



PLANNING & DEVELOPMENT DEPARTMENT COMMUNITY DEVELOPMENT BOARD STAFF REPORT

MEETING DATE: December 21, 2021

AGENDA ITEM: F.2.

CASE: TA2021-11004

ORDINANCE NO.: 9514-22

REQUEST: To amend the City of Clearwater's Community Development Code to provide incremental density bonuses for mixed-income projects and provide other incentives for affordable housing such as parking and building permit fee reductions, to repeal and replace the city's home based business regulations, to affirm that the Community Development Board is the city's Design Review Board, and to amend the city's Schedule of Fees to provide reduced fees for the use of private providers for plans review and inspections and affordable housing projects.

INITIATED BY: City of Clearwater, Planning and Development Department

BACKGROUND:

The 2021 Florida legislative session passed and enrolled several bills, now effective, which impart certain planning and building requirements. In order to provide clarity or remain consistent with state statutes governing home based businesses, building design review, and building permit fees, certain amendments to the Community Development Code ("the Code") are proposed in Ordinance 9414-22. Staff is also proposing a limited number of amendments to the Code to support the city's affordable and workforce housing initiatives. Additional detail regarding the specific House and/or Senate Bills is included within the Analysis section below.

ANALYSIS:

Proposed Ordinance No. 9514-22 implements the following revisions.

Home Based Businesses

House Bill 403 ("HB403") created a new s. 559.995, F.S., related to home-based businesses. Communities traditionally include regulations for home-based businesses, also called home

occupations, to mitigate their presence in residential neighborhoods. HB403 authorizes home-based businesses to operate in residentially zoned areas and restricts local governments' ability to regulate them. The statute states, "The activities of the home-based business are secondary to the property's use as a residential dwelling," but that it "may not be prohibited, restricted, regulated or licensed in a manner that is different from other businesses in a local government's jurisdiction, except as otherwise provided in this section."

Ordinance 9514-22 proposes to repeal the city's existing regulations and replace with new standards consistent with the statutes. Specifically, Section 3-1101. Purpose emphasizes that the standards established are intended to limit potential impacts on surrounding properties and maintain residential character. Within new Section 3-1102. Standards, the proposal incorporates examples of businesses which would not qualify as home-based businesses based on their operational characteristics which are industrial in nature or may generate parking needs "greater in volume than would normally be expected at a similar residence where no business is conducted" (HB403), and are therefore not compatible with the residential character of a dwelling or neighborhood. The other proposed standards comport with the statutes, mirroring the language within.

Preemption of Design Review for Residential Buildings

In 2021, the legislature also passed House Bill 401/Senate Bill 284 ("HB401/SB284"). Bill text had also been filed under House Bill 55 ("HB55") that prohibited zoning and development regulations relating to building design for one-or two-family buildings with limited exceptions: structures listed on National Register of Historic Places or contributing structures to a historic district; or the regulations implement the National Flood Insurance Program. HB55 was opposed by many, including the city, and did not pass. But, the final version of HB401/SB284, which passed and was enrolled, added the following building design pre-emption language:

(5)(a) Land development regulations relating to building design elements may not be applied to a single-family or two-family dwelling **unless:** 7. The dwelling is located within the jurisdiction of a local government that has a design review board or architectural review board.

In the city, the Community Development Board ("CDB") is the City's design review board. The CDB reviews Residential Infill Projects for compliance with established design criteria. The pre-emption in HB401/SB284 does not apply, and the city's design regulations currently in place governing one- and two-family residential projects in the Downtown and US 19 Districts are allowed to remain. The proposed amendment incorporates "Design Review Board" into Section 5-201 in order to clarify and affirm this under the Powers and Duties of the CDB.

Discount for Private Provider Services

HB401/SB284 also included provisions requiring cities reduce permit fees for projects utilizing private providers for the purposes of building plan review or building inspection services. This bill expanded on 2019 amendments to s. 553.791, F.S. (House Bill 7103) which prohibited local governments from charging a fee, other than a reasonable administrative fee, for building inspections when a property owner or contractor hires a private provider, and clarified existing provisions for reduced fees for plans review. The city does not have a separate inspection fee established, and already provides a 33 percent discount for plan review services when a private provider is used; therefore, no amendments were necessary in 2019.

With the strengthening of the regulations, Planning and Development Department staff determined it was prudent to review its fee schedule again and make recommendations for additional changes in order to clarify how it will meet the new statutes, in particular as it relates to inspection services. While talking with other municipalities and researching others' fee schedules, it became clear that there is a myriad of fee structures used by cities, thus making a direct comparison not possible. For example, while the city does not charge a separate inspection fee, many others do. Additionally, there is a variety of ways permit fees are calculated, including based on the size of the structure or the value of the project (the city's approach), and some cities have administrative fees already established, or also charge separate fees for all reviews outside of the Florida Building Code (e.g., zoning, stormwater).

Staff examined St. Petersburg, Largo and Pinellas County fees for a local comparison. Pinellas County established an administrative fee of \$200 and discounts plan review and inspection fees by 75 percent for both commercial and residential projects. Neither St. Petersburg nor Largo have administrative fees at this time, but their discounts for both fees and project types is 50 percent.

Ordinance 9514-22 proposes to increase the current fee reduction for projects using a private provider for plan review from 33 percent to 50 percent, and to a 50% reduction for the permit fee. Additionally, these same reductions are proposed to apply to projects using a private provider for inspection fees.

The Planning and Development Department will be recommending to further evaluate fees after the completion of the Business Process Study, which is expected to start in March 2022 and take approximately one year.

Affordable and Workforce Housing Incentives

Although not mandated by any recent legislation, the city has demonstrated its continued commitment to addressing countywide housing affordability issues by approving the Advantage Pinellas Housing Compact earlier this year. The Code defines an affordable housing unit as "... any residential dwelling unit leased or owned by a household with a household income of 120 percent or less of the adjusted area median family income for Pinellas County, Florida, as

determined by the U.S. Department of Housing and Urban Development (HUD).” The city’s definition is inclusive of “workforce housing”, a term that commonly used for households with incomes between 60 and 120 percent of the area median income, although HUD does not distinguish between affordable and workforce housing.

Due to the timing of this proposed ordinance, it was possible to discuss opportunities for limited Code changes with the city’s Affordable Housing Advisory Committee (“AHAC”) when it convened in October and November, 2021. The AHAC’s recommendations included reducing permit fees for affordable housing and to be a County leader in incentivizing affordable housing, building upon some of the city’s earlier work to address housing affordability.

In 2012, the city established a density bonus in the Code which is structured to support affordable housing while incentivizing mixed-income projects with larger density bonuses than what would be available for projects with a higher percentage of dedicated affordable units. The current table in Section 3-920.A.3.a establishes a bonus for those projects providing either 15 percent affordable housing units or 25 percent affordable housing units. The Code does not state what bonus would apply to projects providing a percentage somewhere in between. The proposed amendments address this by establishing a prorated increase to the density bonus which corresponds to each additional percent of affordable housing dwelling units provided, at a rate of 2.5 percent bonus for each one percent increase in units provided.

Ordinance 9514-22 also proposes to provide additional reductions in required off-street parking for designated affordable housing units. There is ample data available showing that parking is expensive to build, regardless of type (surface or structured) and research shows that cities often require more off-street parking than truly needed, which results in excess parking, more expensive projects, and less space on a site for other potential amenities. Housing Policy Debate (2016) found that garage (structured) parking, which is desired in the city’s designated activity centers where the city wants to see more efficient use of land through more intense development, can add over 17 percent to a housing unit’s rent. While the additional cost may be less for projects providing surface parking only, studies show that costs associated with parking are typically passed through to tenants.

Building Parking Raises Rent

Parking costs a lot to build, and that cost usually ends up raising tenant rents.

\$5,000: Cost per surface space

\$25,000: Cost per above-ground garage space

\$35,000: Cost per below-ground garage space

\$142: The typical cost renters pay per month for parking

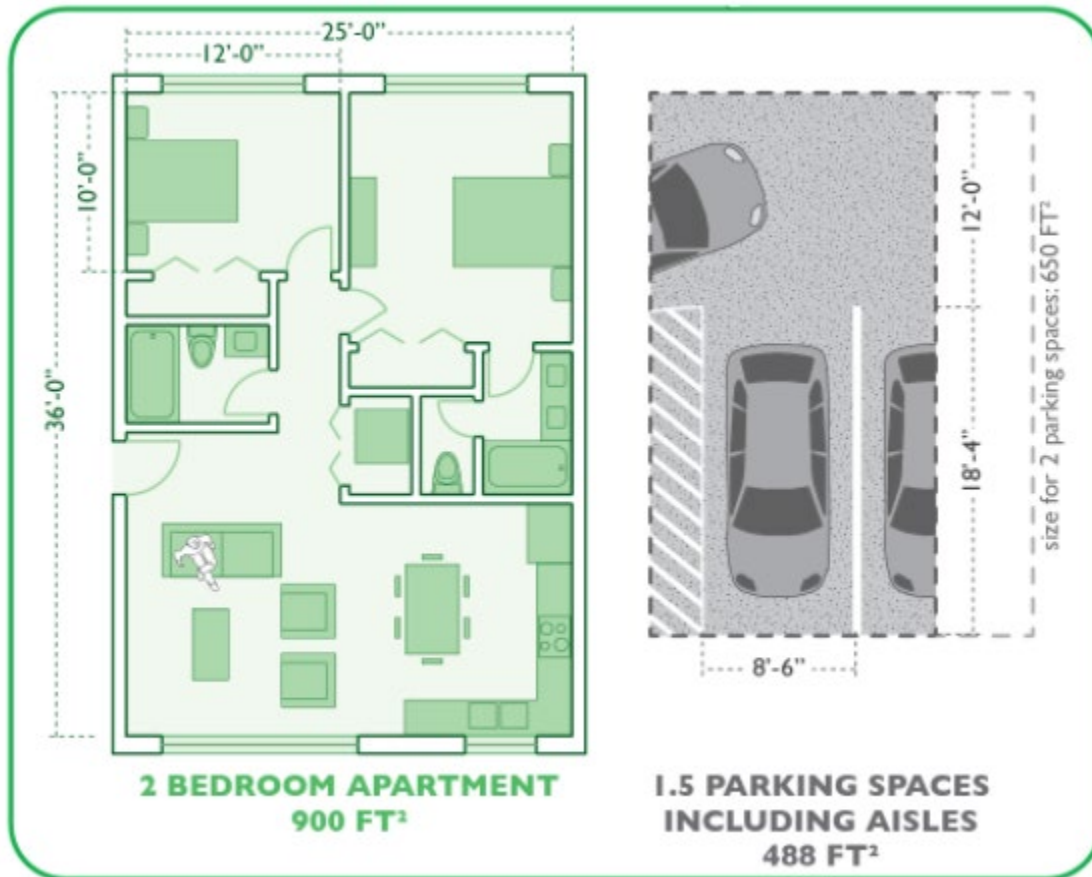
+17%: Additional cost of a unit's rent attributed to parking

Source: Housing Policy Debate, 2016

Source: <https://www.planning.org/planning/2018/oct/peopleoverparking/>

This issue is not limited to affordable or workforce housing developments, but such projects are already challenging to finance. Providing an option to reduce the required parking might be the difference between a project being constructed or not. In a 2018 American Planning Association article discussing the impacts of parking on housing affordability, author Jeff Speck succinctly states that “building parking costs a lot, and that cost usually ends up raising tenant rates.”

This same article states that the typical median parking required for a two-bedroom apartment in many cities can be more than half the size of the apartment itself. The Code requires two parking spaces per dwelling unit for all residential development except in the US 19 District where only one and one-half spaces per unit is required and in the Downtown District where one parking space per unit is required. As illustrated in the graphic below, the space required for two parking spaces would be about 650 square feet, which is approximately 72 percent of the square footage of a 900 square foot two-bedroom apartment. The dimensions for each parking space and required aisle width vary based on the angle of the parking, but this graphic is in line with city standards and illustrates how much space is may be required to store vehicles compared to providing housing.



Source: Seth Goodman, graphicparking.com

Studies show that vehicle ownership rates tend to increase with income and household size, which is the opposite of the common thought that affordable housing needs more parking. A project

providing fewer off-street parking spaces has lower development costs and potentially frees up more land for additional units, reducing the overall cost of housing for the residents.

The Code currently permits affordable housing projects which are located within 1,000 feet of a transit stop and designated for senior citizens or disabled persons to provide less off-street parking (reduce from two spaces per unit to between one and one-half and one space per unit). The proposed amendments reorganize Section 3-920.B and include additional reductions from two spaces per unit to between one and one-half and one and one-quarter spaces per unit for all other affordable housing projects within 1,500 feet of transit stops which provide more frequent service levels. While the proposed reduction is less than that already provided for senior housing projects, the distance from a transit station can be greater, and more parcels would be eligible for the parking reduction. A review of bus routes in Clearwater shows that the majority provide service which meets the proposed standard. Additionally, Appendix B – US 19 Zoning District and Development Standards Table 3. Parking Reduction Factors is proposed to include affordable housing as a reduction factor as well, allowing parking in the US 19 District to be reduced to one space per unit, where one and one-half is currently required.

Ordinance 9514-22 also proposes to establish new long-term bicycle parking requirements for affordable housing projects when an affordable housing unit does not otherwise have a private garage or other dedicated private storage space. The city established standards for long-term bicycle parking in 2018, which can be found in Section 3-1411.

A new subsection is proposed (3-920.C) so that all fee reductions provided for affordable housing projects are included within a single location in the Code, including reference to the reduced multi-modal impact fee which is established by Pinellas County and implemented by the city. Additionally, the ordinance proposes to establish a new reduction of building plan review and permit fees for affordable housing projects. This is included in this new subsection, and the discount of 75 percent is proposed to be established in the fee schedule located in Appendix A.

CRITERIA FOR TEXT AMENDMENTS:

CDC Section 4-601 sets forth the procedures and criteria for reviewing text amendments. All text amendments must comply with the following:

1. The proposed amendment is consistent with and furthers the goals, objectives, and policies of the Comprehensive Plan.

A review of the Clearwater Comprehensive Plan identified the following goals, objectives and policies which will be furthered by the proposed Code amendments:

Policy A.2.2.12 The City will provide density bonuses for affordable housing developments that demonstrate that a minimum of 15% of the total units are reserved as affordable housing units. Such bonuses shall not exceed 50% of the density permitted by the Future Land Use Map and shall not include properties

located in the Coastal Storm Area. The density bonus shall be established by ordinance in the Community Development Code.

- Goal A.6 The City of Clearwater shall utilize innovative and flexible planning and engineering practices, and urban design standards in order to protect historic resources, ensure neighborhood preservation, redevelop blighted areas, and encourage infill development.
- Objective C.1.1 Assure an adequate supply of housing in Clearwater by providing for additional new dwelling units in a variety of types, costs, and locations to meet the needs of the residents of the City of Clearwater.
- Policy C.1.1.5 The City of Clearwater shall continue to provide information, incentives, and technical assistance to the private sector in order to achieve housing production that meets the needs of very low, low, and moderate households.
- Objective C.1.2 The City of Clearwater shall continue to provide assistance and incentives for the development of housing that is affordable to very low, low, and moderate income households, including those with special needs, consistent with the level of growth in these income categories.
- Objective C.1.4 Continue to provide zoning and land use regulations that allow for the development and redevelopment of affordable housing in stable neighborhoods.
- Policy C.1.4.2 Assisted housing should be located in close proximity to employment centers, mass transit services, parks, and commercial centers.
- Objective C.1.9 The City of Clearwater shall be proactive in incentivizing the construction of affordable housing.
- Policy C.1.9.1 The City will provide density bonuses for affordable housing developments that demonstrate that a minimum of 15% of the total units are reserved as affordable housing units. Such bonuses shall not exceed 50% of the density permitted by the Future Land Use Map and shall not include properties located in the Coastal Storm Area. The density bonus shall be established by ordinance in the Community Development Code.
- Policy C.1.9.2 Allow flexibility with regard to setbacks and off-street parking to accommodate density bonuses associated with affordable housing

developments provided the project design does not detract from the established or emerging character of the immediate vicinity.

Policy C.1.9.3 Allow flexibility with regard to off-street parking for projects containing affordable housing units located within 1000 feet of a transit stop.

The City's Comprehensive Plan does not include goals, objectives or policies that specifically address the changes necessitated by the recent legislative changes, but the proposed amendments do not conflict with the Plan either. The Comprehensive Plan establishes and supports the use of impact fees; however, it does not get into the level of detail that the Code does when establishing the fee schedule.

The Comprehensive Plan includes multiple objectives and policies to support and incentivize affordable housing projects, including two identical policies which allow for the density bonus to be established in the Code (Policies A.2.2.12 and C.1.9.1). The proposed change to allow for incremental density bonuses is consistent with the current policies, but both are proposed to be amended by companion amendments to the Comprehensive Plan (CPA2021-11001). In addition to the density bonus, the Plan references the city providing incentives, generally, for affordable housing, as seen in Policy C.1.1.5 and Objectives C.1.2 and C.1.9. The proposed amendment to allow for the permit fee reduction and reduced parking furthers this policy and these objectives. Additionally, there is support for allowing greater flexibility in off-street parking through Policies C.1.9.2 and C.1.9.3 which the proposed amendment further implements.

The above referenced goals, objectives and policies of the Comprehensive Plan will be furthered by Ordinance 9514-22.

2. The proposed amendment furthers the purposes of the Community Development Code and other City ordinances and actions designed to implement the Plan.

The proposed text amendment will further the purposes of the CDC in that it will be consistent with the following purposes set forth in CDC Section 1-103:

Sec. 1-103.A. It is the purpose of this Development Code to implement the Comprehensive Plan of the city; to promote the health, safety, general welfare and quality of life in the city; to guide the orderly growth and development of the city; to establish rules of procedure for land development approvals; to enhance the character of the city and the preservation of neighborhoods; and to enhance the quality of life of all residents and property owners of the city.

Sec. 1-103.E.2. It is the further purpose of this Development Code to protect the character and the social and economic stability of all parts of the city through the

establishment of reasonable standards which encourage the orderly and beneficial development of land within the city.

- Sec. 1-103.E.3. It is the further purpose of this Development Code to protect and conserve the value of land throughout the city and the value of buildings and improvements upon the land, and minimize the conflicts among the uses of land and buildings.
- Sec. 1-103.E.9. It is the further purpose of this Development Code to establish permitted uses corresponding with the purpose and character of the respective zoning districts and limit uses within each district to those uses specifically authorized
- Sec. 1-103.E.12. It is the further purpose of this Development Code to coordinate the provisions of this Development Code with corollary provisions relating to parking, fences and walls, signs, and like supplementary requirements designed to establish an integrated and complete regulatory framework for the use of land and water within the city.

Although the statutes limit what the city can regulate, the proposed home-based business regulations seek to guide reasonable growth, preserve neighborhoods, and establish standards that minimize the conflicts that could arise between the uses of the land and buildings (residential dwellings and home-based businesses). Similarly, the CDB acts as the LPA of the city and has the assigned duties of reviewing and deciding certain applications (Level Two approvals) and making recommendations on other applications (Level Three Approvals) which meet the standards of the Code and further the general purposes overall. The proposed amendments to Section 3-920 pertaining to affordable housing and related incentives further these purposes of the code by providing reasonable standards and making clear what is required.

As such, proposed Ordinance 9514-22 furthers the purposes in the CDC.

SUMMARY AND RECOMMENDATION:

The proposed amendment to the Community Development Code is consistent with and will further the goals of the Clearwater Comprehensive Plan and the purposes of the Community Development Code. Based upon the above, the Planning and Development Department recommends **APPROVAL** of Ordinance No. 9514-22 that amends the Community Development Code.



Prepared by Planning and Development Department Staff: _____

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ATTACHMENTS: Ordinance No. 9514-22
Resume