



A DRAFT PROPOSAL OF A CITY ORDINANCE FOR THE  
PRESERVATION OF EXISTING AFFORDABLE HOUSING

---

A CITYWIDE ORDINANCE WITH ATTACHMENTS TO PRESERVE EXISTING AFFORDABLE HOUSING BY IMPOSING AT THE EXPIRATION OF ANY AFFORDABLE HOUSING REQUIREMENT FOR THE REVERSION OF THE PROPERTY BACK TO THE ZONING AND USE CONDITIONS EXISTING PRIOR TO ANY FEDERAL, STATE, OR LOCAL GOVERNMENT ACTION, SUCH AS ZONE CHANGE, DENSITY BONUS, VARIANCE, EXEMPTION, WAIVER, LOAN, GUARANTEE, GRANT, TAX ABATEMENT, OR SIMILAR GOVERNMENT ACTIONS THAT RESULTED IN THE CURRENT USE AND CONDITIONS OF THE PROPERTY AS AFFORDABLE HOUSING; AND INCENTIVES FOR PRESERVING THE EXISTING AFFORDABLE HOUSING UNITS.

WHEREAS, citizens of the City of Miami who struggle to pay for their housing are also likely to struggle to pay for their medicine, healthcare, food, clothing, transportation, education, childcare, savings, retirement and other basic human needs; and

WHEREAS, the impact on citizens of the City of Miami struggling to pay for their cost of housing and other basic human needs also impacts on their fundamental Individual, Social, Economic, Political, and Human Rights, including those rights protected in the Constitutions of the United States and the State of Florida; and

WHEREAS there is a finding of a critical lack of affordable housing within the State of Florida identified in the Florida State Housing Strategy, FS 420, incorporated by reference herein, and further established by current research; and

WHEREAS, critical lack of affordable housing has continued to worsen due to a variety of reasons, including but not limited to: rising land, construction, labor, material, development, and regulatory costs of housing; changes in tax policy that reduces the value of affordable housing incentive programs; reduced construction of new affordable housing; loss of existing government incentivized affordable housing due to expiring programs; loss of market driven affordable housing; increasing rental prices and home ownership costs; increasing population; stagnant wages; diversion of existing state affordable housing resources to for other uses; cuts in government funding to affordable housing; government zoning and other regulatory policies that discourage affordable housing; failure of local government to enforce existing regulations; and other causes.

WHEREAS, nearly 50% of the residents of the city struggle to meet their housing costs, less than 10% of the city housing stock is considered affordable, the need for affordable housing is increasing even as thousands of existing affordable housing is being lost and development of new affordable housing is declining, what has long been called an affordable housing crisis is now an affordable housing emergency; and

# 1809 Brickell Tenant's Association

A Non-Profit Mutual Benefit Tenant Association

WHEREAS, existing private, local, state, and federal policies, actions and resources have failed to remedy this critical lack of affordable housing and may actually be contributing to the critical lack of affordable housing; and

WHEREAS, the goal of the Florida State Housing Strategy, FS 420, enacted by the State legislature in 1988, is to ensure decent and affordable housing is available for all residents of Florida by the year 2010; and

WHEREAS, safe, decent and affordable housing within reasonable distance and access to a citizen's job, principle activities, and community is essential to the citizen's fundamental Individual, Social, Economic, Political, and Human Rights, including those rights protected in the Constitutions of the United States and the State of Florida; and

WHEREAS, the Florida State Housing Strategy incorporates the Preservation and improvement of existing stock of affordable housing and units of housing for low-income and elderly persons as a major element of achieving its goals; and

WHEREAS the City of Miami is continuing to experience a critical lack of affordable housing that worsened by a rising demand for affordable housing, a reduced supply of new affordable housing, and the continuing loss of existing affordable housing; and

WHEREAS, the City of Miami is facing the loss of thousands of existing affordable housing units, many of which are for low income and elderly persons, due to expiring government programs; and

WHEREAS, existing policies have failed to adequately increase new affordable housing or preserve existing affordable housing; and

WHEREAS, owners of properties that provide affordable housing have received substantial Federal, State, County, and/or City government benefits, including but not limited to Zone Change, Density Bonus, Variance, Exemption, Waiver, Loan, Guarantee, Grant, tax abatement , or other similar forms of benefits involving government action that have resulted in increased value to their property; and

WHEREAS, the loss of existing affordable housing at a time when there is already a critical lack of affordable housing has a devastating impact on the residents of the existing affordable housing that threatens their health and safety; and

WHEREAS, the lack of affordable housing undermines the social, economic, age, racial, worker, and national origin diversity of the City; and

WHEREAS, the Miami Comprehensive Plan, Miami 21 Code, and the State Housing Strategy call for affordable housing to be dispersed throughout the community rather than being concentrated in specific areas that contribute to ghettoizing and gentrification; and

WHEREAS, the loss of existing affordable housing and the lack of new affordable housing is contributing to the concentration of affordable housing is contributing to the concentration of affordable housing in certain areas of the City and not

# 1809 Brickell Tenant's Association

A Non-Profit Mutual Benefit Tenant Association



in other areas of the City in contradiction to the Miami Comprehensive Plan, Miami 21 Code, and the State Housing Strategy.

WHEREAS, there is a critical need to preserve existing affordable housing and promote new affordable housing; and

WHEREAS, the loss of existing government incentivized affordable housing puts pressure on market-driven affordable housing that further increases the critical lack of affordable housing; and

WHEREAS, the loss of existing affordable housing drives up the cost of new affordable housing further increasing the critical lack of development of new affordable housing.

WHEREAS, after a public hearing, due consideration has been given to the critical lack of affordable housing, the loss of existing affordable housing due to expiring housing programs, the rising need for affordable housing, the limited supply of new affordable housing, the goals, objectives, and policies of the State Housing Strategy, the Miami Comprehensive Plan, the Miami 21 Code, and all other Federal, State, County, and City regulations; and

WHEREAS, due consideration has been given to the need and justification for the preservation of existing affordable housing that make the passage of the proposed changes to the Miami 21 Code are desirable and necessary; and

WHEREAS, the proposed changes to the Miami 21 Code are appropriate, desirable and necessary in light of the goals and intent of the Florida State Housing Strategy, The Miami Comprehensive Plan, and the Miami 21 Code; and

WHEREAS, The City Commission finds that there is competent substantial evidence in the record to support the changes to the Miami 21 Code; and

WHEREAS, the City Commission, after careful consideration of this matter deems it advisable and in the best interest of the general welfare of the City of Miami and its inhabitants to adopt the changes to the Miami 21 Code;

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

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

**Section 2.** It shall be the purpose of this ordinance for the City to use all permissible means available to preserve existing affordable housing and promote the development of new affordable housing, including without limitation legal action to block the elimination of existing affordable housing, strict adherence to all provisions of the Miami 21 Code; denial of zone changes, density bonus, variance, exemptions, waivers, or any other government actions to any project that does not retain or incorporate a like number existing affordable housing;



increased impact fees based on the removal of existing affordable housing, and all such other actions as permitted by law.

**Section 3.** The Miami 21 Code shall be amended so that there is a new designation attached to all properties that incorporate affordable housing as defined by HUD guidelines as a result of any Federal, State, County, or City government action, including but not limited to Zone Change, Density Bonus, Variance, Exemption, Waiver, Loan, Guarantee, Grant, tax abatement of any kind, or any other similar types of benefits involving government action.

**Section 4.** All such properties identified as meeting the provisions of Section 3 shall in addition to its current Zoning Classification shall bear the additional classification of “AH” indicating that it provides Affordable Housing in whole or in part.

**Section 5.** All such properties meeting the provisions of Section 3 shall also carry as part of their zoning classification, the zoning classification existing at the time the government programs described in Section 3 was enacted resulting in the affordable housing.

**Section 6.** All such properties meeting the provisions of Section 3 which were beneficiary of any government action described in Section 3 at any time up to 10 years prior to the property becoming affordable housing shall be subject to the same rules and conditions of this ordinance as if the government action resulting in the affordable housing took place at the time of the earlier government action.

**Section 7.** All such properties meeting the provisions of Section 3 shall also include as part of its Zoning Classification the date upon which any government program expires that would have the effect of releasing the property from any obligation, condition, or requirement to provide affordable housing.

**Section 8.** The City shall maintain a comprehensive database of all such properties identified with the AH designation and monitor it for expiring obligations to provide Affordable Housing. Not less than 2 years before the expiration of such obligations the City shall contact the owner of the property for the purpose of retaining the property as affordable housing. The City shall use all reasonable means to preserve the existing affordable housing, including but not limited to the right of first refusal, purchase of the property, redevelopment of the property to incorporate a like number of existing affordable units, and any such other means by which to preserve the existing affordable housing.

**Section 9.** Upon any event that would have the effect of releasing the property from any obligation, condition, or requirement to provide affordable housing, such as the expiration of any existing affordable housing program, sale of the property, destruction of the property or any other cause whatsoever that results in the discontinuance of the property as affordable housing, the property shall revert to the zoning, including any density, variance exemption, waiver, tax abatement

or other similar conditions, and all other conditions that existed at the time the government action or actions described in Section 3 took place that resulted in the property becoming affordable housing.

**Section 10.** Notwithstanding the provisions of Section 9, any property that continues to provide and operate the same number of affordable housing units as existed at the property shall be permitted to continue to operate with the same government actions as were provided that resulted in the property becoming affordable housing.

**Section 11.** Notwithstanding the provisions of Section 9, any property that continues to provide and operate the same number of affordable housing units as existed at the property shall be allowed to sell affordable housing credits to be used by other developers in order to pay for upgrades and renovations to the existing affordable units. Up to 20% of the sale of any such affordable housing credits may be paid to the owner as a capital distribution.

**Section 12.** Notwithstanding the provisions of Section 9, any property meeting the provisions of Section 3, that is redeveloped and includes a like number of affordable housing units as existed or exists with the property shall be permitted to include a like number of market rate units as part of any redevelopment.

**Section 13.** Notwithstanding the provisions of Section 9, properties redeveloped in accordance with Section 12, may add an additional number of market rate units up to the limits of current zoning with consideration of all available density or other bonus provisions available provided that for each ten (10) new market rate units above the number of existing affordable units there shall be at least one new moderate rate affordable unit, one new workforce unit, one new low income unit, and one new very low income unit, or if less than ten (10) additional market rate units there shall be 30% additional affordable units.

**Section 14.** Any property that reverts back to its original conditions that existed at the time the government action resulted in the property becoming affordable housing as a result of a refusal to continue the affordable housing or incorporate a like number of affordable units in any redevelopment of the property as provided for herein, shall be barred from being granted any government action such as described in Section 12 for a period of fifty (50) years except for the purpose of a developing a like number of affordable housing as existed at the time the property reverted back to its original condition.

**Section 15.** Any property that reverts back to the original condition as provided by Section 9, shall revert back to the lowest possible use and density permitted by law at the time the government action that resulted in the affordable housing took place. Under no circumstances shall that use be other than residential.

# 1809 Brickell Tenant's Association



A Non-Profit Mutual Benefit Tenant Association

**Section 16.** It is the intention of the City Commission that the provisions of the Ordinance shall become and be made a part of the Miami 21 Code, which provisions may be renumbered or re-lettered and the word “ordinance” may be changed to “section”, “article”, or other appropriate word to accomplish such intention.

**Section 17.** If any section, part of a section, paragraph, clause, phrase, or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

**Section 18.** This ordinance shall be applicable to all properties within the City of Miami that incorporate all or part affordable housing as of September 1, 2018.

**Section 19.** This ordinance shall become effective ten (10) days after approval at a second reading.

APPROVED AS TO FORM AND CORRECTNESS.

---