

ORDINANCE NO. 10-22

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES, CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.7, "FAMILY/WORKFORCE HOUSING;" AMENDING SECTION 4.7.5, "DENSITY BONUS PROGRAMS," TO UPDATE CROSS-REFERENCES; AMENDING SECTION 4.7.6, "RENTAL HOUSING UNITS," MODIFYING THE PERMISSIBLE MAXIMUM RENT FOR EACH INCOME CATEGORY; AMENDING SECTION 4.7.7, "FOR SALE HOUSING UNITS," TO ALIGN THE MAXIMUM SALES PRICE REQUIREMENTS WITH STATE STANDARDS; AMENDING SECTION 4.7.8, "RESALE AND SUBSEQUENT RENTALS OF AFFORDABLE UNITS," MODIFYING THE PERMISSIBLE CONVEYANCE OF PROPERTIES WITH RESTRICTIVE COVENANTS; AMENDING SECTION 4.7.11, "DENSITY BONUS TABLES," DELETING THE SECTION IN ITS ENTIRETY, AND RENUMBERING SECTION 4.7.12, "OTHER INCENTIVES," TO REFLECT THE DELETION OF SECTION 4.7.11; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AUTHORITY TO CODIFY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Land Development Regulations ("LDRs") of the City of Delray Beach ("City") Code of Ordinances provide authority for the City Commission to amend, change, supplement, or repeal the LDRs from time to time; and

WHEREAS, the City desires to update Article 4.7, "Family/Workforce Housing," to better serve the City's objectives to incentive workforce housing; and

WHEREAS, pursuant to Florida Statutes 163.3174(4)(c), the Planning and Zoning Board for the City of Delray Beach, sitting as the Local Planning Agency, considered this item at a public hearing on February 28, 2022, and voted 6 to 0 to recommend these proposed text amendments be approved, finding the request and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in the Land Development Regulations; and

WHEREAS, the City Commission of the City of Delray Beach finds this Ordinance is consistent with the Comprehensive Plan, meets the criteria set forth the Land Development Regulations, and is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The recitations set forth above are incorporated herein.

Section 2. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.5, “Density Bonus Programs,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Sec. 4.7.5. Density Bonus Programs.

- a. ***Southwest 10th Street Overlay District.*** Developers of property in the Southwest 10th Street Overlay District shall develop the properties to afford a minimum of 20 percent of the residential units as workforce housing units.
 - i. The twenty percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
 - ii. The maximum density allowed is the maximum zoning density allowed in the zoning district. To obtain the maximum density allowed in the zoning district, not only must a minimum of 20 percent of the residential units be developed as workforce housing, but all the performance standards that allow increased density shall also be substantially met.
 - iii. Workforce housing units may be located off-site provided the location chosen is within the City of Delray Beach.
 - iv. All sections of Article 4.7 apply to the Southwest 10th Street Overlay District, except for Sections 4.7.4, and 4.7.11 ~~and 4.7.12~~.
- b. ***I-95/CSX Railroad Corridor Overlay District.*** Developers of property in the I-95/CSX Railroad Corridor Overlay District shall develop the properties to afford a minimum of 25 percent of the residential units as workforce housing units.
 - i. The twenty-five percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
 - ii. The maximum density allowed is 24 units per acres as a Conditional Use. To obtain a density greater than six units per acre, not only must a minimum of 25 percent of the residential units be developed as workforce housing, but the performance standards of Section 4.4.6(I), shall also be substantially met.

- iii. All sections of Article 4.7 apply to the I-95/CSX Railroad Corridor Overlay District, except for Sections 4.7.4, and 4.7.11 ~~and 4.7.12~~.
- c. ***Silver Terrace Courtyards Overlay District.*** Developers of property in the Silver Terrace Courtyards Overlay District shall develop the properties to afford a minimum of 20 percent of the residential units as workforce housing units.
 - i. The 20 percent that are developed as workforce housing units must contain units that are affordable to very low, low or moderate income families.
 - ii. The maximum density allowed is 22 units per acre as a Conditional Use. To obtain a density greater than six units per acre, not only must a minimum of 20 percent of the residential units be developed as workforce housing, but the performance standards of Section 4.4.6(I), shall also be substantially met.
 - iii. All sections of Article 4.7 apply to the Silver Terrace Courtyards Overlay District, except for Sections 4.7.4, and 4.7.11 ~~and 4.7.12~~.
- d. ***Aura Delray Beach Overlay District.*** The Aura Delray Beach Overlay District shall be developed in accordance with the following:
 - i. 25 percent of the residential units must be developed and provided on-site as workforce housing.
 - ii. The maximum density allowed is 24 units per acres.
 - iii. The provisions of Article 4.7 are to be applied, or any workforce housing regulations specified as part of an adopted SAD Ordinance, as applicable.
- e. ***Linton Commons Overlay District.*** Developers of property in the Linton Commons Overlay District shall develop the properties to afford a minimum of 20 percent of the residential units as workforce housing units.
 - i. The workforce housing units must be provided on-site and be affordable to an equal distribution of very low, low, or moderate income families.
 - ii. The maximum density allowed is 30 units per acre as a conditional use. To obtain a density greater than six units per acre, the performance standards of Section 4.4.6(I), shall also be substantially met.
 - iii. All sections of Article 4.7 apply to the Linton Commons Overlay District, except for Sections 4.7.4, and 4.7.11 ~~and 4.7.12~~.

Section 3. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.6, “Rental housing units,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Sec. 4.7.6. - Rental housing units.

- a. A covenant shall be recorded in the Public Records specifying the income level served, rent levels, reporting requirements and all restrictions applicable to the workforce housing units. All leases shall contain language incorporating covenants applicable to the workforce housing unit and reference recorded covenants.
- b. ~~Units targeted to very low income households under the 60 percent affordability level of the Palm Beach County median income, adjusted for family size, shall not have rental rates that exceed 100 percent of the HUD determined fair market rent for the area.~~ Household income levels, affordability ranges, and maximum rental rates are provided in Table 4.7.6-A, Workforce Housing - Rental Units.

<p align="center"><u>Table 4.7.6-A</u> <u>Workforce Housing - Rental Units</u></p>			
<u>Household</u> <u>Level</u>	<u>Income</u>	<u>Affordability Level Range</u> <u>(determined by Palm Beach County</u> <u>Median Income)</u>	<u>Units shall not have rental</u> <u>rates that exceed the</u> <u>following percent of the</u> <u>HUD determined fair market</u> <u>rent for the area:</u>
<u>Very Low</u>		<u>Under 60%</u>	<u>60%</u>
<u>Low</u>		<u>61% to 80%</u>	<u>80%</u>
<u>Moderate</u>		<u>81% to 120%</u>	<u>120%</u>
<u>NOTE: Any developments previously approved with another maximum rent for a particular household income level shall remain subject to the terms of project approval.</u>			

- ~~e. Units targeted to low income households at 61 percent to the 80 percent affordability level of the Palm Beach County median income, adjusted for family size shall not have rental rates that exceed 120 percent of the HUD determined fair market rent for the area.~~
- ~~d. Units targeted to moderate income households at 81 percent to the 120 percent affordability level of the Palm Beach County median income, adjusted for family size, shall not have rental rates that exceed 140 percent of the HUD determined fair market value rent for the area.~~
- ~~ce.~~ No workforce house units shall be offered for rent to the general public until all requirements of this section are met.
- ~~df.~~ All Restrictive Covenants shall meet the requirements of this Article and are subject to approval of the City Attorney.

Section 4. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.7, “For sale housing units,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Sec. 4.7.7. - For sale housing units.

a. - d. (These subsections shall remain in full force and effect as adopted).

e. The sales price or value of new or existing eligible housing may not exceed 90 percent of the average area purchase price in the Palm Beach County metropolitan statistical area (MSA). The average area purchase price may be calculated for any 12-month period beginning no earlier than the fourth calendar year prior to the year in which the purchase occurs. The sales price of new and existing units can be lower than, but not in excess of, 90 percent of the median area purchase price established by the U.S. Treasury Department or as described above. Sales prices for workforce housing units will be calculated on the basis of:

i. ~~The sales price of a new structure for low and very low households may not exceed the maximum price established by the Community Improvement Department under the approved Local Housing Assistance Plan (LHAP).~~

ii. ~~For moderate income households, the maximum price shall be established by the Community Improvement Department based on a formula that considers the prevailing mortgage interest rates, as approved by the City Commission by resolution.~~

f. - g. (These subsections shall remain in full force and effect as adopted).

Section 5. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.8, “Resale and subsequent rentals of affordable units,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Sec. 4.7.8. - Resale and subsequent rentals of affordable units.

To maintain the availability of workforce housing units which may be constructed pursuant to the requirements of this program, the following resale conditions shall be imposed on the workforce housing units and included in the deed or restrictive covenant and recorded in the Public Records of Palm Beach County:

a. - e. (These subsections shall remain in full force and effect as adopted).

f. Transfers of title under the following circumstances shall be allowed, and are not subject to the restrictions included in this program:

- i. Transfers ~~upon death of owner~~: by inheritance to the unit owner's surviving spouse, qualified domestic partner, or lineal descendants; or
 - ii. Transfers of title to a spouse as part of a divorce decree, or to a qualified domestic partner as part of a court approved property settlement agreement; or
 - iii. Acquisition of title or interest therein by an existing unit owner's spouse if it is in conjunction with marriage of the unit owner and his or her spouse; by an existing unit owner's qualified domestic partner.
- g. (This subsection shall remain in full force and effect as adopted).

Section 6. Chapter 4, "Zoning Regulations," Article 4.7, "Family/Workforce Housing," Section 4.7.11, "Density bonus tables," of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

~~Sec. 4.7.11. Density bonus tables.~~

- a. ~~The Density Bonus Tables shown below are provided to illustrate bonus densities under various parcel sizes, unit types and income eligibility; however, the density bonus allocations contained in Table 1 shall control densities in the Southwest Neighborhood Overlay District, the Infill Workforce Housing Area, and the Carver Estates Overlay District.~~

***Workforce Housing Program Density Bonus Allocations
Southwest Neighborhood and Carver Estates Overlay Districts
2—3 Bedroom Units***

Very Low Income (4 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	4	10	10.0%
1	12	24	9	3	12	24	12.5%
1.5	18	36	14	4	16	34	11.8%
2	24	48	18	6	24	48	12.5%
2.5	30	60	23	7	28	58	12.1%
3	36	72	27	9	36	72	12.5%
3.5	42	84	32	10	40	82	12.2%

4	48	96	36	12	48	96	12.5%
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Low Income (3 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	6	12	16.7%
1	12	24	8	4	12	24	16.7%
1.5	18	36	12	6	18	36	16.7%
2	24	48	16	8	24	48	16.7%
2.5	30	60	20	10	30	60	16.7%
3	36	72	24	12	36	72	16.7%
3.5	42	84	28	14	42	84	16.7%
4	48	96	32	16	48	96	16.7%

Moderate Income (2 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	3	3	6	12	25.0%
1	12	24	6	6	12	24	25.0%
1.5	18	36	9	9	18	36	25.0%
2	24	48	12	12	24	48	25.0%
2.5	30	60	15	15	30	60	25.0%
3	36	72	18	18	36	72	25.0%
3.5	42	84	21	21	42	84	25.0%
4	48	96	24	24	48	96	25.0%

Workforce Housing Program Density Bonus Allocations
Southwest Neighborhood and Carver Estates Overlay Districts
4+ Bedroom Units

Very Low Income (4.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	4	10	10.0%
1	12	24	10	2	9	21	9.5%
1.5	18	36	14	4	18	36	11.1%
2	24	48	19	5	22	46	10.9%
2.5	30	60	24	6	27	57	10.5%
3	36	72	28	8	36	72	11.1%
3.5	42	84	33	9	40	82	11.0%
4	48	96	38	10	45	93	10.8%

Low Income (3.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	5	1	3	9	11.1%
1	12	24	9	3	10	22	13.6%
1.5	18	36	13	5	17	35	14.3%
2	24	48	17	7	24	48	14.6%
2.5	30	60	22	8	28	58	13.8%
3	36	72	26	10	35	71	14.1%
3.5	42	84	30	12	42	84	14.3%
4	48	96	35	13	45	93	14.0%

Moderate Income (2.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	12	4	2	5	11	18.2%
1	12	24	7	5	12	24	20.8%
1.5	18	36	11	7	17	35	20.0%
2	24	48	15	9	22	46	19.6%
2.5	30	60	18	12	30	60	20.0%
3	36	72	22	14	35	71	19.7%
3.5	42	84	25	17	42	84	20.2%
4	48	96	29	19	47	95	20.0%

***Workforce Housing Program Density Bonus Allocations
Infill Workforce Housing Area
2—3 Bedroom Units***

Very Low Income (4 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	4	1	4	9	11.1%
1	12	18	11	1	4	16	6.3%
1.5	18	27	16	2	8	26	7.7%
2	24	36	21	3	12	36	8.3%
2.5	30	45	27	3	12	42	7.1%
3	36	54	32	4	16	52	7.7%
3.5	42	63	37	5	20	62	8.1%
4	48	72	42	6	24	72	8.3%

Low Income (3 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	5	1	3	9	11.1%
1	12	18	10	2	6	18	11.1%
1.5	18	27	15	3	9	27	11.1%
2	24	36	20	4	12	36	11.1%
2.5	30	45	25	5	15	45	11.1%
3	36	54	30	6	18	54	11.1%
3.5	42	63	35	7	21	63	11.1%
4	48	72	40	8	24	72	11.1%

Moderate Income (2 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	5	1	2	8	12.5%
1	12	18	9	3	6	18	16.7%
1.5	18	27	14	4	8	26	15.4%
2	24	36	18	6	12	36	16.7%
2.5	30	45	23	7	14	44	15.9%
3	36	54	27	9	18	54	16.7%
3.5	42	63	32	10	20	62	16.1%
4	48	72	36	12	24	72	16.7%

***Workforce Housing Program Density Bonus Allocations
Infill Workforce Housing Area
4+ Bedroom Units***

Very Low Income (4.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	4	1	4	9	11.1%
1	12	18	11	1	4	16	6.3%
1.5	18	27	16	2	9	27	7.4%
2	24	36	22	2	9	33	6.1%
2.5	30	45	27	3	13	43	7.0%
3	36	54	32	4	18	54	7.4%
3.5	42	63	38	4	18	60	6.7%
4	48	72	43	5	22	70	7.1%

Low Income (3.5 units per 1 affordable bonus)							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	5	1	3	9	11.1%
1	12	18	11	1	3	15	6.7%
1.5	18	27	16	2	7	25	8.0%
2	24	36	21	3	10	34	8.8%
2.5	30	45	26	4	14	44	9.1%
3	36	54	31	5	17	53	9.4%
3.5	42	63	36	6	21	63	9.5%
4	48	72	41	7	24	72	9.7%

<p style="text-align: center;">Moderate Income (2.5 units per 1 affordable bonus)</p>							
Parcel Size (acres)	Maximum Units at Base Density	Maximum Units with Bonus	Market Rate Units	Affordable Units	Bonus Units	Total Units	% Affordable
0.5	6	9	5	1	2	8	12.5%
1	12	18	10	2	5	17	11.8%
1.5	18	27	15	3	7	25	12.0%
2	24	36	19	5	12	36	13.9%
2.5	30	45	24	6	15	45	13.3%
3	36	54	29	7	17	53	13.2%
3.5	42	63	34	8	20	62	12.9%
4	48	72	39	9	22	70	12.9%

Section 7. Chapter 4, “Zoning Regulations,” Article 4.7, “Family/Workforce Housing,” Section 4.7.12, “Other incentives,” of the Land Development Regulations of the City of Delray Beach, Florida is amended as follows:

Sec. 4.7.1211. - Other incentives.

- a. (This subsection shall remain in full force and effect as adopted).

Section 8. All ordinances or parts of ordinances in conflict herewith be, and the same are, hereby repealed.

Section 9. Should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 10. Specific authority and direction is hereby given to the City Clerk to codify this Ordinance.

Section 11. This ordinance shall become effective immediately upon its passage on second and final reading.

PASSED AND ADOPTED in regular session on second and final reading on this the _____ day of _____, 2022.

ATTEST:

Katerri Johnson, City Clerk

Shelly Petrolia, Mayor

First Reading _____

Second Reading _____

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney