

**RESOLUTION NO. 306-22**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, PROVIDING INTERIM STANDARDS FOR COMMISSION REVIEW OF RESIDENTIAL PROJECTS, WHICH WILL INCREASE THE SUPPLY OF AFFORDABLE HOUSING, AS PERMITTED BY SECTION 166.04151, FLORIDA STATUTES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.**

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WHEREAS, in 2001 the Florida Legislature amended the Municipal Home Rule Powers Act creating section 166.04151, entitled Workforce Housing. This amendment specifically allowed municipalities to adopt laws, ordinances, rules and other measures which increase the supply of affordable housing, notwithstanding any other provision of law to the contrary; and

WHEREAS, the Florida Legislature amended the workforce housing section in 2020 allowing the governing body to review applications for development of housing that is affordable as defined in s. 420.0004, Florida Statutes, on any parcel zoned for residential, commercial, or industrial use; and

WHEREAS, the Florida Legislature further amended the workforce housing provisions in 2022 clarifying that the governing body review also includes mixed-use residential development projects when the parcels are zoned commercial or industrial. The statute also provides that section is self-executing and does not require adoption of an ordinance to implement the review by the commission as outlined, but is silent as to a waiver of the land development regulations applicable to the review; and

WHEREAS, the planning department staff is drafting workforce housing provisions as directed following a City Commission Work Session held and anticipates the process will take six months to complete; and

WHEREAS, the City Commission wishes to adopt interim standards to provide guidance in processing applications that will come before it prior to adoption and implementation of the land development regulations for City Commission review of projects brought forward under section 166.04151(6), Florida Statutes.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, that:**

**SECTION 1:** Applications for development of housing that is affordable on any parcel of land zoned for residential, commercial, or industrial uses as provided in section 166.04151(6), Florida Statutes, may be approved by the City Commission. The following sections identify the definitions, process, and standard to be applied when an application is received.

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**SECTION 2:** Where the following terms appear in this resolution, the definitions below shall apply:

*Affordable* means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated below:

- (a) *Extremely-low-income persons* - one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.
- (b) *Low-income persons* - one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.
- (c) *Moderate-income persons* - one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.
- (d) *Very-low-income persons* - one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

**SECTION 3:** The following process applies to applications subject to review as provided in this resolution:

### **(a) Applications**

1. Applications shall be submitted and processed as provided in Section 94-41 of the City of West Palm Beach Code of Ordinances.
2. The application shall be scheduled for review by the Plans and Plats Review Committee (PPRC) at its next regularly scheduled meeting.
3. Prior to the meeting, the individual committee members will review the aspects of the application significant to the responsibilities of their respective department of city government and provide comments.

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4. At the meeting, the PPRC shall review the plans, discuss comments with the applicant, and identify any comments that the applicant has not addressed.
5. After the PPRC meeting, the applicant shall submit a comprehensive response to the outstanding comments.
6. Following receipt of the applicant's response which sufficiently addresses comments relating to engineering, utility, public safety, and transportation, the planning and zoning administrator shall prepare an individual report including recommendations for the City Commission's consideration and provide a copy to the applicant. Thereafter, the planning and zoning administrator shall schedule the application for consideration before the City Commission.

### **(b) Site Plan Review**

Special Site Plan Review by the City Commission. Applications for development of housing that is affordable on any parcel of land zoned for residential, commercial, or industrial uses as provided in section 166.04151(6), Florida Statutes, may be approved by the City Commission. The City Commission shall conduct a public hearing on the application and may approve, approve with conditions, or deny the application. Should the City Commission need additional information, it may defer action for up to 60 days from the date of the public hearing to obtain additional information.

**SECTION 4:** The following standards will apply to applications heard by the City Commission:

- (a) Standards for Special Site Plan Review by the City Commission. Proposed developments shall be evaluated based on application of the following qualitative principals were applicable:
  1. Traffic impact report describing how this project will impact the adjacent streets and intersections. A detailed traffic report may be required to determine the project impact on the level of service of adjacent streets and intersections. Transportation system management techniques may be required where necessary to offset the traffic impacts.
  2. The form and scale of each building shall meet the requirements for each underlining zoning district, as defined in the Workforce/Affordable Housing Density Bonus Guidelines – Attachment A to this Resolution. Proposed developments shall submit floor plans, building elevations, building cross-sections, and street-level three-dimensional renderings for the proposed development and all buildings on adjacent sites, public spaces and streets to illustrate how the new building relates to the surrounding area.
  3. Compatibility of the use with the existing natural environment of the site, historic, and archaeological sites and with the surrounding properties and adjacent neighborhoods.

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4. Sufficiency of setbacks, screens, buffers and general amenities to preserve the internal and external harmony and compatibility with the character and the uses inside and outside the proposed development and to control adverse effects of noise, light, dust, fumes and other nuisances.
  5. Land area is sufficient, appropriate and adequate for the use and reasonably anticipated operations.
  6. Unit type, such as rental or ownership, and the income levels served by the development are needed.
  7. If the subject property is zoned industrial, then the following criteria shall be considered in determining the suitability of the subject property for development:
    - i. Conversion to a residential use will not cause negative impacts on surrounding industrial operations; and
    - ii. Location and surrounding land uses will not cause any adverse impacts to the health of future residents.
- (b) Abandonment. The City Commission may approve applications for right-of-way abandonments without recommendations of the planning board applying standards found in Section 94-55 of the City of West Palm Beach Code of Ordinances.
- (c) Subdivision and Final Plat Review. City Commission may approve applications for subdivision and plat approval without recommendations of the planning board applying standards found in Section 94-44 of the City of West Palm Beach Code of Ordinances.
- (d) Waivers. The City Commission may approve waivers and variances or other relief from land development regulations but may not approve a waiver of the attached Workforce/Affordable Housing Density Bonus/Zoning Guidelines, density or height. The waivers and variances may be granted upon a finding, where applicable, that the proposed project nevertheless:
1. Will be in harmony with the general character of the neighborhood considering population, density, design, scale and bulk of any proposed new structures, intensity and character of the activity, traffic and parking conditions, and number of similar uses;
  2. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding properties or the general neighborhood, and will cause no objectionable noise, vibrations, fumes, odors, dust, glare or physical activity;
  3. Will have no detrimental effect on vehicular or pedestrian traffic within a district due to the detrimental effects on the permitted uses;
  4. Will not adversely affect the health, safety, security, morals, or general welfare of residents, visitors, or workers in the area;
  5. Will not, in conjunction with existing development in the area and development permitted under existing zoning, overburden existing public services and facilities, including schools, police and fire protection, water,

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sanitary sewer, public roads, storm drainage, and other public improvements;

- 6. Will provide alternative measures consistent with the intent of the additional standards to provide protection to adjacent properties and preserve neighborhood character.

**SECTION 5:** This Resolution shall take effect on adoption and shall sunset upon adoption of permanent land development regulations providing standards for review of applications submitted pursuant to of section 166.04151, Florida Statutes.

**PASSED AND ADOPTED THIS 12TH DAY OF DECEMBER, 2022.**



**ATTEST:**

X *Jacqueline H. Mobley*

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CITY CLERK  
Signed by: Jacqueline Helena Mobley

**CITY OF WEST PALM BEACH BY  
ITS CITY COMMISSION:**

X *Keith A. James*

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PRESIDING OFFICER  
Signed by: Keith Alan James

**APPROVED AS TO FORM AND  
LEGALITY:**

12/12/2022

X *Kimberly L. Rothenburg*

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CITY ATTORNEY  
Signed by: Kimberly L Rothenburg

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**Attachment A  
Workforce/Affordable Housing  
Density Bonus / Zoning Guidelines**

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<b>ATTACHMENT A – WORKFORCE AFFORDABLE HOUSING DENSITY BONUS / ZONING GUIDELINES</b>						
<b>Zoning Districts*</b>	<b>Permitted CUR** WFH</b>		<b># WFH Units****</b>	<b>Specific Locations</b>	<b>Building Height</b>	<b>Affordability Requirements*****</b>
<b>SF- ALL</b>	<b>Not Permitted</b>			<b>Not Permitted</b>	<b>Not Permitted</b>	<b>Not Permitted</b>
MF-14	14	28	7	City Wide	65 feet when adjacent to SF Neighborhoods, 85 feet with adjacent to MF and 105 feet when adjacent to Commercial	A min.of 50% of the density bonus/units must meet affordable/workforce income levels and rents that do not exceed 100% AMI. The restricted unit's affordability period shall be no less than 20 years.
MF-20	20	40	10	City Wide		
MF-32	32	64	16	City Wide		
<b>MF HISTORIC</b>	<b>Not Permitted</b>			<b>Not Permitted</b>	<b>Not Permitted</b>	<b>Not Permitted</b>
OC	0/14***	28	7	City Wide	Use corresponding to the MF zoning district regulations	A minimum of 50% of the density bonus or 50% of the new density for projects where residential was not permitted must meet affordable/workforce income levels and rents that do not exceed 100% AMI. The restricted unit's affordability period shall be no less than 20 years.
NC	0/20***	40	10	City Wide		
GC	0/32***	64	16	City Wide		
POR	14	28	7	City Wide		
IL	0	32	32	Limited to areas with direct access onto 45 <sup>th</sup> Street	Use MF32 zoning district regulations	100% workforce/affordable housing must meet affordable/workforce income levels and rents that do not exceed 100% AMI. The restricted unit's affordability period shall be no less than 20 years.
I	0	32	32	Limited to areas with direct access onto 45 <sup>th</sup> Street, 36 <sup>th</sup> Street, Georgia Avenue North of Southern,		
NMUD	4 additional floors as an incentive not to exceed 8 floors				Based on current regulations maximum height of 104 feet or 8 stories	A minimum number of units in the project equal to 50% of the units resulting from the additional 2 to 4 floors must meet affordable/workforce income levels and rents that do not exceed 100% AMI. The restricted unit's affordability period shall be no less than 20 years.
<b>CMUD</b>	<b>Not Permitted</b>			<b>Not Permitted</b>	<b>Not Permitted</b>	<b>Not Permitted</b>
BMUD-1 BMUD-2	2 additional floors not to exceed 5 floors				Based on current regulations maximum height 72 feet or 5 stories	A minimum number of units in the project equal to 50% of the units resulting from the additional 2 floors must meet affordable/workforce income levels and rents that do not exceed 100% AMI. The restricted unit's affordability period shall be no less than 20 years.

\* Does not apply to the Downtown Master Plan

\*\*Permitted currently (CUR) and permitted under the workforce housing bonus (WFH)

\*\*\* Residential currently only permitted east of I-95 and east of Australian Avenue between Okeechobee Boulevard and Belvedere Road

\*\*\*\* Using 50% of the bonus density

\*\*\*\*\*When deemed necessary or appropriate, the Director of Housing and Community Development may negotiate the income and rent structure that does not exceed 100% AMI applicable to the restricted units, which will be subject to review and approval

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of the City Commission.