

**FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS  
PUBLIC HEARING / AGENDA ITEM # 9c**

**SUBJECT:** An Ordinance Creating a New Planned Affordable Development Section of the Land Development Code and Establishing Incentives to Increase the Supply of Affordable Housing, First Public Hearing.

**DATE OF MEETING:** June 7, 2021

**OVERVIEW/SUMMARY:** Florida is facing a shortage of 23 rental units for every 100 low wage households. Homeownership for moderate and lower income Floridians has declined by 10% in the past decade, partially due to increased costs driven by a lower supply than demand. County staff solicited feedback from a virtual housing work group representing the construction, development, and real estate industry, and then consulted the Affordable Housing Advisory Committee to consider a county ordinance or land use policy which would enhance the county's effort to increase the supply of affordable housing in accordance with Fla. Stat. §125.01055.

The attached ordinance has two major parts. The first is an amendment to Chapter 16 of the County Code, establishing incentives for the development of affordable housing such as the waiving of permit fees, impact fees, and development restrictions that would otherwise apply. The second portion of the ordinance is the creation of a new zoning district, Planned Affordable Development ("PAD"). Similar to planned unit developments, PAD's offer great flexibility by allowing deviations from normal development restrictions when developing affordable housing. Each proposed PAD would be evaluated on a case by case basis, and each PAD development criteria would be individually approved by the Board in a development agreement or ordinance.

On May 17, 2021, the Board conducted a workshop to consider a preliminary draft of the ordinance. The Board expressed concern that under the preliminary draft, PADs would be required to be within five miles of neighborhood shopping or a convenience store and would be allowed to utilize septic wastewater disposal systems. Based on this feedback, staff revised the ordinance to state that it is preferred, but not required, that PADs be within five miles of neighborhood shopping or a convenience store. The revised ordinance also states that centralized sewer systems are preferred. In addition, cluster housing and pocket neighborhoods have been added as permitted principal uses of land within the PAD zoning district.

The Affordable Housing Advisory Committee ("AHAC") met on May 25, 2021, to consider the draft ordinance. The AHAC made the following recommendations which have been incorporated into the ordinance for the Board's consideration:

- Imposing rent caps, on properties developed utilizing the incentives of the ordinance, equal to the formula used by the Florida Housing Finance Corporation. The caps are based on area median income and household size and are adjusted for inflation.
- Requiring the rent caps to remain in place for twenty years.
- Specifying that developers cannot circumvent the rent caps by charging extra fees.
- Bringing the ordinance back to the Board for evaluation and possible revision after one year.

The AHAC will review the updated ordinance on June 15th, and the Planning and Development Board will review the ordinance and provide comments on June 8th.

The ordinance will return to the Board for a second and final reading on June 21, 2021.

**FUNDING INFORMATION:** N/A

**DEPARTMENT CONTACT:** Growth Management Department (386) 313-4009  
County Attorney's Office (386) 313-4005

**RECOMMENDATION:** Conduct the Public Hearing on First Reading and Approve a Second and Final Reading on June 21, 2021 at 5:30 p.m. or soon thereafter.

**ATTACHMENTS:**

1. Ordinance
2. Legal Advertisement

**ORDINANCE 2021 - \_\_\_\_**

**AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS RENAMING CHAPTER 16 OF THE FLAGLER COUNTY CODE; CREATING DIVISION 4 OF ARTICLE II, CHAPTER 16, OF THE FLAGLER COUNTY CODE, ESTABLISHING INCENTIVES RELATED TO AFFORDABLE HOUSING; CREATING SECTION 3.03.20.6 OF THE LAND DEVELOPMENT CODE, ESTABLISHING CRITERIA FOR PLANNED AFFORDABLE DEVELOPMENTS; PROVIDING FOR CODIFICATION AND SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section (1)(f) of the Florida Constitution authorizes the Flagler County Board of County Commissioners ("County") to enact ordinances not inconsistent with general law; and

**WHEREAS**, Section 125.01055, Florida Statutes, a general law, provides that the County may adopt an ordinance for the purpose of increasing the supply of affordable housing using land use mechanisms; and

**WHEREAS**, there exists a critical shortage of decent, safe housing for persons of very low income, low income, and moderate income within Flagler County for which private capital and existing housing programs do not provide an adequate remedy; and

**WHEREAS**, Flagler County's Local Housing Assistance Plan acknowledges that regulatory burdens together with permitting and impact fees often make the development of affordable housing cost prohibitive; and

**WHEREAS**, the Board wishes to incentivize the private sector to engage in traditional and innovative solutions to increase the supply of affordable housing units by removing regulatory barriers and waiving fees to the extent feasible.

**NOW THEREFORE**, be it ordained by the Flagler County Board of County Commissioners as follows:

**SECTION 1. FINDINGS**

The above recitals are incorporated herein as true and correct and establish the legislative intent of this Ordinance.

**SECTION 2. FLAGLER COUNTY CODE OF ORDINANCES AMENDMENT**

Chapter 16 of the Flagler County Code of Ordinances is hereby renamed and amended to create a new Division 4, *Affordable Housing*, as follows (additions shown in underline, deletions shown as strikethrough):

**Chapter 16 – HUMAN ~~RIGHTS~~SERVICES AND SUPPORT**

\* \* \* \*

**ARTICLE II. – HOUSING**

\* \* \* \*

**DIVISION 4. AFFORDABLE HOUSING.**

**Sec. 16-79. – Affordable Housing Development Incentives.**

(a) The following incentives shall apply to any applicant seeking to develop housing that is affordable, as defined in Section 420.0004, Fla. Stat., or its successor, on any parcel that is zoned residential, commercial, industrial, or planned affordable development:

- (1) Waiver of density restrictions not exceeding the limitations of the parcel’s Future Land Use Map designation;
- (2) Waiver of county impact fees;
- (3) Waiver of county permit fees;
- (4) Allowance of affordable accessory dwelling units;
- (5) Reduction of parking and setback requirements;
- (6) Allow flexible lot configurations including wavier of minimum lot size;
- (7) Waiver of minimum livable area requirements; and
- (8) Expediting of permit applications.

Nothing herein shall be construed to limit the applicability of the Florida Building Code or Florida Fire Prevention Code.

- (b) Any applicant seeking to develop affordable housing utilizing the incentives identified in this section shall submit a building permit application with an affidavit of intent to comply with this section.
- (c) Any developer of affordable housing who wishes to avail incentives identified in this section shall, prior to receiving a certificate of occupancy, file a restrictive covenant in the Official Records of Flagler County for each parcel to which the incentives apply, specifying that:
- (i) For a period of ten years, no unit shall be sold except to very low, low, or moderate income persons as those terms are defined in this article; and
  - (ii) For a period of twenty years, no unit shall be rented except to very low, low, or moderate income persons as those terms are defined in this article; and
  - (iii) For a period of twenty years, no unit shall be leased above the rent limits established annually by the Florida Housing Finance Corporation.

The restrictive covenant shall run with the land and shall be enforceable by Flagler County, future tenants, and future purchasers of the property. These provisions shall be liberally construed to achieve the purpose of this article, and no property owner may impose fees and surcharges to circumvent the rent limits established by this section.

### **SECTION 3. FLAGLER COUNTY LAND DEVELOPMENT CODE AMENDMENT**

Article 3 of the Flagler County Land Development Code is hereby amended to create a new Section 3.03.20.6., *Planned Affordable Development*, as follows (additions shown in underline):

#### **3.03.20.6. - PAD—Planned affordable development.**

- A. *Purpose and intent.* The purpose and intent of the Planned Affordable Development (PAD) is to provide an opportunity for innovative affordable housing solutions for first time homeowners and workforce housing while providing improved use of land, protection of valuable natural features in the community, desirable land use mix, and more economical public services. The purpose of this provision is to encourage the unified development of large tracts of land using more creative and flexible concepts in site planning than would otherwise be possible through the strict application of minimum and maximum requirements of conventional land use districts established in this article. The proposed PAD must be in harmony with the general purpose of the article and the county's

comprehensive plan. The design and construction of a PAD project shall follow a carefully devised plan of development which must be prepared in accordance with the requirements, procedures and approvals herein prescribed.

B. Requirements. All new Planned Affordable Development (PAD) projects shall meet the following requirements:

1. All such PAD communities shall consist of residential uses and customary accessory uses consistent with the purpose and intent of this section.
2. All PAD communities shall be required to meet concurrency management criteria. In addition, PAD communities must be located on paved roads, preferably within five (5) miles of a neighborhood shopping/convenience store facility and employment opportunities.
3. Stormwater management systems shall comply with appropriate county, state and federal regulations.
4. PAD communities are encouraged to cluster dwelling units. Conventional subdivision design standards may be modified to allow for reduced development costs.
5. All internal roads within a PAD community must be paved.
6. The use of centralized sewer systems is preferred, and private conventional on site wastewater disposal systems (septic systems) in proposed projects shall be consistent with the county's comprehensive plan and permitted by the Florida Department of Health.

C. Permitted principal uses and structures. In the Planned Affordable Development (PAD) district, no premises shall be used except for the following uses and their customary accessory uses or structures, after compliance with the requirements of section 3.04.00 of this article:

1. Single-family dwellings; mobile homes.
2. Townhomes.
3. Mobile home subdivisions.
4. Mobile home parks.
5. Two-family dwellings.
6. Multifamily dwellings.
7. Micro-apartments; coliving.
8. Cluster housing.
9. Pocket neighborhoods.
10. Agrihoods.

The following uses are applicable to projects greater than fifty (50) residential units:

1. Community clubs
2. Public uses.
3. Public utilities.
4. Houses of worship.
5. Schools.
6. Medical or dental clinics.
7. Nursing homes.
8. Recreation and open space.
9. Child care centers designed and constructed according to child care center rules and regulations adopted pursuant to House Bill 1867, Chapter 69-1677, Special Acts, State of Florida, and revised on October 31, 1975.
10. Commercial uses compatible with the other uses proposed in the overall development plan.
11. Other uses and structures of a nature similar to those listed, after determination by the county commission at the time of overall development plan approval that such uses and structures are appropriate to the PAD development and to the overall development of the county.

D. Dimensional requirements.

1. Minimum project size: One acre or single lots.
2. Density: Subject to staff review at time of submission.
3. Minimum lot area: Subject to staff review at time of submission.

E. Detailed procedure. Review and approval of a Planned Affordable Development (PAD) shall follow the procedures and submittal requirements as a Planned Unit Development (PUD) in addition to any requirements contained herein. See section 3.04.00, Planned Unit Development.

F. Incentives. Planned Affordable Developments (PADs) may be entitled to incentives in the form of financial or regulatory modifications in accordance with Section 125.01055, Florida Statutes, or its successor. If an applicant files and qualifies for a PAD, incentives may include some or all of the following financial and regulatory incentives. Staff will review the requested incentives and make a recommendation as to which incentives should be considered, based on the extent that the proposed PAD meets the intent of the County's affordable housing initiative.

1. Financial Incentives. The county commission may elect to waive any or all fees associated with development and construction of land and structures associated with an approved PAD project. The determination of such waivers shall be in the sole discretion of the county commission, provided they are in compliance with Florida Law.
2. Regulatory Incentives. The county commission may provide waivers or modifications to regulatory provisions pertaining to the land development regulations, provided however, such waivers or modifications are not in conflict with Florida Law. Examples of such waivers (not exclusive) or modifications are listed below:
  - a. Density.
  - b. Setbacks.
  - c. Lot Coverage.
  - d. Accessory Structures.
  - e. Landscape Requirements.
  - f. Minimum living area.

#### **SECTION 4. ORDINANCE REVIEW**

The Board of County Commissioners will review this ordinance after a period of one year to evaluate its effectiveness and determine whether revisions are required.

#### **SECTION 5. CODIFICATION AND SCRIVENER'S ERRORS**

- A. The provisions of this Ordinance shall be included and incorporated into the Code of Ordinances of Flagler County, Florida, as additions and amendments thereto, and shall be appropriately renumbered or re-lettered to conform to the uniform numbering system of the Code. Scrivener's errors may be corrected as deemed necessary.
- B. Only Sections 2 and 3 herein shall be codified within the Flagler County Code of Ordinances. Sections not specifically amended herein shall remain unchanged by this Ordinance.

#### **SECTION 6. SEVERABILITY**

If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any Court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.



**SECTION 7. EFFECTIVE DATE**

This Ordinance shall take effect upon filing with the Secretary of State as provided in Section 125.66, Florida Statutes.

**PASSED AND ADOPTED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS, THIS 21ST DAY OF JUNE 2021.**

**FLAGLER COUNTY BOARD OF  
COUNTY COMMISSIONERS**

**ATTEST:**

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Donald T. O'Brien Jr., Chair

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Tom Bexley, Clerk of the Circuit  
Court and Comptroller

**APPROVED AS TO FORM:**

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Sean S. Moylan, Assistant County  
Attorney

2400 extension #1101.

**ORDINANCE NO. 2021-O-06**

**AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM COUNTY R-3W (URBAN SINGLE FAMILY RESIDENTIAL) TO CITY R-3 (SINGLE FAMILY RESIDENTIAL) FOR 1.4± ACRES OF CERTAIN REAL PROPERTY LOCATED AT 166 & 168 EAST CORY DRIVE, EDGEWATER, FLORIDA; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF EDGEWATER; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE, RECORDING AND ADOPTION.**

Submitted by,  
Bonnie Brown, CMC  
City Clerk

L# 5880044 May 27, 2021 11

**NOTICE BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION OF PROPOSED ORDINANCE TITLED SIMILAR TO:**

**AN ORDINANCE OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS CREATING DIVISION 4 OF ARTICLE II, CHAPTER 16, OF THE FLAGLER COUNTY CODE ESTABLISHING INCENTIVES RELATED TO AFFORDABLE HOUSING; CREATING SECTION 3.03.20.6 OF THE LAND DEVELOPMENT CODE ESTABLISHING CRITERIA FOR PLANNED AFFORDABLE DEVELOPMENTS; PROVIDING FOR CODIFICATION AND SCRIVENER'S**

**OND BEACH**



## Public Notices

**ERRORS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

Two public hearings on the above-captioned matter will be held as follows:

FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS – June 7, 2021 at 9:30 a.m., or as soon thereafter as possible, and June 21, 2021 at 5:30 p.m., or as soon thereafter as possible, both in the Flagler County Government Services Building, Board Chambers, 1769 E. Moody Boulevard, Building 2, Bunnell, Florida.

All interested persons are urged to attend the public hearing and be heard. Anyone wishing to express their opinion may attend, or telephone 386-313-4005 or write to: Flagler County Board of County Commissioners, 1769 E. Moody Blvd, Building 2, Bunnell, FL 32110 or email to [vcohen@flaglercounty.org](mailto:vcohen@flaglercounty.org). Staff reports and other pertinent information are available for review at the Flagler County Administration Office, 1769 East Moody Boulevard, Bldg, 2, Bunnell, Florida 32110. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE

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BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING, A RECORD OF THE PROCEEDINGS MAY BE NEEDED AND, FOR SUCH PURPOSES, THE PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT COUNTY ADMINISTRATION AT 386-313-4001 AT LEAST 48 HOURS PRIOR TO THE MEETING.

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**CITY OF EDGEWATER  
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Edgewater, Florida, will hold a public hearing on Monday, June 7, 2021, at 6:00 p.m. or as soon thereafter as