



Melbourne City Council
April 23, 2024
City Manager's Item Report

Department:	Community Development
Presenter:	Cindy Dittmer
Council District:	N/A
Reading Number:	2
Public Hearing:	Yes
Quasi-judicial Item (Disclosure Required):	No
Item Number:	B.11.

Subject:

Ordinance No. 2024-20, Zoning Text Amendment (TEXT2024-0002) and Land Development Regulations Text Amendment (TEXT2024-0003) Affordable Housing Code 2.0 Revisions.

Background/Consideration:

This is the second reading of an ordinance amending City Code, Appendix B, Articles II and V, and Appendix D, Chapter 10, Article I, regarding affordable housing to provide consistency with the definition of affordable housing and to clarify affordable housing incentives within the City.

In 2023, City Council adopted an ordinance that was consistent with the new Live Local Act and implemented development incentives for affordable housing. The ordinance created a new Section four of Article V within Appendix B, outlining the following: Live Local Act density/height allowances; residential density bonus; administrative approval process; affordability period requirements; reduced living area, setbacks, parking, lot size, and landscape allowances; waiver of impact fee allowance; and compliance/monitoring requirements. Since that time, staff has had many meetings with affordable housing developers and the need to clarify several areas of the newly amended sections of City Code has arisen.

There are four main changes proposed by the ordinance. First, changes were made to increase the consistency between three separate definitions of "affordable housing". Next, the changes provide further incentives for a lower minimum living area for low/very-low income multifamily residential units. The restriction for density bonus was clarified to only restrict those areas identified in a neighborhood policy within the Comprehensive Plan. Finally, the 30% rent restriction/limitation is clarified for those developments subject to local, state, and federal funding agency restrictions for low and very-low income households.

At its March 21, 2024 meeting, the Planning and Zoning Board voted unanimously to recommend approval of all proposed changes.

Fiscal/Budget Impact:

N/A

Requested Action:

Approval of Ordinance No. 2024-20 based upon the findings contained in the Planning and Zoning Board memorandum.

Memorandum

To: Jenni Lamb, City Manager
Thru: Cindy Dittmer, Community Development Director
From: Cheryl A. Dean, AICP, Planning Manager
Re: **Zoning Text Amendment (TEXT2024-0002), and Land Development Regulations Amendment (TEXT2024-0003): Affordable Housing Code 2.0 Revisions**
Date: March 28, 2024

Owner/Applicant/Representative

➤ Applicant – City of Melbourne

Proposed Action

As it relates to Affordable Housing, the following actions are requested:

- Amend Appendix B, Article II, Definitions;
- Amend Appendix B, Article V, Section 4, Affordable Housing Development; and
- Amend Appendix D, Chapter 10, Article I, Section 10.02, Definitions.

Location

This action shall apply to all properties in the City of Melbourne, with specific sections of Code that promote affordable housing.

History

- 1994: Ord.1994-40. Current City Code residential use standards for affordable housing are based upon development standards established by Ord. 94-40. This ordinance defined affordable housing, created the R-1B zoning district for single family residential development.
- 2010: Ord. 2010-14. Amended affordable housing development standards by adding required percentages of affordable housing dwelling units based on income levels, and reduced building setbacks, parking requirements, and landscape buffers.
- 2019: Ord. 2019-18. Amended City Code to provide an impact fee deferral allowance for all impact fees assessed to affordable housing developments.
- 2022: City Council adopted new development standards as incentives to affordable housing development (FOC2023-0002, TEXT2023-0003, TEXT2023-0004/ Ordinance No. 2022-01).

2022: City Council discussed additional incentives related to density bonus, density allowance and impact fee waiver for all fees excluding water and sewer.

2023: A resolution amending the Comprehensive Plan was transmitted by City Council with the incentive changes in January (Resolution No. 4139).

2023: On March 29, 2023, the Governor signed the new Live Local Act (CS/SB 102; Ch. 2023-17) (the “Act”) that contained funding commitments for affordable housing along with local government preemptions regarding zoning and land development issues for the development of affordable housing. The requirements of the Act become effective on July 1, 2023.

2023: (June) City Council adopted the Comprehensive Text Amendment that addressed the incentive changes (TEXT2022-0009AD/Ordinance No. 2023-20)

2023: (June) City Council adopted changes throughout City Code to create a new affordable housing development section in compliance with the Live Local Act (CS/SB 102; Ch. 2023-17), (TEXT2023-0003/TEXT2023-0004/Ordinance No. 2023-21).

Issues and Considerations

City Council approved an ordinance in 2023 that was consistent with the Live Local Act and implemented other development incentives for affordable housing. The ordinance created a new Section 4 of Article V, outlining the following related to affordable housing: Live Local Act density/height allowances; Residential density bonus; Administrative approval process; Affordability period requirements; reduced living area, setbacks, parking, lot size, and landscape allowances; waiver of impact fee allowance; requirements; and compliance/monitoring requirements. Since that time, staff has had many meetings with affordable housing developers and the need to clarify several areas of the code has arisen.

Summary of Proposed Changes to City Code to Update Affordable Housing Code

Definitions.

The definition of “affordable housing” appears in three locations in City Code, all of which are consistent with each other and also referencing the definition within Florida Statutes. The definition located in Chapter 34, Section 34-22 has an additional sentence that staff is proposing to add to the other two definitions to be consistent.

Incentive Options within Zoning Code (Appendix B, Article V, Section 4).

➤ Minimum Living Area. The current affordable housing standards in City Code reduce the minimum living area for single-family homes and multi-family for efficiency units only. In Table 1A, only the efficiency units were provided a reduction in the minimum living area from 450 square feet to 400 square feet. The intent by staff in 2023, was to provide a reduction in living area for all unit types in the low and very-low income categories for multifamily development. The proposed changes are as follows for multi-family and mixed-use for the very-low and low income households only:

- An Efficiency Unit is reduced from 450 to 350 square feet (amended);
- A One-bedroom unit is reduced from 550 to 400 square feet (amended);
- A Two-bedroom unit is reduced from 650 to 600 square feet (amended);

- A Three-bedroom unit is reduced from 800 to 750 square feet (amended).
- Density Bonus. A footnote at the bottom of the density bonus table was written as an incomplete sentence. The language added to the note now specifically states that properties with neighborhood protection policies in the Comprehensive Plan are not eligible for the density bonus. In addition, the density bonus restriction for zoning districts with a restricted density cap is eliminated.
- Income Restrictions and Rent Limitations. The rent limitations section currently limits the monthly tenant rent to not exceed 30 percent of the household income occupying the unit. After further research, staff has found that certain Local, State and/or Federal funding agencies may have criteria that conflict with this language for low and very-low income categories. Staff has added an allowance to defer to the income rent limitations established by these outside funding agencies, so there is no conflict for a proposed low or very-low income development/units. This exception does not apply to moderate income units.

Summary

The proposed changes to City Code regarding affordable housing will provide consistency with the definition of affordable housing and offer additional incentives to developers, especially those developing within the low and very-low income categories.

Planning and Zoning Board Action

During the public hearing of the March 21st, 2024 Planning and Zoning Board meeting, the Board voted unanimously to recommend approval of proposed changes.

Recommendation

Approval of the Zoning and Land Development text ordinance (TEXT2024-0002/TEXT2024-0003) based upon the findings contained within the Planning & Zoning Board memorandum.

Memorandum

To: Mayor and Council

From: Marcus Smith, Chairman, Planning and Zoning Board

Re: **Finding of Consistency (FOC2024-0001), Zoning Text Amendment (TEXT2024-0002), and Land Development Regulations Amendment (TEXT2024-0003): Affordable Housing Code 2.0 Revisions**

Date: March 22, 2024

Applicant: City of Melbourne

The Planning and Zoning Board, at its regular scheduled meeting of March 21, 2024, reviewed the above Finding of Consistency, Zoning Text Amendment and Land Development Regulations Text Amendment requests.

Following review and discussion, the Planning and Zoning Board voted unanimously to recommend approval of items FOC2024-0001, TEXT2024-0002, and TEXT2024-0003, pursuant to the following findings:

Findings for the Proposed City Code Revisions

1. The proposed modifications to City Code are consistent with the goals and objectives of the Comprehensive Plan and will assist in the execution of policies within the Comprehensive Plan. The proposed revisions will implement policy language that enhances the application of affordable housing regulations within the City of Melbourne. The proposed revisions will enhance these regulations by providing incentives and reducing development barriers.
2. The proposed changes amend sections for affordable housing development which enhance standards related to minimum living area, density bonuses, income restrictions and rent limitations. The proposed modifications will implement Code language that promotes affordable housing developments within the City of Melbourne.
3. The proposed Code changes are consistent with Housing Element Policy 1.2.2 which states the City shall encourage and assist the private sector in the provision of safe, clean, and affordable housing for workforce, very-low-, low- and moderate-income households. The proposal will encourage the provision of affordable and workforce housing within the City. The proposed Code modifications will assist the private sector in the provision of affordable housing by reducing development barriers and providing incentives.

4. The proposed revisions are consistent with Housing Element Policy 1.2.4 which states the City shall continue implementing regulations in the Land Development Code to provide incentives to developments with affordable housing and workforce housing units while analyzing their effectiveness. These incentives could include, but are not limited to, increased densities; flexible development regulations; and deferment, subsidy and/or waiver of building permit fees, impact fees and inspection fees. The subject Code changes provide for a reduction in minimum living area for affordable housing units. The proposed revisions also clarify Code standards related to income restrictions and rent limitations.
5. The proposed changes are consistent with Housing Element Policy 1.2.5 which states the City shall encourage the provision of affordable housing in infill/redevelopment areas by providing incentives. The City shall also encourage the development of affordable housing in the Community Redevelopment Districts. The proposed revisions modify density bonus language for affordable housing developments, reduce the minimum living area for affordable units, and modify income restriction and rent limitation standards.
6. The proposed modifications are consistent with Future Land Use Element Objective 1.22, which states the City shall maintain, amend and develop new land use and development regulations to implement the Comprehensive Plan. The proposed changes will aid in the implementation of City Code requirements by augmenting regulations relating to the provision of affordable housing.
7. The proposal will have no adverse effect on the City's ability to provide adequate public services and facilities. The proposed changes will assist in the implementation of City Code requirements for affordable housing. The modifications will support the construction of affordable housing development within the City of Melbourne.
8. The proposed changes will not significantly change the general character of the City, cause depreciation of property values, or reduce the safety, light, and general convenience of neighboring developments as the revisions reinforce the administration of City Code requirements. Specifically, the proposed modifications enhance affordable housing standards in City Code while encouraging the provision of affordable housing within Melbourne.
9. The subject modifications will further development and redevelopment efforts by making City Code more user-friendly to property owners, the development community, and City staff. The proposed modifications will encourage the development of affordable housing developments within the city.

Respectively Submitted,

 for
Marcus Smith, Chairman

Planning and Zoning Board

ORDINANCE NO. 2024-20

AN ORDINANCE OF THE CITY OF MELBOURNE, BREVARD COUNTY, FLORIDA, AMENDING DEFINITIONS AND STANDARDS RELATED TO AFFORDABLE HOUSING; MAKING FINDINGS; AMENDING APPENDIX B OF THE CITY CODE, ENTITLED "ZONING"; AMENDING ARTICLE II, DEFINITIONS; AMENDING ARTICLE V, DISTRICT REGULATIONS; AMENDING APPENDIX D OF THE CITY CODE, ENTITLED "LAND DEVELOPMENT CODE"; AMENDING CHAPTER 10, IMPACT FEES; PROVIDING FOR SEVERABILITY AND INTERPRETATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE. (FOC2024-0001 / TEXT2024-0002 / TEXT2024-0003)

WHEREAS, in June 2023, the City Council adopted Ordinance No. 2023-21, which provided for changes throughout the City Code in compliance with the Live Local Act (CS/SB 102, Ch. 2023-17) and implemented other development incentives for affordable housing; and

WHEREAS, since the adoption of these changes, staff has met with several potential affordable housing developers and has identified the need to clarify several provisions of the City Code related to affordable housing development; and

WHEREAS, the proposed ordinance will provide consistency with the definition of affordable housing and will provide for further additional incentives to affordable housing developers, especially those developing housing within the low and very-low income categories; and

WHEREAS, the Planning and Zoning Board, sitting as the Local Planning Agency, reviewed this ordinance at its meeting on March 21, 2024, conducted a public hearing with regard to this ordinance, and found same to be consistent with the City of Melbourne Comprehensive Plan; and

WHEREAS, the City Council hereby adopts the findings of the Planning and Zoning Board as its own and finds this ordinance to be in the promotion of the public health, safety, welfare, morals, public order and aesthetics of the community and the region.

BE IT ENACTED BY THE CITY OF MELBOURNE, FLORIDA:

SECTION 1. That Appendix B, Article II of the City Code of Melbourne, Florida, is hereby amended to read as follows:

APPENDIX B. ZONING

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ARTICLE II. DEFINITIONS

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Affordable housing. Residential dwelling units with monthly rents or monthly mortgage payments including taxes and insurance not exceeding 30 percent of the median annual income for low, moderate, or very-low income households in accordance with F.S. § 420.9071, as amended from time to time. Median annual income shall be determined by the Florida Housing Finance Corporation for the Palm Bay-Melbourne-Titusville Metropolitan Statistical Area. Income limits are updated periodically and are available from the community development department, upon request. See appendix B, article V, section 4, affordable housing development.

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ARTICLE V. DISTRICT REGULATIONS

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Sec. 4. Affordable housing development.

This section describes options and incentives for affordable housing development along with the process and approvals necessary to obtain these allowances, compliance and monitoring, and enforcement. Unless otherwise stated, terms are defined in appendix B, article II.

Affordable housing includes residential or mixed-use developments containing residential units that are occupied by households with annual incomes at or below 120 percent of the median annual income for the Palm Bay-Melbourne-Titusville Metropolitan Statistical Area. These categories include moderate-income household, low-income household and very-low-income household, as defined.

* * * *

(C) Provisions for affordable housing incentive options

- (1) Use of specific zoning standards and land development regulations for affordable housing.

* * * *

- (c) The development of affordable housing in C-3 zoning, shall comply with the C-3 standards for lot areas, width, depth, coverage, and height identified in appendix B, article V, section 2(d), Table 2B, and the Central Business Overlay Zone identified in appendix B, article V, section 3(B), except for minimum living areas as identified in Table 1A below.

Table 1A: Minimum Living Area				
	Single-, Two-, Three-family, and Townhouses	Multi-family and Mixed Use (<u>Moderate-income</u>)	<u>Multi-family and Mixed Use (Very-low and Low-income)</u>	C-3 zoning district
Minimum living area (sq. ft.)				
Efficiency	—	400	<u>350</u>	400
One-bedroom	550	550	<u>400</u>	550 <u>500</u>
Two-bedrooms	650	650	<u>600</u>	650 <u>600</u>
Three-bedrooms	800 ¹	800 ¹	<u>750</u> ¹	800 ¹

¹ Plus 100 square feet for each additional bedroom.

* * * *

- (3) Density bonus. Density bonus may only be considered for properties with R-1B, R-2, and R-3 zoning. If located within a future land use map classifications that provides for a residential density.

Based upon the future land use designation on the property, the following residential units per acre (upa) could be permitted for affordable housing utilizing the 30 percent density bonus:

Future Land Use	Activity Center	Non-Affordable Housing Density Permitted	Affordable Housing Density Bonus*
Low Density Residential	N/A	6 units per acre	7.8 units per acre

Future Land Use	Activity Center	Non-Affordable Housing Density Permitted	Affordable Housing Density Bonus*
Medium Density Residential	N/A	15 units per acre	19.5 units per acre
Mixed Use	Not within Activity Center	15 units per acre	19.5 units per acre
High Density Residential	N/A	30 units per acre	39 units per acre
Mixed Use	MAC	30 units per acre	39 units per acre
<p>* This is the maximum permitted density, utilizing the density bonus option. NOTE: Density limitations in zoning districts with a restricted density cap or p <u>Properties subject to the neighborhood protection policies identified within the comprehensive plan are not eligible for a residential density bonus.</u></p>			

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(G)

Monitoring and compliance. Each affordable housing development will be required to provide documents to the city showing compliance of all criteria throughout the affordability period.

(1) *Income restrictions and rent limitations.*

* * * *

(b) For affordable housing development projects with rental units, the following income restrictions and rent limitations apply:

* * * *

2. Rent limitations. Monthly tenant rent shall conform with any income or rental limitation requirements of any funding source for the affordable housing development project, or if no such requirements exist, shall not exceed the amounts as annually established by the Florida Housing Finance Corporation. If the Florida Housing Finance Corporation has not established updated amounts, the community development director is authorized to set income and rental limitation requirements for rental units. Additionally Further, monthly tenant rent shall not exceed 30 percent of the household income occupying the unit unless required by a local, state or federal funding agency for low income households or below.

SECTION 2. That Appendix D, Chapter 10, of the City Code of Melbourne, Florida, is hereby amended to read as follows:

APPENDIX D. LAND DEVELOPMENT CODE

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CHAPTER 10. IMPACT FEES

ARTICLE I. TRANSPORTATION IMPACT FEES

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Sec. 10.02. Definitions.

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Affordable housing means residential dwelling units with monthly rents or monthly mortgage payments including taxes and insurance not exceeding 30 percent of the median annual income for low, moderate, or very-low income households in accordance with F.S. § 420.9071, as amended from time to time. Median annual income shall be determined by the Florida Housing Finance Corporation for the Palm Bay-Melbourne-Titusville Metropolitan Statistical Area. Income limits are updated periodically and are available from the community development department, upon request. See appendix B, article V, section 4, affordable housing development.

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SECTION 3. Severability and Interpretation.

(a) That it is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional, illegal or otherwise void by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, illegality, or other declaration shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

(b) That in interpreting this ordinance, underlined words indicate additions to existing text and ~~stricken words~~ indicate deletions from existing text. Asterisks (* * * *) indicate an omission from the ordinance of text, which exists in the Code of Ordinances. It is intended that the text in the

Code of Ordinances denoted by the asterisks and not set forth in this ordinance shall remain unchanged from the language existing prior to adoption of this ordinance.

SECTION 4. That this ordinance shall become effective immediately upon its adoption in accordance with the Charter of the City of Melbourne.

SECTION 5. That this ordinance was passed on first reading at a regular meeting of the City Council on the 9th day of April, 2024, and adopted on the second and final reading at a regular meeting of the City Council on the _____ day of _____, 2024.

BY: _____
Paul Alfrey, Mayor

ATTEST: _____
Kevin McKeown, City Clerk

[CITY SEAL]

Ordinance No. 2024-20