

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING; APPENDIX “A” OF THE TOWN CODE OF ORDINANCES OF MELBOURNE BEACH, THE LAND DEVELOPMENT CODE; AMENDING SECTION 1A-3 TO ADD THE DEFINITION FOR KITCHEN OR KITCHEN FACILITY; AMENDING CHAPTER 7A REGARDING SECOND KITCHENS; SPECIFICALLY AMENDING SECTION 7A-31, SECTION 7A-32, AND SECTION 7A-33 TO PERMIT SECOND KITCHENS IN 1-RS, 2-RS, AND 3-RS ZONING DISTRICTS; CREATING SECTION 7A-72 TO PROVIDE SUPPLEMENTARY DISTRICT REGULATIONS FOR SECOND KITCHENS IN SINGLE FAMILY RESIDENTIAL DISTRICTS; PROVIDING A SEVERABILITY/INTERPRETATION CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

WHEREAS, the Town of Melbourne Beach desires to amend the Land Development Code of the Town of Melbourne Beach regarding second kitchens in residential zoning districts in the Town of Melbourne Beach within the Town of Melbourne Beach; and

WHEREAS, the Town Commission of the Town of Melbourne Beach, after duly noticed public hearings, has determined that amendments to Sections 7A-31, Section 7A-32, and Section 7A-33 of the Land Development Code to permit second kitchens in 1-RS, 2-RS, and 3-RS zoning districts and creation of standards for second kitchens in a new Section 7A-72 of the Land Development Code are consistent with the Comprehensive Plan, are in the best interests of its citizens of the Town of Melbourne Beach, and promote the general health, safety, and welfare of the residents of the Town of Melbourne Beach; and

WHEREAS, on February 7, 2023 the Planning and Zoning Board/Local Planning Agency (collectively the “LPA”) at a duly noticed public hearing, reviewed and considered the proposed amendments to Sections 7A-31, Section 7A-32, and Section 7A-33 of the Land Development Code to permit second kitchens in 1-RS, 2-RS, and 3-RS zoning districts and the creation of standards for second kitchens in a new Section 7A-72 of the Land Development Code and took public comment regarding the same; and

WHEREAS, the LPA has determined that the proposed amendments to Sections 7A-31, Section 7A-32, and Section 7A-33 of the Land Development Code to permit second kitchens in 1-RS, 2-RS, and 3-RS zoning districts and the creation of standards for second kitchens in a new Section 7A-72 of the Land Development Code are consistent with the Town’s Comprehensive

Plan and are in the best interest of the Town of Melbourne and has recommended that the Town Commission approve of the same.

WHEREAS, the Town Commission and LPA have determined that an amendment to Section 1A-3 of the Land Development Code to add the definition of the terms “kitchen” or “kitchen facility” is necessary to allow for the desired regulatory changes and that such definition shall specifically exclude outdoor barbeque areas without a stove or range.

NOW, THEREFORE, BE IT ENACTED BY THE TOWN OF MELBOURNE BEACH, FLORIDA:

SECTION 1. That Article I, Chapter 1A, Section 1A-3, of Appendix “A,” of the Town Code of the Town of Melbourne Beach, Florida, Land Development Code, is hereby created to read as follows:

§1A-3. DEFINITIONS.

* * *

KITCHEN OR KITCHEN FACILITY. A room or area within a room whose primary purpose is to store, prepare and cook food. A kitchen will have a refrigerator to store food, counter space and a sink to prepare food, and a stove and/or range to cook food. An outdoor or external barbeque area with no stove or range shall not constitute a kitchen or kitchen facility.

* * *

SECTION 2. That Section 7A-31 of Appendix “A,” of the Town Code of the Town of Melbourne Beach, Florida, Land Development Code, is hereby amended to read as follows:

§7A-31. 1-RS SINGLE FAMILY RESIDENTIAL DISTRICT.

* * *

(g) Supplementary regulations: As provided in §§ 7A-50 through 7A-6972, and Chapter 9A.

SECTION 3. That Section 7A-32 of Appendix “A,” of the Town Code of the Town of Melbourne Beach, Florida, Land Development Code, is hereby amended to read as follows:

§7A-32. 2-RS SINGLE FAMILY RESIDENTIAL DISTRICT.

* * *

(g) Supplementary regulations: As provided in §§ 7A-50 through 7A-6972, and Chapter 9A.

SECTION 4. That Section 7A-33 of Appendix “A,” of the Town Code of the Town of Melbourne Beach, Florida, Land Development Code, is hereby amended to read as follows:

§7A-33. 3-RS SINGLE FAMILY RESIDENTIAL DISTRICT.

* * *

(g) Supplementary regulations: As provided in §§ 7A-50 through 7A-6972, and Chapter 9A.

SECTION 5. That Article IV, Chapter 7A, Section 7A-72, of Appendix “A,” of the Town Code of the Town of Melbourne Beach, Florida, Land Development Code, is hereby created to read as follows:

§7A-72. SINGLE-FAMILY RESIDENTIAL SECOND KITCHEN FACILITY.

A second kitchen facility may be incorporated into a single-family residence located in the 1-RS, 2-RS, and 3-RS zoning districts, provided the second kitchen facility meets the following conditions:

(1) The second kitchen facility and the area or quarters it serves shall be integrated architecturally into the principal single-family dwelling unit or may be located within separate quarters connected to the principal single-family dwelling unit by a common wall or common roof. For purposes of this Section, a breezeway connection between the principal single-family dwelling unit structure and the separate quarters served by the second kitchen may constitute a common roof. Access to the second kitchen shall be as required by the Florida Building Code.

(2) A permit for construction must be obtained, and a floor plan of the entire single-family residence, including the additional kitchen facility, demonstrating compliance with the conditions set forth in this section, shall be submitted to the Building Official for plan review and approval prior to construction of any second kitchen. The approved floor plan shall be binding upon all future construction plans in regard to the single-family residence and the second kitchen facility.

(3) No portion of the single-family dwelling unit shall be utilized for rental purposes, and the single-family dwelling unit shall be served by only one electrical and water meter.

(4) The single-family dwelling unit shall continue to be utilized by no more than one family.

(5) The property upon which the second kitchen is planned to be installed must have a valid Brevard County property tax homestead exemption at the time of permit application. A second kitchen facility must be removed within one year of the loss or removal of the homestead exemption maintained on the property.

SECTION 6. Severability/Interpretation Clause.

(a) In the event that any term, provision, clause, sentence or section of this Ordinance shall be held by a court of competent jurisdiction to be partially or wholly unenforceable or invalid for any reason whatsoever, any such invalidity, illegality, or unenforceability shall not affect any of the other or remaining terms, provisions, clauses, sentences, or sections of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting the provisions of this Ordinance, the following rules and symbols shall apply:

(1) Words underlined are additions to existing text.

(2) Words ~~stricken through~~ are deletions from existing text.

(3) Asterisks (* * *) indicates a deletion from the Ordinance of text existing in the Code of Ordinances. It is intended that the text in the Code of Ordinance 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 7. Codification. The provisions of this Ordinance shall be codified as, and become and be made a part of, the Town of Melbourne Beach Code of Ordinances. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention.

SECTION 8. Ordinances and Resolutions in Conflict. All ordinances or resolutions or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 9. Effective Date. This Ordinance shall become effective upon adoption.

SECTION 10. Adoption Schedule.

PASSED by the Town Commission of the Town of Melbourne Beach on first reading on

the 16th day of February, 2023, and ADOPTED by the Town Commission of the Town of Melbourne Beach, Florida, on final reading on the 16th day of March, 2023.

TOWN OF MELBOURNE BEACH, FLORIDA

By: _____
WYATT HOOVER, Mayor

ATTEST:

(TOWN SEAL)

Amber Brown,
Town Clerk