

Agenda Item

File ID: 2023-0185

Substitute

8/22/2023

Public Hearing: YES NO

Department: Planning and Sustainability

SUBJECT:

Commission District(s): County-wide

Application of the Director of Planning & Sustainability to amend the *DeKalb County Zoning Ordinance (Chapter 27)* and the *Code of DeKalb County, Chapter 2 (Administration)* to address Workforce Housing.

Petition No.: TA-23-1246284

Proposed Use: N/A

Location: County-wide

Parcel No.: N/A

Information Contact: Brandon White, Current Planning Manager

Phone Number: 404-371-2155

PURPOSE:

Application of the Director of Planning & Sustainability to amend the DeKalb County Zoning Ordinance (Chapter 27) and the Code of DeKalb County, Chapter 2 (Administration) to address Workforce Housing.

RECOMMENDATION:

COMMUNITY COUNCIL: CC-1: Deferral; CC-2: No Vote; CC-3: Deferral; CC-4: No Vote; CC-5: No Vote.

PLANNING COMMISSION: 2-Cycle Deferral.

STAFF RECOMMENDATION: Approval.

PLANNING STAFF ANALYSIS: The *DeKalb County 2050 Unified Plan* identifies *workforce housing* as a housing policy goal to “[e]ncourage reinvestment or redevelopment of commercial corridors including the introduction of residential or other new uses to these areas” (pg. 9). This was preceded by the *5-Year Update of the 2021 Comprehensive Plan* which recommended that the County facilitate a process by which the development community would “provide workforce housing in appropriate activity centers in the County” (pg. 55). This text amendment proposes to implement the promotion of workforce housing throughout the unincorporated areas of the County. Further details are provided in the enclosed ordinance proposal. Staff recommends approval.

PLANNING COMMISSION VOTE: 2-Cycle Deferral 9-0-0. Jana Johnson moved, Jon West seconded for a Two-Cycle Deferral to the July 2023 zoning agenda.

COMMUNITY COUNCIL VOTE/RECOMMENDATION: CC-1: Deferral 8-0-0; CC-2: No vote, discussion only; CC-3: Deferral 6-0-0; to allow appropriate time to review the text amendment; CC-4: No vote, discussion only; CC-5: No vote, discussion only.

A N O R D I N A N C E

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTERS 2 AND 27 TO PROVIDE FOR WORKFORCE HOUSING IN DEKALB COUNTY'S EMPLOYMENT CENTERS, ACTIVITY CENTERS, JOB CLUSTERS; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the Georgia Constitution, the Official Code of Georgia, and the Code of DeKalb County, the Board of Commissioners of DeKalb County has the authority to regulate land use within unincorporated DeKalb County; and

WHEREAS, the Board of Commissioners adopted a Zoning Ordinance amending Chapter 27 of the Code of DeKalb County providing for the regulation of land use and zoning related activity in DeKalb County and for other purposes at its regular meeting of August 25, 2015; and

WHEREAS, the Board of Commissioners recognizes that housing is an issue of paramount concern that affects the health, welfare, and safety of the citizens of the County; and

WHEREAS, housing is an issue that affects the economic viability and growth of communities in DeKalb County; and

WHEREAS, County's current *2050 Comprehensive Plan*, Chapter 3 *Policy Spotlights*, identifies workforce housing as a policy recommendation which requires specified numbers of affordable units or contributions to support affordable housing initiatives; and

WHEREAS, Section 1.1.3(O) of the *DeKalb County Zoning Ordinance* identifies the provision for, and promotion of housing for all income groups and citizens within the County as one of the many purposes of this chapter; and

WHEREAS, the Board of Commissioners wishes to promote homeownership and the development of moderately priced units available for lease in DeKalb County; and

WHEREAS, the private and non-profit sectors, whether operating independently or in collaboration with each other, possess the resources and expertise to provide moderately priced housing needed in the County; and

WHEREAS, the County wishes to encourage collaboration between developers in the private and non-profit sector for the development of workforce housing available for both lease and sale; and

WHEREAS, the 2020 Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area includes DeKalb, and lists the median household annual income as \$82,700; and

WHEREAS, the housing made available by this ordinance will be purchased or available for lease by the private, public, and non-profit sector of DeKalb County's workforce who are employed in DeKalb County and earn between 60% and 120% of the County's area median household annual income, including but not limited to, healthcare workers, teachers, law enforcement officers, fire and rescue workers, other civil service workers, and persons employed in the retail and hospitality industry; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for households of one person earning 60% of the AMI is \$34,740, and 120% is \$69,480; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for monthly rent earning 60% of the AMI is \$1,117 and 80% is \$1,490, for a two bedroom; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for owner housing earning 60% of the AMI is \$154,890 and 120% is \$309,780, for a three bedroom; and

WHEREAS, in 2019, the household income that falls within that range earns between \$31,023 and \$64,632. Based on a calculation of housing costs as 30% of income, the cost of a house that a person earning \$31,023 can afford to purchase is \$94,623 and for a person earning \$64,632, that price is 193,896; and

WHEREAS, in 2020, the Zillow Home Value Index, which is seasonally adjusted, lists the middle-priced tier homes in DeKalb County as \$237,760; and

WHEREAS, the County has identified several areas of the County, in which there is significant economic activity that creates a large number of jobs but where there is limited or no available moderately priced housing available to the workforce within those areas; and

WHEREAS, the County has considered the mix of office, retail, service and civic uses with residential housing, the number of employers and eligible employees and access to major transportation corridors, and the County has concluded that those areas should be designated as activity centers and should be the focus of any effort to provide moderately priced housing for purchase by the workforce that works in those activity centers; and

WHEREAS, many of the identified activity centers are or have been the subject of a Livable Centers Initiative Studies and/or Small Area Plans; and

WHEREAS, the emerging appeal of mixed-use developments in the County and elsewhere in the Metropolitan Atlanta region signals a trend towards more compact residential development combining commercial uses which could be used to provide housing therein for a broader range of incomes; and

WHEREAS, it is the goal of this ordinance to insure that moderately priced housing is available for sale or lease to private, public, and non-profit sector residents who earn between 60% and 120% of the County's median household income as employees in identified centers of employment within DeKalb County; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of DeKalb County, Georgia that the Zoning Ordinance be further amended to address the need for affordable housing.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapters 2 and 27 of the Code of DeKalb County, Georgia are amended to read as follows:

PART I. ENACTMENT

Chapter 27, Section 27-9.1.2, entitled "Interpretation" is hereby amended by striking sub-section F in its entirety and adding the following text in place thereof so that Chapter 27, Section 27-9.1.2(F) shall read as follows:

~~Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. Words, terms and phrases, when used in this article, shall have the meanings ascribed to them as directed above, except where the text clearly indicates a different meaning.~~

Words or terms not defined in this article but defined in applicable state law or elsewhere in the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context requires otherwise.

* * *

Chapter 27, Article 9, entitled "Definitions" is hereby amended by adding the following definitions in alphabetical order to Section 27-9.1.3 to read as follows:

Sec. 9.1.3. - Defined terms.

Activity center: A character area designated by the comprehensive plan as a regional center, town center, or neighborhood center. In the workforce housing regulations, this means an unincorporated area of the County in which it has been determined from objective empirical data that the convergence of economic, educational, healthcare-related or research activity creates a hub of significant employment opportunities. In unincorporated DeKalb County, such areas are designated as activity centers on the future development plan and map as part of the *2050 Comprehensive Plan*. They are also further defined in the *2050 Comprehensive Plan* as Neighborhood, Town and Regional Centers.

AMI: means area median income, which is a statistic used by the United States Department of Housing and Urban Development (HUD) to determine the eligibility of applicants that fall within the middle range of income in a defined geographic boundary.

Density bonus: a density increase over the otherwise maximum allowed residential density as permitted as an incentive for offering workforce housing to public, private and non-profit sector eligible employees who earn qualifying moderate annual incomes.

Developer: means a person, firm, corporation, partnership, agency, or other legal entity that proposes to divide, subdivide, or construct improvements on real property.

Development for residential use: means any development including residential units, whether attached or detached, single-family or multi-family, for rent or for sale, held as fee simple or other form of ownership.

Eligible employees: for a workforce housing project, people who earn between 60% and 120% of the county's median household income and work in DeKalb County.

Employment Center: is a defined geographical area that contains job clusters and is the focal point for targeted local and regional labor force activities to produce goods and services.

Income limit: for a workforce housing project, the maximum amount of annual income a household can earn to qualify to be eligible to participate in the program.

Job clusters: in the workforce housing regulations, areas of the county where there are more than eight (8) jobs per acre or equivalent to 5,120 jobs per square mile but in excess of the regional average for the southeastern United States.

Market units or market-rate units: for a workforce housing project, dwelling units that are not restricted to those prices or rents deemed affordable to qualified workforce households.

Monitoring agency: for a workforce housing project, DeKalb County Community Development.

Notice of Offering: documentation to be provided to the monitoring agency to include the date on which the applicant will be ready to begin marketing to eligible persons and setting forth the

number of units offered for sale and/or for lease, the bedroom mix, the floor area for each unit type, a description of the amenities offered in each unit and a statement of the availability of each unit for sale, including information regarding any mortgage financing available to buyers of the designated unit as well as a vicinity map of the offering, a copy of the approved development, subdivision or site plan, as appropriate, and such other information or documents as the monitoring agency requests.

Qualified household: a household meeting the income restrictions established to be eligible for workforce housing units.

Workforce housing unit (“WHU”): a dwelling unit that a household earning between 60% and 120% of the county’s median household income, as determined by the most recent census from the American Community Survey, is eligible to purchase or lease. ~~For sale housing that is affordable to those households earning eighty (80) percent of median household income for the Atlanta Metropolitan Statistical Area (MSA) as determined by the current fiscal year HUD income limit table at the time the building is built.~~

Workforce housing program applicant: any person, firm, partnership, association, or any other entity that seeks county permits and approvals, or the agent of such person or entity.

Chapter 27, Article 7, is hereby amended by creating Division 8 and adding sections 1 through 7 to read as follows:

27-7.8 DIVISION 8. WORKFORCE HOUSING REGULATIONS.

Sec. 7.8.1. - Findings, purpose, and intent.

- (a) The county finds that it is a public purpose of the county, and the stated public policy of the state of Georgia, to make available an adequate supply of housing for all socio-economic segments of its residents, while at the same time maintaining an economically sound and healthy environment.
- (b) The county finds that there is a shortage of quality and moderately priced housing for persons living and employed in DeKalb County who earn between 60% and 120% of the county’s median household income, and such a shortage is detrimental to the public health, safety, and welfare.
- (c) The county finds that there is insufficient federal or state support for programs to assist the county in meeting the housing needs of the segment of the public, private and non-profit sector of DeKalb County’s workforce that earn between 60% and 120% of the county’s median household income in the identified activity centers and job clusters.
- (d) The goal of the county is to ensure the availability of housing for persons of all income levels and to make housing available to the public, private and non-profit workforce in the areas of the county where they work.

- (e) The county finds that it is a legitimate public purpose to seek assistance and cooperation from the public, private and non-profit sectors in making available an adequate supply of housing for persons in all socio-economic segments of the county.

The purpose of this program is to ensure that future residential development in the county contributes to attaining the housing goals of DeKalb's comprehensive plan by increasing the production of units available for sale or lease to qualified households, in order to meet the needs documented in the housing element of the county's Comprehensive Plan.

Sec. 7.8.2. - Applicability and exemptions.

- (a) Developments for residential use or mixed-use projects with residential components in the county's activity centers with at least twenty-four (24) dwelling units per acre may voluntarily choose to provide workforce housing and, if participating, shall be entitled to a density bonus as set forth in this division.
- (b) Developments for residential use or mixed-use projects with residential components in job clusters with at least thirty (30) dwelling units per acre may voluntarily choose to provide workforce housing and, if participating, shall be entitled to a density bonus as set forth in this division.
- (c) Developments for residential use or mixed-use projects with residential components within a tax allocation district that receive financing from bonds or funds for participating in the tax allocation district shall be required to designate at least fifteen percent (15%) of the proposed dwelling units as workforce housing and shall be entitled to a density bonus as set forth in this division.
- (d) Developments for residential use or mixed-use projects with residential components within an enterprise zone or opportunity zone and benefitting from tax exemption(s) and/or tax abatement(s) pursuant to state law or chapter 24 of this code shall be required to designate at least fifteen percent (15%) of the proposed dwelling units as workforce housing and shall be entitled to a density bonus as set forth in this division.

Sec. 7.8.3. - Density bonuses.

- (a) Notwithstanding any contrary provisions in this chapter, any residential development or mixed-use project with a residential component with a density of at least twenty-four (24) units per acre when located within an activity center or at least thirty (30) dwelling units per acre when located in a job cluster shall be permitted to increase density up to twenty-five percent (25%) beyond that which is otherwise authorized by the code and/or comprehensive plan provided that:
 - (1) At least sixty-five (65%) percent of the additional units built as a result of the density increase are workforce housing units, and
 - (2) The WHUs with a range of sales prices and rental rates must be equitably distributed throughout the development.
- (b) The density bonus may be accomplished by the use of any or all of the following:

- (1) A reduction in minimum required on-site or off-street parking spaces;
- (2) A reduction in minimum unit size (i.e., square footage of heated floor area);
- (3) An increase in maximum lot coverage;
- (4) A reduction in minimum setbacks; and
- (5) An increase in maximum building height.

Sec. 7.8.4. - Priority in required county reviews.

- (a) The planning director shall prioritize the processing of applications for, the issuance of permits for and the scheduling of inspections for, all developments that include a workforce housing allocation pursuant to the requirements of this division.
- (b) The department of watershed management shall prioritize the processing of sewer capacity requests for all developments that include a workforce housing allocation pursuant to the requirements of this division.

Sec. 7.8.5 - Construction of workforce housing units.

- (a) WHUs shall be constructed, and made available for occupancy at the same time as market-rate units. In the event that a project is being built in phases, the construction and availability of WHUs in a project shall be proportional to the completion of the market-rate units.
- (b) Approved site plans and/or subdivision plats shall identify:
 - (1) the number and/or percentage of for-sale units and/or units for rent which are to be designated as workforce housing units.
 - (2) the specific workforce housing units within the development which will be available for-sale and/or for rent to eligible households.
 - (3) the number of each type of unit, by bedroom count, square footage, dimensions, and/ or other descriptive feature, which shall be made available for workforce housing.
- (c) WHUs shall be proportionately physically distributed throughout the development and shall not be clustered together or segregated away from market-rate units. Distribution of units may take into account the number of required WHUs in the project.
- (d) The exterior appearance of WHUs and the quality of materials, interior finishes and appliances shall be substantially similar to the market-rate units, unless modified as described in Sec. 2-921(a)(3) below.

Sec. 7.8.6 - Letter of compliance with workforce housing unit requirements.

The County shall not issue any land disturbance permits or development permits, nor shall any sketch plat be approved by the planning commission that includes any density bonus allowed pursuant to this division unless the applicant for the project has first received a letter of compliance

from the director of planning. The issuance of a letter of compliance by the director of planning shall relieve the developer from any obligation to submit an application for any specified density variance to the zoning board of appeals. Any increase in density approved by the director of planning shall not be the basis for the denial of a sketch plat by the planning commission. At a minimum, the letter of compliance shall include:

- (a) The specific number of market rate units and WHUs that will be constructed within a specified time period, and the applicable control period as defined in this division;
- (b) A requirement that each WHU in a single-family development shall have at least two (2) bedrooms;
- (c) A requirement that in multi-family dwellings, the number of one-bedroom WHUs does not exceed the number of market rate one-bedroom units in the development;
- (d) The permitted density bonus(es) and the means which have been authorized to accomplish the approved increase in density.
- (e) The project shall comply with Article 7, Division 8.

Sec. 7.8.7 - Plan submittal, review and approval.

- (a) *Pre-application meeting and review.* Prior to application submission, and to minimize development-planning costs, avoid error and misinterpretation, and increase compliance, a pre-application meeting between a prospective applicant, community development staff, watershed staff, and the planning staff shall be required. The prospective applicant shall submit to the planning director an architectural building plan and a site plan for the pre-application review and may submit any other information helpful to a preliminary review of the proposed development and its compliance with requirements applicable to workforce housing units. After said meeting is held, the planning director shall issue a written statement to the prospective developer confirming that the preliminary review meeting for the proposed development has taken place.
- (b) *Application and plans required.* An applicant for any land disturbance permit, building permit, or other permit required for construction or alteration of structures or sites that include workforce housing units shall submit an application for a letter of compliance with the workforce housing program on an approved form to the planning director. Each package must include full architectural and landscape plans and specifications. The submitted plans must include site plan architectural elevations and sections, renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signs, all of which shall demonstrate that the proposed design is in compliance with all the requirements of the workforce housing code, any applicable overlay district and the underlying zoning classification. The director of planning shall provide a copy of the submittals to the district and super district commissioners for review and comment. If the proposed development is also located in an historic district, the development shall also comply with the regulations contained in chapter 13.5 of the Code.

- (c) *Review by planning department staff.* Staff shall review the conceptual plans for compliance with specifications and design guidelines contained in the zoning ordinance, and particularly this division. If the application fails to comply with any provision in this zoning ordinance, the application shall be marked "failed compliance" and returned to the applicant with any comments and/or redlines for revisions, and may be re-submitted with corrections addressing the staff's comments and/or redlines for further consideration. If and when the application is found to be in compliance, the final design shall be forwarded to the director of planning for consideration.
 - (1) Where the director of planning determines that said plans comply with the requirements of this division and the larger zoning ordinance, the director of planning shall issue a written letter of compliance as contemplated by Section 7.8.6 of this code as a part of the application for land disturbance, building or other permits.
 - (2) Where the director of planning determines that submitted conceptual plans do not comply with the requirements of this division or chapter, then the director of planning shall notify the prospective applicant in writing of the plan's deficiencies. All applications shall be considered and decided by the director of planning within thirty (30) calendar days of receipt of a complete application. If not expressly approved within thirty (30) days, an application is deemed to be denied.
- (d) *Fees.* Plans shall be accompanied by an application and payment of a fee in an amount determined by the board of commissioners.

Chapter 27, Article 2, Table 2.6 entitled "Residential Density Bonus Eligibility and Percent, with Example Calculation" is hereby amended as follows:

Table 2.6 Residential Density Bonus Eligibility and Percent, with Example Calculation

Density bonus % increase by amenity, location, or other provision	
20% greater than base	
Public Improvements	Applicant provides any of the following improvements: transit facilities (bus shelter, ride-share), public art, structured parking, trail with public access, sidewalks and/or road improvements beyond project.
Transit Proximity	Existing park-n-ride or ride-share facility is located within ¼ mile of the property boundary.

Amenity Proximity	Existing amenities, such as healthcare facilities, senior and/or civic centers, public schools, public libraries, recreational facilities, personal service establishments, grocery stores, or shopping centers. (See section 2.12.7.)
25% greater than base	
Workforce Housing	15-year commitment to provide workforce housing units (60% - 120% AMI) subject to Section 7.8.2 et seq., along with specified zoning variances for applicant in activity center and other designated area. Household income levels shall be as established by the County Department of Community Development.
50% greater than base	
Sustainability Elements	Certification that proposed buildings, if built as designed, would be accredited by LEED®, EarthCraft, or other similar national accreditation organization, for energy- and water-efficient site and building design.
Mixed Income or Mixed Age	30-year enforceable commitment approved by the county attorney and recorded on the deed records that total number of units will be reserved to be occupied as follows: 10% by very low income households, or 20% by low income households, or 25% for senior citizens. Household income level shall be as established by the Atlanta Regional Commission.
Additional Enhanced Open Space	Additional enhanced open space (with standards established by article 5) comprise 20% of the overall development site.
100% greater than base	
Additional Enhanced Open Space	Enhanced open space comprises 35% or more of the overall development site.
MARTA Rapid Transit Station	Existing MARTA rapid transit station is located within ¼ mile of the property boundary.
Reinvestment Areas	Property is located within an Enterprise Zone or Opportunity Zone.

* * *

Chapter 2 is hereby amended by creating Article XIV to read as follows:

ARTICLE XIV. ADMINISTRATION OF WORKFORCE HOUSING REGULATIONS

Sec. 2-920. Interpretation.

Words or terms not defined in this article but defined in chapter 27, section 9.1.3 of the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context requires otherwise.

Sec. 2-921. Maximum sales prices and rent rates.

- (a) WHUs available for sale.
1. WHUs shall not be sold during the applicable control period at a price that exceeds the maximum price established by this article.
 2. The sale price of any WHU, including closing costs and brokerage fees, shall not exceed the maximum sale price as established annually by the governing authority.
 3. The governing authority, in conjunction with the monitoring agency, in establishing WHU maximum sale prices, shall seek appropriate information, such as current general market and economic conditions and the current minimum sale prices of private market housing in the County, and shall consult with the building industry, employers, and professional and citizen groups to obtain statistical information which may assist in setting a current maximum sale price. The governing authority shall annually consider changes in the income levels of qualified households and their ability to buy housing. The governing authority shall also consider the extent to which, consistent with code requirements, the cost of housing can be reduced by the elimination of amenities, the use of cost-reducing building techniques and materials, and the partial finishing of certain parts of the WHUs.
 4. The governing authority, in conjunction with the monitoring agency, shall establish maximum sale prices for WHUs that shall continue in effect until changed by later administrative regulations or ordinance. The maximum sale price shall be based on the necessary and reasonable costs required to build and market the various kinds of WHUs. The sale prices for any succeeding year shall be based on a new finding of cost by the governing authority, or on the prior year's maximum WHU price adjusted by the percentage change in the relevant cost elements indicated in the Consumer Price Index.
 5. The governing authority, in conjunction with the monitoring agency, may make interim adjustments in maximum WHU sale prices when sufficient changes in costs justify an interim adjustment. Any interim adjustment must be based on the

maximum WHU sale prices previously established, adjusted by the percentage change in the relevant cost elements indicated in the Consumer Price Index.

6. An applicant may increase the maximum sale price of a WHU when a determination is made by the governing authority that an increase is justified to cover the cost of modifying the external design of the WHUs or when a modification is necessary to reduce the excessive marketing impact of the WHUs on the market rate units in the residential development, but such increase must not exceed 10 percent (10%) of the allowable base price of the WHU.
- (b) Units available for lease.
- a. At least fifteen percent (15%) of the total residential rental units in any residential development built with bonuses pursuant to this provision shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 80 percent (80%) of the AMI limits. The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed rental limits to be based on AMI data published periodically by HUD to ensure that tenant households at 80 percent (80%) of the AMI pay no more than 30 percent (30%) of their household's monthly gross income, adjusting for the number of bedrooms in the units; or
 - b. At least ten percent (10%) of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60 percent (60%) of the AMI limits. The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed the rental limits to be based on AMI data published periodically by HUD to ensure that tenant households at 60 percent (60%) of the AMI pay no more than 30 percent (30%) of their household's monthly gross income, adjusting for the number of bedrooms in the units.

Sec. 2-922. Deed restrictions to establish control period for availability of affordable units for sale and lease.

- (a) WHUs for sale or lease that are part of a development which received a density bonus pursuant to this article shall maintain affordability for a minimum period of fifteen (15) years (the “control period”), unless a longer period is required by the terms governing any applicable subsidy enjoyed pursuant to participation in another program (for example, funds or a financing mechanism, administered by a public or quasi-public entity, including bonds, tax credits, and FHA financing). The control period shall be stated in the WHU letter of compliance which shall be recorded in the real estate records maintained by the Clerk of the Superior Court of DeKalb County prior to issuance of any land disturbance or building permits.

- (b e) *Deed restrictions and monitoring.* Excluding multi-family development, all deed restrictions shall provide that the 15-year control period shall restart upon the sale of any WHU before the expiration of the applicable control period stated above. The monitoring agency shall ensure that sales of all WHUs maintain affordability during the entire control period and remain owned by qualified households during the entire control period.

Sec. 2-923. Certificate of eligibility; sale or lease of WHUs.

- (a) Before offering any WHUs for sale or lease, the applicant shall notify the monitoring agency of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The written notice shall set forth the number of units offered for sale and/or for lease, the bedroom mix, the floor area for each unit type, a description of the amenities offered in each unit and a statement of the availability of each unit for sale, including information regarding any mortgage financing available to buyers of the designated unit. The applicant shall also give the monitoring agency a vicinity map of the offering, a copy of the approved development, subdivision or site plan, as appropriate, and such other information or documents as the monitoring agency requests.
- (b) The developer shall maintain a list of eligible employees. The monitoring agency shall be authorized to take all reasonable and necessary action to publicize the program and its eligibility requirements.
- (c) If the monitoring agency determines that the notice of offering is complete, then it shall decide whether the offering of the units to eligible persons for purchase and/or lease will be administered by lottery or by another method that will assure eligible persons an equitable opportunity to secure a WHU. The monitoring agency shall notify the applicant of the selection method and when the 90-day priority-marketing period for the WHUs will begin.
- (d) The monitoring agency may establish a buyer and/or renter election system that considers factors including, but not limited to, household size, county residency, and length of time since the person has been certified as eligible to participate in the WHU program. Each eligible person shall be notified of the availability of any WHU which would meet that person's housing needs and be given an opportunity to apply to buy or lease a WHU during the priority-marketing period in the order of that person's selection priority ranking.
- (e) The priority-marketing period for a new unit ends ninety (90) days after the initial offering date approved by the monitoring agency. The priority-marketing period for resold units ends sixty (60) days after the monitoring agency notifies the seller of the maximum approved resale price. The monitoring agency may extend a priority-marketing period when no eligible persons are interested in buying a WHU.
- (f) Applicants shall make a good-faith effort to enter into contracts with eligible persons during the priority-marketing period and for an additional period necessary to negotiate with eligible persons who indicate a desire to buy a WHU during that period.
- (g) Each buyer of a WHU shall occupy the unit as his or her primary residence and shall certify to the monitoring agency before taking occupancy that they will occupy the unit as their primary residence.

- (h) An applicant shall not sell a WHU without verifying that the prospective buyer has a current certificate of eligibility to purchase a WHU. The monitoring agency shall maintain a copy of each certificate issued to an eligible buyer.
- (i) A WHU shall not be sold to a previous purchaser of a WHU unless there is no first-time buyer qualified to buy that unit.

Sec. 2-924. Control of resale prices.

- (a) *Resale agreements.* All buyers of WHUs shall enter into a resale agreement with the monitoring agency prior to the closing on the purchase of a WHU. The resale agreement shall specify the required control period and shall allow the monitoring agency to designate an eligible purchaser for the unit if offered for sale during the control period. The resale agreement shall also confer the right of first refusal to purchase the unit on the monitoring agency. Such agreement shall be recorded in the real estate records maintained by the Clerk of the Superior Court of DeKalb County.
- (b) *Calculation of sale price during the control period.* Except for foreclosure proceedings, any WHU constructed for sale pursuant to this division must not be resold during the control period for a price greater than the original selling price plus the percentage of the unit's original selling price equal to the increase in the cost of living since the WHU was sold to the qualified household, as stated by the Consumer Price Index.

Sec. 2-925. Death of owner.

If a WHU owner dies, at least one heir, legatee, or other person taking title by will or by operation of law must be eligible for participation in the workforce housing program and occupy the WHU as their primary residence or the owner of record shall be required to sell the WHU in the manner set forth in this article.

Sec. 2-926. Annual report.

The monitoring agency shall report biennially (i.e., every 2 years) in writing to the governing authority regarding the program during the preceding twenty- four (24) months. The report shall include the number of workforce units authorized, the number completed, the number occupied, the price range of such units whether sold or leased, including the average sale or lease price, the locations of the units, the number of resales/re-leases and the average resale/re-lease price.

Sec. 2-927. Administrative regulations.

The governing authority shall promulgate administrative regulations necessary for the development and maintenance of workforce housing. Such regulations shall not exceed the authority granted herein or alter the purpose and intent of this article.

Sec. 2-928. Rule Making and Enforcement.

The monitoring agency may promulgate rules regarding the timing or submissions and requiring regular updates on compliance with these provisions. County may take any other legal remedies allowed under Code including but not limited to seeking an injunction to prevent the leasing or sale of units that would cause the project to exceed the number of market rate units under the WHU letter of compliance.

PART II. EFFECTIVE DATE

This ordinance shall become effective one hundred and twenty (120) days after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ___ day of _____, 2023.

ROBERT J. PATRICK
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ___ day of _____, 2023.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

CEDRIC HUDSON
Interim Director, Planning & Sustainability

VIVIANE H. ERNSTES
County Attorney

DRAFT

A N O R D I N A N C E

AN ORDINANCE TO AMEND THE CODE OF DEKALB COUNTY, GEORGIA, CHAPTERS 2 AND 27 TO PROVIDE FOR WORKFORCE HOUSING IN DEKALB COUNTY'S EMPLOYMENT CENTERS, ACTIVITY CENTERS, JOB CLUSTERS; AND FOR OTHER PURPOSES.

WHEREAS, pursuant to the Georgia Constitution, the Official Code of Georgia, and the Code of DeKalb County, the Board of Commissioners of DeKalb County has the authority to regulate land use within unincorporated DeKalb County; and

WHEREAS, the Board of Commissioners adopted a Zoning Ordinance amending Chapter 27 of the Code of DeKalb County providing for the regulation of land use and zoning related activity in DeKalb County and for other purposes at its regular meeting of August 25, 2015; and

WHEREAS, the Board of Commissioners recognizes that housing is an issue of paramount concern that affects the health, welfare, and safety of the citizens of the County; and

WHEREAS, housing is an issue that affects the economic viability and growth of communities in DeKalb County; and

WHEREAS, County's current *2050 Comprehensive Plan*, Chapter 3 *Policy Spotlights*, identifies workforce housing as a policy recommendation which requires specified numbers of affordable units or contributions to support affordable housing initiatives; and

WHEREAS, Section 1.1.3(O) of the *DeKalb County Zoning Ordinance* identifies the provision for, and promotion of housing for all income groups and citizens within the County as one of the many purposes of this chapter; and

WHEREAS, the Board of Commissioners wishes to promote homeownership and the development of moderately priced units available for lease in DeKalb County; and

WHEREAS, the private and non-profit sectors, whether operating independently or in collaboration with each other, possess the resources and expertise to provide moderately priced housing needed in the County; and

WHEREAS, the County wishes to encourage collaboration between developers in the private and non-profit sector for the development of workforce housing available for both lease and sale; and

WHEREAS, the 2020 Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area includes DeKalb, and lists the median household annual income as \$82,700; and

WHEREAS, the housing made available by this ordinance will be purchased or available for lease by the private, public, and non-profit sector of DeKalb County's workforce who are employed in DeKalb County and earn between 60% and 120% of the County's area median household annual income, including but not limited to, healthcare workers, teachers, law enforcement officers, fire and rescue workers, other civil service workers, and persons employed in the retail and hospitality industry; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for households of one person earning 60% of the AMI is \$34,740, and 120% is \$69,480; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for monthly rent earning 60% of the AMI is \$1,117 and 80% is \$1,490, for a two bedroom; and

WHEREAS, in 2020, the Atlanta-Sandy Springs-Roswell, GA HUD Metro FMR Area Income Limit for owner housing earning 60% of the AMI is \$154,890 and 120% is \$309,780, for a three bedroom; and

WHEREAS, in 2019, the household income that falls within that range earns between \$31,023 and \$64,632. Based on a calculation of housing costs as 30% of income, the cost of a house that a person earning \$31,023 can afford to purchase is \$94,623 and for a person earning \$64,632, that price is 193,896; and

WHEREAS, in 2020, the Zillow Home Value Index, which is seasonally adjusted, lists the middle-priced tier homes in DeKalb County as \$237,760; and

WHEREAS, the County has identified several areas of the County, in which there is significant economic activity that creates a large number of jobs but where there is limited or no available moderately priced housing available to the workforce within those areas; and

WHEREAS, the County has considered the mix of office, retail, service and civic uses with residential housing, the number of employers and eligible employees and access to major transportation corridors, and the County has concluded that those areas should be designated as activity centers and should be the focus of any effort to provide moderately priced housing for purchase by the workforce that works in those activity centers; and

WHEREAS, many of the identified activity centers are or have been the subject of a Livable Centers Initiative Studies and/or Small Area Plans; and

WHEREAS, the emerging appeal of mixed-use developments in the County and elsewhere in the Metropolitan Atlanta region signals a trend towards more compact residential development combining commercial uses which could be used to provide housing therein for a broader range of incomes; and

WHEREAS, it is the goal of this ordinance to insure that moderately priced housing is available for sale or lease to private, public, and non-profit sector residents who earn between 60% and 120% of the County's median household income as employees in identified centers of employment within DeKalb County; and

WHEREAS, it is in the best interests of the health, safety and welfare of the citizens of DeKalb County, Georgia that the Zoning Ordinance be further amended to address the need for affordable housing.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of DeKalb County, Georgia, and it is hereby ordained by the authority of same, that Chapters 2 and 27 of the Code of DeKalb County, Georgia are amended to read as follows:

PART I. ENACTMENT

Chapter 27, Section 27-9.1.2, entitled "Interpretation" is hereby amended by striking sub-section F in its entirety and adding the following text in place thereof so that Chapter 27, Section 27-9.1.2(F) shall read as follows:

~~Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. Words, terms and phrases, when used in this article, shall have the meanings ascribed to them as directed above, except where the text clearly indicates a different meaning.~~

Words or terms not defined in this article but defined in applicable state law or elsewhere in the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context requires otherwise.

* * *

Chapter 27, Article 9, entitled "Definitions" is hereby amended by adding the following definitions in alphabetical order to Section 27-9.1.3 to read as follows:

Sec. 9.1.3. - Defined terms.

Activity center: A character area designated by the comprehensive plan as a regional center, town center, or neighborhood center. In the workforce housing regulations, this means an unincorporated area of the County in which it has been determined from objective empirical data that the convergence of economic, educational, healthcare-related or research activity creates a hub of significant employment opportunities. In unincorporated DeKalb County, such areas are designated as activity centers on the future development plan and map as part of the *2050 Comprehensive Plan*. They are also further defined in the *2050 Comprehensive Plan* as Neighborhood, Town and Regional Centers.

AMI: means area median income, which is a statistic used by the United States Department of Housing and Urban Development (HUD) to determine the eligibility of applicants that fall within the middle range of income in a defined geographic boundary.

Density bonus: a density increase over the otherwise maximum allowed residential density as permitted as an incentive for offering workforce housing to public, private and non-profit sector eligible employees who earn qualifying moderate annual incomes.

Developer: means a person, firm, corporation, partnership, agency, or other legal entity that proposes to divide, subdivide, or construct improvements on real property.

Development for residential use: means any development including residential units, whether attached or detached, single-family or multi-family, for rent or for sale, held as fee simple or other form of ownership.

Eligible employees: for a workforce housing project, people who earn between 60% and 120% of the county's median household income and work in DeKalb County.

Employment Center: is a defined geographical area that contains job clusters and is the focal point for targeted local and regional labor force activities to produce goods and services.

Income limit: for a workforce housing project, the maximum amount of annual income a household can earn to qualify to be eligible to participate in the program.

Job clusters: in the workforce housing regulations, areas of the county where there are more than eight (8) jobs per acre or equivalent to 5,120 jobs per square mile but in excess of the regional average for the southeastern United States.

Market units or market-rate units: for a workforce housing project, dwelling units that are not restricted to those prices or rents deemed affordable to qualified workforce households.

Monitoring agency: for a workforce housing project, DeKalb County Community Development.

Notice of Offering: documentation to be provided to the monitoring agency to include the date on which the applicant will be ready to begin marketing to eligible persons and setting forth the

number of units offered for sale and/or for lease, the bedroom mix, the floor area for each unit type, a description of the amenities offered in each unit and a statement of the availability of each unit for sale, including information regarding any mortgage financing available to buyers of the designated unit as well as a vicinity map of the offering, a copy of the approved development, subdivision or site plan, as appropriate, and such other information or documents as the monitoring agency requests.

Qualified household: a household meeting the income restrictions established to be eligible for workforce housing units.

Workforce housing unit (“WHU”): a dwelling unit that a household earning between 60% and 120% of the county’s median household income, as determined by the most recent census from the American Community Survey, is eligible to purchase or lease. ~~For sale housing that is affordable to those households earning eighty (80) percent of median household income for the Atlanta Metropolitan Statistical Area (MSA) as determined by the current fiscal year HUD income limit table at the time the building is built.~~

Workforce housing program applicant: any person, firm, partnership, association, or any other entity that seeks county permits and approvals, or the agent of such person or entity.

Chapter 27, Article 7, is hereby amended by creating Division 8 and adding sections 1 through 7 to read as follows:

27-7.8 DIVISION 8. WORKFORCE HOUSING REGULATIONS.

Sec. 7.8.1. - Findings, purpose, and intent.

- (a) The county finds that it is a public purpose of the county, and the stated public policy of the state of Georgia, to make available an adequate supply of housing for all socio-economic segments of its residents, while at the same time maintaining an economically sound and healthy environment.
- (b) The county finds that there is a shortage of quality and moderately priced housing for persons living and employed in DeKalb County who earn between 60% and 120% of the county’s median household income, and such a shortage is detrimental to the public health, safety, and welfare.
- (c) The county finds that there is insufficient federal or state support for programs to assist the county in meeting the housing needs of the segment of the public, private and non-profit sector of DeKalb County’s workforce that earn between 60% and 120% of the county’s median household income in the identified activity centers and job clusters.
- (d) The goal of the county is to ensure the availability of housing for persons of all income levels and to make housing available to the public, private and non-profit workforce in the areas of the county where they work.

- (e) The county finds that it is a legitimate public purpose to seek assistance and cooperation from the public, private and non-profit sectors in making available an adequate supply of housing for persons in all socio-economic segments of the county.

The purpose of this program is to ensure that future residential development in the county contributes to attaining the housing goals of DeKalb's comprehensive plan by increasing the production of units available for sale or lease to qualified households, in order to meet the needs documented in the housing element of the county's Comprehensive Plan.

Sec. 7.8.2. - Applicability and exemptions.

- (a) Developments for residential use or mixed-use projects with residential components in the county's activity centers with at least twenty-four (24) dwelling units per acre may voluntarily choose to provide workforce housing and, if participating, shall be entitled to a density bonus as set forth in this division.
- (b) Developments for residential use or mixed-use projects with residential components in job clusters with at least thirty (30) dwelling units per acre may voluntarily choose to provide workforce housing and, if participating, shall be entitled to a density bonus as set forth in this division.
- (c) Developments for residential use or mixed-use projects with residential components within a tax allocation district that receive financing from bonds or funds for participating in the tax allocation district shall be required to designate at least fifteen percent (15%) of the proposed dwelling units as workforce housing and shall be entitled to a density bonus as set forth in this division.
- (d) Developments for residential use or mixed-use projects with residential components within an enterprise zone or opportunity zone and benefitting from tax exemption(s) and/or tax abatement(s) pursuant to state law or chapter 24 of this code shall be required to designate at least fifteen percent (15%) of the proposed dwelling units as workforce housing and shall be entitled to a density bonus as set forth in this division.

Sec. 7.8.3. - Density bonuses.

- (a) Notwithstanding any contrary provisions in this chapter, any residential development or mixed-use project with a residential component with a density of at least twenty-four (24) units per acre when located within an activity center or at least thirty (30) dwelling units per acre when located in a job cluster shall be permitted to increase density up to twenty-five percent (25%) beyond that which is otherwise authorized by the code and/or comprehensive plan provided that:
 - (1) At least sixty-five (65%) percent of the additional units built as a result of the density increase are workforce housing units, and
 - (2) The WHUs with a range of sales prices and rental rates must be equitably distributed throughout the development.
- (b) The density bonus may be accomplished by the use of any or all of the following:

- (1) A reduction in minimum required on-site or off-street parking spaces;
- (2) A reduction in minimum unit size (i.e., square footage of heated floor area);
- (3) An increase in maximum lot coverage;
- (4) A reduction in minimum setbacks; and
- (5) An increase in maximum building height.

Sec. 7.8.4. - Priority in required county reviews.

- (a) The planning director shall prioritize the processing of applications for, the issuance of permits for and the scheduling of inspections for, all developments that include a workforce housing allocation pursuant to the requirements of this division.
- (b) The department of watershed management shall prioritize the processing of sewer capacity requests for all developments that include a workforce housing allocation pursuant to the requirements of this division.

Sec. 7.8.5 - Construction of workforce housing units.

- (a) WHUs shall be constructed, and made available for occupancy at the same time as market-rate units. In the event that a project is being built in phases, the construction and availability of WHUs in a project shall be proportional to the completion of the market-rate units.
- (b) Approved site plans and/or subdivision plats shall identify:
 - (1) the number and/or percentage of for-sale units and/or units for rent which are to be designated as workforce housing units.
 - (2) the specific workforce housing units within the development which will be available for-sale and/or for rent to eligible households.
 - (3) the number of each type of unit, by bedroom count, square footage, dimensions, and/ or other descriptive feature, which shall be made available for workforce housing.
- (c) WHUs shall be proportionately physically distributed throughout the development and shall not be clustered together or segregated away from market-rate units. Distribution of units may take into account the number of required WHUs in the project.
- (d) The exterior appearance of WHUs and the quality of materials, interior finishes and appliances shall be substantially similar to the market-rate units, unless modified as described in Sec. 2-921(a)(3) below.

Sec. 7.8.6 - Letter of compliance with workforce housing unit requirements.

The County shall not issue any land disturbance permits or development permits, nor shall any sketch plat be approved by the planning commission that includes any density bonus allowed pursuant to this division unless the applicant for the project has first received a letter of compliance

from the director of planning. The issuance of a letter of compliance by the director of planning shall relieve the developer from any obligation to submit an application for any specified density variance to the zoning board of appeals. Any increase in density approved by the director of planning shall not be the basis for the denial of a sketch plat by the planning commission. At a minimum, the letter of compliance shall include:

- (a) The specific number of market rate units and WHUs that will be constructed within a specified time period, and the applicable control period as defined in this division;
- (b) A requirement that each WHU in a single-family development shall have at least two (2) bedrooms;
- (c) A requirement that in multi-family dwellings, the number of one-bedroom WHUs does not exceed the number of market rate one-bedroom units in the development;
- (d) The permitted density bonus(es) and the means which have been authorized to accomplish the approved increase in density.
- (e) The project shall comply with Article 7, Division 8.

Sec. 7.8.7 - Plan submittal, review and approval.

- (a) *Pre-application meeting and review.* Prior to application submission, and to minimize development-planning costs, avoid error and misinterpretation, and increase compliance, a pre-application meeting between a prospective applicant, community development staff, watershed staff, and the planning staff shall be required. The prospective applicant shall submit to the planning director an architectural building plan and a site plan for the pre-application review and may submit any other information helpful to a preliminary review of the proposed development and its compliance with requirements applicable to workforce housing units. After said meeting is held, the planning director shall issue a written statement to the prospective developer confirming that the preliminary review meeting for the proposed development has taken place.
- (b) *Application and plans required.* An applicant for any land disturbance permit, building permit, or other permit required for construction or alteration of structures or sites that include workforce housing units shall submit an application for a letter of compliance with the workforce housing program on an approved form to the planning director. Each package must include full architectural and landscape plans and specifications. The submitted plans must include site plan architectural elevations and sections, renderings depicting the building design including elevations and architectural details of proposed buildings, exterior materials and colors, and plans and elevations of all hardscape, landscape and signs, all of which shall demonstrate that the proposed design is in compliance with all the requirements of the workforce housing code, any applicable overlay district and the underlying zoning classification. The director of planning shall provide a copy of the submittals to the district and super district commissioners for review and comment. If the proposed development is also located in an historic district, the development shall also comply with the regulations contained in chapter 13.5 of the Code.

- (c) *Review by planning department staff.* Staff shall review the conceptual plans for compliance with specifications and design guidelines contained in the zoning ordinance, and particularly this division. If the application fails to comply with any provision in this zoning ordinance, the application shall be marked "failed compliance" and returned to the applicant with any comments and/or redlines for revisions, and may be re-submitted with corrections addressing the staff's comments and/or redlines for further consideration. If and when the application is found to be in compliance, the final design shall be forwarded to the director of planning for consideration.
 - (1) Where the director of planning determines that said plans comply with the requirements of this division and the larger zoning ordinance, the director of planning shall issue a written letter of compliance as contemplated by Section 7.8.6 of this code as a part of the application for land disturbance, building or other permits.
 - (2) Where the director of planning determines that submitted conceptual plans do not comply with the requirements of this division or chapter, then the director of planning shall notify the prospective applicant in writing of the plan's deficiencies. All applications shall be considered and decided by the director of planning within thirty (30) calendar days of receipt of a complete application. If not expressly approved within thirty (30) days, an application is deemed to be denied.
- (d) *Fees.* Plans shall be accompanied by an application and payment of a fee in an amount determined by the board of commissioners.

Chapter 27, Article 2, Table 2.6 entitled "Residential Density Bonus Eligibility and Percent, with Example Calculation" is hereby amended as follows:

Table 2.6 Residential Density Bonus Eligibility and Percent, with Example Calculation

Density bonus % increase by amenity, location, or other provision	
20% greater than base	
Public Improvements	Applicant provides any of the following improvements: transit facilities (bus shelter, ride-share), public art, structured parking, trail with public access, sidewalks and/or road improvements beyond project.
Transit Proximity	Existing park-n-ride or ride-share facility is located within ¼ mile of the property boundary.

Amenity Proximity	Existing amenities, such as healthcare facilities, senior and/or civic centers, public schools, public libraries, recreational facilities, personal service establishments, grocery stores, or shopping centers. (See section 2.12.7.)
25% greater than base	
Workforce Housing	15-year commitment to provide workforce housing units (60% - 120% AMI) subject to Section 7.8.2 et seq., along with specified zoning variances for applicant in activity center and other designated area. Household income levels shall be as established by the County Department of Community Development.
50% greater than base	
Sustainability Elements	Certification that proposed buildings, if built as designed, would be accredited by LEED®, EarthCraft, or other similar national accreditation organization, for energy- and water-efficient site and building design.
Mixed Income or Mixed Age	30-year enforceable commitment approved by the county attorney and recorded on the deed records that total number of units will be reserved to be occupied as follows: 10% by very low income households, or 20% by low income households, or 25% for senior citizens. Household income level shall be as established by the Atlanta Regional Commission.
Additional Enhanced Open Space	Additional enhanced open space (with standards established by article 5) comprise 20% of the overall development site.
100% greater than base	
Additional Enhanced Open Space	Enhanced open space comprises 35% or more of the overall development site.
MARTA Rapid Transit Station	Existing MARTA rapid transit station is located within ¼ mile of the property boundary.
Reinvestment Areas	Property is located within an Enterprise Zone or Opportunity Zone.

* * *

Chapter 2 is hereby amended by creating Article XIV to read as follows:

ARTICLE XIV. ADMINISTRATION OF WORKFORCE HOUSING REGULATIONS

Sec. 2-920. Interpretation.

Words or terms not defined in this article but defined in chapter 27, section 9.1.3 of the Code of DeKalb County, as Revised 1988, shall be given that meaning. All other words or phrases shall be given their common, ordinary meaning unless the context requires otherwise.

Sec. 2-921. Maximum sales prices and rent rates.

- (a) WHUs available for sale.
1. WHUs shall not be sold during the applicable control period at a price that exceeds the maximum price established by this article.
 2. The sale price of any WHU, including closing costs and brokerage fees, shall not exceed the maximum sale price as established annually by the governing authority.
 3. The governing authority, in conjunction with the monitoring agency, in establishing WHU maximum sale prices, shall seek appropriate information, such as current general market and economic conditions and the current minimum sale prices of private market housing in the County, and shall consult with the building industry, employers, and professional and citizen groups to obtain statistical information which may assist in setting a current maximum sale price. The governing authority shall annually consider changes in the income levels of qualified households and their ability to buy housing. The governing authority shall also consider the extent to which, consistent with code requirements, the cost of housing can be reduced by the elimination of amenities, the use of cost-reducing building techniques and materials, and the partial finishing of certain parts of the WHUs.
 4. The governing authority, in conjunction with the monitoring agency, shall establish maximum sale prices for WHUs that shall continue in effect until changed by later administrative regulations or ordinance. The maximum sale price shall be based on the necessary and reasonable costs required to build and market the various kinds of WHUs. The sale prices for any succeeding year shall be based on a new finding of cost by the governing authority, or on the prior year's maximum WHU price adjusted by the percentage change in the relevant cost elements indicated in the Consumer Price Index.
 5. The governing authority, in conjunction with the monitoring agency, may make interim adjustments in maximum WHU sale prices when sufficient changes in costs justify an interim adjustment. Any interim adjustment must be based on the

maximum WHU sale prices previously established, adjusted by the percentage change in the relevant cost elements indicated in the Consumer Price Index.

6. An applicant may increase the maximum sale price of a WHU when a determination is made by the governing authority that an increase is justified to cover the cost of modifying the external design of the WHUs or when a modification is necessary to reduce the excessive marketing impact of the WHUs on the market rate units in the residential development, but such increase must not exceed 10 percent (10%) of the allowable base price of the WHU.
- (b) Units available for lease.
- a. At least fifteen percent (15%) of the total residential rental units in any residential development built with bonuses pursuant to this provision shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 80 percent (80%) of the AMI limits. The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed rental limits to be based on AMI data published periodically by HUD to ensure that tenant households at 80 percent (80%) of the AMI pay no more than 30 percent (30%) of their household's monthly gross income, adjusting for the number of bedrooms in the units; or
 - b. At least ten percent (10%) of the total residential rental units shall be actively marketed for lease to households having an income, as certified by the prospective tenant(s) at the time of execution of the applicable lease agreement, that does not exceed 60 percent (60%) of the AMI limits. The monthly rent amount (not including utilities and mandatory fees) for each affordable workforce housing unit shall not exceed the rental limits to be based on AMI data published periodically by HUD to ensure that tenant households at 60 percent (60%) of the AMI pay no more than 30 percent (30%) of their household's monthly gross income, adjusting for the number of bedrooms in the units.

Sec. 2-922. Deed restrictions to establish control period for availability of affordable units for sale and lease.

- (a) WHUs for sale or lease that are part of a development which received a density bonus pursuant to this article shall maintain affordability for a minimum period of fifteen (15) years (the “control period”), unless a longer period is required by the terms governing any applicable subsidy enjoyed pursuant to participation in another program (for example, funds or a financing mechanism, administered by a public or quasi-public entity, including bonds, tax credits, and FHA financing). The control period shall be stated in the WHU letter of compliance which shall be recorded in the real estate records maintained by the Clerk of the Superior Court of DeKalb County prior to issuance of any land disturbance or building permits.

- (b e) *Deed restrictions and monitoring.* Excluding multi-family development, all deed restrictions shall provide that the 15-year control period shall restart upon the sale of any WHU before the expiration of the applicable control period stated above. The monitoring agency shall ensure that sales of all WHUs maintain affordability during the entire control period and remain owned by qualified households during the entire control period.

Sec. 2-923. Certificate of eligibility; sale or lease of WHUs.

- (a) Before offering any WHUs for sale or lease, the applicant shall notify the monitoring agency of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The written notice shall set forth the number of units offered for sale and/or for lease, the bedroom mix, the floor area for each unit type, a description of the amenities offered in each unit and a statement of the availability of each unit for sale, including information regarding any mortgage financing available to buyers of the designated unit. The applicant shall also give the monitoring agency a vicinity map of the offering, a copy of the approved development, subdivision or site plan, as appropriate, and such other information or documents as the monitoring agency requests.
- (b) The developer shall maintain a list of eligible employees. The monitoring agency shall be authorized to take all reasonable and necessary action to publicize the program and its eligibility requirements.
- (c) If the monitoring agency determines that the notice of offering is complete, then it shall decide whether the offering of the units to eligible persons for purchase and/or lease will be administered by lottery or by another method that will assure eligible persons an equitable opportunity to secure a WHU. The monitoring agency shall notify the applicant of the selection method and when the 90-day priority-marketing period for the WHUs will begin.
- (d) The monitoring agency may establish a buyer and/or renter election system that considers factors including, but not limited to, household size, county residency, and length of time since the person has been certified as eligible to participate in the WHU program. Each eligible person shall be notified of the availability of any WHU which would meet that person's housing needs and be given an opportunity to apply to buy or lease a WHU during the priority-marketing period in the order of that person's selection priority ranking.
- (e) The priority-marketing period for a new unit ends ninety (90) days after the initial offering date approved by the monitoring agency. The priority-marketing period for resold units ends sixty (60) days after the monitoring agency notifies the seller of the maximum approved resale price. The monitoring agency may extend a priority-marketing period when no eligible persons are interested in buying a WHU.
- (f) Applicants shall make a good-faith effort to enter into contracts with eligible persons during the priority-marketing period and for an additional period necessary to negotiate with eligible persons who indicate a desire to buy a WHU during that period.
- (g) Each buyer of a WHU shall occupy the unit as his or her primary residence and shall certify to the monitoring agency before taking occupancy that they will occupy the unit as their primary residence.

- (h) An applicant shall not sell a WHU without verifying that the prospective buyer has a current certificate of eligibility to purchase a WHU. The monitoring agency shall maintain a copy of each certificate issued to an eligible buyer.
- (i) A WHU shall not be sold to a previous purchaser of a WHU unless there is no first-time buyer qualified to buy that unit.

Sec. 2-924. Control of resale prices.

- (a) *Resale agreements.* All buyers of WHUs shall enter into a resale agreement with the monitoring agency prior to the closing on the purchase of a WHU. The resale agreement shall specify the required control period and shall allow the monitoring agency to designate an eligible purchaser for the unit if offered for sale during the control period. The resale agreement shall also confer the right of first refusal to purchase the unit on the monitoring agency. Such agreement shall be recorded in the real estate records maintained by the Clerk of the Superior Court of DeKalb County.
- (b) *Calculation of sale price during the control period.* Except for foreclosure proceedings, any WHU constructed for sale pursuant to this division must not be resold during the control period for a price greater than the original selling price plus the percentage of the unit's original selling price equal to the increase in the cost of living since the WHU was sold to the qualified household, as stated by the Consumer Price Index.

Sec. 2-925. Death of owner.

If a WHU owner dies, at least one heir, legatee, or other person taking title by will or by operation of law must be eligible for participation in the workforce housing program and occupy the WHU as their primary residence or the owner of record shall be required to sell the WHU in the manner set forth in this article.

Sec. 2-926. Annual report.

The monitoring agency shall report biennially (i.e., every 2 years) in writing to the governing authority regarding the program during the preceding twenty- four (24) months. The report shall include the number of workforce units authorized, the number completed, the number occupied, the price range of such units whether sold or leased, including the average sale or lease price, the locations of the units, the number of resales/re-leases and the average resale/re-lease price.

Sec. 2-927. Administrative regulations.

The governing authority shall promulgate administrative regulations necessary for the development and maintenance of workforce housing. Such regulations shall not exceed the authority granted herein or alter the purpose and intent of this article.

Sec. 2-928. Rule Making and Enforcement.

The monitoring agency may promulgate rules regarding the timing or submissions and requiring regular updates on compliance with these provisions. County may take any other legal remedies allowed under Code including but not limited to seeking an injunction to prevent the leasing or sale of units that would cause the project to exceed the number of market rate units under the WHU letter of compliance.

PART II. EFFECTIVE DATE

This ordinance shall become effective one hundred and twenty (120) days after adoption by the Board of Commissioners and approval by the Chief Executive Officer.

PART III. SEVERABILITY

Should any section or provision of this ordinance be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the ordinance as a whole nor any part thereof other than the part so declared to be invalid or unconstitutional. All ordinances or resolutions, or parts thereof, in conflict with this ordinance are repealed.

ADOPTED by the DeKalb County Board of Commissioners, this ___ day of _____, 2023.

ROBERT J. PATRICK
Presiding Officer
Board of Commissioners
DeKalb County, Georgia

APPROVED by the Chief Executive Officer of DeKalb County, this ___ day of _____, 2023.

MICHAEL L. THURMOND
Chief Executive Officer
DeKalb County, Georgia

ATTEST:

BARBARA H. SANDERS-NORWOOD, CCC
Clerk to the Board of Commissioners and
Chief Executive Officer
DeKalb County, Georgia

APPROVED AS TO SUBSTANCE:

APPROVED AS TO FORM:

CEDRIC HUDSON
Interim Director, Planning & Sustainability

VIVIANE H. ERNSTES
County Attorney

DRAFT