Workforce Housing Fee Waivers

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE I, "IN GENERAL," AT SECTION 118-7, "FEES FOR THE ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS," TO WAIVE LAND DEVELOPMENT BOARD APPLICATION FEES ASSOCIATED WITH WORKFORCE HOUSING DEVELOPMENTS; AMENDING CHAPTER 122, "CONCURRENCY MANAGEMENT AND MOBILITY FEES," ARTICLE I, "PURPOSE AND GENERAL PROVISIONS," AT SECTION 122-5, ENTITLED "EXEMPTIONS FROM CONCURRENCY MITIGATION AND MOBILITY FEES," TO WAIVE CONCURRENCY AND MOBILITY FEES ASSOCIATED WITH WORKFORCE HOUSING DEVELOPMENTS; AND AMENDING CHAPTER 133, "SUSTAINABILITY AND RESILIENCY," ARTICLE I, "GREEN BUILDINGS," DIVISION 2, "GREEN BUILDING REGULATIONS," AT SECTION 133-3, "SUSTAINABILITY REQUIREMENTS," TO EXEMPT NON-ELDERLY AND ELDERLY LOW AND MODERATE INCOME AND WORKFORCE HOUSING DEVELOPMENTS FROM THE CITY'S GREEN BUILDING REGULATIONS; AMENDING CHAPTER 82, "PUBLIC PROPERTY," ARTICLE VII, "ART IN PUBLIC PLACES," DIVISION 4, "PROCEDURES," AT SECTION 82-537, "DEFINITIONS," TO EXEMPT, FROM THE ART IN PUBLIC PLACES REQUIREMENTS, LOW OR MODERATE INCOME HOUSING OR WORKFORCE HOUSING DEVELOPMENTS CONSTRUCTED ON CITY-OWNED LAND; AMENDING CHAPTER 58, "HOUSING," ARTICLE I, "IN GENERAL," BY CREATING SECTION 58-1, "FINANCIAL INCENTIVES FOR AFFORDABLE AND WORKFORCE HOUSING DEVELOPMENTS," TO ESTABLISH FINANCIAL INCENTIVES FOR AFFORDABLE AND WORKFORCE HOUSING DEVELOPMENTS; AMENDING ARTICLE VI, "WORKFORCE HOUSING," SECTION 58-501, "DEFINITIONS," AND SECTION 58-503, "WORKFORCE HOUSING REQUIREMENTS," TO AMEND THE MINIMUM REQUIREMENTS FOR THE DECLARATION OF RESTRICTIVE COVENANTS, INCLUDING THE CONTROL PERIOD; AND AMENDING APPENDIX A, "FEE SCHEDULE," TO EXEMPT WORKFORCE HOUSING UNITS OR DEVELOPMENTS FROM MOBILITY FEES; AND PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the Miami Beach 2040 Comprehensive Plan ("Comprehensive Plan"), at *Guiding Principle 6: Prioritize Workforce Housing*, states that "[t]he City shall encourage redevelopment that provides workforce and affordable housing"; and

WHEREAS, the Comprehensive Plan, at *Goal HE 1: Equitable Community*, states that the City will "[s]upport vulnerable populations with attainable housing options that are proximate to transportation services and basic needs to improve economic mobility within the community"; and

WHEREAS, the Comprehensive Plan, at *Objective HE 1.1: Creation and/or preservation of workforce and affordable housing*, states that the City will "[h]ave available a minimum of 6,800 housing units of workforce, affordable low and moderate income households and special needs populations during the period through 2030"; and

WHEREAS, the Comprehensive Plan, at *Policy HE 1.1.3,* requires that the City "[c]ooperate with affordable and workforce housing developers' efforts to leverage Miami-Dade Surtax funds and other financial incentives for the provision of housing affordable to workforce, very low to moderate-income households, including those with special needs, in Miami Beach"; and

WHEREAS, the Comprehensive Plan, at *Policy HE 1.1.11*, requires that "the City shall explore strategies to increase the resiliency within neighborhoods, while limiting involuntary displacement and increasing housing stability"; and

WHEREAS, the availability of affordable and workforce housing is a vital quality of life component for the health, welfare, and prosperity of Miami Beach residents and workers; and

WHEREAS, land acquisition and development costs and income restrictions create financial challenges for affordable and workforce housing projects; and

WHEREAS, the City of Miami Beach ("City") recognizes that financial incentives are necessary to foster the development of affordable and workforce housing; and

WHEREAS, the City has the authority to enact laws which promote the public health, safety, general welfare, and morals of its citizens; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. Chapter 118, "Administration and Review Procedures," Article I, "In General," is hereby amended as follows:

CHAPTER 118
ADMINISTRATION AND REVIEW PROCEDURES

ARTICLE 1. IN GENERAL

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Sec. 118-7. Fees for the administration of land development regulations.

* * *

(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 or workforce 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 or workforce 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 or workforce housing developments.

SECTION 2. Chapter 122, "Concurrency Management and Mobility Fees," Article I, "Purpose and General Provisions," is hereby amended as follows:

CHAPTER 122
CONCURRENCY MANAGEMENT AND MOBILITY FEES

ARTICLE I. PURPOSE AND GENERAL PROVISIONS

* * *

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 or workforce housing developments.

* * *

SECTION 3. Chapter 133, entitled "Sustainability and Resiliency," Article 2, entitled "Green Building Regulations," Division 1 entitled "In General," at section 133-3, entitled "Sustainability Requirements," is hereby amended as follows:

CHAPTER 133
SUSTAINABILITY AND RESILIENCY

ARTICLE I. GREEN BUILDINGS

* * *

DIVISION 2. GREEN BUILDING REGULATIONS

* * *

Sec. 133-3. Sustainability requirements.

(a) Mandatory compliance with the requirements of this chapter shall be required for all applicants with building permit applications that meet the following criteria (hereinafter "eligible participants"):

(1) All new construction that proposes over 7,000 square feet of construction of a structure; or

(2) Ground floor additions (whether attached or detached) to existing structures that encompass over 10,000 square feet of additional floor area.

(b) Notwithstanding the foregoing, non-elderly and elderly low and moderate income and workforce housing developments shall be exempt from the requirements of this article. However, such developments are encouraged to incorporate green building elements that further the intent and purpose of section 133-2.

* * *

SECTION 4. Chapter 82, entitled "Public Property," Article VII, entitled "Art In Public Places," Division 4, entitled "Procedures," at Section 82-537, entitled "Definitions" is hereby amended as follows:

CHAPTER 82
PUBLIC PROPERTY

* * *

ARTICLE VII. ART IN PUBLIC PLACES

* * *

DIVISION 4. PROCEDURES

Sec. 82-537. Definitions and exemptions.

* * *

The provisions of this article shall not apply to the new construction of, renovations, or additions to the following city construction projects:

a. Water and sewer related facilities, such as pump stations, water mains, water lines, sewer lines, treatment facilities, etc.

b. Storm drainage infrastructure.

c. Road construction or bridges, provided, however, that streetscape beautification projects, which may include, but are not limited to: resurfacing, new curbs, gutters, pavers, sidewalks, landscaping, lighting, bus shelters, bus benches, street furniture and signage, and similar above-ground improvements, shall not be exempted and shall be subject to the provisions of this article.

d. City construction projects undertaken to replace, reconstruct, or repair an existing public building or facility damaged or destroyed by a sudden unexpected turn of events, such as an act of God, riot, fire, flood, accident, or other urgent circumstance.

e. The construction, remodeling, repair or improvement to a public electric or gas utility system.

f. Where the city construction project is undertaken as a routine repair or maintenance of an existing public facility.

g. Low-income or moderate income housing or workforce housing developments constructed on city-owned land, either by the city or by persons or entities other than the city, pursuant to a (i) development agreement with the city, (ii) ground lease, (iii) a purchase and sale agreement relating to the sale of any City property, or (iv) management agreement with the city, provided the development satisfies all of the requirements for such low-income, moderate income or workforce housing units, as set forth in chapter 58 of the city code.

* * *

SECTION 5. Chapter 58, entitled "Housing," is hereby amended as follows:

CHAPTER 58
HOUSING

ARTICLE I. IN GENERAL

Sec. 58-1. Financial incentives for affordable and workforce housing developments.

(a) The fees required under Chapter 82, Article VII (Art in Public Places); Section 118-7 (land development board application fees); Section 122-3 (concurrency and mobility fee); and Chapter 133, Article I, Divisions 2 and 3 (green building requirements) shall not apply to residential developments for:

(1) Low-income or moderate-income households (i.e. affordable housing), where at least a majority of the floor area of the entire development satisfies the requirements and mandatory criteria in Article V of Chapter 58 of the City Code; and

(2) Workforce housing developments, where at least a majority of the floor area of the entire development satisfies the requirements and mandatory criteria in Article VI of Chapter 58 of the City Code.

For purposes of floor area calculations under this subsection (a), the square footage of any common areas shall be allocated proportionately according to the ratio of (i) floor area associated with affordable or workforce housing units, to (ii) floor area associated with other residential/commercial uses on the property.

(b) In the event that a low-income or moderate-income housing unit is subsequently converted to a market rate unit in violation of the restrictive covenant required under Section 58-403(4), the owner shall be required to pay all applicable fees and satisfy all requirements under Chapter 82, Article VII (Art in Public Places); Section 118-7 (land development board application fees); Section 122-3 (concurrency and mobility fee); and Chapter 133, Article I, Divisions 2 and 3 (green building requirements) of this Code, as of the date of issuance of the building permit, plus interest at the highest amount authorized by law (with such interest accruing from the date of issuance of the permit until full payment of all amounts due under this section), collection costs, and attorney's fees.

(c) In the event that a workforce housing unit is subsequently converted to a market rate unit in violation of the restrictive covenant required under Section 58-503, the owner shall be required to pay all applicable fees and satisfy all requirements under Chapter 82, Article VII (Art in Public Places); Section 118-7 (land development board application fees); Section 122-3 (concurrency and mobility fee); and Chapter 133, Article I, Divisions 2 and 3 (green building requirements) of this Code, as of the date of issuance of the building permit, plus interest at the highest amount authorized by law (with such interest accruing from the date of issuance of the permit until full payment of all amounts due under this section), collection costs, and attorney's fees. The foregoing is in addition to the penalty and enforcemenc provisions in Section 58-506.

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ARTICLE VI. WORKFORCE HOUSING

* * *

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."

* * *

Control period means each ~~20~~ 30-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.

* * *

Sec. 58-503. Workforce housing requirements.

(a) Workforce housing ~~declaration of restrictive covenants and workforce housing agreement~~ developments or units shall comply with the following ~~housing~~ requirements:

(1) A workforce housing unit shall only be offered for rental ~~solely~~ to a qualified household to be used ~~for his or her own~~ as a 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~~ a declaration~~s~~ of ~~restrictions~~ restrictive covenants, in a form approved by the city attorney. Such ~~covenants or declarations of restrictions~~ declaration shall ~~include~~ incorporate, at a minimum, ~~the workforce housing unit agreement, and such further arrangements, restrictive covenants,~~ the requirements of this article and ~~rental restrictions as are~~ any other provisions necessary to carry out the purposes of this article. The ~~developer or other property owner must execute and record a~~ declaration of restrictive covenants must, at a minimum, ~~assuring~~ assure that:

a. The restrictions of this article shall run with the land for the entire control period of ~~20~~ 30 years;

b. The covenants will bind the applicant, ~~any~~ assignee, mortgagee, ~~or~~ purchaser, successor and ~~all~~ any other parties that receive title to or hold any 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~~ County an instrument ~~or document~~ releasing the ~~workforce housing unit from the~~ declaration of restrictive covenants required ~~by~~ under this ~~program~~ article.

(c) The declaration of restrictive 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~~ shall, at a minimum, include the following terms:

(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 unit or development intending to sell the unit or 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 unit or development as set forth in this article.

(4) Any workforce housing unit offered for rent under this article must not be rented for ~~20~~ 30 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 directly by the tenant. Different rents must be ~~set~~ identified 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.

SECTION 6. Appendix A, entitled "Fee Schedule" is hereby amended as follows:

APPENDIX A
FEE SCHEDULE

	* * *			
122-24	**Residential**			
	Single-family with a unit size less than 3,500 sq. ft.[1]	Per unit	1,903.67	[B]
	Single-family with a unit size between 3,500 and 7,000 sq. ft.[1]	Per unit	2,536.50	[B]
	Single-family with a unit size greater than 7,000 sq. ft.[1]	Per unit	3,170.37	[B]
	Multifamily apartments	Per unit	1,561.48	[B]
	Affordable housing	Per unit	0.00	[B]
	Workforce housing	Per unit	~~781.26~~ 0.00	[B]
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SECTION 7. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 8. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained, that the provisions of this Ordinance shall become and be made part of the Code of the City of Miami Beach, as amended; that the sections of this Ordinance may be re-numbered or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 9. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 10. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ___ day of _____, 2022.

ATTEST:

_____
Dan Gelber, Mayor

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION

Nick Kallergis for NK 9/6/22
City Attorney Date

_____
Rafael E. Granado, City Clerk

First Reading: September 14, 2022
Second Reading: October 26, 2022

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

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