

ORDINANCE NO. 2909-13

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING SECTION 58-6 TO REVISE THE PROCEDURES FOR AMENDMENTS TO THE COMPREHENSIVE PLAN, REPEALING SECTION 58-7 REGARDING DEVELOPMENT AGREEMENTS ADOPTED PURSUANT TO CHAPTER 163, FLORIDA STATUTES; AMENDING POLICY 1-1.1.3 AND REPEALING POLICY 1-1.1.5 OF THE CITY'S COMPREHENSIVE PLAN OF THE GOALS, OBJECTIVES AND POLICIES OF THE FUTURE LAND USE ELEMENT TO REMOVE THE REQUIREMENT OF SUPERMAJORITY OF VOTES FOR ORDINANCES; PROVIDING FOR SEVERABILITY, CODIFICATION, AND CONFLICTS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 2.08(d) of the Charter of the City of Winter Park ("Charter") provides that a quorum of the City Commission shall exist when a majority of the Commissioners are present; and

WHEREAS, Section 2.01 of the Charter provides that the City Commission consists of five (5) members, and therefore, a majority of the City Commission consists of three (3) members; and

WHEREAS, Section 2.11 of the Charter provides that a proposed ordinance shall be adopted when it has received the affirmative vote of a majority of the City Commission physically present on at least two (2) separate days at either regular or special meetings of the Commission; and

WHEREAS, when only three (3) Commissioners are in attendance at a meeting of the City Commission, an ordinance may pass on two (2) votes of the Commissions that are physically present;

WHEREAS, the Charter must be construed to lead to a reasonable result in accordance with the plain language of its provisions; and

WHEREAS, the City Commission adopted its Comprehensive Plan on February 23, 2009 via Ordinance 2762-09 and desires to modify the procedures for amendments to the Comprehensive Plan that were established by Ordinance 2793-10, and

WHEREAS, certain provisions of the Comprehensive Plan of the City of Winter Park ("Code"), in their current form, require an affirmative vote of a supermajority of four (4) votes of the Commissioners in order to pass;

WHEREAS, Section 58-6 of the City Code of the City of Winter Park provides that amendments to the Comprehensive Plan shall be made by ordinance;

WHEREAS, a conflict therefore exists between those provisions of the Code and Comprehensive Plan requiring an affirmative vote of a supermajority of the Commissioners in order to pass an ordinance, and Section 2.11 of the Charter, which requires only a majority of the Commissioners physically present in order to pass an ordinance; and

WHEREAS, the municipal charter is the paramount law of the municipality; and

WHEREAS, if a conflict exists between a municipal charter and an ordinance, the charter provision will prevail; and

WHEREAS, in order to remedy this conflict and achieve consistency between certain Code provisions, the Comprehensive Plan, and the City Charter, the City desires to amend certain sections of its Comprehensive Plan to eliminate the supermajority requirement for matters passed by ordinance.

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

Section 1. Incorporation of Recitals as Legislative Findings. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Commission. The City Commission finds and determines that there is competent substantial evidence to support the findings and determinations made in this Section.

Section 2. Revisions to Comprehensive Plan Policy 1-1.1.3. That the Comprehensive Plan is hereby amended so as to repeal and re-adopt Policy 1-1.1.3 in the Future Land Use Element on Page 1-2 of the Goals, Objectives and Policies to read as follows and revising that subsection to read as follows: (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

Policy 1-1.1.3: Require Public Notice Prior to Creation or Expansion of CRA or CDD. Prior to the creation or expansion of any Community Redevelopment Area (CRA) or Community Development District (CDD), there shall be a public notice requirement to all households in the City to inform residents of the proposal, the need for such action and the plans or actions contemplated as a result, ~~and shall require a super majority (4 vote)~~ of the City Commission for approval.

Section 3. Repeal of Comprehensive Plan Policy 1-1.1.5. That the Comprehensive Plan is hereby amended so as to repeal Policy 1-1.1.5 in the Future Land Use Element on Page 1-2 of the Goals, Objectives and Policies in its entirety, as shown below. (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

~~**Policy 1-1.1.5: Amendment to this Comprehensive Plan.** Any proposed amendment of this Comprehensive Plan denied by the Planning and Zoning Commission, shall not become effective except by a supermajority (4 vote) of the City Commission.~~

Section 4. Revision to Section 58-6 for Comprehensive Plan Amendments.

That Section 58-6 of the Land Development Code pertaining to Amendments to the Comprehensive Plan is amended so as to repeal and re-adopt Section 58-6 to read as follows: (underlined type indicates additions, ~~strikeout type~~ indicates deletions)

Sec. 58-6. Amendments to the comprehensive plan.

(a)

(6) In case of a recommendation for denial, either to transmit or adopt, by the planning and zoning commission, such amendments shall not proceed or become effective except by the majority affirmative vote of four members of the city commission. In cases when the planning and zoning commission recommends approval of a comprehensive plan future land use map amendment or text amendment on a lesser portion of the property than originally requested or imposes conditions upon or limitations upon a recommendation for approval reducing the intensity or density of use of said property or text amendment, it shall require the majority affirmative vote of four members of the city commission to transmit or adopt such comprehensive plan future land use map or text amendment for a greater portion of the property or to increase the density or intensity of use above that recommended by the planning and zoning commission. ~~In addition, it shall also require the affirmative vote of four members of the city commission to approve or adopt any text amendment to the Future Land Use Element of the Comprehensive Plan, regardless of the recommendation by the planning and zoning commission. However, future land use map and other map amendments in the future land use element may be adopted by majority vote.~~

Section 5. Repeal Section 58-7 for Development Agreements. That Section 58-7 of the Land Development Code pertaining to Development Agreements adopted pursuant to Chapter 163, Florida Statutes is repealed in its entirety.

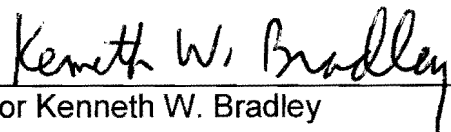
Section 6. Severability. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.

Section 7. Codification. It is the intention of the City Commission of the City of Winter Park, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Winter Park, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, "Ordinance" may be changed to "Section," "Article," or other appropriate word.

Section 8. Conflicts. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

Section 9. Effective Date Of Ordinance. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administrative Commission enters a final order determining the adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administrative Commission, this amendment may nevertheless be made effective by the adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 22nd day of April, 2013.



Mayor Kenneth W. Bradley

ATTEST:



Cynthia S. Bonham, City Clerk