

Temp. Ord. No. 1754
7/30/20
11/10/20

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

ORDINANCE NO. 21-08

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, AMENDING THE CODE OF THE CITY OF MIRAMAR, PURSUANT TO SECTION 166.041(3)(A), FLORIDA STATUTES; MORE SPECIFICALLY AT CHAPTER 2, ENTITLED "ADMINISTRATION," ARTICLE VI, ENTITLED "FINANCE AND MISCELLANEOUS FEES" BY AMENDING DIVISION 2.1 ENTITLED "IMPACT FEES FOR NEW DEVELOPMENT," SECTION 2-225.2, ENTITLED "DEFINITIONS" TO PROVIDE A DEFINITION FOR AFFORDABLE HOUSING AND SECTION 2-225.4 ENTITLED "EXEMPTIONS" TO EXEMPT AFFORDABLE HOUSING FROM THE REQUIRED PAYMENT OF IMPACT FEES; AND BY ADDING A NEW DIVISION 5, TO BE ENTITLED "AFFORDABLE HOUSING," PROVIDING DEFINITIONS; ESTABLISHING AN AFFORDABLE HOUSING TRUST FUND; PROVIDING FOR THE USE OF FUNDS; MAKING FINDINGS; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING FOR CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Miramar (the "City Commission") recognizes that the City of Miramar (the "City") has experienced rapid population growth over the past two decades and that these growth trends are predicted to continue; and

WHEREAS, coupled with escalating land and development costs, and the low availability of development sites, such unprecedented and sustained growth places pressures on the housing market and causes an increase in rents and home prices; and

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WHEREAS, more than 21,000 households in the City are considered either cost-burdened (paying in excess of 30 percent of their incomes on housing costs) or severely cost-burdened (paying in excess of 50 percent on their incomes on housing costs); and

WHEREAS, cost-burdened households in the City have significantly less income to spend on basic needs such as food, transportation, education and medical care; and

WHEREAS, the City Commission recognizes that the ability to provide enough affordable housing at all income levels is critical to healthy families, impacts the quality of life of the community and is increasingly important for meeting the City's full economic development potential; and

WHEREAS, the City Commission finds that the federal and state funds received by the City for preserving and producing affordable housing are insufficient to meet evolving community needs and create enough affordable housing; and

WHEREAS, pursuant to the grant of home rule powers set forth in Section 2(b), Article VIII of the Florida Constitution, as codified in Chapter 166, Florida Statutes ("F.S."), it is within the scope of the City's broad governmental, corporate and proprietary powers to support and facilitate housing affordability for its very low, low and moderate-income residents, as such action and/or legislation constitutes a legitimate "municipal purpose," one that is not expressly prohibited by the Florida Constitution, nor is it expressly preempted to the State or County government by the Florida Constitution or by general law, but is essential to the health, morals, protection and welfare of its residents; and

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WHEREAS, consistent with the City's land use authority and land development planning efforts laid out originally in the 1985 Growth Management Act and remaining in force as part of the Community Planning Act of 2011, the City's Adopted Comprehensive Plan includes a Housing Element, which requires that the City assures the availability of a full range of housing types and values, and a diversity of location choices for all current and future residents, by adopting a housing strategy that focuses specifically on assisting the very low-, low- and moderate-income residents with their housing needs and provides incentives for the development of affordable housing, such as waiver of impact fees; and

WHEREAS, the City Commission is desirous to amend Chapter 2, Article VI of the Code of the City of Miramar, specifically by amending Division 2.1, Section 2-225.2 to provide for the definition of "affordable housing" and Section 2-225.4 to exempt affordable housing from the required payment of impact fees, and by adding a new Division 5 to establish an Affordable Housing Trust Fund, the purpose of which is to preserve and develop affordable housing for the very low, low and moderate-income families in the City; and

WHEREAS, the City Commission realizes that impact fees, which are defined as a type of regulatory fee imposed at the time of building permit approval by a local government, pursuant to its police powers, against new development to provide for capital facilities' costs made necessary by population growth, can add to the cost of construction and thereby constitute a regulatory barrier to the production of affordable housing; and

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WHEREAS, exempting affordable housing from the required payment of impact fees shows the City Commission's commitment to subsidize and thereby incentivize the production of affordable housing in the community; and

WHEREAS, to "preserve" affordable housing means to acquire, finance, refinance, or rehabilitate housing that is at imminent risk of loss to the affordable housing supply (including housing that is restricted to affordable housing or housing that is otherwise provided at an affordable rent or an affordable housing cost to lower income households or very low income households) due to termination of use restrictions, non-renewal of subsidy contract, mortgage or tax default or foreclosure, rent increases, conversion to market-rate housing or other uses, demolition, or physical conditions that are likely to result in vacation of the property; and

WHEREAS, housing trust funds established by city, county or state governments that receive ongoing dedicated sources of public funding are a viable tool for facilitating the preservation and production of affordable housing and increase opportunities for families and individuals to access decent affordable homes; and

WHEREAS, housing trust funds systematically shift affordable housing funding from annual budget allocations to the commitment of dedicated public revenue; and

WHEREAS, to date, there are 47 states with housing trust funds, and more than 700 city and county housing trust funds in operation, dedicating an excess of \$1.2 billion annually to help address critical housing needs throughout the country; and

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WHEREAS, approval of the City Commission is required to amend the City Code of Ordinances; and

WHEREAS, the City Manager recommends approval to amend Article VI of Chapter 2 of the City Code of Ordinances to create a new Division 5, the purpose of which is to establish an Affordable Housing Trust Fund for preserving and developing affordable housing; and

WHEREAS, the City Commission held two duly noticed public hearings, pursuant to the notice requirements of Section 166.041(3)(a), F.S., on October 28, 2020 and November 16, 2020, at which public hearings the City Manager's recommendation for adoption was considered and public testimony from all interested parties was heard; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the proposed amendment to Chapter 2, Article VI of the City Code of Ordinances.

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, THAT:

Section 1: **Recitals.** That the foregoing “**WHEREAS**” clauses are hereby adopted as legislative findings of the City of Miramar Commission and are hereby ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2: That Section 2-225.2 of Division 2.1 of Article VI of Chapter 2 of the Code of the City of Miramar is hereby amended to read as follows:

DIVISION 2.1. - IMPACT FEES FOR NEW DEVELOPMENT

* * *

Sec. 2-225.2. - Definitions.

When used in this division, the following words, terms, and phrases, and their derivations, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Affordable housing or affordable housing development means housing for which monthly rents or monthly mortgage payments (including taxes and insurance) do not exceed 30 percent of an amount representing the percentage (very low = 50%; low = 80%; moderate = 120%) of the median income limits, as published by the U.S. Department of Housing and Urban Development (“HUD”), adjusted for family size for households within Broward County.

* * *

Section 3: That Section 2-225.4 of Division 2.1 of Article VI of Chapter 2 of the Code of the City of Miramar is hereby amended to read as follows:

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Sec. 2-225.4. - Exemptions.

This division does not apply to:

* * *

- (11) Impact fees related to the development shall be waived for affordable when an application is made for the construction of affordable housing, if the City Commission or the director of the community development department finds that the proposed project will provide affordable housing for very low, or low, or income persons. Prior to consideration of any waiver request, the developer shall obtain certification from the community development department stating that the project qualifies as affordable housing at a specified income level(s). Any such waiver shall be only for that a portion of the development that qualifies as affordable housing. The percentage of any waiver granted shall be as one hundred percent (100%). Developers shall enter into an agreement with the city upon terms and conditions determined by the city to be necessary to reasonably ensure that affordable housing is constructed, that any waiver hereunder enhances the affordability of the housing, and that such units are rented or sold to persons meeting the income limitations defined by the procedure for qualification.

Section 4: That Article VI of Chapter 2 of the Code of the City of Miramar, Florida, entitled "Finances and Miscellaneous Fees," is hereby amended to add a new division to be numbered 5, which said division shall hereafter read as follows:

DIVISION 5. – AFFORDABLE HOUSING

Sec. 2-263. – Definitions.

For the purposes of this division, the following definitions apply:

Affordable housing means housing for which monthly rents or monthly mortgage payments (including taxes and insurance) do not exceed 30 percent of an amount representing the percentage (very low = 50%; low = 80%; moderate = 120%) of the median income limits, as published by the U.S. Department of Housing and Urban Development ("HUD"), adjusted for family size for households within Broward County.

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City of Miramar Affordable Housing Trust Fund or Fund means the fund established pursuant to this division to provide a continuing, non-lapsing fund for the City Commission to address the need for affordable housing in the City.

Income Eligible Person/Family means one or more natural persons or a family that has a total annual anticipated income for the household below 140 percent of the median annual income, as published by HUD, adjusted for family size for households within Broward County.

Low income household means one or more natural persons or a family, not including students, that has a total annual anticipated income for the household that does not exceed 80 percent of the median annual income, as published by HUD, adjusted for family size for households within Broward County.

Moderate income household means one or more natural persons or a family, not including students, that has a total annual anticipated income for the household that does not exceed 120 percent of the median annual income, as published by the HUD, adjusted for family size for households within Broward County.

Very low income household means one or more natural persons or a family, not including students, that has a total annual anticipated income for the household that does not exceed 50 percent of the median annual income, as published by HUD, adjusted for family size for households within Broward County.

Workforce income household one or more natural persons or a family, not including students, that has a total annual anticipated income for the household that does not exceed 140 percent of the median annual income, as published by HUD, adjusted for family size for households within Broward County.

Sec. 2-264. - The City of Miramar Affordable Housing Trust Fund

The City of Miramar Affordable Housing Trust Fund (the "Trust Fund" or the "Fund") is hereby established, into which funds shall be deposited pursuant to this division.

- (1) Purpose: The purpose of the Fund is to provide a continuing, non-lapsing fund for the City Commission to address the need for workforce housing in the city.
- (2) Revenue sources: The Trust Fund established hereunder shall be funded by the City Commission, and may be comprised of the following sources:

- (a) One Hundred Percent (100%) of the net sales proceeds from the sale of all city owned residential surplus lots shall fund the Trust Fund;

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- (b) Fifteen (15%) percent of the net sales proceeds from the sale of city-owned governmentally owned non-residential (commercial/industrial) shall fund the Affordable Housing Trust Fund. Proceeds from the sale of properties that are part of an enterprise fund shall not be used to fund the Trust Fund;
- (c) Broward County Affordable Housing Trust Funds;
- (d) Grants or donations made to the Trust Fund; and
- (e) Mandatory or voluntary payments made pursuant to the development policies.

(3) Use of the Fund:

- (a) Funds deposited in the Trust Fund shall be used to provide loans and grants for projects to create and sustain affordable housing for income eligible persons/families, including renters and homeowners.
- (b) All investment earnings and other income shall be retained in the Trust Fund until used for affordable housing.
- (c) Provide assistance through production, acquisition, rehabilitation and preservation of land and/or housing units for rental and homeownership activities. Funds shall not be used for supportive housing services such as daycare or job training.
- (d) Not more than five percent of the funds may be used to cover administrative expenses.
- (e) Not less than thirty percent of the funds shall be spent on affordable housing for very low-income households.
- (f) Not less than thirty percent of the funds shall be spent on affordable housing for low income households.

Sec. 2-265. -.

- (1) Continuing Nature of the Fund and Administration: Notwithstanding any other provision of this division, unspent portions of the Trust Fund established under

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this division, repayments of principal and interest on loans provided from the Trust Fund, and interest earned from the deposit of investment monies from the Fund:

- (a) Shall remain in the Trust Fund, to be used exclusively for the purpose of the Fund.
- (b) Do not revert to the general revenues of the City; and
- (c) Any appropriations do not lapse

(2) Administration:

- (a) The Trust Fund shall be administered by the Community Development Department in a manner that allows the Trust Fund to leverage other sources of public funds and private investment; a national best practice. The Trust Fund shall be included in the annual audit.
- (b) All projects to be awarded funding shall be approved by the City Commission.

Section 5: Repeal. That all sections or parts of sections of the City Code, all Ordinances and part of Ordinances, all Resolutions or parts of Resolutions determined by a court of law to be inconsistent or in conflict with this Ordinance are hereby repealed.

Section 6: Severability/Interpretation.

(a) Severability. That if any word, clause, phrase, sentence, paragraph or section of this Ordinance is held to be unconstitutional or invalid by any court of competent jurisdiction, such unconstitutional or invalid part or application shall be

considered as eliminated and shall not affect the validity of the remaining portions or applications which shall remain in full force and effect.

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(b) Interpretation. That in interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Changes between first and second readings are denoted by underlined words. Asterisks (* * *) indicate a deletion from the Ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and do not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

Section 7: Scrivener's Error. The City Attorney is hereby authorized to correct scrivener's errors found in this Ordinance by filing a corrected copy with the City Clerk.

Section 8: Codification. That it is the intention of the City Commission of the City of Miramar that that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miramar, Florida. The sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "Chapter," "Article," "Division," or "Section," or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed.

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<u>Requested by Commissioner Yvette Colbourne</u>	<u>Voted</u>
Commissioner Winston F. Barnes	Yes
Vice Mayor Maxwell B. Chambers	Yes
Commissioner Yvette Colbourne	Yes
Commissioner Alexandra P. Davis	Yes
Mayor Wayne M. Messam	Yes

