

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 2003-067, AS AMENDED, AS FOLLOWS: **ARTICLE 1 – GENERAL PROVISIONS:** CHAPTER I DEFINITIONS AND ACRONYMS; **ARTICLE 2 – APPLICATION PROCESSES AND PROCEDURES:** CHAPTER B, PUBLIC HEARING PROCESSES; CHAPTER G, DECISION MARKING BODIES; **ARTICLE 5 – SUPPLEMENTARY STANDARDS:** CHAPTER G, DENSITY BONUS PROGRAMS; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND, AN EFFECTIVE DATE.

**WHEREAS**, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

**WHEREAS**, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

**WHEREAS**, the BCC has determined that the proposed amendments further a legitimate public purpose; and

**WHEREAS**, the Land Development Regulation Commission has found these amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

**WHEREAS**, the BCC hereby elects to conduct its public hearings on this Ordinance at 9:30 a.m.; and

**WHEREAS**, the BCC has conducted public hearings to consider these amendments to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida Statutes.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:**

**Section 1. Adoption**

The amendments set forth in Exhibit A listed below, attached hereto and made a part hereof, are hereby adopted.

**Section 2. Interpretation of Captions**

All headings of articles, sections, paragraphs, and sub-paragraphs used in this Ordinance are intended for the convenience of usage only and have no effect on interpretation.

**Section 3. Repeal of Laws in Conflict**

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

**Section 4. Severability**

If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any other item contained in this Ordinance is for any reason held by the Court to be unconstitutional,

1 inoperative, void, or otherwise invalid, such holding shall not affect the remainder of this  
2 Ordinance.

3 **Section 5. Savings Clause**

4 All development orders, permits, enforcement orders, ongoing enforcement actions, and  
5 all other actions of the Board of County Commissioners, the Zoning Commission, the  
6 Development Review Officer, Enforcement Boards, all other County decision-making and  
7 advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant  
8 to the regulations and procedures established prior to the effective date of this Ordinance shall  
9 remain in full force and effect.

10 **Section 6. Inclusion in the Unified Land Development Code**

11 The provisions of this Ordinance shall be codified in the Unified Land Development Code  
12 and may be reorganized, renumbered or re-lettered to effectuate the codification of this  
13 Ordinance.

14 **Section 7. Providing for an Effective Date**

15 The effective date of Exhibit A shall fall on the same day as the effective date of the  
16 comprehensive plan amendment, titled Workforce Housing Policy Revisions, adopted by the  
17 Board of County Commissioners on August 22, 2019.

18 **APPROVED and ADOPTED** by the Board of County Commissioners of Palm Beach  
19 County, Florida, on this the 22nd day of August, 2019.


SHARON R. BOCK, CLERK &  
COMPTROLLER

PALM BEACH COUNTY, FLORIDA, BY  
ITS BOARD OF COUNTY  
COMMISSIONERS

By:   
Deputy Clerk

By:   
Dave Kerner, Vice Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By:   
Scott A. Stone, County Attorney

20 **EFFECTIVE DATE:** Filed with the Department of State on the 27th day of  
21 August, 2019.



# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

Part 1. ULDC Art. 1.I.2.I.9 General Provisions, Definitions and Acronyms, Definitions (page 31 of 111, Supplement 25), is hereby amended as follows:

1 **CHAPTER I DEFINITIONS AND ACRONYMS**

2 ....

3 **Section 2 Definitions**

4 ....

5 **I. Terms defined herein or referenced in this Article shall have the following meanings:**

- 6 ....
- 7 9. **Income, WHP** – The following household income ranges shall apply to the WHP. These income  
8 ranges are based on the Area Median Income (AMI) for Palm Beach County, as published  
9 annually by the U.S. Department of Housing and Urban Development. **[Ord. 2006-055]**
- 10 a. **Income, Low** – A ~~household income family of four that earns~~ between 60 and 80 percent of  
11 the County's median income. **[Ord. 2006-055]**
- 12 b. **Income 1, Moderate** – A ~~household income family of four that earns~~ between 80 and 100  
13 percent of the County's median income. **[Ord. 2006-055]**
- 14 c. **Income 2, Moderate** – A ~~household income family of four that earns~~ between 100 and 120  
15 percent of the County's median income. **[Ord. 2006-055]**
- 16 d. **Income, Middle** – A ~~household income family of four that earns~~ between 120 and ~~150~~ 140  
17 percent of the County's median income. **[Ord. 2006-055]**

Part 2. ULDC Art. 2.B.7 Application Processes and Procedures, Public Hearing Processes, Types of Applications (page 33 of 101, Supplement 25), is hereby amended as follows:

18 **CHAPTER B PUBLIC HEARING PROCESSES**

19 ....

20 **Section 7 Types of Applications**

21 ....

22 **B. Conditional Uses and Official Zoning Map Amendment (Rezoning) to a PDD or TDD**

23 **1. Purpose**

24 Conditional Uses and Rezoning to a PDD or TDD, require individual review of the subject  
25 property's location, proposed design, site configuration, intensity or density to ensure the  
26 appropriateness and compatibility of the use with its surrounding land uses. **[Ord. 2007-001]**  
27 **[Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]**

28 **2. Standards**

29 When considering a DO application for ~~a Rezoning to a PDD or a TDD, or~~ a Conditional Use,  
30 ~~excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce~~  
31 ~~Housing Program (WHF), or a Rezoning to a PDD or a TDD,~~ the BCC or ZC shall utilize the  
32 standards a through h indicated below. An application that fails to meet any of these Standards  
33 shall be deemed adverse to the public interest and shall not be approved. **[Ord. 2007-001]**  
34 **[Ord. 2011-016] [Ord. 2012-003] [Ord. 2017-007] [Ord. 2018-002]**

35 **a. Consistency with the Plan**

36 The proposed use or amendment is consistent with the purposes, goals, objectives and  
37 policies of the Plan, including standards for building and structural intensities and densities,  
38 and intensities of use. **[Ord. 2007-001]**

39 **b. Consistency with the Code**

40 The proposed use or amendment is not in conflict with any portion of this Code, and is  
41 consistent with the stated purpose and intent of this Code. **[Ord. 2007-001] [Ord. 2018-**  
42 **002]**

43 **c. Compatibility with Surrounding Uses**

44 The proposed use or amendment is compatible and generally consistent with the uses and  
45 character of the land surrounding and in the vicinity of the land proposed for development.  
46 **[Ord. 2007-001]**

47 **d. Design Minimizes Adverse Impact**

48 The design of the proposed use minimizes adverse effects, including visual impact and  
49 intensity of the proposed use on adjacent lands.

50 **e. Design Minimizes Environmental Impact**

51 The proposed use and design minimizes environmental impacts, including, but not limited  
52 to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural  
53 functioning of the environment. **[Ord. 2007-001]**

54 **f. Development Patterns**

55 The proposed use or amendment will result in a logical, orderly and timely development  
56 pattern. **[Ord. 2007-001]**

57 **g. Adequate Public Facilities**

**Notes:**

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## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

The extent to which the proposed use complies with [Art. 2.F, Concurrency](#). [Ord. 2007-001]

### h. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification. [Ord. 2007-001] [Ord. 2018-002]

### 3. Standards

When considering a DO application for a Conditional Use requests for Density Bonus pursuant to Article 5.G.1, Workforce Housing, the BCC shall utilize the standards indicated in Article 5.G.1.B.2.e.2).b).

### 43. Effect of an issuance of a DO or a Map Amendment

#### a. General

Issuance of a DO for a Conditional Use or a rezoning to a PDD or TDD shall be deemed to authorize only the particular site configuration, layout, and level of impacts, which were approved pursuant to this Code, unless the approval is abandoned. [Ord. 2018-002]

1) Permitted uses may occur in conjunction with or in place of a Conditional Use; and [Ord. 2018-002]

2) Approval of a rezoning shall be deemed to authorize only the particular zoning district for which it is approved. [Ord. 2018-002]

#### b. Time Limitations

The DO shall be reviewed pursuant to [Art. 2.E, Monitoring](#). [Ord. 2018-002]

#### c. Zoning Plan Compliance and Initiation of Use

Development, benefit, or use of a Conditional Use shall not be permitted until the Applicant has secured and complied with all other DOs and site improvements required by this Code. [Ord. 2017-007] [Ord. 2018-002]

The approval of a DO shall not ensure that subsequent approvals for other Development Permits will be granted unless the relevant and applicable portions of this Code are met. [Ord. 2018-002]

### 54. Authorized Class A Conditional Uses

Only those uses that are authorized as Class A Conditional Use in the Use Matrices in Art. 4, Use Regulations, may be approved as Class A Conditional Use, unless stated otherwise herein. The designation of a use as a Class A Conditional Use in a district does not constitute an authorization of such use or an assurance that such use will be approved under this Code. [Ord. 2017-007] [Ord. 2018-002]

....

Part 3. ULDC Art. 2.G.4 Application Processes and Procedures, Decision Making Bodies, Staff Officials, Planning Director (page 96 of 101, Supplement 25), is hereby amended as follows:

## CHAPTER G DECISION MAKING BODIES

....

## Section 4 STAFF OFFICIALS

....

### M. Planning Director

#### 1. Creation and Appointment

The Planning Director of PZB shall be the division head of the Planning Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

#### 2. Jurisdiction, Authority and Duties

In addition to the jurisdiction, authority and duties, which may be conferred upon the Planning Director of PZB by other provisions of PBC Code, the Planning Director of PZB shall have the following jurisdictions, authority and duties under this Code:

a. to undertake the current and long range comprehensive planning responsibilities of PBC under [F.S. § 163.3161](#) et seq., as amended;

b. to review the Plan every seven years;

c. to recommend annually any necessary amendments to the Plan;

d. to accept, review and prepare staff reports recommending approval, approval with conditions, approval with modifications, or denial of applications for Site Specific (FLUA) amendments to the Plan; and [Ord. 2018-002]

e. to administer the process of Development of Regional Impact (DRI) review for projects within municipalities in PBC.

f. to review and render interpretations of Article 5.G, Density Bonus Programs;

g. to interpret and decide on application for Entitlement Density and Intensity and Density for Workforce Housing Program (WHP) and Affordable Housing Program (AHP); and, [Ord. 2011-016]

hg. to interpret the Agricultural Enclave Overlay (AGEO) Conceptual Plan.

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

Part 4. ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:

**CHAPTER G DENSITY BONUS PROGRAMS**

~~The WHP, AHP or the TDR Program are the required methods for increasing density above the maximum density permitted by a property's FLUA designation within unincorporated PBC, unless an applicant can both justify and demonstrate a need for a Site Specific FLUA Amendment and demonstrate that the current FLUA designation is inappropriate, as outlined in Art. 2.H, FLU Plan Amendments. [Ord. 2008-003] [Ord. 2010-005]~~

**Section 1 Workforce Housing Program (WHP)**

**A.—Purpose and Intent**

~~The WHP implements HE Policies 1.1-o and 1.5-g of the Plan, among others, by establishing an Inclusionary WHP. The program mandates or encourages the development and equitable geographic distribution of workforce housing units for low, moderate 1 and Moderate 2, and middle-income households, ensures a minimum affordability period, and provides for a density bonus and other incentives. The program is intended to increase the supply of housing opportunities for persons employed in PBC in jobs that residents rely upon to make the community viable. [Ord. 2006-055]~~

**B.—Applicability**

~~In cases of conflict between this Chapter and other Articles of this Code, the provisions of this Chapter shall apply. The WHP shall apply to all new developments with a residential component of 10 or more dwelling units. For existing projects proposing 10 or more dwelling units, the program shall apply to those units being added. Requirements and limitations are further defined in Table 5.G.1.B, Workforce Housing Program. [Ord. 2006-055] [Ord. 2010-005]~~

**Table 5.G.1.B – Workforce Housing Program**

<b>Applicability</b>		
	Threshold	Required > or = to 10 residential dwelling units
Location:	Tier or Overlay	U/S
	FLU (1)	LR-1, LR-2, LR-3, MR-5, HR-8, HR-12, HR-18, UC and UI
<b>Density Bonus Incentive</b>		
	LR-1 thru LR-3	up to 30%
	MR-5 thru HR-18 (2)	up to 100% (Pre-App required for > 30%)
	UC or UI	N/A
<b>Required % of WHP Units (3)</b>		
	Standard Density	5%
	Maximum Density	16%
	WHP Density Bonus	34%
	UC or UI	15%
<b>Required WHP Ranges (4)(6)</b>		
	Low (60-80%)	25%
	Moderate 1 (> 80-100%)	25%
	Moderate 2 (> 100-120%)	25%
	Middle (> 120 or ≤ 140%)	25%
<b>Provision of Units</b>		
	Option 1	Construct units off site. (Art. 5.G.1.G.1)
	Option 2	Purchase existing market rate units and deed to the County or sell to eligible households and deed restrict. (Art. 5.G.1.G.2)
	Option 3	Donate build-able land acceptable to the County in an amount = or > than the buyout cost. (Art. 5.G.1.G.3)
	Option 4	In-lieu Payment. (Art. 5.G.1.G.4)
<b>[Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005] [Ord. 2010-022]</b>		
<b>Notes:</b>		
1. <del>Shall also apply to mixed-use projects with applicable underlying FLU designations for Commercial and Industrial Mixed Use Development. [Ord. 2006-055]</del>		
2. <del>A density bonus of &gt; 30% shall be permitted subject to meeting the additional standards of Art. 5.G.1.H, Additional Requirements for &gt; 30% Density Bonus. [Ord. 2006-055]</del>		
3. <del>Percentages shall be rounded up to the nearest whole number. [Ord. 2006-055]</del>		
4. <del>Based on County Median Income. Where assigning units to a category, priority may be given to middle income first, proceeding downward to low income (i.e. where 3 units are required, the first shall be middle [&gt; 120 or ≤ 140%]; the 2<sup>nd</sup> Moderate 2 [&gt; 100-120%]; and, the 3<sup>rd</sup> Moderate 1 [&gt; 80-100%]). This does not prohibit allowing higher numbers of lower income units. [Ord. 2006-055] [Ord. 2007-013] [Ord. 2010-005]</del>		
5. <del>All units not located on-site shall comply with requirements of onsite units. [Ord. 2006-055] [Ord. 2010-005]</del>		
6. <del>UC or UI applications: Consideration may be given to additional affordable housing household incomes in developments requesting all or a portion of the 15% unit requirement within their proposal be based on the programmatic requirements imposed by a governmental agency providing affordable housing funding or by an entity with programmatic requirements (e.g., Habitat for Humanity or a Community Land Trust). The final determination is to be made by the Planning Director or designee. [Ord. 2010-022]</del>		

**1.—Exemptions**

- a.—~~Projects utilizing the AHP shall not be subject to the requirements of the WHP. [Ord. 2010-005]~~
- b.—~~All congregate living facilities (CLFs); and, nursing or convalescent facilities. [Ord. 2006-055]~~

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

### ~~2. Limitations~~

~~WHP units shall not be subject to restrictions beyond income qualifications. [Ord. 2010-005]~~

### ~~3. Income Ranges~~

~~There are four targeted income range categories in the WHP pursuant to Table 5.G.1.B, Workforce Housing Program. Applicants shall not be required to provide units in a category when the category price is greater than the median sales price for the County. These units would be eligible for the In-Lieu payment pursuant to Art. 5.G.1.G.4, Option 4 – In Lieu Payment, or distributed equally among the remaining targeted income ranges. [Ord. 2010-005]~~

### ~~4. When WHP and AHP Units are Proposed~~

~~The Planning Director shall make a determination as to which program shall be followed when projects include units targeting both income groups. [Ord. 2010-005]~~

## ~~C. Development Options~~

### ~~1. No Incentives~~

~~A proposal requesting no additional WHP density bonus; TDR units; WHP – TPS special methodology mitigation; WHP expedited review; WHP site plan regulation options; or any additional WHP incentive shall comply with the following: [Ord. 2010-005]~~

~~a. All dwelling units proposed shall be required to target households with incomes from 60 percent to 140 percent of AMI. [Ord. 2010-005]~~

~~b. To be eligible no more than 90 percent of the total project units can be built within any one of the four targeted income categories; all other units must be built in any one, or any combination thereof, of the remaining three income categories. [Ord. 2010-005]~~

~~c. All for sale units which includes attached and detached housing types shall be required to be income restricted for a period of 7 years (non-recurring) [Ord. 2010-005]~~

~~d. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). [Ord. 2010-005]~~

~~e. Projects developed under this option shall not be permitted to utilize the payment in lieu of construction provisions as outlined in Art. 5.G.1.B.3, Income Ranges or Art. 5.G.1.I.5, Release of Obligation to Construct WHP For Sale Units. [Ord. 2010-005]~~

### ~~2. Limited Incentive~~

~~An applicant may receive no more than 50 percent of the potential density bonus as provided in this Chapter. [Ord. 2011-001]~~

~~a. The required percentage of WHP units will also be limited to: 2.5 percent of Standard Density; 8 percent of PUD Density and 17 percent of the WHP density bonus. [Ord. 2010-005]~~

~~b. 50% of the required WHP units shall be set aside for low income households (households that earn between 60 percent and 80 percent of the County's median income) and 50 percent of the required WHP units shall be set aside for moderate income households (households that earn between 80 percent and 100 percent of the County's median income). [Ord. 2010-005]~~

~~c. The WHP – TPS special methodology mitigation, the WHP expedited review, the WHP site plan regulation options and any additional WHP incentives will be available if requested. [Ord. 2010-005]~~

~~d. All for sale units shall be income restricted for a period of 15 years (recurring). Each WHP unit shall be sold, resold, or rented only to Low or Moderate income qualified households and the WHP restrictions remain in effect for 15 years from the date each unit is first purchased or rented. In the event a unit is resold before the 15 year period concludes, a new 15 year period shall take effect on the date of resale. [Ord. 2010-005]~~

~~e. All units within a rental development utilizing this development option will be required to be income restricted for a period of 30 years (non-recurring). [Ord. 2010-005]~~

### ~~3. Full Incentive~~

~~A proposal requesting consideration for all available WHP incentives, as indicated in the following Table 5.G.1.B, Workforce Housing Program, and following text. [Ord. 2010-005]~~

## ~~D. Design Requirements~~

### ~~1. Design~~

~~WHP units shall be designed to be compatible with the overall project, as follows: [Ord. 2006-055]~~

~~a. All WHP units shall be constructed on site, unless approved otherwise in accordance with Art. 5.G.1.G, WHP Off Site Options; [Ord. 2006-055] [Ord. 2010-055]~~

~~b. All affordable units shall be designed to a compatible exterior standard as other units within the development or pod/phase and shall be comparable with the surrounding land uses; and [Ord. 2006-055] [Ord. 2010-005]~~

~~c. Required WHP units may be clustered or dispersed throughout the project. [Ord. 2006-055]~~

## ~~E. WHP Incentives~~

~~All projects with 10 or more residential units shall be eligible for WHP Incentives. [Ord. 2006-055]~~

### ~~1. Density Bonus~~

~~Table 5.G.1.B, Workforce Housing Program, delineates the ranges of density bonus allowed for the WHP. For the purposes of this Section, permitted density shall be the number of units allowed by the standard density allowed by the Plan; or, the maximum density allowed by the~~

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## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 ~~Plan, where developed as a PDD, TDD or other density provision of the Plan. TDR units or any~~  
2 ~~other density bonus shall not be included as part of the permitted density for purposes of~~  
3 ~~calculating the WHP density bonus. To ensure compliance with the compatibility requirement~~  
4 ~~of HE Objective 1.5 of the Plan, projects requesting a density bonus greater than 30 percent~~  
5 ~~shall be subject to the requirements of Table 5.G.1.E, Review Process, and Art. 5.G.1.H,~~  
6 ~~Additional Requirements for > 30% Density Bonus. [Ord. 2006-055]~~  
7

**Table 5.G.1.E – Review Process**

Density Bonus	DRO Approval	Class A Conditional Use
Standard District > 30% - 50%	X	
Standard District > 50% - 100%		X
PDD or TDD > 30% - 100%		X
[Ord. 2006-055] [Ord. 2017-007]		

### 2. ~~Traffic Performance Standards Mitigation~~

#### a. ~~WHP Special Methodologies~~

8 ~~TPS mitigation shall be permitted for WHP projects in accordance with County~~  
9 ~~Comprehensive Plan Transportation Element Policy 1.2-d (4). [Ord. 2006-055] [Ord. 2011-~~  
10 ~~046]~~

#### b. ~~WHP Traffic Concurrency Hall Pass~~

11 ~~TPS mitigation shall also include the option of applying for a WHP Traffic Concurrency Hall~~  
12 ~~Pass separate from a development order application. The WHP Traffic Concurrency Hall~~  
13 ~~Pass serves as a provisional traffic concurrency approval for a period of not more than 90~~  
14 ~~days, during which it must be merged into an application submitted for a Concurrency~~  
15 ~~Reservation approval. The WHP Traffic Concurrency Hall Pass is described further in Art.~~  
16 ~~2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2006-055]~~

### 3. ~~Expedited Review~~

17 ~~The following expedited review processes may apply to a proposed WHP development: [Ord.~~  
18 ~~2006-055]~~

#### a. ~~Design Review~~

19 ~~Review of multifamily or townhouse structures by the Building Division and Fire Rescue~~  
20 ~~shall be allowed concurrent with final DRO review, prior to permit application. [Ord. 2006-~~  
21 ~~055]~~

#### b. ~~Platting~~

- 22 ~~1) If only a boundary plat is required for an existing single lot, building permits may be~~  
23 ~~issued after submittal of the final plat for recordation. [Ord. 2006-055]~~  
24 ~~2) If a subdivision plat is required, permits will be concurrently reviewed, but only issued~~  
25 ~~at recording of the plat. [Ord. 2006-055]~~  
26 ~~3) Pursuant to Art. 3.E.1.G.1.a, Permits, Building permits may be issued for sales offices,~~  
27 ~~sales models, gate houses, entry features, and utilities may be issued prior to the~~  
28 ~~recording of a final plat. [Ord. 2006-055]~~

### 4. ~~Density Bonus Development Options~~

#### a. ~~Purpose and Intent~~

29 ~~To provide flexibility from property development and other related regulations in order to~~  
30 ~~provide greater opportunity for cost effective development of WHP units. These provisions~~  
31 ~~are not intended to supersede deviations that are normally addressed through the variance~~  
32 ~~process. These options shall only be granted at the time of approval for the entire project,~~  
33 ~~and shall not be granted on a lot-by-lot basis. [Ord. 2006-055]~~

#### b. ~~Applicability~~

34 ~~Projects with ten or more units that utilize a density bonus incentive and are subject to the~~  
35 ~~requirements of the WHP may utilize the Development Options listed herein. [Ord. 2006-~~  
36 ~~055]~~

#### c. ~~Justification Report~~

37 ~~Use of Density Bonus Development Options shall not be granted by right, and shall require~~  
38 ~~submittal of a justification report that demonstrates that deviations are the minimum needed~~  
39 ~~to allow for the use of density bonus incentives. The report shall include the following: [Ord.~~  
40 ~~2006-055]~~

- 41 ~~1) The regulations that are proposed to be modified. [Ord. 2006-055]~~  
42 ~~2) The amounts and specifics of the requested deviation(s). [Ord. 2006-055]~~  
43 ~~3) The areas within the development that the deviation(s) will be applied to. [Ord. 2006-~~  
44 ~~055]~~  
45 ~~4) Graphic representations such as, but not limited to, site plans, elevations,~~  
46 ~~perspectives, and typical examples, showing how the deviations will meet the intent of~~  
47 ~~the district and WHP with emphasis on open space, privacy, maintenance, and public~~  
48 ~~health, safety and welfare. [Ord. 2006-055]~~

#### d. ~~Site Plan Approval~~

49 ~~All projects requesting Density Bonus Development Options, shall submit an application~~  
50 ~~and site plan to the DRO for certification where applicable, and for final site plan approval~~  
51 ~~for all others. The site plan shall indicate in the tabular data all Development Options~~  
52 ~~requested and where feasible, a regulating plan shall be included to provide typical~~  
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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

~~examples. Approval shall be granted only for the minimum deviations needed to allow for the use of density bonus incentives and where the requirements of all applicable reviewing agencies have been met. [Ord. 2006-055]~~

~~**e. Drainage**~~

~~Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues. [Ord. 2006-055]~~

~~**f. Option 1 – RT District**~~

~~The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts. [Ord. 2008-037]~~

~~**1) RT PDR Deviations**~~

~~Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.E, RT Deviations for WHP, only for those projects that exceed the standard density in the footnote in FLUE Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, and utilize a minimum density bonus of 20 percent. [Ord. 2006-055] [Ord. 2019-005]~~

~~**Table 5.G.1.E – RT Deviations for WHP**~~

Zoning District	Applicability	FLU	Lot Dimensions				Setbacks	
			Size	Width and Frontage	Building Coverage	Depth	Side	Rear
<del>RT</del>	<del>TDR, WHP</del>	<del>LR-2</del>	<del>12,000 sf</del>	<del>85'</del>	<del>35%</del>	<del>100'</del>	<del>ND</del>	<del>ND</del>
<del>RT</del>	<del>TDR, WHP</del>	<del>LR-3</del>	<del>9,000 sf</del>	<del>65'</del>	<del>40%</del>	<del>80'</del>	<del>1st Floor – 10'</del>	<del>1st floor – 15'</del>
<del>[Ord. 2006-055] [Ord. 2019-005]</del>								
<del>ND</del>	<del>No deviation.</del>							

~~**g. Option 2 – TND Regulations**~~

~~Projects eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.D, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations: [Ord. 2006-055]~~

~~**1) U/S Tier Only; [Ord. 2006-055]**~~

~~**2) Project does not qualify to be a TND or use Option 1 or 3; [Ord. 2006-055]**~~

~~**3) If the subject site has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the project shall meet all requirements for and be approved as a PDD; [Ord. 2006-055]**~~

~~**h. Option 3 – Flexible Regulations**~~

~~Projects with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows: [Ord. 2006-055]~~

~~**1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks. [Ord. 2006-055]**~~

~~**2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks. [Ord. 2006-055]**~~

~~**3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages. [Ord. 2006-055]**~~

~~**i. Option 4 – PDD Open Space Reduction**~~

~~Projects which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the project incorporates common usable open space areas as defined in Art. 1.I.2.U.18, Usable Open Space for WHP. [Ord. 2006-055]~~

~~**j. Option 5 – Internal Incompatibility Buffers**~~

~~Required incompatibility buffers between SFD and MF units within a WHP development shall not be required. [Ord. 2006-055]~~

~~**k. Option 6 – Relocation of Units to Civic Tracts**~~

~~Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall project: [Ord. 2006-055]~~

~~**1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or, [Ord. 2006-055] [Ord. 2010-005]**~~

~~**2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted. [Ord. 2006-055]**~~

~~**F. WHP On-site Construction**~~

~~WHP units may be located on-site in accordance with the provisions of Art. 5.G.1.C, Workforce Development Alternatives; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to final DRO approval, the applicant shall identify on the plan the total number of WHP units proposed for development within each pod or~~

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**EXHIBIT A**

**ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM**

~~phase, as applicable. The plan shall also indicate the number of units in each applicable WHP income category. All of the WHP units shall not be constructed in the last phase of a multi-phased development except for a Development Order Amendment to a Development Order approved prior to WHP requirements. [Ord. 2010-005] [Ord. 2012-003]~~

~~**G. WHP Off-site Options**~~

~~WHP units may be located off-site using the options listed below and in accordance with the provisions of Table 5.G.1.B, Workforce Housing Program; however, under no circumstances shall any site be permitted to develop at a density greater than that permitted by the Plan. Prior to issuance of a building permit, or final DRO approval if applicable, all contracts or related agreements for any off-site option evidencing site control and necessary approvals shall be approved by the County Administrator, or designee. Prior to final DRO approval, the applicant shall identify the total number of WHP units proposed for development off-site including the number in each applicable WHP income category. Off-site options may be accommodated in municipalities located within Palm Beach County. [Ord. 2006-055] [Ord. 2010-005]~~

~~**1. Option 1 – Off-site Construction**~~

~~Building permits shall be issued for a minimum of 25-percent of the required WHP units to be constructed off-site prior to the issuance of no more than 25-percent of the building permits in the subject development. All off-site WHP units must receive CO prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-0455] [Ord. 2010-005]~~

~~a. **WCRAO** – Off-site construction of the required WHP units within the low income range shall be limited to ten percent. [Ord. 2008-037]~~

~~**2. Option 2 – Purchase Market Rate Units**~~

~~Purchase of an equivalent number of existing market rate units to be deeded to the County or sold to eligible households and deed restricted. The developer may retain the title to off-site units subject to recordation of a deed restriction that meets the intent of this provision. A minimum of 50-percent of the units must be purchased and deeded to the County or deed restricted prior to the issuance of no more than 25-percent of the building permits in the subject development. All market rate units shall be purchased and deeded to the County or deed restricted prior to issuance of no more than 85-percent of the CO's in the subject development. [Ord. 2006-055] [Ord. 2010-005]~~

~~**3. Option 3 – Donate Buildable Land**~~

~~Donation of developable land acceptable to the County in an amount equal to the buyout costs of the affected units. Donated land must be deeded to the County prior to issuance of the first building permit in the subject development. [Ord. 2006-055]~~

~~**4. Option 4 – In-lieu Payment (Prior to Issuance of First Residential Unit Building Permit)**~~

~~The in-lieu payment for all WHP units shall be \$81,500 per for sale unit and \$50,000 per rental unit. The payment shall be deposited in the WHP Trust Fund maintained by the PBC Department of HCD at the time of issuance of the first residential unit building permit for the subject development. [Ord. 2006-055] [Ord. 2010-005]~~

~~**H. Additional Requirements for >30% Density Bonus**~~

~~Projects requesting a density bonus greater than 30 percent shall comply with the following: [Ord. 2006-055]~~

~~**1. Sector Analysis**~~

~~WHP projects, including relocated WHP units, shall be equitably distributed so that there is no undue concentration of very-low and low income households. Table 5.G.1.H, WHP Density Bonus Guide indicates the maximum density bonus permitted and the concentration of very-low and low income housing within a sector will be one factor taken into consideration when determining the maximum density bonus permitted. Other factors to be considered include: the location of the proposed development and its relationship to the study area; the housing type(s) proposed; if the development site is located within 1/4 mile radius of a public park (neighborhood or regional park, not a golf course); civic uses (schools/libraries); a mass transit facility/route; child care facilities; medical facilities; a super market; a community commercial facility; employment opportunities; and within 1/2 mile radius of social services; a regional commercial facility; an industrial facility; additional civic uses and employment opportunities. Prior to submittal of a WHP pre-application, the applicant shall meet with the Planning Director or designee to establish the sector within which the distribution analysis shall be conducted. The boundaries of the sector shall be approved by the Planning Director or designee. The maximum density bonus permitted or a bonus in excess of the maximum shall be recommended by the Planning Director or designee. [Ord. 2010-005]~~

**Table 5.G.1.H - WHP Density Bonus Guide**

<b>% of Very Low &amp; Low Income Households in Sector</b>	<b>&gt; 50%</b>	<b>40-50%</b>	<b>20-40%</b>	<b>0-20%</b>
<b>Maximum Density Bonus (1)</b>	up to 40%	up to 60%	up to 80%	up to 100%
<b>[Ord. 2009-01] [Ord. 2010-005]</b>				
<b>Notes:</b>				
1. The Planning Director may recommend a density bonus in excess of the Maximum Density Bonus where the project serves to mitigate existing very low and low income concentrations by including a mix of higher income market rate units or Medium 1, Medium 2 and Middle Income WHP units. [Ord. 2006-055]				

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 a.—The sector shall be proportional to the size and character of the proposed development. At  
2 a minimum, the sector shall consist of one or more neighborhoods that include features  
3 such as schools, shopping areas, an integrated network of residential and collector streets  
4 bounded by arterial roads, civic uses, localized shopping, and employment opportunities.  
5 For data and analysis purposes, the sector shall be adjusted to accommodate census  
6 tracts or census block groups but shall not extend beyond important physical boundaries  
7 that may include a major arterial roadway or a wildlife refuge. **[Ord. 2006-055]**

8 b.—Household income characteristics for the sector shall be derived from the most current  
9 available census data. The income level of a “family of four” shall be used for the  
10 determination of households within the low, moderate and middle income household  
11 categories. The analysis of housing and demographic data within the sector shall be in a  
12 manner and form approved by the Planning Director. **[Ord. 2006-055]**

### 13 **2.—Pre-Application**

14 An application for density bonus greater than 30 percent shall require the submittal of a pre-  
15 application prior to submittal of a Zoning or Building permit application for purposes of  
16 establishing a density bonus determination. **[Ord. 2006-055]**

#### 17 **a.—Contents**

18 The pre-application shall be in a form established by the Planning Director, and made  
19 available to the public. **[Ord. 2006-055]**

#### 20 **b.—Sufficiency Review**

21 The pre-application shall be subject to the provisions of Art. 2.B.2 or Art. 2.C.2, Sufficiency  
22 Review. **[Ord. 2006-055]**

#### 23 **c.—Compliance**

24 The density bonus shall not be granted until the project is found in compliance with HE  
25 1.5.h. in the Plan. **[Ord. 2006-055]**

#### 26 **d.—Density Determination**

27 The Planning Director shall provide a written density determination letter within ten days of  
28 determining the pre-application is sufficient. The determination shall be based on the sector  
29 analysis, size, location and development characteristics of the project with consideration  
30 given towards affordability, accessibility, proximity to mass transit or employment centers,  
31 compatibility, quality of design, pedestrian and vehicular circulation, open space, and  
32 resource protection. The Planning Director shall prepare a report for the applicant, DRO,  
33 ZC, or BCC, whichever is appropriate, making a determination of compliance with this  
34 chapter, consistency with the Plan and recommend approval, approval with conditions, or  
35 denial of the request. **[Ord. 2006-055]**

### 36 **I.—Affordability Requirements**

37 Where applicable, the required percentage, affordability ranges and provision of units, shall be in  
38 accordance with Table 5.G.1.B, Workforce Housing Program. **[Ord. 2006-055]**

#### 39 **1.—Sales and Rental Prices of WHP Units**

40 All required WHP units shall be offered for sale or rent at an attainable housing cost for each  
41 of the targeted income ranges. The sale and rent prices shall be updated annually by the  
42 Planning Director, or designee, with the sale prices based on the Area Median Income (AMI),  
43 and the household income limits for PBC (West Palm Beach/Boca Raton metropolitan  
44 statistical area) for a family of four, which pricing shall not be adjusted based on the number of  
45 occupants, as published annually by HUD (sale price: household income figure multiplied by  
46 three and priced at the middle of each of the four WHP income categories), and rental prices  
47 based on the annual Florida Housing Finance Corporation Multi-Family Rental Figures as  
48 adjusted for number of bedrooms in WHP rental units. The minimum WHP price initially  
49 established at the time of approval for each for sale unit within each WHP category range will  
50 be the sales floor. This sales floor shall serve as the minimum sales price point required  
51 throughout the applicable deed restriction time frame. The minimum WHP price initially  
52 established at the time of approval for each rental unit within each WHP income category range  
53 will be the rental floor. This rental floor shall serve as the minimum rental price point required  
54 throughout the thirty (30) year term of this Covenant. Any utility allowances applied against  
55 gross maximum WHP unit rents shall also be adjusted based on a number of bedrooms in  
56 WHP rental units. A chart with the sales and rent prices will be maintained and updated  
57 annually by the County. **[Ord. 2006-055] [Ord. 2010-005] [Ord. 2012-003] [Ord. 2012-027]**

#### 58 **a.—Utility Allowance**

59 Utilities shall include, but not be limited to, water, sewer, gas and electric. When one or  
60 more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable  
61 and verifiable documentation is provided that indicates the total utility cost included within  
62 the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility  
63 allowance requirement would be waived. If the information provided constitutes an amount  
64 less than the prescribed utility allowance, the value may be applied against the utility  
65 allowance and the remaining balance shall be credited to the WHP resident's rent cost.  
66 **[Ord. 2012-003]**

### 67 **2.—Master Covenant**

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 Prior to issuance of the first building permit, the applicant shall record in the public records of  
2 Palm Beach County a Covenant binding the entire project, in a form provided for by the County,  
3 which identifies each required WHP unit. ~~[Ord. 2006-055] [Ord. 2010-005]~~

4 **a.—For Sale Units**

5 The Covenant shall include but not be limited to restrictions requiring: that all identified  
6 WHP units shall be sold, resold or rented only to low, moderate 1, moderate 2, or middle-  
7 income qualified households at an attainable housing cost for each of the targeted income  
8 ranges; that these restrictions remain in effect for 15 years recurring from the date of the  
9 certificate of occupancy for each unit; and that in the event a unit is resold before the 15  
10 year period concludes, a new 15 year period shall take effect on the date of resale. The  
11 Covenant shall further provide monitoring and compliance requirements including but not  
12 limited those set forth below to ensure compliance with the WHP. Every deed for sale of a  
13 WHP housing unit shall incorporate by reference the controlling Covenant. ~~[Ord. 2006-  
14 055] [Ord. 2010-005]~~

15 **b.—Rental Units**

16 The Covenant shall include but not be limited to restrictions requiring: that all identified  
17 WHP units shall be rented only to low, moderate 1, moderate 2, or middle-income qualified  
18 households at an attainable housing cost for each of the targeted income ranges; that these  
19 restrictions remain in effect for a period of 30 years (non-recurring) from the date of  
20 occupancy of the first WHP unit; and that in the event a rental complex is resold before the  
21 30 year period concludes, the new owner assumes the requirement for the number of  
22 remaining years; and the number of years remaining shall be determined by the Planning  
23 Director or his designee; and shall take effect on the date of resale. The Covenant shall  
24 further provide monitoring and compliance requirements including but not limited to those  
25 set forth below to ensure compliance with the WHP. Every deed for a rental development  
26 with WHP housing units and every rental agreement for each WHP unit shall incorporate  
27 by reference the controlling Covenant. ~~[Ord. 2010-005]~~

28 **3.—Monitoring and Compliance**

29 Prior to the sale, resale, or at the time of the rental of any WHP unit established pursuant to  
30 this program, the seller of a for sale unit or the owner of a rental development shall provide the  
31 Planning Director, or designee, documentation sufficient to demonstrate compliance with the  
32 WHP. Such documentation shall include but not be limited to information regarding the identity  
33 and income of all occupants of the WHP unit. The owner of the WHP unit shall submit to the  
34 Planning Director, or designee, on a form provided by the County, an annual report containing  
35 information and documentation to demonstrate continued compliance with the WHP and a copy  
36 of any monitoring information provided to and received from the appropriate funding  
37 agency/source. The County may conduct site visits at reasonable times, or perform other  
38 independent investigation to verify continued compliance with the WHP. ~~[Ord. 2006-055] [Ord.  
39 2010-005]~~

40 **4.—Enforcement**

41 The County may enforce the requirements of the WHP through any cause of action available  
42 at law or equity, including but not limited to seeking specific performance, injunctive relief,  
43 rescission of any unauthorized sale or lease, reclassification of a lesser unit to another income  
44 category, and tolling of the 15-year recurring term of for sale units or the 30 year non-recurring  
45 term for rental units of the WHP. ~~[Ord. 2006-055] [Ord. 2010-005]~~

46 **5.—Release of Obligation to Construct WHP For Sale Units**

47 It is not the intent of the WHP provisions to require a developer to commence construction on  
48 any WHP for sale unit for which a valid and binding contract for purchase between developer  
49 and buyer has not been executed. It is intended that all WHP units will be marketed in the same  
50 manner as the market-rate units within a development. In the event a WHP unit eligible for  
51 contract: (i) has been available for purchase for a period not less than 180 days and no contract  
52 to purchase that unit has been executed during the 180 day period; and, (ii) is located within a  
53 development pod/phase in which not less than 80 percent of the for sale market rate units (i.e.  
54 non-WHP units) have binding purchase contracts; then that specific WHP unit is eligible to be  
55 released from the WHP obligations indicated in the Covenant. ~~[Ord. 2006-055] [Ord. 2010-  
56 005] [Ord. 2012-027]~~

57 **a.—For Sale Units**

58 When a WHP unit is not purchased in accordance with the provisions above, an In-Lieu  
59 cash payment shall be permitted as follows: ~~[Ord. 2010-005]~~

60 Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be  
61 released from any and all obligations of the WHP requirements of the ULDC and the County  
62 shall provide written confirmation that the unit/lot has been released, inclusive of release  
63 from the Covenant. The County shall utilize cash payments for the express purpose of  
64 providing down payment assistance to eligible households seeking to purchase WHP units.  
65 To the greatest extent possible, the down payment assistance provided by the County shall  
66 be utilized for the purchase of WHP units from the project from which the cash payment  
67 was provided. The payment shall be deposited in a WHP Trust Fund maintained by the  
68 PBC Department of HCD, and designated for the above referenced purpose. ~~[Ord. 2010-  
69 005] [Ord. 2012-027]~~

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1) ~~if the price differential between the required WHP unit and the contract price for the market rate unit is less than or equal to \$20,000, then the In-Lieu cash payment shall be \$10,000; [Ord. 2010-005]~~

2) ~~if the price differential between the required WHP unit and the contract price for the market rate unit is greater than \$20,000 and less than \$81,250, then the In-Lieu cash payment shall be one half (50 percent) of the difference; and, [Ord. 2010-005]~~

3) ~~if the price differential between the required WHP unit and the contract price for the market rate unit is greater than or equal to \$81,250, then the In-Lieu cash payment shall be \$40,750. [Ord. 2010-005]~~

~~The contract price of any for sale market rate unit shall be the base price of the unit and shall not include any lot premium and/or buyer purchased upgrades that are in addition to the base price of the unit. The Developer shall provide written notice to the Department of Planning, Zoning and Building requesting confirmation of the In-Lieu cash payment amount, which request shall include: a copy of the executed purchase contract between seller and purchaser denoting the purchase price of the unit, but shall not be required to submit any information relative to any lot premium and upgrades that are in addition to the base price of the unit; the project name, zoning control number, PCN, and address of the lot; and, the calculation as to the amount of the In-Lieu cash payment amount being requested. [Ord. 2010-005]~~

~~The County shall provide written confirmation to the Developer, within ten (10) business days of receipt, as to the County's agreement/disagreement with the In-Lieu cash payment amount requested by the Developer. [Ord. 2010-005]~~

~~Upon payment of the required In-Lieu cash payment, the WHP unit/lot shall thereafter be released from any and all obligations of the WHP requirements of the ULDC and the County shall provide written confirmation that the unit/lot has been released, inclusive of release from the Covenant. Units which are not required to be constructed pursuant to Art. 5.G.1.B.3, Income Ranges are not eligible for this reduced in-lieu payment. These units must provide in-lieu payment consistent with Art. 5.G.1.G.4, Option 4 – In-Lieu Cash Payment. The County shall utilize cash payments for the express purpose of providing down payment assistance to eligible households seeking to purchase WHP units. To the greatest extent possible, the down payment assistance provided by the County shall be utilized for the purchase of WHP units from the project from which the cash payment was provided. The payment shall be deposited in a WHP Trust Fund maintained by the PBC Department of HCD, and designated for the above referenced purpose. [Ord. 2010-005]~~

~~**b. "Available for purchase" shall be defined as:**~~

1) ~~written notice is provided to the Planning Director and the Department of Housing and Community Development and to a list of interested parties provided to the developer by the County that developer has a project approved which requires the construction of WHP units and the developer is ready to commence sales of the required WHP unit within the development. The written notice shall include the location of the subject property, the location of the sales office, the hours of the sales office, the floor plan and construction specifications for the WHP unit available for contract; and the pricing of the WHP unit available for contract; [Ord. 2010-005]~~

2) ~~developer shall include in the sales office displays and WHP unit promotional brochures produced as of and during the entire duration of the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, (i) and (ii) above, that certain units within the project are subject to the WHP provisions of Palm Beach County and are available for purchase for qualified households; [Ord. 2010-005]~~

3) ~~the inclusion of informational packets in the sales center for those interested in purchasing a WHP unit which provides the qualification standards, terms of the Covenant, where to go to get qualified, and other relevant information regarding the WHP units (note this packet to be provided by or approved by Palm Beach County prior to placement on the sales floor); [Ord. 2010-005]~~

4) ~~at the time WHP units become available for purchase the developer shall provide to the Palm Beach County Department of Planning, Zoning and Building proof of outreach to local housing advocacy groups and others on the interested parties list. [Ord. 2010-005]~~

5) ~~the developer acts in good faith to market and sell the unit during the effective period as defined in Art. 5.G.1.I.5 Release of Obligation to Construct WHP For Sale Units, above. [Ord. 2010-005]~~

~~**6. Event of Default of for sale WHP unit following execution of binding contract:**~~

~~In the event of default by the purchaser of a for sale WHP unit after execution of a binding contract and prior to closing, the developer shall be permitted to provide the In-Lieu cash payment (in the amount as determined using for formula outlined in Section 5.G.1.I.6. above) and shall be permitted to be released from the WHP obligations for the defaulted unit, inclusive of the release from the Covenant, upon the later of either of the two events having occurred: [Ord. 2010-005]~~

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- 1 ~~a. the first inspection of the WHP unit subject to the default occurred not less than one~~  
2 ~~hundred and eighty (180) days prior to the request to provide the In-Lieu cash payment; or~~  
3 ~~[Ord. 2010-005]~~  
4 ~~b. the WHP unit subject to the default is located within a development pod/phase in which not~~  
5 ~~less than 80% of the for sale market rate units (i.e. non-WHP units) have binding purchase~~  
6 ~~contracts. The Developer shall provide written notice upon the event of default on a~~  
7 ~~required WHP unit to the Palm Beach County Department of Planning, Zoning and~~  
8 ~~Building, the Department of Housing and Community Development and to the list of~~  
9 ~~interested parties indicating that: [Ord. 2010-005]~~  
10 ~~1) a default occurred on a required WHP unit; [Ord. 2010-005]~~  
11 ~~2) the specifics of the defaulted lot (WHP income category, location of the project, PCN~~  
12 ~~for the WHP unit, WHP price of the unit, square footage of the unit, and floor plan of~~  
13 ~~the unit); and, [Ord. 2010-005]~~  
14 ~~3) that the unit remains available for purchase to an eligible WHP household until such~~  
15 ~~time as an In-Lieu cash payment is made pursuant to the later of the two timing~~  
16 ~~mechanism having been met. [Ord. 2010-005]~~  
17 ~~7. Compatibility~~  
18 ~~The resulting development shall be compatible with surrounding residential land uses, as~~  
19 ~~described herein. [Ord. 2005-002]~~  
20 ~~J. Annual Report~~  
21 ~~The Executive Director of PZB shall submit an annual report to the BCC indicating the status of the~~  
22 ~~WHP. [Ord. 2006-055]~~

Part 5. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

### 23 **CHAPTER G DENSITY BONUS PROGRAMS**

24 ~~The WHP, AHP or the TDR Programs are the required methods for increasing density above the maximum~~  
25 ~~density permitted by a property's FLUA designation within unincorporated PBC, unless a Site Specific FLUA~~  
26 ~~Amendment is adopted pursuant to Art. 2.H, FLU Plan Amendments.~~

### 27 **Section 1 Workforce Housing Program (WHP)**

#### 28 **A. General**

#### 29 **1. Purpose and Intent**

30 ~~The WHP is intended to increase the supply of housing opportunities for persons employed in~~  
31 ~~PBC in jobs that residents rely upon to make the community viable. The WHP implements~~  
32 ~~Policies 1.1-o and 1.5-g of the Housing Element of the Comprehensive Plan, among others, by~~  
33 ~~establishing an Inclusionary WHP to provide low, moderate 1, moderate 2, and middle-income~~  
34 ~~housing. The program mandates the provision of workforce housing for all new developments~~  
35 ~~in the Urban/Suburban Tier with a residential component of 10 or more dwelling units;~~  
36 ~~encourages the development of additional workforce housing through a density bonus and~~  
37 ~~other incentives; encourages the equitable geographic distribution of workforce housing units;~~  
38 ~~and, ensures a minimum affordability period. The WHP is implemented by the Planning~~  
39 ~~Division of the Planning, Zoning and Building Department, and the Department of Housing and~~  
40 ~~Economic Sustainability.~~

Part 6. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

#### 41 **2. Applicability**

#### 42 **a. Conflicts**

43 ~~In cases of conflict between this Chapter and other Articles of this Code, the provisions of~~  
44 ~~this Chapter shall apply. In cases of conflicts between this Chapter and conditions of~~  
45 ~~approval imposed by the Board of County Commissioners, the more restrictive shall apply.~~

#### 46 **b. Thresholds**

47 ~~The WHP shall apply to all new developments with a residential component of 10 or more~~  
48 ~~dwelling units.~~

#### 49 **c. Prior Approvals**

50 ~~For existing developments proposing 10 or more additional dwelling units, the program~~  
51 ~~shall apply to those units being added.~~

Part 7. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

#### 52 **d. Location**

#### 53 **1) Urban/Suburban Tier**

54 ~~The WHP applies for all new developments with a residential component in the~~  
55 ~~Urban/Suburban Tier, except as follows:~~

#### 56 **a) URA Priority Redevelopment Areas**

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1                    The WHP obligation for developments with UC or UI FLU shall be met through the  
2                    provision of a minimum of 15% of all new units, pursuant to Policy 1.2.2-b of the  
3                    Comprehensive Plan Future Land Use Element. The Limited Incentive option shall  
4                    not be available to these developments, nor any incentives offered through the  
5                    WHP. All other applicable provisions of the WHP shall apply.

6                    **b) WCRA**

7                    Developments in the WCRA shall be subject to the WHP for standard and  
8                    maximum densities, and subject to the affordable and workforce provisions of the  
9                    WCRAO for density obtained from the WCRAO Density Pool. All restricted units  
10                   resulting from the WHP and WCRA shall be identified in the Restrictive Covenant,  
11                   including timeframes and income categories.

12                   **2) Other Tiers**

13                   The WHP may be required by the Board of County Commissioners in developments in  
14                   other Tiers through conditions of approval.

Part 8.           **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),**  
                     **is hereby amended as follows:**

15                   **e. Exemptions**

- 16                   1) Developments utilizing the AHP  
17                   2) All congregate living facilities (CLFs)

18                   **f. Developments with Both WHP and AHP**

19                   If a development includes both WHP and AHP units, the Planning Director or designee  
20                   shall make a determination as to which program shall be followed, considering the  
21                   affordable housing programmatic requirements of the governmental or other agency  
22                   providing affordable housing funding.

Part 9.           **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),**  
                     **is hereby amended as follows:**

23                   **3. Program Standards**

24                   **a. Definitions**

25                   1) **Subject Development**

26                   For the purposes of the WHP, the subject development is the boundaries of the overall  
27                   project generating the WHP obligation, regardless of whether the required WHP units  
28                   will be provided on that site.

29                   2) **Developer**

30                   The developer of the subject development.

31                   3) **Exchange Builder**

32                   The builder of the Exchange Project.

33                   4) **Exchange Project**

34                   The development where the WHP units will be delivered through the Off-site  
35                   Construction/Exchange Builder option.

36                   **b. Income Categories**

37                   There are four targeted income categories in the WHP. Income categories are derived from  
38                   the Median Family Income (MFI), also known as Area Median Income (AMI), published  
39                   annually for Palm Beach County by the U.S. Department of Housing and Urban  
40                   Development, as follows:

- 41                   1) Low Income (>60 to 80% MFI);  
42                   2) Moderate 1 Income (>80 to 100% of MFI);  
43                   3) Moderate 2 Income (>100 to 120% of MFI);  
44                   4) Middle Income (>120 to 140% of MFI).

45                   **c. Pricing**

46                   The Planning Director or designee shall annually set and publish WHP sale and rent prices  
47                   for all income categories.

- 48                   1) For-sale WHP units shall target the Low, Moderate 1 and Moderate 2 categories. The  
49                   sale prices shall be derived as follows: Median Family Income for Palm Beach County  
50                   (West Palm Beach/Boca Raton Metropolitan Statistical Area) published annually by  
51                   the U.S. Department of Housing and Urban Development, multiplied by three and  
52                   adjusted to the midpoint of each of the income categories: low (70%), moderate 1  
53                   (90%), and moderate 2 (110%).

- 54                   2) Rental WHP units shall target all 4 WHP income categories. Rent ranges shall be  
55                   based on the monthly rent ranges published annually by Palm Beach County based  
56                   on the Florida Housing Finance Corporation Multi-Family Rental Programs, by number  
57                   of bedrooms, for the following income ranges: >60 to 70%; >70 to 80%; >80 to 90%;  
58                   >90 to 100%; >100 to 110%; >110 to 120%; >120 to 130%; and >130 to 140% of MFI.

- 59                   3) For the purposes of annual price updates, the WHP prices initially established for the  
60                   for-sale unit's income category at the time of approval of the Subject development shall  
61                   be the sales floor throughout the affordability period. No WHP unit is required to be

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 sold at a price below the sales floor, though a seller may opt to do so. The WHP price  
2 initially established for the rental unit's income category at the time of approval of the  
3 Subject development shall be the rental floor throughout the affordability period. No  
4 WHP unit is required to be rented at a price below the rental floor, though an owner  
5 may opt to do so.

### 6 **d. Assignment of the Required WHP Units**

7 WHP required units are intended to be distributed equally among all required income  
8 categories pursuant to **Section 1.B. Program Options** or conditions of approval. When  
9 assigning units to income categories, units shall be assigned first to the highest income  
10 category, proceeding downward to low income. This does not prohibit a developer from  
11 providing higher numbers of lower income units.

### 12 **e. Calculations**

13 Calculations of the WHP density bonus and WHP obligation shall be performed using two  
14 decimal places, and standard rounding applied at the end.

### 15 **f. Unencumbered Units**

16 Unless otherwise indicated, units used to meet a WHP obligation shall not be units, which  
17 are income-restricted as a result of funding or other requirements of any other program.  
18 WHP units shall not be subject to restrictions beyond WHP income qualifications.

Part 10. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),  
is hereby amended as follows:**

### 19 **g. Affordability Periods**

#### 20 **1) For-sale units**

21 All for sale WHP units shall be income restricted for a period of fifteen (15) years  
22 (recurring), from the date of the Certificate of Occupancy (CO) for each unit. In the  
23 event a unit is resold before the 15 year period concludes, a new 15-year period shall  
24 take effect on the date of resale.

#### 25 **2) Rental units**

26 All rental WHP units shall be income restricted for a period of thirty (30) years (non-  
27 recurring), from the date of occupancy of the first WHP unit.

### 28 **h. Design Standards**

#### 29 **1) Compatible Design and Unit Features**

30 a) The exteriors of WHP units shall be designed compatible with market rate units in  
31 the development

32 b) One or more of the following shall be provided:

33 (1) a representative WHP model at the WHP site;

34 (2) a representative WHP model at a different location in Palm Beach County; or

35 (3) a market rate model with information delineating the differences between the  
36 market rate model and the WHP units.

37 c) At minimum, all for-sale WHP units shall include a refrigerator, range, built-in  
38 microwave, dishwasher, washer and dryer.

#### 39 **2) Number of Bedrooms**

##### 40 **a) For Sale WHP Units**

41 (1) All for-sale WHP units shall have a minimum of two bedrooms, and 25% of the  
42 for-sale WHP units shall have a minimum of three bedrooms

43 (2) All for sale WHP units shall have a minimum bedroom size of 100 square feet.

##### 44 **b) Rental WHP Units**

45 (1) No minimum number or size of bedrooms applies to rental WHP units.

Part 11. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),  
is hereby amended as follows:**

### 46 **B. Program Options**

47 The WHP offers the choice of either a "limited" or a "full" program option, which determines the  
48 amount of required workforce housing and the availability of other incentives.

#### 49 **1. Limited Incentive Option**

##### 50 **a. Intent**

51 The Limited Incentive Option minimizes the WHP obligation, and allows only a limited  
52 density bonus as an incentive.

##### 53 **b. Incentives Available**

54 The only incentive available through the Limited Incentive Option shall be a density bonus;  
55 the density bonus shall not exceed 50% of the permitted density.

##### 56 **c. Amount of WHP Required**

57 The required percentage of WHP units shall be 2.5% of Standard Density; 8% of Maximum  
58 Density; and, 17% of any WHP Density Bonus. The WHP obligation may be further  
59 modified by the disposition option selected, per section 5.G.1.C.4. The number of WHP  
60 units required shall be identified by the Planning Director or designee in a WHP Letter of  
61 Determination.

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 **d. Pricing of Workforce Housing Units**

2 Fifty percent of the required WHP units shall be provided in the low-income category and  
3 50% of the required WHP units shall be provided in the moderate 1 income category.

4 **e. WHP Letter of Determination for Limited Incentive Developments**

5 Developments opting for the Limited Incentive Option are eligible for a maximum density  
6 bonus of 50% of the permitted density. No additional incentives are available for the  
7 developments using the Limited Incentive Option. For the purposes of this Subsection,  
8 permitted density shall be the number of units allowed by the standard and maximum  
9 density pursuant to the Comprehensive Plan; TDR units or any other density bonus shall  
10 not be included as part of the permitted density for purposes of calculating the WHP density  
11 bonus.

12  
13 Upon request, the Planning Director or designee shall provide a WHP Determination Letter  
14 identifying the density bonus requested, and the total number of WHP units required. This  
15 WHP Determination Letter is to be submitted by the developer with the zoning or building  
16 permit application.

Part 12. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

17 **2. Full Incentive Option**

18 **a. Intent**

19 The Full Incentive Option offers several incentives, including a density bonus, and requires  
20 an increased amount of workforce housing.

21 **b. Incentives Available**

22 A development selecting the Full Incentive Option shall have available all applicable WHP  
23 incentives provided in this Section below, including a density bonus of up to 100% of  
24 permitted density, pursuant to the Density Bonus process in section 5.G.1.B.2.e.

25 **c. Amount of WHP required**

26 For for-sale WHP units, the required percentage of WHP units shall be 4.375% of Standard  
27 Density; 14% of Maximum Density and 29.75% of any WHP density bonus used. For rental  
28 WHP units or in lieu fee purposes, the required percentage of WHP units shall be 5% of  
29 Standard Density; 16% of Maximum Density and 34% of any WHP density bonus used.  
30 The WHP obligation may be further modified by the disposition option selected, per section  
31 5.G.1.C.4. The number of WHP units required shall be identified by the Planning Director  
32 or designee in a WHP Letter of Determination, pursuant to the Density Bonus process in  
33 section 5.G.1.B.2.e below.

34 **d. Pricing of Workforce Housing Units**

35 Units shall be priced in all applicable income categories, pursuant to Section 5.G.1.A.3.c.

Part 13. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

36 **e. Density Bonus Determination for Full Incentive Developments**

37 Developments opting for the Full Incentive Option are eligible for a density bonus of up to  
38 100% of permitted density. For the purposes of this Subsection, permitted density shall be  
39 the number of units allowed by the standard and maximum density pursuant to the  
40 Comprehensive Plan; TDR units or any other density bonus shall not be included as part  
41 of the permitted density for purposes of calculating the WHP density bonus.

42 **1) Full Incentive Developments Requesting a WHP Density Bonus up to and**  
43 **including 50%**

44 For Full Incentive developments requesting a WHP density bonus of up to and  
45 including 50%, upon request the Planning Director or designee shall provide a WHP  
46 Determination Letter identifying the density bonus requested, and the total number of  
47 WHP units required. This WHP Determination Letter is to be submitted by the  
48 developer with the zoning or building permit application.

Part 14. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

51 **2) Full Incentive Developments Requesting a WHP Density Bonus Greater than 50%**

52 For developments requesting a WHP density bonus of greater than 50%, the Planning  
53 Director or designee shall review the request pursuant to the following process:

54 **a) Density Bonus Pre-Application Appointment**

55 Requests received for density bonuses greater than 50% shall be scheduled for  
56 the next available Pre-Application Appointment, which shall be conducted regularly  
57 by the Planning Division, according to a schedule published by the PZB  
58 Department. Pre-Application Appointments shall include other appropriate County  
59 Departments and agencies, as determined by the PZB Department. The

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 developer shall be required to participate in the Pre-Application Appointment for  
2 the proposed development, to discuss the proposed development and unit types,  
3 characteristics of the site and surrounding area, and other relevant factors.

4 **b) Factors for Consideration**

5 Staff shall consider the following factors in developing a maximum density and  
6 density bonus recommendation.

7 (1) The extent to which the proposed WHP units further County objectives:

8 (a) The intent to provide the workforce housing units on site;

9 (b) The intent to provide Single Family and for-sale workforce housing units;

10 (c) The proximity of the location where the WHP units are to be provided to  
11 employment centers;

12 (d) The concentration of households with incomes in the WHP income  
13 categories, in the location where the WHP units are to be provided; and

14 (2) The potential impact of the proposed density bonus:

15 (a) The total number of units proposed, including any Transfer of  
16 Development Rights;

17 (b) The compatibility with the character of the adjacent and surrounding area  
18 in the location of the subject development.

19 **c) Density Bonus Recommendation**

20 Within 10 days following the Pre-Application Appointment, the Planning Director or  
21 designee shall provide a written WHP Letter of Determination identifying the  
22 recommended maximum density bonus and the total number of WHP units  
23 required, subject to further limitations due to property development regulations and  
24 other factors in the development review process. The Planning Director or  
25 designee shall provide the WHP Letter of Determination to the developer, DRO,  
26 ZC, or BCC, whichever is appropriate and may include recommended conditions  
27 of approval for the resulting development order.

Part 15. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),**  
is hereby amended as follows:

28 **f. Incentives Available under Full Incentive Option**

29 **1) Traffic Performance Standards Mitigation**

30 **a) WHP Special Methodologies**

31 TPS mitigation shall be permitted for developments where the required WHP units  
32 are being provided in accordance with County Comprehensive Plan Transportation  
33 Element Policy 1.2-d (4).

34 **b) WHP Traffic Concurrency Hall Pass**

35 TPS mitigation shall also include the option of applying for a WHP Traffic  
36 Concurrency Hall Pass separate from a development order application. The WHP  
37 Traffic Concurrency Hall Pass serves as a provisional traffic concurrency approval  
38 for a period of not more than 90 days, during which it must be merged into an  
39 application submitted for a Concurrency Reservation approval. The WHP Traffic  
40 Concurrency Hall Pass is described further in Art. 2.F, Concurrency (Adequate  
41 Public Facility Standards).

42 **2) Expedited Review**

43 The following expedited review processes may apply to a development where the  
44 required WHP units are being provided:

45 **a) Design Review**

46 Review of Multifamily or Townhouse structures by the Building Division and Fire  
47 Rescue shall be allowed concurrent with final DRO review, prior to permit  
48 application.

49 **b) Platting**

50 (1) If only a boundary plat is required for an existing single lot, building permits  
51 may be issued after submittal of the final plat for recordation.

52 (2) If a subdivision plat is required, permits will be concurrently reviewed, but only  
53 issued at recording of the plat.

54 (3) Pursuant to Art. 3.E.1.H.1, Standards, Building permits may be issued for sales  
55 offices, sales models, gatehouses, entry features, and utilities prior to the  
56 recording of a final plat.

57 **3) Flexibility in Property Development Regulations**

58 **a) Purpose and Intent**

59 To provide flexibility from property development and other related regulations in  
60 order to provide greater opportunity for cost effective development of WHP units.  
61 These provisions are not intended to supersede deviations that are normally  
62 addressed through the variance process. These options shall only be granted at  
63 the time of approval for the entire development, and shall not be granted on a lot-  
64 by-lot basis.

65 **b) Applicability**

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**EXHIBIT A**

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Full Incentive option developments providing all the required WHP units on site may utilize the flexibility in Property Development Regulations listed herein. This flexibility shall be granted for all units of the same unit type as the WHP units, in all pods where WHP units are being provided.

**c) Justification Report**

Use of these provisions shall not be granted by right, and shall require submittal of a justification report that demonstrates that deviations are the minimum needed to allow for the use of density bonus incentives. The report shall include the following:

- (1) The regulations that are proposed to be modified.
- (2) The amounts and specifics of the requested deviation(s).
- (3) The areas within the development that the deviation(s) will be applied to.
- (4) Graphic representations such as, but not limited to, site plans, elevations, perspectives, and typical examples, showing how the deviations will meet the intent of the district and WHP with emphasis on open space, privacy, maintenance, and public health, safety and welfare.

**d) Site Plan Approval**

Any deviations sought pursuant to this subsection shall be reflected on site plans submitted for DRO approval.

**e) Drainage**

Any reduction in lot size or open space area, or increase in building coverage shall be subject to approval of a drainage study demonstrating that reduced pervious surface area will not create adverse drainage issues.

**Part 16. ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

**f) Option 1 - RT District**

The zoning for parcels electing to use this option must be in compliance with Table 3.A.3.B, Future Land Use (FLU) Designation and Corresponding Standard Zoning Districts.

**(1) RT PDR Deviations**

Deviations from the minimum PDRs for the RT district with a LR-2 or LR-3 FLU designation may be in accordance with Table 5.G.1.E, RT Deviations for WHP, only for those developments that exceed the standard density in the footnote in FLUE Table 2.2.1-g.1, Residential Future Land Use Designation Maximum Density, and utilize a minimum density bonus of 20 percent.

**Table 5.G.1.E - RT Deviations for WHP**

<b>Zoning District</b>	<b>Applicability</b>	<b>FLU</b>	<b>Lot Dimensions</b>				<b>Setbacks</b>	
			<b>Size</b>	<b>Width and Frontage</b>	<b>Building Coverage</b>	<b>Depth</b>	<b>Side</b>	<b>Rear</b>
<u>RT</u>	<u>TDR, WHP</u>	<u>LR-2</u>	<u>12,000 sf</u>	<u>85'</u>	<u>35%</u>	<u>100'</u>	<u>ND</u>	<u>ND</u>
<u>RT</u>	<u>TDR, WHP</u>	<u>LR-3</u>	<u>9,000 sf</u>	<u>65'</u>	<u>40%</u>	<u>80'</u>	<u>1st Floor 10'</u>	<u>1st floor – 15'</u>

**[Ord. 2006-055]**

**Notes:**  
ND No deviation.

**g) Option 2 - TND Regulations**

Developments eligible for this option shall be permitted to utilize the PDRs of Table 3.F.3.D, TND Residential Lot Size and Setback Regulations, subject to meeting the requirements of Art. 3.F.3.D.5, Residential Uses and the following limitations:

- (1) U/S Tier Only;
- (2) Development does not qualify to be a TND or use Option 1 or 3;
- (3) If the development has a LR-1, LR-2, LR-3 or MR-5 FLU designation, the development shall meet all requirements for and be approved as a PDD;

**h) Option 3 - Flexible Regulations**

Developments with MR-5, HR-8, HR-12, HR-18 FLU designations, or if approved as a PDD or TDD, may deviate from the residential requirements of Table 3.D.1.A, Property Development Regulations, or Table 3.D.2.B, ZLL Property Development Regulations, as follows:

- (1) SFD units may be permitted up to a maximum ten percent deviation for the following PDRs: lot size; width and frontage; building coverage; and, side, and rear setbacks.
- (2) SFD units limited to one floor with no loft or other similar feature, may be permitted up to a maximum 20 percent deviation for the following PDR's: building coverage; and front and side street setbacks.

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

(3) ZLL lots may be permitted up to a maximum lot width reduction of five feet, and ten percent deviation from the minimum lot size, building coverage, and front setback for units with front loading garages.

**i) Option 4 - PDD Open Space Reduction**

Developments which elect to utilize a density bonus of not less than 15 percent, may reduce the 40 percent open space requirement of Table 3.E.2.C, PUD Land Use Mix, to not less than 30 percent open space, provided the development incorporates common usable open space areas as defined in Art. 1.1.2.U.18, Usable Open Space for WHP.

**j) Option 5 – Internal Incompatibility Buffers**

Required incompatibility buffers between SFD and MF units within a development shall not be required.

**k) Option 6 – Relocation of Units to Civic Tracts**

Residential units may be permitted in a civic pod subject to PREM approval. This may include collocating residential units with civic uses. The DRO shall have the following authority where PREM approval is obtained after BCC approval of the overall development:

(1) In the case of a civic site cash out, the deletion of the civic pod and increase in residential pod area; or,

(2) The relocation of residential units to a civic pod, or the relocation of residential units where the civic pod is deleted.

Part 17. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

**3. Approval Process**

Subject developments requesting density bonuses greater than 50% are subject to a Class A Conditional Use approval; approval processes for developments with density bonuses up to and including 50% are determined by the applicable thresholds in Articles 3 and 4 of the code.

Part 18. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

**C. Disposition of WHP Obligation**

**1. Declaration of Method to Meet WHP Obligation**

The developer is required to declare the selected method to meet the WHP requirement prior to certification for public hearing for approval of the proposed subject development, or at DRO if the subject development is not subject to public hearing. The declared method shall be included as a condition of approval.

**2. Change of Declared Method**

A change to the selected method cannot be requested after building permits have been issued for more than 25% of the units in the subject development. A change to the declared method shall be subject to the same approval process through which the subject development received approval. For developments subject to public hearing, approval of a change in declared method shall be at the discretion of the Board of County Commissioners. The developer may request Expedited Application Consideration for a Development Order Amendment pursuant to Article 2. Any necessary amendments to a recorded Master Covenant for the subject development as a result of the change of declared method shall be recorded by the developer no later than 60 days following the approval of the change.

**3. Recalculation**

A change to a subject development's unit total, unit type, or declared method or WHP unit location shall require a recalculation of the workforce housing obligation, and shall include reassessment of the density bonus pursuant to the process outlined in section 5.G.1.B.2.e. Any recalculation that reduces the number of units approved on the subject development's final site plan may require that the final site plan be amended to reflect the reduced unit count, or the purchase of Transfer of Development Rights in the amount of the reduction.

Part 19. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

**4. Methods Available**

Several alternative methods are available for the disposition of a subject development's WHP obligation:

**a. WHP On-site Construction Option**

WHP units may be located on-site. For Single Family or Townhouse for-sale developments using the Full Incentive Option, the number of required WHP units may be reduced by 20% if all required WHP units are to be provided as on site, for-sale, units, or reduced by 10% if provided as on site, for-sale, Townhouse units. Prior to final DRO approval, the developer shall identify on the plan the total number of WHP units proposed for subject development

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 within each pod or phase, as applicable. Fifty percent of WHP units must receive  
2 certificates of occupancy prior to issuance of 50% of market rate unit building permits in  
3 the subject development. All WHP units must receive certificates of occupancy prior to  
4 issuance of no more than 85% of the residential building permits in the subject  
5 development.

### 6 **b. WHP Off-site Options**

7 WHP units may be located off-site using the options listed below. For-sale subject  
8 developments that opt to provide the required WHP units as off-site rental units through  
9 off-site construction, through the purchase of market rate units, or through a builder  
10 exchange, shall have a WHP obligation 1.5 times the number of WHP units required if  
11 developed on-site not including the on-site reduction. Off-site options may be  
12 accommodated in municipalities located within Palm Beach County. When the obligation  
13 is to be met in a municipality, the developer shall provide written confirmation to the  
14 Planning Director or designee that the administrator or manager of the municipality has  
15 been notified that the WHP unit obligation is to be met in the municipality, prior to the  
16 issuance of the first WHP building permit; or, prior to the recordation of a deed restriction  
17 or deed transfer to the County for a market rate unit pursuant to Off-site Option 3, Section  
18 5.G.1.C.4.b.3). The enforcement of any requirements of Section 5.G.1. for units provided  
19 in municipalities shall be the responsibility of Palm Beach County. For subject  
20 developments outside the Westgate Community Redevelopment Area Overlay that opt to  
21 locate WHP units in the WCRAO, no more than 10% of the development's WHP units to  
22 be located in the WCRAO shall be in the Low Income category. The developer shall provide  
23 written confirmation to the Planning Director or designee that the WCRA has been notified  
24 that WHP units will be provided in the WCRAO.

Part 20. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),**  
is hereby amended as follows:

### 25 **1) Off-site Option 1 – Off-site Construction/Same Developer**

26 Prior to issuance of the first residential building permit or final DRO approval for the  
27 subject development, whichever comes first, all contracts or related agreements for  
28 any off-site option evidencing site control and necessary approvals shall be approved  
29 by the County Administrator, or designee. Certificates of occupancy shall be issued for  
30 a minimum of 50% of the required WHP units to be constructed off-site prior to the  
31 issuance of no more than 50% of the building permits in the subject development. All  
32 off-site WHP units must receive certificates of occupancy prior to issuance of no more  
33 than 85% of the building permits in the subject development. The site plan, the Master  
34 Covenant, or other appropriate document shall be amended to reflect the number of  
35 WHP units, including the number in each applicable WHP income category, to be  
36 located on the receiving site(s). The Planning Director or designee shall determine the  
37 appropriate document and the timeframe for the modification, which shall be no later  
38 than the 85% threshold identified in this paragraph.

### 39 **2) Off-site Option 2 – Off-site Construction/Exchange Builder**

40 The Off-site Construction/Exchange Builder Option shall be evaluated and a report  
41 provided to the Board of County Commissioners no later than 3 years from the effective  
42 date of this ordinance. Provision of required WHP units may be arranged by the  
43 developer of the subject development through an exchange builder who will provide  
44 them off-site, subject to the following:

45 a) The exchange price shall be set by the County at 80% of the in lieu fee associated  
46 with the subject development.

47 b) All exchange projects that propose to utilize other programs in addition to WHP  
48 exchange payments that will result in income restrictions on WHP units will require  
49 the approval of the Board of County Commissioners. This approval is required  
50 prior to the earlier of final DRO or first building permit.

51 c) Prior to issuance of the first residential building permit for the subject development,  
52 the developer of the subject development shall select one of the following two  
53 options:

54 (1) Demonstrate engagement of an exchange builder, who shall provide:

55 (a) Evidence of receipt of payment of the required exchange price;

56 (b) A detailed description of the proposed exchange project, including site  
57 location; the site's land use designation, zoning, and density bonus  
58 determination if applicable; the total number of proposed units by type,  
59 size, and income category; proposed exchange project layout including  
60 the number and type of buildings; proposed exchange project schedule;  
61 and status of any development approvals; pro forma financial statements  
62 demonstrating the exchange project's financial viability; documentation  
63 evidencing availability of all sources of funding required for the exchange  
64 project development budget, including documentation from the financing

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# EXHIBIT A

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1 source(s) providing a firm or a conditional commitment to financing and  
2 identifying all financing terms and conditions.

3 (c) Evidence of control of the proposed exchange project site, through a  
4 recorded deed or title, or an executed purchase agreement or purchase  
5 option, approved by the County Attorney for legal sufficiency and by the  
6 County Administrator or designee;

7 (d) A recorded restrictive covenant for the exchange project site; and

8 (e) Guarantee acceptable to Palm Beach County and approved by the County  
9 Attorney's office for an amount equal to 80% of the full in lieu fee. The  
10 guarantee shall be for a term not to exceed 39 months, and of a type  
11 described in Article 11.B.2.A.6.

12 (2) Provide guarantee acceptable to Palm Beach County and approved by the  
13 County Attorney's office, for an amount equal to 100% of the in lieu fee. The  
14 guarantee shall be for a term not to exceed 39 months, and of a type described  
15 in Article 11.B.2.A.6. Prior to issuance of no more than 25% of the building  
16 permits in the subject development, the developer of the subject development  
17 shall have the option to replace the guarantee provided at first building permit  
18 with items meeting the requirements of Paragraph (1) above. If at 25% of  
19 building permits the required information has not been provided or is not  
20 approved by the County Administrator or designee, the developer may pay the  
21 full in lieu fees, and if not Palm Beach County shall file a claim against the  
22 guarantee for 100% of the in lieu fees. Prepayment of the in lieu fee by the  
23 developer shall not be allowed.

24 d) Prior to the end of the 36<sup>th</sup> month of the guarantee, all WHP units shall be issued  
25 CO or an extended guarantee shall be delivered by the Exchange Builder to Palm  
26 Beach County. The terms of the extended guarantee shall be at the discretion of  
27 Palm Beach County, but in no case shall exceed an additional three (3) months  
28 beyond the term of the original guarantee. The amount of the extended guarantee  
29 shall be prorated to reflect any WHP units already issued certificates of occupancy.  
30 The Exchange Builder may request additional time beyond the three-month  
31 extension; approval of such a request will be at the discretion of the Board of  
32 County Commissioners and will require a renewed guarantee for the extension  
33 approved by the Board. If neither the required WHP units nor an acceptable  
34 renewed guarantee is delivered, Palm Beach County shall collect the guarantee.  
35 The collection of the guarantee by the County shall not affect issuance of building  
36 permits on the subject development.

37 e) During the 3-year evaluation period for the Off-site Construction/Exchange Builder  
38 Option, County Administration shall provide the Board of County Commissioners  
39 with status reports annually or more frequently as needed, identifying the progress  
40 made by Exchange Builders engaged under this option.

41 f) The site plan, the Master Covenant, or other appropriate document shall be  
42 amended to reflect the number of WHP units, including the number in each  
43 applicable WHP income category, to be located on the exchange project(s). The  
44 Planning Director or designee shall determine the appropriate document and the  
45 timeframe for the modification.

### 46 **3) Off-site Option 3 – Purchase of Market Rate Units**

47 Purchase of existing market rate units to be deeded to the County, sold to eligible  
48 households and deed restricted, or retained by the developer subject to recordation of  
49 a deed restriction that meets the intent of this provision and subject to the conversion  
50 factor pursuant to section 5.G.1.C.4.b if applicable. Prior to issuance of the first  
51 residential building permit or final DRO approval for the subject development,  
52 whichever comes first, all contracts or related agreements for any off-site option  
53 evidencing site control and necessary approvals shall be approved by the County  
54 Administrator, or designee. A minimum of 50-percent of the units must be purchased  
55 and deeded to the County or deed restricted prior to the issuance of no more than 50%  
56 of the residential building permits in the subject development. All market rate units  
57 shall be purchased and deeded to the County or deed restricted prior to issuance of  
58 no more than 85% of the CO's in the subject development. The market rate units shall  
59 be approved by the Department of Housing and Economic Sustainability, and must  
60 meet housing quality standards and criteria established by PBC. The site plan, the  
61 Master Covenant, or other appropriate document shall be amended to reflect the  
62 number of WHP units, including the number in each applicable WHP income category,  
63 to be located on the receiving site(s). The Planning Director or designee shall  
64 determine the appropriate document and the timeframe for the modification, which  
65 shall be no later than the 85% threshold identified in this paragraph.

66 **Part 21. ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),  
is hereby amended as follows:**

### **c. Donation of Buildable Land Option**

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1            Donation of developable land acceptable to the County in an amount equal to the buyout  
2            costs of the affected units. Donated land must be approved by the Property and Real  
3            Estate Management Division and deeded to the County prior to issuance of 50% of the  
4            residential building permits in the subject development.

### 5            **d. In-lieu Fee Option**

6            1) In Lieu fees shall be: \$120,000 for Single Family units, \$100,000 for Townhouse units,  
7            and \$75,000 for multi-family units, as defined in Article 4 the ULDC. Beginning in (2  
8            years after adoption of fee increase) the in lieu fee amounts shall be adjusted annually  
9            in accordance with the **Annual All Items Consumer Price Index for All Urban**  
10           **Consumers (CPI-U) for the U.S. City Average, not seasonally adjusted, as**  
11           **published by the US. Bureau of Labor Statistics.**

12           2) The in-lieu fees assessed for a subject development shall be based on the unit type of  
13           the subject development. For subject developments with a mix of unit types, the in lieu  
14           fees shall be calculated based on the unit type distribution in the subject development.

15           3) Fees shall be paid prior to the issuance of 50% of residential unit building permits for  
16           the subject development. Fees shall be made payable to the Palm Beach County  
17           Board of County Commissioners and submitted to the Department of Housing and  
18           Economic Sustainability. The payment shall be deposited in the WHP Trust Fund  
19           maintained by the PBC Department of Housing and Economic Sustainability.

### 20           **5. Developments with Outstanding Obligations**

21           Developments approved prior to (insert effective date of this ordinance), which by that date  
22           have recorded a master covenant indicating that the WHP obligation will be met on site,  
23           received certificates of occupancy for at least 85% of approved units, and have an approved  
24           master plan reflecting the required WHP units on site, may request approval of the Board of  
25           County Commissioners to pay the in-lieu fee for a portion of the obligation. This option is  
26           available only for units that have not been previously offered for rent or sale as WHP units. The  
27           in lieu amount shall be based on the applicable in lieu fee in effect at the time of the issuance  
28           of the first residential building permit for the subject development, and shall include interest,  
29           calculated from the date of the first residential building permit, using the rate in effect at the  
30           time of election, as set by the Florida Chief Financial Officer pursuant to Sec. 55.03(1), Florida  
31           Statutes (2018). Upon approval by the Board and payment of the required amount, the County  
32           shall schedule BCC consideration of amendments to the Master Covenant to reflect the revised  
33           disposition of the workforce obligation for the subject development. This provision shall sunset  
34           90 days following the effective date.

Part 22.    **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),**  
              **is hereby amended as follows:**

### 35           **D. Delivery of WHP Units**

36           Except as noted, the following section applies to subject developments that opt to dispose of the  
37           WHP obligation through the following methods: On-Site Construction, Off-site Construction/Same  
38           Developer, Off-site Construction/Exchange Builder, or Purchase of Market Rate Units. Required  
39           WHP units may be delivered as for-sale or for-rent units.

#### 40           **1. For Sale Units**

##### 41           **a. Master Covenant**

42           1) Prior to first building permit on the subject development, the developer of the subject  
43           development shall record in the public records of Palm Beach County a Master  
44           Covenant binding the entire subject property, in a form provided by the County, which  
45           identifies the WHP unit requirement for the subject development and addresses the  
46           requirements of this subsection. Developments for which the in lieu fee has  
47           subsequently been paid to Palm Beach County as a result of the guarantee provided  
48           in the Exchange Builder Option, pursuant to Section 5.G.1.C.4.b.2), and no units  
49           subject to the WHP were provided prior to County receiving payment pursuant to the  
50           guarantee, may request that the Master Covenant be released.

51           2) The Restrictive Master Covenant shall include but not be limited to restrictions  
52           requiring: that all identified WHP units shall be sold or resold only to a purchaser  
53           certified by the Department of Housing and Economic Sustainability, at or below the  
54           price established annually by Palm Beach County for the income category of the WHP  
55           unit, subject to the affordability requirements and provisions of this Article; that the  
56           County shall have the exclusive option to purchase WHP units that are unsold at day  
57           150 of the required marketing period; that rental of units is permitted only under specific  
58           circumstances, for limited periods of time, and with prior approval by the Director of the  
59           Department of Housing and Economic Sustainability; that these restrictions remain in  
60           effect for 15 years recurring from the date of the CO for each unit; and that in the event  
61           a unit is resold before the 15 year period concludes, a new 15 year period shall take  
62           effect on the date of resale. The Master Covenant shall further provide monitoring and  
63           compliance requirements including but not limited those set forth below to ensure  
64           compliance with the WHP, and provide that every deed for sale of a WHP housing unit

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# EXHIBIT A

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1 shall incorporate by reference the Master Covenant and shall specify the income  
2 category associated with the unit.

Part 23. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

3 **b. Process for Initial Sale of WHP Units**

4 **1) Pricing/affordability**

5 a) WHP units shall be sold at or below the current designated price for the Unit's  
6 income category. In the event that an income-certified purchaser seeks to  
7 purchase a WHP unit whose price has increased through annual price adjustments  
8 pursuant to this Article, the developer of the WHP unit shall honor the price in effect  
9 at the time of the purchaser's income certification, provided that the purchaser  
10 enters into a purchase contract within one year of the date of income certification.

11 b) Developers shall not be required to provide units in an income category when the  
12 category price is greater than the median sales price for the County. These units  
13 are eligible for the In-Lieu payment pursuant to Art. 5.G.1.C.4, Option 4 – In Lieu  
14 Payment, or can be distributed equally among the remaining income categories.

15 c) The price of a for-sale WHP unit shall not be raised once a unit is under contract  
16 to a purchaser. Purchase price of the WHP unit, including all charges imposed by  
17 the seller, cannot exceed the maximum WHP price for the income category.  
18 Options selected by the purchaser, including but not limited to upgraded finishes  
19 or premium lots, shall not be reflected in the sales price of WHP units, but may be  
20 paid by the purchaser at the time of contract execution, or included as a line item  
21 on the closing/settlement statement. Earnest money deposit required of  
22 purchasers shall not exceed 2 percent of the sales price.

23 d) Affordability restrictions remain in effect for 15 years recurring from the date of the  
24 CO for each unit; in the event a unit is resold before the 15 year period concludes,  
25 a new 15-year period shall take effect on the date of resale.

26 e) Rental of for-sale units is permitted only under specific circumstances, for limited  
27 periods of time, to income qualified renters, at or below the prices established  
28 annually by Palm Beach County for the unit's designated income categories, and  
29 with prior approval by the Director of Department of Housing and Economic  
30 Sustainability based on criteria established by the Department.

31 **2) Qualification and Certification of For-Sale Purchasers**

32 WHP units shall be sold only to a purchaser certified by the Department of Housing  
33 and Economic Sustainability. HES shall qualify prospective purchasers and issue a  
34 certification letter confirming eligibility to purchase the WHP unit. Palm Beach County  
35 retains the right to qualify purchasers for units in categories above or below their  
36 income category. When available, down payment assistance may be offered for all  
37 workforce housing purchasers; Palm Beach County shall not be obligated to provide  
38 down payment assistance to any purchaser. The amount of financial assistance, if any,  
39 that is available for purchase of the WHP unit shall be identified in the certification  
40 letter. The HES certification process shall be implemented according to procedures  
41 established and published by the Department.

42 **3) Closing**

43 a) The process and requirements for closing of sales of WHP units shall be as set  
44 forth in County procedures.

45 b) Every warranty deed documenting a sale of a WHP unit shall include a statement  
46 that a unit is subject to covenants, conditions and restrictions including the Master  
47 Covenant, and shall include the date of recordation of the Master Covenant, and  
48 the Book and Page of the Official Record.

49 **4) Compliance reporting during initial sales period**

50 Beginning with the commencement of sales of WHP units, until such time as all WHP  
51 units have been sold, the developer or exchange builder will provide to the County  
52 monthly reports detailing the number of WHP and market rate units built, the number  
53 under contract, and the number sold. The developer shall also provide notice to the  
54 Planning Director or designee if ownership of the subject development, or exchange  
55 project, has been transferred.

Part 24. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

56 **5) Marketing of WHP Units**

57 **a) WHP Units Delivered through the Exchange Builder or Purchase of Market**  
58 **Rate Units Options.**

59 The marketing of WHP units delivered through an Exchange Builder, and the  
60 marketing of Purchase of Market Rate WHP units which are intended to be sold by  
61 the developer, shall be the responsibility of the developer or exchange builder. If

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 requested, the County may provide, at the County's sole discretion, a list of  
2 interested parties, WHP brochures, informational packets, or other information or  
3 assistance for the marketing of for-sale WHP units delivered through these options.

4 **b) WHP Units Delivered through the On-site Construction or Off-Site/Same  
5 Developer Options.**

6 The County shall prepare and publish minimum marketing requirements applicable  
7 to WHP units provided through the **WHP On-site Construction Option** or the **Off-  
8 site Construction by Same Developer** options. The marketing requirements shall  
9 address the following, at minimum:

10 (1) The intent that the developer will act in good faith to market and sell the WHP  
11 units in the same manner as the market rate units and for the same period of  
12 time.

13 (2) The marketing of WHP units shall commence concurrent with the marketing of  
14 market-rate units, and shall continue until at least 75 percent of the for sale  
15 market rate units have been issued certificates of occupancy, but not less than  
16 180 days.

17 (3) Prior to commencement of sales, the developer shall obtain from the Director  
18 of HES or designee a list of interested parties, WHP brochures, and  
19 informational packets which provides the qualification standards, terms of the  
20 Restrictive Master Covenant, where to go to get qualified, and other relevant  
21 information regarding the WHP units.

22 (4) The developer shall provide notice of commencement of sales to the Planning  
23 Director or designee, the Director of HES, and the list of interested parties.  
24 The notice shall include the address where the WHP units are located, the  
25 address of the sales office, the hours of the sales office, the floor plan and  
26 construction specifications for the WHP units, and the pricing of the WHP units.  
27 The developer shall provide to the Planning Director or designee proof of  
28 notice to the interested parties list, in the form of a copy of the email or letter  
29 sent, and a copy of the distribution list.

30 (5) Within 10 days of receipt, the County shall provide written acknowledgement  
31 of the notice of commencement of sales.

32 (6) The developer shall maintain in the sales office and in the sales office of the  
33 subject development if the WHP units are located off-site, hard physical copies  
34 of the informational packets obtained from HES, available to any and all  
35 potential buyers. The developer shall also maintain hard physical copies of  
36 the County's WHP brochure and prominent displays indicating that certain  
37 units are available for purchase for qualified households subject to the WHP  
38 provisions, and shall identify the location and availability timeframe for the  
39 WHP units.

40 (7) The developer shall attend all housing workshops, fairs, orientations, and other  
41 WHP events requested by HES during the marketing period, and shall present  
42 information about the WHP units and purchase options.

43 (8) The developer shall maintain publicly accessible website landing pages for the  
44 WHP units that are prominently displayed on the subject development's  
45 primary webpage, starting at the time of commencement of sales of the market  
46 rate units.

47 (9) The developer shall provide monthly documentation to the Planning Director  
48 or designee demonstrating that the required materials are available in the  
49 sales office and prominently displayed, that the developer is participating in  
50 County WHP events, that the website for the WHP units is active and easily  
51 accessed, and that marketing efforts for the WHP units are consistent with the  
52 marketing efforts for the market-rate units. Documentation shall include  
53 photographs of the required materials and displays demonstrating a prominent  
54 location in the sales office, screenshots of webpages, copies of mailers, photos  
55 of billboards, proof of television, radio, newspaper, or online advertisements,  
56 for both market rate and WHP units, and shall include a log of visitors and  
57 callers interested in the WHP units.

58 c) The County may conduct site visits and inspections to verify compliance with the  
59 requirements of this section.

60 **Part 25. ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25),  
61 is hereby amended as follows:**

62 **6) Release of Obligation**

63 Release of Obligation is available only for subject developments delivering the WHP  
64 required units as for-sale units through the **WHP On-site Construction Option** or the  
65 **Off-site Construction by Same Developer** disposition options. It is not the intent of  
the WHP provisions to require a developer to commence construction on any WHP for  
sale unit for which a valid and binding contract for purchase between developer and

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## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 purchaser has not been executed. In the event WHP units have been marketed  
2 according to the requirements of this Article, then the WHP units are eligible to be  
3 released from the WHP obligations indicated in the Master Covenant pursuant to the  
4 process below.

5 a) The developer shall provide written notice to the Planning Director or designee  
6 requesting release of obligation and confirmation of the In-Lieu cash payment  
7 amount. The request shall include documentation demonstrating that at least 75%  
8 of the for-sale market rate units in the subject development have received  
9 certificates of occupancy.

10 b) The County shall provide a written response to the developer, within ten 10-  
11 business days of receipt, indicating the County's agreement/disagreement with  
12 request for release of obligation and confirming the amount of the required In-Lieu  
13 cash payment.

14 c) Upon payment of the required In-Lieu cash payment, the WHP unit shall thereafter  
15 be released from any and all obligations of the WHP requirements of the ULDC  
16 and the County shall provide written confirmation that the unit has been released,  
17 inclusive of release from the Master Covenant.

18 d) Should a developer wish to appeal the Planning Director's determination that a  
19 subject development has not met the requirements for a release of obligation; the  
20 appeal shall be pursuant to Article 2.A.14.C.2.d. of the ULDC

Part 26. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

21 **c. Process for Subsequent Sales**

22 **1) Pricing/affordability**

23 a) Affordability restrictions remain in effect for 15 years recurring from the date of the  
24 CO for each unit; in the event a unit is resold before the 15 year period concludes,  
25 a new 15-year period shall take effect on the date of resale.

26 b) An owner intending to sell a WHP during the affordability period must notify the  
27 Planning Director or designee in writing of the intent to sell, and request a resale  
28 price determination. The Planning Director or designee will determine the current  
29 maximum resale price based on the income category of the WHP unit and the  
30 current sales price for that category. The WHP price initially established for the  
31 for-sale unit's income category at the time of approval of the subject development  
32 shall be the sales floor throughout the affordability period. No WHP unit is required  
33 to be sold at a price below the sales floor, though a seller may opt to do so.

34 **2) HES Review**

35 **a) Qualification and Certification of For-Sale Purchasers**

36 WHP units shall be sold only to a purchaser certified by the Department of Housing  
37 and Economic Sustainability. Unit owners shall refer prospective purchasers to  
38 HES, who shall qualify prospective purchasers and issue a certification letter  
39 confirming eligibility to purchase the WHP unit. Palm Beach County retains the  
40 right to qualify purchasers for units above or below their income category. When  
41 available, down payment assistance may be offered for all workforce housing  
42 buyers; Palm Beach County shall not be obligated to provide down payment  
43 assistance to any purchaser. The amount of financial assistance, if any, that is  
44 available for purchase of the WHP unit shall be identified in the certification letter.  
45 The HES certification process shall be implemented according to procedures  
46 established and published by the Department.

47 **3) Closing**

48 a) The process and requirements for closing of sales of WHP units shall be as set  
49 forth in County procedures.

50 b) Every warranty deed documenting a sale of a WHP unit shall include a statement  
51 that a unit is subject to covenants, conditions and restrictions including the Master  
52 Covenant, and shall include the date of recordation of the Master Covenant, and  
53 the Book and Page of the Official Record.

54 **d. Annual Compliance Reporting**

55 The owner of the WHP unit shall submit to the Planning Director or designee, on a form  
56 provided by the County, an annual report containing information and documentation to  
57 demonstrate continued compliance with the WHP. The County may conduct site visits at  
58 reasonable times, or perform other independent investigation to verify continued  
59 compliance with the WHP.

Part 27. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

60 **2. Rental Units**

61 **a. Master Covenant**

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1) Prior to first building permit on the subject development, the developer of the subject development shall record in the public records of Palm Beach County a Master Covenant binding the entire project, in a form provided by the County, which identifies the WHP unit requirement for the subject development and addresses the requirements of this subsection. Subject developments for which the in lieu fee has subsequently been paid to Palm Beach County as a result of the guarantee provided in the Exchange Builder Option, pursuant to Section 5.G.1.C.4.b.2), and no units subject to the WHP program were provided prior to County receiving payment pursuant to the guarantee, may request that the Master Covenant be released.

2) The Master Covenant shall include but not be limited to restrictions requiring: that all required WHP units shall be rented only to an income qualified household, in an income category corresponding to the WHP obligation of the subject development, at or below the prices established for the income category annually by Palm Beach County, subject to the affordability requirements and provisions of this Article; that these restrictions remain in effect for a period of 30 years (non-recurring) for each unit, from the date of occupancy of the first WHP unit; and that in the event a rental complex is resold before the 30 year period concludes, the new owner assumes the requirement for the number of remaining years; and the number of years remaining shall be determined by the Planning Director or designee; and shall take effect on the date of resale. The Master Covenant shall further provide monitoring and compliance requirements including but not limited to those set forth below to ensure compliance with the WHP. Every deed for a rental development with WHP housing units and every rental agreement for each WHP unit shall incorporate by reference the Master Covenant.

### **b. Pricing/Affordability**

1) All required WHP units shall be rented only in the designated income categories corresponding to the WHP obligation of the subject development, at or below the prices established annually by Palm Beach County.

2) Affordability restrictions remain in effect for a period of 30 years (non-recurring) for each rental unit, from the date of occupancy of the first WHP unit; in the event a rental complex is resold before the 30 year period concludes for all units, the new owner assumes the requirement for the remaining number of years; as shall be determined by the Planning Director or designee based on the date of resale.

3) The rent prices shall be updated annually by the Planning Director, or designee, based on the monthly rent ranges published annually for the Florida Housing Finance Corporation Multi-Family Rental Programs, by number of bedrooms, for the following income ranges: >60 to 70%; >70 to 80%; >80 to 90%; >90 to 100%; >100 to 110%; >110 to 120%; >120 to 130%; and >130 to 140% of MFI. The WHP price initially established for the rental unit's income category at the time of approval of the subject development shall be the rental floor throughout the affordability period. No WHP unit is required to be rented at a price below the rental floor, though an owner may opt to do so.

4) Owners of WHP rental units may choose to include one or more utilities for the unit in the base rental price. Units that do not include utilities must provide a utility allowance in the form of a rent reduction based on the number of bedrooms, according to a schedule established by the Planning Division. Utilities shall include, but not be limited to, water, sewer, gas and electric. When one or more utility cost(s) are included within the WHP unit rent price, and reasonable, reliable and verifiable documentation is provided that indicates the total utility cost included within the WHP unit rent price meets or exceeds the stated utility allowance cost, then the utility allowance requirement would be waived. If the utility costs are less than the prescribed utility allowance, the difference shall be credited to the WHP resident's rent cost.

Part 28. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

### **c. Income Qualification of Tenants**

WHP units shall be rented only to an income-qualified household. The verification of prospective tenants as income-qualified for the rental unit category, pursuant to the requirements of this Article, is the responsibility of the rental unit owner or designated management company.

### **d. Marketing of WHP Rental Units**

Marketing of WHP rental units is the responsibility of the rental unit owner or designated management company.

### **e. Commencement of Rentals**

The owner of the rental WHP unit(s) shall provide the Planning Director, or designee, with notice of the date of occupancy of the first WHP unit.

### **f. Compliance Reporting**

The owner of the WHP unit shall submit to the Planning Director, or designee, on a form provided by the County, an annual report containing information and documentation to

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

1 demonstrate continued compliance with the WHP. The County may conduct site visits at  
2 reasonable times, or perform other independent investigation to verify continued  
3 compliance with the WHP. The owner of the WHP units shall also provide notice to the  
4 Planning Director or designee of a change in management company no later than 30 days  
5 after the change occurs.

### 6 **g. Deed Restriction**

7 The warranty deed documenting a sale of WHP rental units shall include a statement that  
8 the units are subject to covenants, conditions and restrictions including the Master  
9 Covenant, and shall include the date of recordation of the Master Covenant, and the Book  
10 and Page of the Official Record.

Part 29. **ULDC Art. 5.G.1 Workforce Housing Program (WHP) (page 67-76 of 100, Supplement 25), is hereby amended as follows:**

### 11 **E. Enforcement**

12 The County may enforce the requirements of the WHP through any cause of action available at law  
13 or equity, including but not limited to seeking specific performance, injunctive relief, rescission of  
14 any unauthorized sale or lease, reclassification of a lesser unit to another income category, and  
15 tolling of the 15-year recurring term of for sale units or the 30 year non-recurring term for rental  
16 units of the WHP.

Part 30. **ULDC Art. 5.G.3 Transfer of Development Rights (TDRs) Special Density Program (page 87 of 100, Supplement 25), is hereby amended as follows:**

## 17 **CHAPTER G.**

18 ....

### 19 **Section 3: Transfer of Development Rights (TDRs) – Special Density Program**

20 ....

#### 21 **I. TDR Density Bonus Limitations**

##### 22 **1. WHP 34 Percent Requirement**

23 In accordance with FLUE Policy 2.6-a.5 of the Plan, ~~35~~ 34 percent of all TDR density bonus  
24 units shall be provided as WHP units. These units shall be constructed on site; comply with  
25 the affordability range requirements of Table 5.G.1.B, Workforce Housing Program and Art.  
26 5.G.2.F, Affordability Requirements; and, Art. 5.G.1.C, Development Options. The project shall  
27 only be eligible to apply for the following WHP incentives: Art. 5.G.1.E.2, Traffic Performance  
28 Standards Mitigation; Art. 5.G.1.E.3, Expedited Review; and, Art. 5.G.1.E.4, Density Bonus  
29 Development Options. . [Ord. 2008-003] [Ord. 2011-001]

30 ....

Part 31. **ULDC Art. 5.G.3 Transfer of Development Rights (TDRs) Special Density Program (page 87 of 100, Supplement 25), is hereby amended as follows:**

### 31 **G. Transfer of Development Rights (TDRs) Bank**

#### 32 **1. General**

33 The purpose of this Chapter is to authorize the establishment of a TDR Bank. The TDR Bank  
34 is hereby created in order to, among other things, facilitate the purchase and transfer of  
35 development rights as hereinafter provided and maintain an inventory of those development  
36 rights purchased by PBC.

#### 37 **2. Establishment of Development Rights for the Bank**

38 Development rights for the TDR Bank shall be generated from environmentally sensitive lands  
39 purchased by PBC, including the priority acquisition sites meeting the criteria in Art. 5.G.3.F.2,  
40 Eligible Sending Areas, through August 30, 1999. Priority acquisition sites in the  
41 unincorporated area of PBC, which are not purchased as part of the acquisition program shall  
42 maintain the opportunity to transfer development rights on the private market. The TDR Bank  
43 shall be maintained by the Executive Director of PZB and shall be reviewed in accordance with  
44 the FLUE of the Plan to determine the need for additional units.

45 Development rights in the TDR Bank generated under the TDR Program shall remain in the  
46 TDR Bank until sold by PBC, the TDR Bank is dissolved, or the units are otherwise disposed  
47 of.

#### 48 **3. Transfer Rate from the Purchase of Environmentally Sensitive Lands**

##### 49 **a. Land Purchased Inside the U/S Tier**

50 The number of development rights within the bank shall equal the maximum density  
51 allowed by the FLU designation as established by the applicable PBC or municipal  
52 Comprehensive Plan.

##### 53 **b. Land Purchased Outside the US Tier**

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# EXHIBIT A

## ARTICLES 1, 2, AND 5 – WORKFORCE HOUSING PROGRAM

- 1                   The number of development rights severed, or generated for the bank, shall equal the TDR  
2                   transfer rate established in Art. 5.G.3.F, Sending Areas.
- 3                   **4. The Application, Sale, and Value of Development Rights**
- 4                   PBC may sell development rights to property owners who meet the receiving area criteria  
5                   pursuant to this Chapter.
- 6                   a. A property owner seeking an increase in density must apply to become a receiving area  
7                   and submit a draft Contract for Sale and Purchase of Development Rights. **[Ord. 2011-  
8                   001]**
- 9                   b. The value and price of a development right shall be set annually by the BCC. No TDR price  
10                  or price reduction other than those included in this Section shall be permitted. The County  
11                  shall utilize the median sales price data established by the Realtors Association of the Palm  
12                  Beaches, using data for the month of March to set the price each year: **[Ord. 2011-001]**  
13                  **[Ord. 2012-027]**
- 14                  1) For Single Family units (Single family, Zero Lot Line and Townhouse) the price shall  
15                  be ten percent of the median sales price of FRA Single Family, existing homes data;  
16                  **[Ord. 2011-001]**
- 17                  2) For multi-family units the price shall be ten percent of the median sales price of FRA  
18                  existing condominiums data. **[Ord. 2011-001]**
- 19                  c. For proposals including a mix of Single Family and multi-family units, the TDR units shall  
20                  proportionally reflect the unit mix of the non-TDR units. **[Ord. 2011-001]**
- 21                  d. Additional prices for TDR units shall be as follows: **[Ord. 2011-001]**
- 22                  1) For TDR units located within an area that has a BCC accepted Neighborhood Plan,  
23                  and the proposed density increase is identified within or supported by the  
24                  Neighborhood Plan, the TDR price shall be 75 percent of full TDR price as established  
25                  in 4.b.1 and 2 above; **[Ord. 2011-001] [Ord. 2012-003]**
- 26                  2) For TDR units located within a CCRT area the TDR price shall be 25 percent of full  
27                  TDR price as established in 4.b. 1 and 2 above; **[Ord. 2011-001]**
- 28                  3) Workforce Housing TDR units shall be five percent of full TDR price as established in  
29                  4.b. 1 and 2 above; and, **[Ord. 2011-001]**
- 30                  4) Affordable Housing TDR units shall be one percent of full TDR price as established in  
31                  4.b.1 and 2 above. The dollar difference between the TDR price and the Affordable  
32                  Housing TDR price can be used as a price waiver to be counted as part of the local  
33                  government contribution for housing funding application purposes. **[Ord. 2011-001]**
- 34                  e. Applicants may request Workforce Housing TDR units at greater than the required  
35                  percentage (~~35~~ 34 percent), however in order to receive the Workforce Housing TDR price,  
36                  those additional Workforce Housing TDR units (>~~34~~ 35 percent) must be priced for WHP  
37                  low income (60-80 percent of AMI) households only. **[Ord. 2011-001]**

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## FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

August 27, 2019

Honorable Sharon R. Bock  
Clerk and Comptroller  
Palm Beach County  
301 North Olive Avenue  
West Palm Beach, Florida 33401

Attention: Mr. Timothy Montiglio

Dear Ms. Bock:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Palm Beach County Ordinance No. 2019-033, which was filed in this office on August 27, 2019.

Sincerely,

Ernest L. Reddick  
Program Administrator

ELR/lb