

## ***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.

(Ord. No. 2017-4149, § 1, 10-18-17)

### **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 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.

*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.

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*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.

(Ord. No. 2017-4149, § 1, 10-18-17; Ord. No. 2022-4513, § 5, 9-28-22)

## **Sec. 58-502. Reserved.**

## **Sec. 58-503. Workforce housing requirements.**

- (a) Workforce housing developments or units shall comply with the following requirements:
  - (1) A workforce housing unit shall only be offered for rental to a qualified household to be used 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 property owner offering a workforce housing unit for rental shall record in the public records a declaration of restrictive covenants in a form approved by the city attorney. Such declaration shall incorporate, at a minimum, the requirements of this article and any other provisions necessary to carry out the purposes of this article. The declaration of restrictive covenants must, at a minimum assure that:
    - a. The restrictions of this article shall run with the land for the entire control period of 30 years;
    - b. The covenants will bind the applicant, assignee, mortgagee, purchaser, successor and 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 County an instrument releasing the declaration of restrictive covenants required under this article.
- (c) The declaration of restrictive covenants shall, at a minimum, including 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 closing, 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 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 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.

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(Ord. No. 2017-4149, § 1, 10-18-17; Ord. No. 2022-4513, § 5, 9-28-22)

**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.

(Ord. No. 2017-4149, § 1, 10-18-17)

**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.*

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- (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.
- (Ord. No. 2017-4149, § 1, 10-18-17)

## **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.

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- (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.

(Ord. No. 2017-4149, § 1, 10-18-17; Ord. No. 2021-4431, 7-28-21)