

ORDINANCE NO. 2021- 36

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, ENACTING A MORATORIUM TO PROHIBIT THE ACCEPTANCE OR PROCESSING OF ANY APPLICATION FOR A PERMIT, DEVELOPMENT ORDER, OR ANY OTHER OFFICIAL ACTION OF THE CITY HAVING THE EFFECT OF ALLOWING OR PERMITTING THE CONSTRUCTION OF LOW INCOME HOUSING TAX CREDIT PROJECTS (LIHTC) OR OTHER STATE, FEDERAL OR LOCALLY SUBSIDIZED AFFORDABLE HOUSING PROJECTS IN ORDER TO EVALUATE AND ADOPT HOUSING DECONCENTRATION POLICIES AND REGULATIONS; PROVIDING FOR VESTED RIGHTS DETERMINATION; PROVIDING FOR A SIX MONTH TERM TO BE EXTENDED IF NECESSARY BY THE CITY COMMISSION; PROVIDING FOR EARLY TERMINATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, to protect the public health, safety and welfare of its citizens, the City of Pompano Beach (City) has adopted several zoning ordinances and other policies which regulate housing within the City; and

WHEREAS, the City and the Pompano Beach Community Redevelopment Agency (CRA) are both committed to ensuring that there is an adequate supply of affordable housing within the City; and

WHEREAS, the City hired Lambert Advisory (Lambert) to evaluate the City's market rate and affordable housing markets; specifically, Lambert was engaged to provide an evaluation of inventory aimed at determining the rent-restricted, subsidized and market-rate housing inventory and conditions at the citywide, CRA and neighborhood level; to provide an assessment which

analyzed both the subsidized, rent-restricted and market rate housing inventory and opportunities for investment at the City-wide and neighborhood level; and to provide strategy and policy recommendations; and

WHEREAS, Lambert completed the evaluation and furnished the City with a study entitled, “Affordable Housing Study Summary Findings,” dated May 17, 2017 (the Study); and

WHEREAS, a concern raised by the Study is that “a large proportion of LIHTC units are being developed in census tracts where there is already a concentration of existing rent restricted or subsidized units”; and

WHEREAS, the Study also found that “[C]oncentration of low-income families has a very real impact on families and neighborhoods,” and that policies which promote the production of rent restricted affordable housing must do so in a way which concurrently encourages deconcentration of that housing”; and

WHEREAS, Appendix A to the Study identifies several long term studies which have tracked low income children who grew up in poor neighborhoods versus low income children who grew up in middle income neighborhoods and have “clearly found that, everything else being equal, a low income child who grows up in a middle income neighborhood will have significantly more earnings as an adult than if the same child was to grow up in a low income neighborhood”; and

WHEREAS, the Study finds that “deconcentration of poverty is a central poverty fighting tool and following the publishing of these studies, the U.S. Department of Housing & Urban Development refined its deconcentration policies and requirements in 2016; and

WHEREAS, because of the research conducted as part of the Study, Lambert made several policy recommendations including the following:

- The City should review the 2015-2019 City Consolidated Plan to determine whether it facilitates the City's deconcentration objectives as is or requires modification. If the plan requires modification, the City should modify the City's Consolidated Plan to delineate census tracts consistent with the Census tracts in Figure 2 of the Study. For those tracts within excess of 20 or 30 percent poverty, income restricted units should be discouraged except in the case of homeownership units targeted to families between 50 and 80 percent of median income in order to further the City's deconcentration objectives;
- The City should approve local match/support required by the State within LIHTC applications only if the proposed LIHTC units are in census tracts where less than 20% of the rental units are rent restricted and poverty rate is below 20%.
- In addition to supporting deconcentration of low income housing the converse also is a benefit as it relates to community reinvestment and development. The City and CRA should continue to encourage the development of market rate housing and mixed-income housing within lower income neighborhoods.

WHEREAS, the City has determined that it is in the best public interest to implement the policy recommendations of the Study to the extent practicable or such other measures as deemed necessary to further the City's deconcentration objectives; and

WHEREAS, a temporary moratorium on the processing of applications for and the issuance of building permits, development permits, site plan approvals, requests for funding matches or any other official action of the City of Pompano Beach having the effect of allowing further concentration of LIHTC and other state, federal or locally subsidized affordable housing projects (Subsidized Housing) will allow time to review, study, hold public hearings and prepare and adopt an amendment or amendments to the City's Consolidated Plan, Zoning Code and Comprehensive Plan or other City regulations; and

WHEREAS, at least 10 days' notice has been given of the public hearing once by publication in a newspaper of general circulation notifying the public of this proposed ordinance and of a public hearing before the City Commission; and

WHEREAS, the public hearings were held pursuant to the published notice described at which hearings the public had an opportunity to be and were, in fact heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. Purpose.

A. The purpose of this ordinance is to enable the City of Pompano Beach sufficient time to review and evaluate deconcentration policies, hold public hearings and adopt an amendment or amendments to the City's Code of Ordinances, Consolidated Plan, Comprehensive Plan and/or Zoning Code, relating to the development of Subsidized Housing within the City. The City will not approve any application, approve a request for a funding match, or issue any permits authorizing the construction of Subsidized Housing within the City, except as provided in this ordinance, or as may otherwise be required by law.

B. It is further the purpose of this Ordinance to fulfill the City's constitutional charge and statutory obligations to protect and preserve the public health, safety and welfare of the citizens of the City, including the enactment of proper zoning regulations for such purpose, and thus defer official government action until the City has properly held public hearings and adopted amendments to the City's Code of Ordinances, Consolidated Plan, Comprehensive Plan and/or Zoning Code, where necessary.

SECTION 2. Imposition of Moratorium.

A. No application for permit, request for a funding match, authorization or any other official action of the City having the effect of permitting or allowing the construction of Subsidized Housing within the city limits, may be accepted or processed or approved by the City, except as may be required by applicable law, solely if the designated location of the proposed new

Subsidized Housing shall result in a clustering of such housing. For the purposes of the Moratorium imposed by this Ordinance, the term “clustering” shall mean any Subsidized Housing that would be located within a one-half mile radius of another existing or proposed other subsidized housing project. To the extent such an application is submitted, City staff is authorized to take action necessary to hold in abeyance or otherwise deny such application during the term of this moratorium within such time frame as may be required by applicable law. However, the provisions of this section shall not be applicable to applications for detached single-family dwellings.

B. No Zoning Compliance permit may be issued by the City which would authorize the construction of a Subsidized Housing project within the City which would have the effect of clustering such Subsidized housing, as defined herein.

C. Any property owner claiming to have vested rights or desiring to retain certain rights affected by this moratorium may file an application with the Development Services Director for a vested rights determination, in accordance with procedures outlined in Section 155.2429. All residential and/or mixed-use residential developments with approved Development Orders signed and dated prior to the passage of this ordinance, and/or active projects that been reviewed by the Development Review Committee (DRC), shall be considered automatically vested and do not need to apply for a vested rights determination.

SECTION 3. Term.

The moratorium imposed by this ordinance is temporary and, unless dissolved earlier by the city, shall automatically dissolve one hundred and twenty (120) days from the effective date of this ordinance, unless extended in accordance with applicable law. This moratorium may be reasonably extended, if necessary, by ordinance of the City Commission.

SECTION 4. Early Termination.

The moratorium imposed by this ordinance may terminate prior to its one hundred and twenty (120) day period or any extension, upon the passage of ordinances regulating the deconcentration of Subsidized Housing within the City, provided:

1. Specific language terminating the moratorium is contained within the enacted ordinance, or
2. By passage or another ordinance providing for termination by the City Commission.

SECTION 5. All ordinances or parts of ordinances in conflict with this Ordinance are revoked.

SECTION 6. If any provision of this ordinance or its application to any person or circumstances is held invalid, such invalidity shall not affect any provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 7. This ordinance shall become effective upon passage.

PASSED FIRST READING this 8th day of December, 2020.

PASSED SECOND READING this 26th day of January, 2021.

DocuSigned by:

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REX HARDIN, MAYOR

ATTEST:

DocuSigned by:

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ASCELETA HAMMOND, CITY CLERK

MEB: 1/19/21
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