

ORDINANCE NO. 2021-304

AN ORDINANCE AMENDING CITY LAND DEVELOPMENT CODE (“LDC”) § 6.22 TO ESTABLISH AFFORDABLE HOUSING INCENTIVES AND PROVIDE FOR AFFORDABLE HOUSING INVENTORIES IN CONFORMITY WITH THE STATE HOUSING INITIATIVES PARTNERSHIP ACT, F.S. § §420.907 – 420.9079; AMENDING LDC § 8.4, NON-CONFORMING LOTS OF RECORD, AND LDC § 10.5, DEFINITIONS, TO CONFORM TO THESE AFFORDABLE HOUSING AMENDMENTS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to the State Housing Initiatives Partnership Act (“SHIP Act”), F.S. §§ 420.907 – 420.907, the Florida Housing Finance Corporation (“FHFC”) annually distributes state funds (“SHIP Funds”) to the City for the City’s use in expanding affordable housing opportunities for City residents in accordance with specific conditions set forth in the SHIP Act and implementing regulations (collectively, the “SHIP Program”); and

WHEREAS, in accordance with SHIP Program requirements, the City adopted a Housing Assistance Plan containing administrative procedures and strategies for the City’s distribution of SHIP Funds (*see* City Ord. No. 93-37), and adopted land development regulations providing for local housing incentive strategies (*see* City Ords. No. 94-104, 00-263, and 03-92); and

WHEREAS, City Ord. No. 15-23, which adopted the City’s current Land Development Code (“LDC”) inadvertently omitted many of these previously-adopted local housing incentive strategies; and

WHEREAS, City staff now propose to amend LDC § 6.22 to re-establish and update these previously-adopted local housing incentive strategies; and

WHEREAS, the Planning Board has reviewed the proposed amendments and recommends approval.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF  
DAYTONA BEACH, FLORIDA:

SECTION 1. Section 6.22 of Article 6 of the Land Development Code is hereby  
amended as follows [~~strike through~~ indicates deleted text; underline indicates added text]:

**Sec. 6.22. Affordable Housing.**

~~All affordable housing projects shall meet the definition of "affordable" per Florida Statutes. The City's incentive strategies implemented to encourage and facilitate affordable housing include:~~

~~A. Permits for affordable housing projects are expedited to a greater degree than other projects; and the City has an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption. Affordable housing projects shall be identified during the permitting process and provided assistance to expedite the permit(s), as needed. Policies, ordinances, regulations, and/or plan provisions that increase the cost of housing may form the basis for adoption or modification of a strategy to facilitate affordable housing.~~

**A. Purpose.** In order to further the goal of providing affordable housing for all City residents, the City adopted a local housing assistance program and plan pursuant to the William E. Sadowski Affordable Housing Act, the State Housing Initiatives Partnership (SHIP) Act, and related state laws and regulations. The purpose of this section is to encourage and facilitate development of new affordable housing units and subdivisions within the City by providing for the modification of certain development standards and requirements as an incentive for private developers to include affordable housing units and subdivisions in their development projects. The City encourages development of affordable housing in all areas of the City, discourages concentrations of low-income or affordable housing, and strongly supports development of housing units that lead to home ownership.

**B. Definitions.** Certain terms used in this section are defined as follows:

*Adjusted median annual income.* The median income for the local area, adjusted for family size, as determined by the U.S. Department of Housing and Development and the Florida Housing Finance Corporation.

*Affordability period.* The period during which a dwelling unit is reserved for use in accordance with this section. The minimum affordability period will be 10 years from the issuance of the certificate of occupancy, unless waived or modified by the city commission.

*Affordable.* A dwelling unit is affordable when the cost of purchasing (inclusive of mortgage, real estate taxes and insurance) or leasing (inclusive of rent and utilities) does not exceed 30% of a qualifying household's income level.

*Affordable housing.* A dwelling unit that is residentially occupied by a qualifying household, at a rate that is affordable.

*Affordable housing deed restriction.* A deed covenant, running with the land for the affordability period, requiring a dwelling unit to be used as affordable housing.

*Affordable housing development application.* An application for a development permit or development order for a project that includes one or more affordable housing units.

*Affordable housing unit.* A dwelling unit that is reserved for use as affordable housing for the affordability period, through recordation of an affordable housing deed restriction.

*Qualifying household.* Either of the following:

- i. A low income person or low income family as defined in F.S. § 420.9071.
- ii. A very low income person or very low income family as defined in F.S. § 420.9071.

*Qualifying household's income level.* The maximum amount of annual income, adjusted for family size, that allows a person or family to meet the definition of low-income person or low-income household, or as applicable very-low income person or very low-income household, as those terms are used in F.S. § 420.9071, and as determined for the local area by the U.S. Department of Housing and Development and the Florida Housing Finance Corporation.

**C. Expediting of review for affordable housing development applications.**

1. All affordable housing development applications shall be reviewed in accordance with the applicable development standards of this Code, as modified by this section.
2. All affordable housing development applications shall be reviewed in accordance with the applicable procedures of this Code; provided, however, that the city shall expedite and prioritize the review and permitting of such applications to a greater degree than other projects.

**D. Administratively-approved development incentives for affordable housing.**

The development of any proposed single-family detached, duplex or multi-family housing unit or units located within the City shall be eligible for the incentives established below, which shall be approved administratively; provided that such units are reserved as affordable housing units for an affordability period of 10 years or more, through the property owner's execution and recordation of an affordable housing deed restriction, in a form provided by or acceptable to the City.

1. *Nonconforming lots of record – modifications to lot standards.* A single-family detached or duplex dwelling that is located on a nonconforming lot of record and that meets the definition of affordable housing unit in this section, will not be required to meet the lot-related dimensional standards otherwise required by this Code, provided that each of the following conditions is met:
  - a. The use (e.g., single family detached or duplex dwelling) is a permitted as a principal use in the zoning district in which the lot is located.
  - b. The lot is an infill project located in an existing partially or wholly developed subdivision, or in an area generally surrounded by developed properties in accordance with the compatibility standards of section 6.63 of this Code.
  - c. The lot is at least 50 feet wide and 5,000 square feet in area.
  - d. The minimum side yard setback shall be five feet. The minimum rear yard setback shall be 15 feet. The minimum front yard setback shall be as established for the zoning district in which the lot is located.
2. *Multifamily density bonus.*
  - a. Except as provided below, the maximum residential density permitted by this Code in any multifamily zoning district shall be increased in order to encourage construction of additional new affordable housing units pursuant to the following conditions:
    - i. *Small multifamily projects.* If the property on which the multifamily project is proposed has a contiguous development area of less than one acre, the property must be an infill parcel located within an existing developed subdivision.
    - ii. *Density bonus cap.* The maximum density resulting from the bonus shall not exceed 150% of the density otherwise permitted for the project by the future land use element of the comprehensive plan, or 40 units per acre, whichever is less.

iii. Use of bonus dwelling units. A minimum of one-half of the bonus dwelling units (i.e., the additional multifamily dwelling units resulting from the density bonus awarded) shall be affordable housing units.

iv. Maximum number of affordable housing unit. A maximum of 65 percent of the project's dwelling units (including bonus dwelling units) shall be affordable housing units.

b. A density bonus shall not be administratively awarded for a multifamily development proposed to be located within 1.5 miles of an existing multifamily development that received a density bonus pursuant to this section during the affordability period for the existing multifamily development as stated in the affordable housing deed restriction.

3. Development fee waivers.

a. Except as provided below, the following development fees, when otherwise due in connection with construction of a dwelling unit, shall be waived for development of an affordable housing unit as provided in this section:

Tree removal

Building permit

Electrical permit

Plumbing permit

Mechanical permit

Stormwater management

Where one of the fees referenced above is assessed for multiple dwelling units instead of on a per dwelling unit basis, the fee waiver shall be pro-rated on the percentage dwelling units that are affordable housing units.

b. Development fees shall not be administratively waived for a multifamily development proposed to be located within 1.5 miles of an existing multifamily development that received development fee waivers pursuant to this section during the affordability period for the existing multifamily development as stated in the affordable housing deed restriction.

**E. Development incentives requiring City Commission approval.** On an individual project basis, the City Commission may, in its sole discretion, provide development incentives for affordable housing in addition to, or in lieu of, those specified in section 6.22.D.

**F. Affordable housing inventory.** ~~B.~~ The City shall also prepare an inventory list, beginning July 2007 and every three years thereafter, of all real property within the jurisdiction to which it holds fee simple title that is appropriate for use as affordable housing. The inventory will be reviewed and may be modified by the City Commission. Subsequently, the remaining properties may be offered for sale, donation, or other, and the proceeds used to produce and preserve permanent affordable housing.

SECTION 2. Section 8.4 of Article 8 of the Land Development Code is hereby amended as follows [~~strike through~~ indicates deleted text; underline indicates added text]:

**Sec. 8.4. Nonconforming Lots of Record.**

\*\*\* [omitted text not affected by this ordinance]

**C. Development of Nonconforming Lots.** Notwithstanding limitations imposed by other provisions of this Code, a nonconforming lot may be used for any use permitted in the zoning district in which the lot is located, or as the site for any structure containing such a permitted use, provided:

1. The lot is located within a business district; or
2. The lot is developed as a single-family use and otherwise meets all other applicable standards of the zoning district in which the lot is located; provided that adjustments to lot standards may be provided in accordance with section 6.22 for development of an affordable housing unit. ~~except that the minimum side yard setback and minimum rear yard setback for a new affordable single-family dwelling located on a nonconforming lot shall be reduced to five feet and 15 feet, respectively.~~

\*\*\* [omitted text not affected by this ordinance]

SECTION 3. Section 11.5 of Article 11 of the Land Development Code is hereby amended as follows [~~strike through~~ indicates deleted text]:

**Sec. 11.5 Terms and Uses Defined.**

The following words, terms and phrases, when used in this Code, shall have the meaning ascribed to them in this section.

\*\*\* [omitted text not affected by this ordinance]

~~*Dwelling Affordable Single Family.* A single family dwelling that is affordable in accordance with the definition of "affordable" in F.S. 420.9071.~~

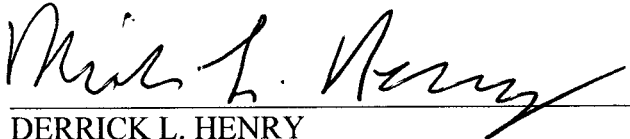
*\*\*\* [omitted text not affected by this ordinance]*

SECTION 4. The City Commission has received the report of the Planning Board and hereby finds that the LDC amendments above are consistent with the City's Comprehensive Plan.

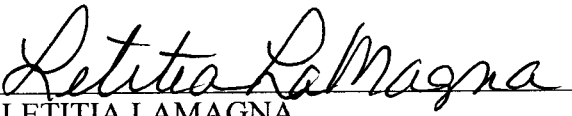
SECTION 5. Public Hearings at 6:00 p.m., September 8, 2021 and September 22, 2021 in Commission Chambers, City Hall, 301 South Ridgewood Avenue, Daytona Beach, Florida, after notice published, are deemed to comply with the requirements of the LDC and Section 166.041(3)(c), Florida Statutes.

SECTION 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. This Ordinance shall take effect as provided by law.

  
DERRICK L. HENRY  
Mayor

ATTEST:

  
LETITIA LAMAGNA  
City Clerk

Passed: September 8, 2021  
Adopted: September 22, 2021