

City of Miami Beach Planning Board

Discussion on Affordable and Workforce Housing

This document contains existing development incentives and requirements that are contained in the Miami Beach Comprehensive Plan, and the Land Development Regulations and General Ordinances of the City Code. Below is a list of regulations described in this document:

Miami Beach Affordable & Workforce Housing Development Incentives

1. Density Bonuses
2. Minimum/Average Unit Size Reductions
3. Reduced Parking Requirements
4. Reduced Mobility & Concurrency Fees
5. Application Fee Waivers

Miami Beach Affordable & Workforce Housing Development Requirements

6. Requirements for Low and/or Moderate Income Non-Elderly and Elderly Persons
7. Requirements for Workforce Housing

Miami Beach Affordable & Workforce Housing

Development Incentives

1. Density Bonuses

Miami Beach 2040 Comprehensive Plan
Resilient Land Use Element

POLICY RLU 1.2.5 WORKFORCE HOUSING

Pursuant to the procedures and limitations of the Land Development Regulations, the maximum density of the underlying future land use category may be increased by up to 80 percent beyond the allowable density in the underlying future land use category for developments that incorporate workforce or affordable housing units. The additional density may only be utilized for workforce or affordable housing units.

2. Minimum/Average Unit Size Reductions

Land Development Regulations
Chapter 142, Article II – District Regulations

Below are the general minimum and average unit size requirements within the City. There is a small number of zoning districts that contain slightly different standards.

Minimum Unit Size (Square Feet)

New construction—550

Non-elderly and elderly low and moderate income housing—400

Workforce housing—400

Rehabilitated buildings—400

Average Unit Size (Square Feet)

New construction—800

Non-elderly and elderly low and moderate income housing—400

Workforce housing—400

Rehabilitated buildings—550.

The number of units may not exceed the maximum density set forth in the comprehensive plan.

3. Reduced Parking Requirements

Land Development Regulations
Chapter 130, Article II – Districts Requirements

(6) *Apartment building and apartment-hotel: [Requirement for market-rate housing]*

- a. *Apartment buildings in RM-1 or RM-2 zoning districts on lots that are 65 feet in width or less: There shall be no parking requirement, provided*

secure storage for alternative transportation such as scooters, bicycles, and motorcycles, is provided.

- b. Apartment buildings in RM-1 or RM-2 zoning districts on lots wider than 65 feet: One space per unit for units between 550 and 1,600 square feet; two spaces per unit for units above 1,600 square feet.*
- c. Apartment units in all other zoning districts:*
 - 1. One and one-half spaces per unit for units between 550 and 999 square feet;*
 - 2. One and three-quarters spaces per unit for units between 1,000 and 1,200 square feet;*
 - 3. Two spaces per unit for units above 1,200 square feet.*
- d. Designated guest parking: Developments of 20 units or less shall have no designated guest parking requirements. Multi-family buildings and suites-hotels with more than 20 units shall be required to provide supplemental designated guest parking equal to ten percent of the required residential parking spaces.*
- e. When located within the North Beach National Register Conservation Overlay District the following parking requirements shall apply:*
 - 1. Zero spaces per unit for:*
 - A. Buildings on lots that are 65 feet in width or less;*
 - B. development sites with six units or less, regardless of lot width;*
 - C. New buildings on development sites with existing buildings that do not contain off-street parking, where total number of new units does not exceed the number of existing units.*
 - 2. One space per unit for buildings on lots greater than 65 feet in width. In the event that the property owner can substantiate that the proposed new construction will not need to provide off-street parking, the design review board or historic preservation board, as applicable, may waive the parking requirement.*
 - 3. For existing apartment, apartment-hotel and hotel buildings, which are classified as "contributing" and of which at least 75 percent of the front and street side elevations, and 25 percent of interior side elevations, are substantially retained, preserved and restored, there shall be no parking requirement for the existing structure, and any new additions, whether attached or detached, regardless of lot width and number of units. Any proposed addition to the existing structure shall be subject to the review and approval of the design review board or historic preservation board, whichever*

has jurisdiction, and shall include a renovation plan for the existing structure that is fully consistent with the Secretary of the Interior Guidelines and Standards for the Rehabilitation of Historic Buildings.

(6A) Housing for low and/or moderate income non-elderly and elderly persons: As defined in chapter 58, article V.

- a. Elderly housing unit(s) have no parking space requirement.*
- b. The parking requirements shall be the same as specified in subsection 130-32(6) above, or one-half of a parking space per dwelling unit, whichever is less, for non-elderly low and/or moderate income housing. Notwithstanding the above, if an existing building is renovated and the number of units is increased, or if units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for the newly constructed units, and existing buildings shall be exempt from the requirements of subsection 118-395(b), entitled "repair and/or rehabilitation of nonconforming buildings and uses." Additionally, there is no parking requirement for workforce housing units if said units are provided in a main use parking garage.*
- f. A covenant running with the land restricting the use of the property for housing for low and/or moderate income non-elderly and elderly persons for a period of no less than 30 years shall be executed by the owner of the property, approved as to form by the city attorney, recorded in the public records of the county and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the age restriction in this section, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable parking requirements under this Code. The property owner may satisfy the parking requirements by actually providing the additional parking spaces or by reducing the number of residential units. However, a property owner shall not be able to satisfy the parking requirements by the payment of a fee in lieu of providing parking. At the time of development review, the property owner shall submit a statement of intent to construct housing for low and/or moderate income non-elderly and elderly persons in accordance with this section.*
- g. After approval of the decrease in parking spaces, the premises shall not be used other than as housing for the non-elderly and elderly persons unless and until any parking requirements and all other requirements or limitations of this Code for the district involved and applying to the new use shall have been met.*

(6B) Workforce housing shall have the same parking requirements as specified in subsection 130-32(6), above, or alternatively, one-half parking space per unit, whichever is less. Notwithstanding the above, if an existing building is renovated and the number of units is increased, or if units are added on a lot with an existing building that is retained and renovated, there shall be no parking requirement for

the newly constructed units, and existing buildings shall be exempt from the requirements of subsection 118-395(b), entitled "repair and/or rehabilitation of nonconforming buildings and uses." Additionally, there is no parking requirement for workforce housing units if said units are provided in a main use parking garage.

4. Reduced Mobility & Concurrency Fees

Land Development Regulations

Chapter 122, Article I – Concurrency Management and Mobility Fees

Sec. 122-5. - Exemptions from concurrency mitigation and mobility fees.

The following types of development are not required to undergo concurrency review or pay a mobility fee pursuant to this chapter:

** * **

(f) Non-elderly and elderly low and moderate income developments.

Fee Schedule

<i>Mobility Fee</i>		
<i>Land Use</i>	<i>Fee In Effect</i>	<i>Unit Type</i>
<i>Multi Family Apartments</i>	<i>\$ 1,561.48</i>	<i>Per Unit</i>
<i>Affordable Housing</i>	<i>\$ -</i>	<i>Per Unit</i>
<i>Workforce Housing</i>	<i>\$ 781.26</i>	<i>Per Unit</i>
<i>Co-living / Micro Apartments</i>	<i>\$ 781.26</i>	<i>Per Unit</i>

5. Application Fee Waivers

(e) *Design review.* Any applicant requesting a public hearing on any application for design review board approval, pursuant to sections 118-253 and 118-254, shall pay, upon submission, the applicable fees below:

(12) Notwithstanding the foregoing, the application fee for a public hearing and application fee for design review approval per square foot of floor area shall be waived for non-elderly and elderly low and moderate income housing developments.

(g) *Variances.* Any applicant requesting a public hearing on any application pursuant to section 118-353 shall pay, upon submission, the applicable fees below:

(12) Notwithstanding the foregoing, the application fee for a public hearing and fee per variance requested shall be waived for non-elderly and elderly low and moderate income housing developments.

- (h) *Certificate of appropriateness.* Any applicant requesting a public hearing on any application pursuant to sections 118-562 through 118-564, shall pay, upon submission, the applicable fees below:
- (13) Notwithstanding the foregoing, the application fee for a public hearing and application fee for a certificate of appropriateness per square foot of floor area shall be waived for non-elderly and elderly low and moderate income housing developments.

Miami Beach Affordable & Workforce Housing

Development Requirements

6. Requirements for Low and/or Moderate Income Non-Elderly and Elderly Persons

Subpart A - GENERAL ORDINANCES
Chapter 58 - HOUSING

ARTICLE V. HOUSING FOR LOW AND/OR MODERATE INCOME NON-ELDERLY AND ELDERLY PERSONS

Sec. 58-400. Purpose.

The purpose of this article is to create definitions and mandatory requirements for new construction or rehabilitation of housing units for low and/or moderate income elderly and non-elderly persons in order to facilitate and provide for clean, secure and dignified housing.

Sec. 58-401. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Elderly person means a person who is at least 62 years of age.

Non-elderly person means a person who is of legal age but less than 62 years of age.

Elderly household means a one- or two-person household in which the head of the household or spouse is at least 62 years of age.

Non-elderly household means a one- or two-person household in which the head of the household or spouse is of legal age but less than 62 years of age.

Housing for low and/or moderate income elderly is not homes or institutions for the aged, which are primarily assisted living facilities, convalescent or nursing homes.

Low income means households whose incomes do not exceed 50 percent of the median income for the area as determined by the U.S. Department of Housing and Urban Development.

Moderate income means households whose incomes are between 51 percent and 80 percent of the median income for the area as determined by the U.S. Department of Housing and Urban Development.

Sec. 58-403. Mandatory criteria.

Developments qualifying for the minimum and average unit size for non-elderly and elderly low and moderate income housing shall meet all of the following mandatory criteria:

- (1) The development shall be publicly owned or nonprofit sponsored and owned, or development by for-profit organizations utilizing public funds.
- (2) The applicant shall submit written certification from the corresponding state or federal agency in charge of the program.
- (3) At the time of development review, the property owner shall submit a statement of intent to construct housing for low and/or moderate income non-elderly and elderly persons in accordance with this section.
- (4) A covenant running with the land restricting the use of the property for housing for low and/or moderate income non-elderly and elderly persons for a period of no less than 30 years shall be executed by the owner of the property, approved as to form and content by the city attorney, recorded in the public records of Miami-Dade County and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the age restriction, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable unit size regulations under this Code.
- (5) Should the property change from housing for low and moderate income non-elderly and elderly persons during the covenant period or thereafter, the property shall comply with all applicable development regulations existing at the time of the proposed change, including, but not limited to, minimum and average unit sizes and parking requirements.

7. Requirements for Workforce Housing

ARTICLE VI. WORKFORCE HOUSING

Sec. 58-500. Purpose.

The purpose of this chapter is to enhance the public welfare by ensuring that the housing needs of the city are addressed. The city finds that there is a critical shortage of affordable and workforce housing, making residency on Miami Beach by the majority of city resident workers extremely difficult, and creating a shortage of affordable rental units. The resident workforce is leaving the city in search of affordable housing, and new employees are being deterred by the high cost of living. To maintain a sufficient resident workforce in all fields of employment, and to ensure the public safety and general welfare of the residents of the city, resident workforce housing needs must be addressed. It is the intent of this article to encourage the provision and maintenance of residential workforce housing units, for rental, to meet the needs of income-qualified households for city employees, the general workforce in the city, and students.

Sec. 58-501. Definitions.

The purpose of this article is to create administrative procedures for the implementation of the city's "workforce housing development program."

Area median income means the median income level for the Miami-Dade County Metropolitan Statistical Area, as established and defined in the annual schedule published by the Secretary of the U.S. Department of Housing and Urban Development, and adjusted for household size.

Certificate of qualification means a certificate issued by the city administration establishing a qualified household's eligibility to purchase or rent a workforce housing unit. Certificates of qualification shall be valid for 12 months. The certification criteria shall be set forth below.

Control period means each 20-year period during which the affordability restrictions imposed by this article shall apply. The control period begins at the time of any sale or resale of the affected unit.

Covered development means all developments providing workforce housing units pursuant to this article.

Department means the city's department of housing, or any successor department.

Developer means any person, firm, corporation, partnership, limited liability company, association, joint venture, or any entity or combination of entities that apply for development orders or permits for residential dwelling units for workforce housing purposes as defined in this article.

Eligible household means, subject to the provisions of this article, a household whose total income is between 65 and 140 percent of area median income.

Eligible household income means any income derived from any proposed occupants of a workforce housing unit who are 18 years of age or older and who will use the workforce housing unit as their primary residence.

Household means any natural person who occupies a workforce housing unit as his or her primary residence.

Market rate dwelling units means all dwelling units in a covered development that are not workforce housing units as defined herein.

Qualified household means an eligible household that has received a certificate of qualification from the department.

Workforce housing unit rent or workforce housing unit rent means rents that do not exceed the maximum monthly rent limits as determined for Miami-Dade County by the U.S. Department of Housing and Urban Development in its annual income limits and rent limits and as used by Florida Housing Finance Corporation for its multifamily rental programs (published annually at <http://www.floridahousing.org>), and established at 65 percent up to 140 percent of the median family income.

Sec. 58-503. Workforce housing requirements.

- (a) Workforce housing declaration of restrictive covenants and workforce housing agreement shall comply with the following housing requirements:

- (1) A workforce housing unit shall be offered for rental solely to a qualified household to be used for his or her own primary residence. The city shall establish by resolution a pricing schedule of rental prices for workforce housing units in accordance with this article.
- (2) Any developer or other property owner offering a workforce housing unit for rental shall record in the public records one or more covenants or declarations of restrictions in a form approved by the city attorney. Such covenants or declarations of restrictions shall include the workforce housing unit agreement, and such further arrangements, restrictive covenants, and rental restrictions as are necessary to carry out the purposes of this article. The developer or other property owner must execute and record a declaration of restrictive covenants assuring that:
 - a. The restrictions of this article shall run with the land for the entire control period of 20 years;
 - b. The covenants will bind the applicant, any assignee, mortgagee, or buyer, and all other parties that receive title to or interest in the property. These covenants shall be senior to all instruments securing permanent financing.
- (b) Upon the expiration of the control period the city shall record in the public records of Miami-Dade City an instrument or document releasing the workforce housing unit from the restrictive covenant required by this program.
- (c) The covenants recorded by each developer or other property owner of workforce housing units shall state in said covenant that the unit is subject to the following provisions:
 - (1) The covenants shall be senior to all instruments securing permanent financing, and shall bind all assignees, mortgagees, purchasers and other successors in interest.
 - (2) No sale, transfer or foreclosure shall affect the validity of the covenants except as expressly set forth in the provisions of this article.
 - (3) An owner of a residential workforce housing rental development intending to sell the development shall notify the department in writing prior to the closing of the sale, and shall provide documentation to the department that the prospective new owner acknowledges and is aware of the terms, conditions, and restrictions encumbering the development as set forth in this article.
 - (4) Any workforce housing unit offered for rent under this article must not be rented for 20 years after the date of original rental at a rent greater than the rent allowed for workforce housing units under this article and applicable regulations. Rent does not include utilities when they are paid by the tenant. Different rents must be set when utility costs are paid by the owner and included in the rent. During the applicable control period, a workforce housing unit must only be rented to an individual with a household income that does not exceed the limits set under this article.

Sec. 58-504. Eligibility of households for workforce housing units.

- (a) *Eligibility, generally.* Eligibility for rental of workforce housing units shall be determined pursuant to an implementing order approved by the city commission and shall be based on household size and income. An eligible household must receive a certificate of qualification from the city to become a qualified household for a workforce housing unit, in accordance with the procedures prescribed by the implementing order. Eligibility for continued rental of a workforce housing unit shall be contingent upon the qualified household's use of the workforce housing unit as its primary residence. A qualified household that leases a

workforce housing unit and that discontinues occupancy of the unit as its primary residence shall be required to vacate said unit.

(b) *Specific eligibility criteria.*

- (1) Be a citizen of the United States or a permanent resident alien.
- (2) Be 18 years of age or older.
- (3) Have a gross annual household income (not to include the income of minors) which does not exceed 140 percent of the city's area median income as established by HUD, or as adjusted by the city. Initial determination for compliance with the maximum gross annual family income provision shall be made by the developer, its partner, or its management company for the lease of residential workforce housing units. Final determination for compliance with the maximum gross household annual income provision shall be made by the property owner/developer, and reviewed by the city prior to execution of the leasehold agreement.
- (4) Eligibility preference for applicants who work for the city or have received a job offer with the city.
- (5) An Applicant may have assets that do not exceed 140 percent of the city's area median income as established by HUD, or as adjusted by the city. Assets shall include all cash, securities, stocks, bonds and real property. Real property shall be valued at fair market value less liabilities on such real property.

Sec. 58-505. Affordability controls.

(a) *Initial rental.*

- (1) Every workforce housing unit established under this article and pursuant to the land development regulations, shall be offered for rental to an eligible household to be used for his or her own primary residence.
- (2) Sixty days prior to offering any new workforce housing unit for rent, the developer or other property owner shall notify the city of such offering. The notice shall set forth the number, size, price established by applicable implementing order, and location of the workforce housing unit offered and shall provide a description of each workforce housing unit's finishes and availability. The department may request additional information from the developer or other property owner as it deems necessary.
- (3) Upon re-rental of a workforce housing unit, each qualified household must first obtain a valid certificate of qualification from the prospective eligible household.

(b) *Rental workforce housing unit requirements.*

- (1) All qualified households must be provided a lease with a minimum period of 12 months. The lease must comply with all applicable federal and state laws. The lease shall include without limitation provisions that specify the maximum household size allowed in the unit; a prohibition against subleasing; and a requirement that the qualified household shall report any changes in household size or income during the tenancy. Qualified households shall comply with all monitoring requirements established by the department. Rent shall be consistent with the rental calculation provided by the city as to what qualifies as affordable workforce housing rent.
- (2) If a qualified household's income increases above the maximum allowed income levels, the qualified household may choose to remain in the workforce housing unit for the

- remainder of the lease term. If the formerly qualified household and the developer or other property owner agree to extend the lease term, the developer or other property owner shall make the next comparable vacant unit at the covered development available to an eligible household at the workforce housing unit rent.
- (3) A tenant that has produced fraudulent income information for the household shall be subject to eviction pursuant to the leasehold. Eviction shall be mandatory if the tenant household income exceeds the thresholds for workforce housing unit purposes.
 - (4) Timing of completion. Residential workforce housing units shall be made available for occupancy either prior to or concurrently with market rate units at the same ratio required of the development. Certificates of occupancy shall not be issued and/or final inspections shall not be passed for the market rate units unless certificates of occupancy are issued and/or final inspections are passed for the residential workforce housing units concurrently or sooner.
 - (5) Annually, the developer/property owner shall provide to the city proof of the continued workforce housing eligibility of the proposed tenant. If the department determines an eligible household qualifies for the rental the department will issue a certificate of qualification. In order to receive a certificate of qualification, an eligible household must provide an affidavit that the workforce housing unit will be its primary residence.
- (c) *City responsibilities.* The city shall:
- (1) Annually, set the maximum annual rent limit, and rent ranges;
 - (2) Annually review leaseholds for compliance: and
 - (3) Enforce provisions of article.

Sec. 58-506. Enforcement.

- (a) Violations of this article by the developer or property owner shall be subject to the following fines. The special magistrate shall not waive or reduce fines set by this article.
 - (1) If the violation is the first violation of an administrative violation: Warning issued.
 - (2) If the violation is the second violation: \$2,500.00.
 - (3) If the violation is the third violation within the preceding 18 months: \$7,500.00.
 - (4) If the violation is the fourth violation within the preceding 18 months: \$12,500.00.
 - (5) If the violation is the fifth or greater violation within the preceding 18 months: \$20,000.00.
 - (6) Fines for repeat violations shall increase regardless of location.
- (b) Violations of this article by the tenant shall result in termination of the leasehold, upon 15 days written notice. Landlord shall be entitled to evict the tenant and seek all damages under law from the tenant.
- (c) In addition to or in lieu of the foregoing, the city may seek an injunction against activities or uses prohibited under this article. The city may take legal action to stop or cancel any transfer of a workforce housing unit if any party to the transfer does not comply with all requirements of this article, and or seek enforcement of any covenant signed or order issued under this article. The city may recover any funds improperly obtained from any sale or rental of a workforce housing unit in violation of this article, plus costs and interest at the rate prescribed by law from the date a violation occurred.

- (d) Any city police officer or code compliance officer may issue notices for violations of this article, with alternative enforcement as provided in section 1-14 and chapter 30 of this Code. Violations shall be issued to the homeowner, and/or to any realtor, real estate agent, real estate broker, tenant or any other individual or entity that facilitates or organizes the prohibited activities. In the event the record owner of the property is not present when the violation occurred, a copy of the violation shall be provided to such owner.
- (e) The city manager or designee may adopt administrative rules and procedures to assist in the uniform enforcement of this article.
- (f) No variances shall be granted from this article. The provisions of this division shall apply to all agents, successors and assignees of a qualified household.