reviewed the proposed amendments and
50 has determined that it is in the best interest of the public health, safety, and general
51 welfare of the City to adopt this ordinance.

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

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

58
59 **Section 2.** Chapter 23 “Land Development Regulations,” Article 2
60 “Administration,” “Division 3 “Permits,” of the City’s Code of Ordinances, is hereby
61 amended by adding a new Section 23.2-37 “Expiration of Development Orders” as
62 indicated in **Exhibit A** (underlined type is added).

63
64 **Section 3.** Chapter 23 “Land Development Regulations,” Article 1, “General
65 Provisions,” Division 1 “Generally,” Section 23.1-11 “Time limitations of approvals,” is
66 hereby amended by adding the words shown in underlined type and deleting the words
67 ~~struck through~~ as indicated in **Exhibit B**.

68
69 **Section 4.** Chapter 23 “Land Development Regulations,” section 23.2-26(c)
70 “Time limit for variances,” section 23.2-29(k) “Expiration of conditional use approval,”
71 section 23.2-30(f) “Expiration of site plan approval,” section 23.5-4(j) “Issuance of
72 certificate of appropriateness; commencement of permitted improvements,” and section
73 23.7(4)(e) “Expiration” as it relates to flood plain permits, are hereby amended to be
74 consistent with and provide uniformity with the regulations set forth in Exhibits A and B.
75 These sections are amended by adding the words shown in underlined type and deleting
76 the words ~~struck through~~ as indicated in **Exhibit C**.

77
78 **Section 5.** Severability. If any section, subsection, sentence, clause, phrase or
79 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
80 competent jurisdiction, such portion shall be deemed a separate, distinct, and
81 independent provision, and such holding shall not affect the validity of the remaining
82 portions thereof.

83
84 **Section 6.** Repeal of Laws in Conflict. All ordinances or parts of ordinances in
85 conflict herewith are hereby repealed to the extent of such conflict.

86
87 **Section 7.** Codification. The sections of the ordinance may be made a part of
88 the City Code of Laws and ordinances and may be re-numbered or re-lettered to
89 accomplish such, and the word “ordinance” may be changed to “section”, “division”, or
90 any other appropriate word.

91
92 **Section 8.** Effective Date. This ordinance shall become effective 10 days after
93 passage.

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95

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

- 99
- 100 Mayor Pam Triolo
- 101 Vice Mayor Andy Amoroso
- 102 Commissioner Scott Maxwell
- 103 Commissioner Omari Hardy
- 104 Commissioner Herman Robinson

105
106 The Mayor thereupon declared this ordinance duly passed on first reading on the
107 _____ day of _____, 2020.

108
109
110 The passage of this ordinance on second reading was moved by
111 _____, seconded by _____, and upon being put to a vote,
112 the vote was as follows:

- 113
- 114 Mayor Pam Triolo
- 115 Vice Mayor Andy Amoroso
- 116 Commissioner Scott Maxwell
- 117 Commissioner Omari Hardy
- 118 Commissioner Herman Robinson

119
120
121 The Mayor thereupon declared this ordinance duly passed on the _____ day of
122 _____, 2020.

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125 LAKE WORTH BEACH CITY COMMISSION

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128 By: _____
129 Pam Triolo, Mayor

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131 ATTEST:

132
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134 _____
135 Deborah Andrea, CMC, City Clerk
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EXHIBIT A

Chapter 23

LAND DEVELOPMENT REGULATIONS ARTICLE 2 "ADMINISTRATION"

Article 2, "Administration," Division 3 "PERMITS"

Sec. 23.2-37. – Expiration of Development Orders.

- a) Generally. A development order shall automatically expire three (3) years from the date of issuance. If these LDRs provide for a shorter period of expiration, then those time limitations shall apply. If a development order expires, the approval shall terminate and become void. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- b) As a Condition of Approval. The planning and zoning board, the historic resources preservation board or the city commission, as applicable, may condition the approval of a development order on a period of time not exceeding four (4) years or on a final expiration date of up to four (4) years. If certificates of use, completion, or occupancy are not issued by the appropriate city official at the end of the period or on the date specified in the development order, then the development order shall automatically expire at the end of the period or on the date specified in the development order. In such event, the applicant or property owner shall be required to make application for a new approval, subject to any changes in the law.
- c) Phased Plans. If a phased site plan expires, the following shall apply as applicable.
 - 1. The allocation of dwelling units granted for any principal structure that has not received a certificate of occupancy or equivalent certification shall expire at the time the site plan expires, or
 - 2. The portion of the property not developed prior to the expiration shall not be developed without the applicant or property owner submitting an application for and receiving an approval of a new site plan.
- d) Finality. This section is intended to add finality to development orders and construction projects. In no event may the expiration of a development order exceed the number of years set forth in this section.

EXHIBIT B

Chapter 23

LAND DEVELOPMENT REGULATIONS

Article 1, "General Provisions," Division 1 "Generally"

Sec. 23.1-11. -Time limitations -- building permits approvals.

a) Application.

1. Unless specified otherwise herein, approvals granted pursuant to these regulations shall require the owner to submit an application for a building permit(s) within ~~eighteen (18)~~ twelve (12) months from ~~time~~ the date of the approval. Failure to submit an application for a building permit(s) within that timeframe shall render the approval null and void unless an extension is granted as set forth herein.

2. Building permit application ~~Permitted~~ time frames do not change with successive owners, provided however, ~~one (1);~~ two (2) separate but successive six (6) month extensions of time to apply for a building permit may be granted by the development review official for good cause shown. ~~One (1) additional six (6) month extension of time may be granted by submitting a request for extension to the city authority which granted the approval.~~

b) Building permit. After a building permit application has been approved, a request to extend the building permit may be granted by the building official or designee in the building official's or designee's discretion in six (6) month increments or as otherwise provided by the Florida Building Code. In no event may a building permit exceed the time limitations set forth in section 23.2-37, nor may it be interpreted as extending the time limitations of the underlying order as set forth in section 23.2-37.

EXHIBIT C

Chapter 23

LAND DEVELOPMENT REGULATIONS

Article 2, "Administration," Division 3 "Permits"

Sec. 23.2-26. – Variances.

c) *Time limit for variances.* Any variance granted under this section shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become null and void and of no effect twelve (12) months from and after the date of its final approval, unless within such period of twelve (12) months a building permit is issued if required, or if no permit is required, unless the action permitted by the variance shall have taken place within the twelve-month period. An extension of six (6) months may be granted by the development review official for good cause.~~

Sec. 23.2-29. – Conditional use permits.

k) *Expiration of conditional use approval.* Any approval of a conditional use granted by the planning and zoning board, the historic resources preservation board or by the city commission shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~void one (1) year after the date of the approval unless a building permit has been issued for the construction of all facilities provided in the site plan associated with the conditional use or otherwise needed to house the use, and construction is diligently pursued. If a building permit is issued within one (1) year of approval of the conditional use, the building official shall make periodic inspections in order to determine whether or not construction is being diligently pursued. If the building official determines that the construction is not being diligently pursued, then he shall notify in writing the owner of property and any other person who has requested such notice. The conditional use approval shall be void one hundred eighty (180) days after the date of such notice unless construction has been diligently resumed within that one hundred eighty day period. Minor construction related work which does not substantially advance the project to completion will not be deemed sufficient to keep from voiding of a conditional use approval. If new facilities are constructed but are not occupied within one (1) year following completion of construction, then the conditional use approval shall be void. If no new facilities are~~

263 needed to house the use, then the conditional use approval shall be void one hundred
264 eighty (180) days after the date of the approval unless the use has been established.

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Sec. 23.2-30. – Site plan review.

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270 f) ~~Expiration of site plan approval unless building permit(s) issued within one (1) year.~~
271 Any site plan approval shall be subject to the time limits set forth in section 23.1-11
272 regarding building permits and section 23.2-37 regarding the expiration of
273 development orders. ~~void one (1) year after the date of the approval unless a building~~
274 ~~permit has been issued for the construction of all facilities provided in the site plan~~
275 ~~and construction is diligently pursued. If a building permit is issued within one (1) year~~
276 ~~of approval of the site plan, the building official shall make periodic inspections in~~
277 ~~order to determine whether or not construction is being diligently pursued. If the~~
278 ~~building official determines that construction is not being diligently pursued, then he~~
279 ~~shall notify in writing the owner of property and any other person who has requested~~
280 ~~such notice. The site plan approval shall be void one hundred eighty (180) days after~~
281 ~~the date of such notice unless construction has been diligently resumed within that~~
282 ~~one hundred eighty-day period. Minor construction related work which does not~~
283 ~~substantially advance the project to completion will not be deemed sufficient to keep~~
284 ~~from voiding of site plan approval~~

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286 g) ~~Extension of time. An extension of time may be requested by the applicant prior to~~
287 ~~the expiration of the original approval. The development review official may grant one~~
288 ~~(1) time extension for a period not to exceed six (6) months and only within the original~~
289 ~~period of validity.~~

290 h) g) Compliance with LDRs required. In all cases requiring site plan review, no
291 structure, or part thereof, shall be erected or used, or land or water used, or any
292 change of use consummated, nor shall any building permit be issued, unless a site
293 plan has been reviewed and approved, and in no instance shall the decisionmaking
294 body modify the written standards of these LDRs in approving a site plan; except as
295 provided for in this section.

296 i) h) Violations. Failure to complete and continually maintain all approved elements of
297 an approved site plan including landscape, appearance and other site development
298 features, shall be a violation of these LDRs subject to enforcement and penalty
299 procedure of the City Code of Ordinances.

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Article 5, "Substantial Regulations"

Sec. 23.5-4. - Historic preservation.

- j) ~~Issuance of certificate of appropriateness; time limits commencement of permitted improvements. If the department for community sustainability or HRPB approves an application, a certificate of appropriateness shall be issued in a timely manner. Issuance of a certificate of appropriateness shall not relieve the applicant from obtaining all other required development permits, orders and approvals required by law. No building permit or other development order for a designated landmark or a property within a historic district shall be valid unless accompanied by a certificate of appropriateness. A certificate of appropriateness approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~Construction approved by a certificate of appropriateness shall commence within twelve (12) months of the date of issuance, and the certificate shall automatically expire if less than fifty (50) percent of the approved improvements are completed within twelve (12) months of the date of commencement. A certificate of occupancy for the required improvements shall be received within twenty-four (24) months of commencement of the work. The department for community sustainability may grant a one-time time extension not exceeding twelve (12) months if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. The HRPB may in its absolute discretion grant additional time extensions as necessary if the permit holder can demonstrate that delays have been unavoidable and that work will be completed in a timely manner. If the department for community sustainability or HRPB denies an application, it shall state its reasons for doing so in writing and present them to the applicant within ten (10) calendar days of the denial.~~~~

Article 7, "Floodplain Management," Division 1 "Administration"

Sec. 23.7-4. - Permits.

- e) Expiration. A floodplain development permit or approval shall be subject to the time limits set forth in section 23.1-11 regarding building permits and section 23.2-37 regarding the expiration of development orders. ~~become invalid unless the work authorized by such permit is commenced within one hundred eighty (180) days after its issuance, or if the work authorized is suspended or abandoned for a period of one hundred eighty (180) days after the work commences. Extensions for periods of not more than one hundred eighty (180) days each shall be requested in writing and justifiable cause shall be demonstrated.~~