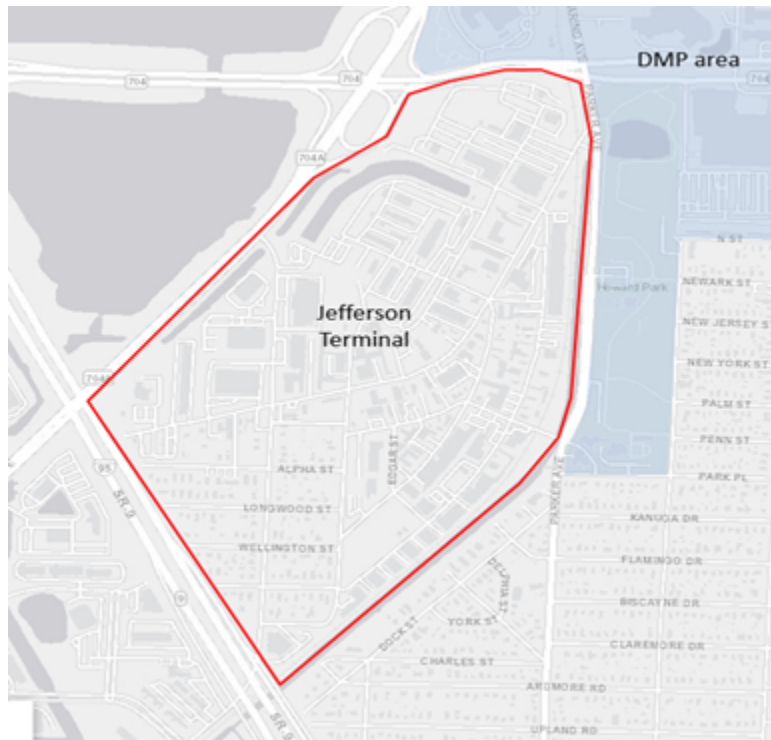
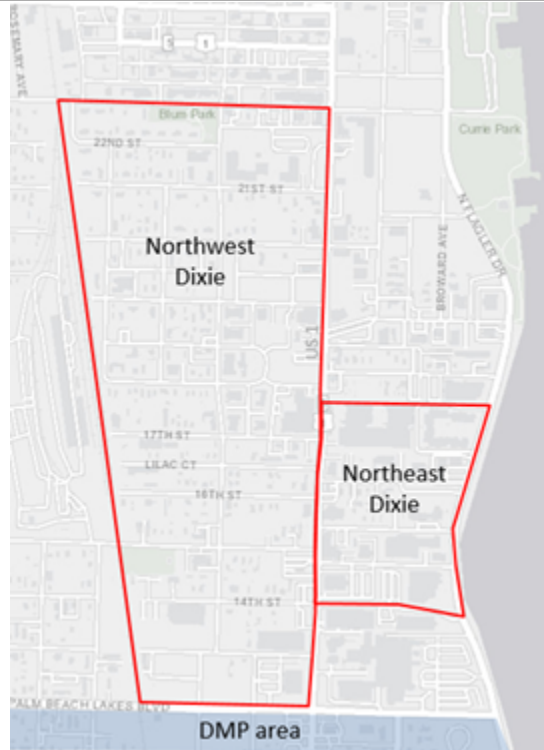

Sec. 94-134. - Downtown Master Plan housing incentive program.

- a. Intent. The intent of the DMP housing incentive program is to promote the construction of housing for families with incomes between 60%-100% of the Area Median Income within the downtown area.
- b. Applicable area. The DMP housing incentive program shall apply to: i) all TDR receiving site properties in the DMP area which propose the construction of residential uses, or mixed-use projects including more than 25% of the total gross building area for residential uses, and ii) Which intend to utilize the TDR incentive program.
- c. The DMP housing incentive shall not apply to those developments that are administered through federal, state or local housing agencies that dedicate all units for families with incomes below 80% of the AMI. These developments are still eligible to participate in the TDR program if designated as a receiving site [Figure IV-35](#). Projects under this category are eligible to utilize the exemptions from code requirements provided in Section [94-134\(e\)](#).
- d. DMP housing incentive program requirements:
 1. GBA set aside. 20% of the residential gross building area (GBA) allowed under the incentive shall be reserved for units for families with incomes between 60% and 100% of the AMI. For projects where the percentage of GBA from the incentive represents more than 60% of the project total GBA, the set aside for restricted units shall be reduced to 15% of the GBA allowed under the incentive.
 2. From the required GBA set aside, a 20% discount may be taken to account for efficiency, and the remainder square footage shall be divided by the project average unit size to determine the total number of units required to be reserved for the DMP housing incentive program.
 3. The total number of units required to be reserved for the DMP housing incentive program shall be divided to allocate at least 25% of the total number of units for households with income at 60% or below of the AMI; and 25% of the total number of units for households with income between 61% and 80% of the AMI. The remainder of the units reserved for the DMP housing incentive program may be allocated to any income level at 100% or below of the AMI.
 4. The unit types and sizes shall reflect the same ratio mix and sizes of the market rate units. The Planning and Zoning Administrator may authorize a variation on the ratio mix and unit size as long as the total amount of set aside GBA is maintained.
 5. The development shall comply with all the receiving site requirements in subsection [94-132\(e\)](#).
 6. The development shall comply with all subdistrict requirements and shall not exceed the maximum FAR and height allowed by [Figure IV-35](#) and the corresponding incentive building requirements table in section [94-132](#) of this code.

Additional details for the program are included in the Downtown Master Plan Housing Incentive Program Implementation Guide adopted by resolution of the city commission.

- e. The total number of units required to be reserved for the DMP housing incentive program ("restricted units") shall be provided in accordance with one of the following three alternatives:
 1. On site: The total number of restricted units required to be reserved for the DMP housing incentive program will be provided on site, as part of the development. Units shall comply with the following design standards:
 - A. All units shall be finished completely, including elements such as, but not limited to, appliances, finished floors, doors, light fixtures, and any other elements considered standard for a market-rate finished unit within the same building but may not necessarily be in the same model or finish level. The restricted units reserved for the DMP housing incentive program shall be integrated within the overall project.
 2. Off-Site: The total number of restricted units required to be reserved for the DMP housing incentive program for a development (incentivized project) will be provided by constructing the units at an alternative location (off-site project) in compliance with each of the following conditions:
 - A. The off-site location shall be within: (i) the Downtown Master Plan area; or (ii) within the Jefferson Terminal District; or (iii) the area immediately north of Good Samaritan Hospital, east of North Dixie Highway to the half block south of Pine Street; or (iv) the area between Palm Beach Lakes Boulevard, North Dixie Highway, 23rd Street, and the FEC ROW as indicated in [Figure VI-36](#).

**FIGURE IV-36:
ELIGIBLE AREAS FOR OFF-SITE PROJECTS OUTSIDE DMP BOUNDARIES**



- B. The off-site restricted units shall be new construction or renovation of previously abandoned/vacant structures and may be contained within one single project or several buildings.
- C. Construction of the off-site restricted units may be provided through an “exchange developer option”. The developer of the incentivized project may contract with a third-party developer to provide the

required restricted units off-site as part of the third party developer's project. The third party developer shall be required to meet all obligations of the program. Exchange development options are subject to the following provisions:

- a. The assumption of the incentivized projects obligations by the third-party developer shall be documented by written agreement acceptable to the city.
 - b. Before issuance of a building permit for the incentivized project, developer shall post a surety bond or letter of credit for the benefit of the city and acceptable to the city, in a total amount equal to of the payment in lieu amount, as calculated below. The city shall be entitled to claim against the surety bond or letter of credit should the off-site restricted units not be constructed in compliance with the program requirements. The surety bond or letter of credit will be released once the off-site project receives its certificate of occupancy. Once the bond or letter of credit is accepted by the City, the incentivized project will be considered in compliance with the DMP Housing Incentive Program.
 - D. The total GBA of the off-site restricted units shall be equal to the required GBA for on-site restricted units. Off-site restricted units shall comply with the average unit size required for downtown residential projects. If micro-units are provided, they can be excluded from the average unit size calculation, but the total number of micro units shall not exceed more than 30% of the required set aside gross building area.
 - E. Off-site restricted units shall be finished completely, including elements such as, but not limited to, appliances, finished floors, doors, light fixtures, and any other elements considered standard for a market-rate finished unit within the same building.
 - F. The off-site restricted units may be constructed in a project that contains other income restricted units or includes income restricted units required from another incentivized project. A single income restricted unit cannot be utilized to comply with requirements for two different incentivized projects.
 - G. The off-site restricted units cannot be located within developments that are administered through federal, state or local housing agencies that dedicate all units for families with incomes below 80% of the AMI.
 - H. The project where the off-site restricted units are to be constructed shall not utilize the off-site option to transfer the DMP housing incentive program units to a third site.
3. Payment in-lieu. The requirements of the DMP housing incentive program may be met by providing a monetary contribution to the city's Housing Trust Fund, in lieu of providing the restricted units. The city shall utilize such funds for housing programs and uses authorized for such funds.
- A. The total amount of the payment in lieu shall be based on the per square foot construction cost per the International Code Council Building Valuation Data table, as updated on a bi-annual basis. An additional 30% of the resulting construction cost will be added to the final fee to account for the cost of land.
 - B. The full payment shall be made prior to the issuance of the first building permit for the market rate units.
 - C. The calculation of the payment in lieu shall be based on the required 20% of GBA set aside, and no discount will be offered for efficiency.
 - D. The total amount of additional GBA allowed for a property according to the corresponding incentive table will be reduced by 20% for those projects utilizing the payment in lieu option.
- f. Affordability controls. All developments utilizing the DMP housing incentive shall enter into written housing development agreement with the city, in form and substance approved by the city, which shall include each of the following conditions:
1. The housing incentive development agreement shall be signed before a building permit will be issued.
 2. The DMP housing incentive program restricted units shall be sold or rented only to qualified buyers according to the most recent AMI income limits and rent limits table for Palm Beach County as reported by the Florida Housing Finance Corporations.
 3. The DMP housing incentive program restricted units shall be restricted to residency by qualified buyers or renters for an affordability period of twenty years from the date of final CO of the last unit, or final CO of last unit of each phase, if a phased project.
 4. A restrictive covenant evidencing the requirement for the DMP housing incentive program restricted units and the affordability period shall be executed and recorded against the project property in the public records of Palm Beach County.

- g. Use of the DMP housing incentive program will not negatively impact eligibility for any incentive that may be offered by the West Palm Beach Community Redevelopment Agency.
- h. Exemptions from code requirements. Projects with income restricted units on-site or off site in compliance with the DMP housing incentive program may be allowed the following additional incentives:
 - 1. Guest parking will not be required for the residential portion of the project.
 - 2. If any of the DMP housing incentive program units are proposed as microunits, those units shall not be included in the calculation for the required transit fee. The payment shall be required for all other micro units that are not income restricted.
 - 3. The private open space requirement may be reduced by 25% from the applicable building requirement table.
 - 4. The public open space requirement may be reduced by 15% from the applicable building requirement table. The remaining public open space shall be in one single location.
 - 5. Active use requirements along primary streets above the 1st story may be reduced by 30% from the applicable building requirement table, and active use requirements along Avenues above the 1st story may be reduced by 50%. Architectural treatment still would be requirement in compliance with the code.
 - 6. Conditional setbacks required for parking uses will be waived.
 - 7. The exemptions from code requirements will be applicable to the project where the income restricted units are located. Projects utilizing the payment in lieu to comply with the housing requirement will not be able to utilize the code exemptions.

(Ord. No. 4539-14, § 1 (Exh. A), 11-24-2014; Ord. No. 4547-15, § 5 (Exh. B), 4-13-2015; Ord. No. 4563-15, §§ 4 (Exh. A), 5 (Exh. B), 7-6-2015; Ord. No. 4691-17, § 6, 2-13-2017; Ord. No. 4674-16, § 5 (Exh. E), 2-27-2017; Ord. No. 4785-18, § 2 (Exh. B), 08-13-2018; Ord. No. 4904-20, § 4-6 (Exh. D-F), 09-21-2020; Ord. No. 4958-21, § 5 (Exh. A), 08-09-2021; Ord. No. 5032-23, § 4, 01-23-2023)