

ORDINANCE NO. 4987

AN ORDINANCE OF THE CITY OF SWEETWATER CITY COMMISSION, AMENDING THE CODE OF ORDINANCES CITY OF SWEETWATER, CHAPTER 36 – WORKFORCE HOUSING, AS IT PERTAINS TO ELEMENTS RELATED TO DEFINITIONS, WORKFORCE HOUSING AGREEMENT, ELIGIBILITY OF HOUSEHOLDS FOR WORKFORCE HOUSING UNITS, AFFORDABILITY CONTROLS, MAINTENANCE OF RENT AFFORDABILITY, DENSITY BONUS REQUIREMENTS AND APPLICATION, AND ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, developments meeting the needs for workforce populations should be distributed throughout the City to match job opportunities and to avoid concentrations of poverty;

WHEREAS, the City seeks to amend Chapter 36 to provide corrections and additions to prior sections in that chapter, in order to cohesively grow and share in the economic benefits of its significant growth; and

WHEREAS, the City Commission finds that the enactment of this Ordinance is necessary so as to protect the public health safety and welfare of the residents of the City.

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

Article 1. The recitals and findings contained in the Preamble to this Ordinance are adopted by reference and incorporated as if fully set forth in this section.

Article 2. That the City Commission hereby amends the City of Sweetwater Code of Ordinances Chapter 36 as provided for in Exhibit “A”.¹

Article 3. All ordinances or portions of the Code of Ordinances of the City of Sweetwater in conflict with the provisions of this ordinance shall be repealed upon the effective date hereof.

Article 4. It is the intention of the Mayor and the City Commission that the provisions of this ordinance be incorporated into the Code of Ordinances; to effect such intention codifiers may change the words “ordinance” or “section” to other appropriate words.

Article 5. If any portion of this ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect the remaining portions of the ordinance.

Article 6. This ordinance shall become effective upon its adoption by the City Commission and approval by the Mayor or, if vetoed, upon its reenactment by the City Commission as provided by the Charter of the City of Sweetwater.

PASSED on first reading this 11th day of September, 2023.

¹ Underlined items are additions. Strike-through items are deletions.


PASSED AND ADOPTED on second reading this 25th day of September, 2023.


JOSE "PEPE" DIAZ, MAYOR


REINALDO REY
COMMISSION PRESIDENT

ATTEST:


CARMEN GARCIA, CITY CLERK


RALPH VENTURA, CITY ATTORNEY

VOTE UPON ADOPTION:

REINALDO REY, COMMISSION PRESIDENT	<u>yes</u>
IAN VALLECILLO, COMMISSION VICE PRESIDENT	<u>yes</u>
SAUL DIAZ, COMMISSIONER	<u>yes</u>
IDANIA LLANIO, COMMISSIONER	<u>yes</u>
JOSE MARTI, COMMISSIONER	<u>yes</u>
ISIDRO RUIZ, COMMISSIONER	<u>yes</u>
MARCOS VILLANUEVA, COMMISSIONER	<u>yes</u>

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Exhibit "A"

CHAPTER 36 WORKFORCE HOUSING

* * *

Sec. 36-2. Definitions.

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

Area median income (AMI) means the median income for the metropolitan statistical area containing Miami-Dade County which is adjusted for the household size as calculated and published annually by the United States Department of Housing and Urban Development. For the purpose of household size, studio apartments shall be deemed to have 1 household member; 1-bedroom apartments shall be deemed to have 1.5 household members; 2-bedroom apartments shall be deemed to have 3.0 household members unless the unit is leased by the bed, in which case, each bed shall be deemed to have 1 household member; 3-bedroom units shall be deemed to have 4.5 household members unless the unit is leased by the bed, in which case, each bed shall be deemed to have 1 household member. Units leased by the bed shall have maximum rents for the bed set by taking into account the income of the tenant for that bed (not including income from any guarantor not occupying the bedroom being leased).

~~*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 rental, sales or resales of the affected unit.

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

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. A primary residence is defined in which the occupant resides at the residence for the majority of the lease year. Income from any guarantor to the lease that is not an occupant of the unit is not counted when calculating household income.

Eligible workforce household means a household with an annual income in the workforce affordability range between ~~65~~ 60 percent up to and including 140 percent of the applicable AMI figure.

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 density bonus (WHDB) means a bonus provision provided in selected land use categories contained in the city's adopted comprehensive plan in terms of an additional housing

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density bonus, ~~percentage of up to 50 percent above the maximum number of dwelling units allowed in the land use category.~~

Workforce housing agreement means a written agreement between an applicant for a development and the city containing specific requirements to ensure the continuing affordability of the workforce housing units included in a development during the control period.

Workforce housing unit means a rental dwelling unit occupied by an eligible workforce household where the maximum monthly rental shall be no higher than thirty-five percent (35%) of cost shall be restricted to an amount affordable to a workforce household's with a total annual income between 65 percent and 60 percent (60%) and 140 percent (140%) of AMI. Rent does not include utilities or other fees and costs normally charged to tenants of multifamily buildings.

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Sec. 36-3. Workforce housing agreement.

- (a) Prior to the approval of any development order or permit for any development in which the workforce housing density bonus (WHDB) is requested, the applicant shall enter into a WHDB agreement with the city which shall set forth the commitments and obligations of the applicant to ensure compliance with these regulations.
- (b) 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 an eligible workforce qualified household to be used for his or her own primary residence.
 - (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.
- (c) 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. If this instrument is not recorded on a timely basis, the covenant shall be deemed expired, terminated, and of no further effect.
- (d) 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.

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- (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) For a period of twenty (20) years, each year, a minimum of one hundred percent (100%) of the units, or twenty percent (20%) in the University District, will be designated as workforce housing, and shall not be rented for more than 35% of a workforce household's total annual income between 60 percent (60%) and 140 percent (140%) of the applicable year's 140% AMI level. 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.

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Sec. 36-4. 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. An **qualified eligible** 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. Eligibility shall be determined for all lease renewals using the same methodology as for the initial lease term.
- (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 or non-occupant guarantors) ~~which does not exceed~~ between sixty percent (60%) and 140 percent (140%) of the AMI for the metropolitan statistical area containing Miami-Dade County, which is adjusted for the household size as calculated and published annually by the United States Department of Housing and Urban Development. 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.~~ The developer, its partner, or its management company will make all income verification and rent calculation information available for the City's review on an annual basis to ensure compliance with the workforce housing agreement.
 - (4) As part of the workforce housing agreement, Eligibility preference to the extent allowed by federal, state, and county law, the developer, its partner, or its management company

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shall market to for applicants who work for the city or have received a job offer with the city in order to make them aware of the opportunity to rent in a property with a workforce housing agreement. This obligation shall be satisfied by making the leasing office open to city workers sent to the property by 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.~~

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Sec. 36-5. 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) Annually, the developer/property owner shall make available ~~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, a~~An eligible

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household must ~~provide an affidavit~~ make a representation in its lease that the workforce housing unit will be its primary residence.

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Sec. 36-6. Maintenance of rent affordability.

- (a) On an annual basis, the city manager, or his/her designee, shall make available copies of updated AMI ranges, ~~and associated rental rate limits applicable to workforce units in Sweetwater~~ based on official information available from ~~documented sources such as Miami-Dade County and/or the~~ U.S. Department of Housing and Urban Development.
- (b) Workforce housing rental unit owners are required to submit ~~documentation~~ a certification to the city on July 1st of each year verifying that the all designated workforce units they own are being rented at rates affordable to area households with annual incomes within the affordability ranges established in this Code. ~~For owners with ten or less workforce housing units, documentation may be in the form of a notarized affidavit stating the current annual rent for each unit together with collaborating documentation. For owners with more than ten units, an audit report prepared by a certified public accountant is required documenting compliance.~~

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Sec. 36-7. Density bonus requirements.

- (a) For developments providing 100 percent workforce housing, or at least 20 percent workforce housing in the University District, as outlined in this chapter, an additional housing density bonus ~~percentage in accordance with the as delineated in City's Future Land Use Policy 1.2 of the Future Land Use Element of the City Comprehensive Master Plan may shall~~ be permitted above the maximum number of dwelling units allowed in the land use district.
- ~~(b) Prior to the initial rental of any workforce unit, the owner must record the WHDB agreement in the chain of title for that unit, at no cost to the city, and submit recordation documentation to the city. The rental contract for the unit must also contain a clause summarizing the workforce housing requirements and rent level control and referencing the recorded WHDB agreement.~~
- (be) The maximum rental rates for workforce units shall not exceed 35 percent (35%) of a workforce household's annual income between 60 percent (60%) and 140 percent (140%) the applicable year's AMI level. the affordability limit of an eligible workforce household making an annual income within the applicable AMI range pursuant to this division as published annually by the City of Sweetwater based on official information available from documented sources such as Miami Dade County and/or U.S. Department of Housing and Urban Development.

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Sec. 36-8. Application of workforce housing density bonus.

- (a) Any development proposing to utilize the density bonus allowed in a land use category must submit a WHDB zoning application to the city for administrative consideration ~~and approval by the city council for approval~~. At a minimum, the application shall include:
 - (1) Provide workforce housing agreement.
 - (2) General description of the development including location, size, land use, zoning, and the number of rental units and/or for sale units the development will contain.

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- (2) Conceptual development plan showing the proposed location of the workforce housing rental units'
- (3) Total number of market rate and WHDB units.
- (4) Estimated initial monthly rent for each WHDB unit.
- (5) Property legal description and survey.
- (6) Provide the size in terms of square feet and number of bedrooms.
- (7) If construction is to be phased, a phasing plan identifying the number of workforce units and market-rate units in each phase.
- (8) Documentation and plans regarding the interior and exterior appearances, materials, and finishes of the ~~market-rate~~ units.
- (9) Any other relevant information requested by the planning and zoning director, or his/her designee.

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Sec. 36-9. Enforcement.

- (a) It is a violation of this [chapter] to:
 - (1) Fail to file required ~~affidavits or audits~~ certification when required.
 - (2) Rent or lease a WHDB unit to a person or family that is not income eligible as required by this division.
 - (3) Knowingly give false or misleading information relating to this program to any city employee.
 - (4) Participate, in any way, in the lease or rental of a workforce unit which violates any provision of this division or a WHDB Agreement.
- (b) The fine for each violation of this division shall be \$500.00 per each day the violation continues.
- (c) Appeals to any violations issued by the city under these regulations shall be processed pursuant to the City of Sweetwater code compliance appeals procedure.

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Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:

CHAPTER 36 - WORKFORCE HOUSING AMENDMENT

The City is of the view that the following exception(s) to the Business Impact Estimate requirement apply that are checked off in a box below apply to the above-referenced proposed ordinance, although the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☒ The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
 - b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
 - c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
 - d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

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1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City:

3. Estimate of direct compliance costs that businesses may reasonably incur:

4. Any new charge or fee imposed by the proposed ordinance:

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

7. Additional information (if any, but may wish to include the methodology used to derive information for #1 and #2, above. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses based on feedback from businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not impose costs only upon businesses.):

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