

ORDINANCE NO. 3098-17

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE III, "ZONING" SO AS TO ADOPT NEW ZONING REGULATIONS AND DEVELOPMENT STANDARDS WITHIN THE ZONING DISTRICTS OF THE CITY; PROVIDING FOR CONFLICTS; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has adopted Chapter 163, Florida Statutes which requires all local communities to adopt amendments to their Land Development Codes to implement the growth and development policies of Comprehensive Plans adopted pursuant to Chapter 163, Florida Statutes and Florida Administrative Rules in order to provide appropriate policy guidance for growth and development: and

WHEREAS, the Winter Park City Commission adopted a new Comprehensive Plan on April 24, 2017 via Ordinance 3076-17; and

WHEREAS, the Winter Park Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of proposed amendments to the Zoning Regulations portion of the Land Development Code having held an advertised public hearing on November 7, 2017, and rendered its recommendations to the City Commission; and

WHEREAS, the Winter Park City Commission has reviewed the proposed amendments to the Zoning Regulations portion of the Land Development Code and held advertised public hearings on November 27, 2017 and on December 11, 2017 and advertised notice of such public hearings via quarter page advertisements in the Orlando Sentinel pursuant the requirements of Chapter 166, Florida Statutes and placed the proposed amendments on the City's website on October 31, 2107; and.

WHEREAS, the portions of Chapter 58, Land Development Code, Article III, Zoning Regulations, that are to be amended and modified as described in each section and amended to read as shown herein where words with single underlined type shall constitute additions to the original text and ~~strike through~~ shall constitute deletions to the original text.

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

SECTION 1. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified within Section 58-81 Parks and recreation District, subsection (e) (4) in the "Zoning" Article of the Land Development Code to read as follows:

Sec. 58-81. Parks and Recreation (PR) District.

(e) *Development standards.*

(4) Building heights shall not exceed two story height limits and the maximum building height shall be ~~thirty (30)~~ forty-five (45) feet for ~~flat roof buildings and thirty-five (35) feet for peaked roof~~

buildings. Parapet walls or mansard roofs functioning as parapet walls on flat roofed buildings may be added to the permitted building height but in no case shall extend more than five (5) feet above the height limits in this subsection. Mechanical penthouses, mechanical and air conditioning equipment, elevator/stair towers shall not extend more than ten (10) feet above the height limits in this subsection. Architectural appendages, embellishments and other architectural features may be permitted to exceed the roof heights specified in this section, on a limited basis, encompassing no more than thirty (30%) percent of the building roof length and area, up to eight (8) feet of additional height, upon approval of the City Commission, based on a finding that said features are compatible with adjacent properties.

SECTION 2. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified within Section 58-86 Off-Street Parking and Loading Regulations subsections (b) (21); (h); and (j); and adding new subsections (n) (o) and (p) in the "Zoning" Article of the Land Development Code to read as follows:

Sec. 58-86. Off-Street Parking and Loading Regulations.

(b) *Specific requirements for various uses and buildings.* Listed below are the minimum parking spaces required for various buildings and uses. When the computation results in a requirement for a fractional space, a fraction of one-half or less shall be disregarded. When the fraction exceeds one-half, one additional off-street parking space will be required. Parking spaces, other than handicapped spaces, shall be nine (9) feet wide by eighteen (18) feet deep. Variances to reduce the size of parking spaces are prohibited.

(21) *Residential dwellings.* Two spaces per dwelling unit for any residential project of two units or less. Two and one-half spaces per dwelling unit for any residential project of three units or more. The planning and zoning commission may recommend and the city commission may approve variances to these provisions where conditions warrant. The intent of the Code requirement for 2.5 spaces for multiple family projects is to provide visitor parking spaces for guests, service calls, deliveries, etc. For multiple family projects providing 2.5 parking spaces per unit, the provision of those visitor spaces may not be exclusively within enclosed garages or carports and there must be at least one visitor parking space for each two units that are open and accessible for guests, service calls, deliveries, etc. Multiple family projects may not sell or lease any of the code required visitor parking spaces to individual unit owners or residents. In cases where the City may grant or has granted a variance or exception enabling the total parking spaces for any multiple family project to be less than the code required 2.5 spaces per unit, then at least fifteen (15%) percent of the total number of parking spaces approved by the City must be made available as visitor parking. All such visitor parking spaces shall be clearly marked on the pavement or have signage provided, indicating their use for visitor parking. In cases where there is restricted access security or gates for resident parking, then such restricted access security or gates, etc. shall not prohibit access to the required number of visitor parking spaces. Parking necessary for on-site management or other on-site employees shall be provided in parking spaces in excess of the number required as visitor parking. The City's Code Enforcement Board may enforce these provisions when it is witnessed by city staff that on any four consecutive occasions within any two consecutive day period, the same resident vehicle or management employee vehicle is utilizing any designated visitor parking spaces.

h. *Mixed uses.* In the case of mixed uses, the total requirements for off-street parking and loading spaces shall be the sum of the requirements of the various uses computed separately as specified in the off-street parking regulations and off-street loading and unloading regulations of this article. The off-street parking and off-street loading space for one use shall not be considered as providing the required off-street parking and/or off-street loading space for any other use unless specifically

approved by the city commission. In any multi-family building or mixed use building or project constructed after February 22, 2010, that includes residential units, constructed after September 1, 2107, at least one of the required parking spaces provided for each residential unit shall be dedicated and reserved for each particular residential unit and shall be provided to each residential unit at no additional cost as part of a monthly or other lease term other than as included in the base lease rate applicable to all other similar units and shall not be an additional cost for purchase over the agreed upon purchase price of the residential unit.

j. Off-Site Parking and Remote Parking Lots encumbered. Where the provisions of off-street parking for a building or other use established subsequent to the adoption of this article involves one or more parcels or tracts of land that are not a part of the site plot on which the principal use is situated, the applicant for a permit for the principal use shall submit his application for a building permit, and an instrument duly executed and acknowledged, which subjects that parcel or tract of land to parking uses in connection with the principal use for which it is available. The initial term of this instrument shall be at least ten (10) five years in length. The instrument shall not be acceptable if the agreement can be terminated by either party, unless such termination is conditioned and predicated on the coincident termination of the use that necessitated the instrument agreement for parking. When a principal use has encumbered a remote parking lot in accordance with the regulations outlined herein to provide the required minimum parking spaces, then hereafter, the business tax receipt for the principal use will not be renewed by the city until the owner of the subject building presents sufficient evidence to the city that the required spaces will be provided for said use. ~~for a period of not less than five years and/or until the operator of the principal use presents sufficient evidence to the city that the required parking spaces will be provided for a period of not less than one year.~~ The applicant shall cause said instrument to be recorded in the office of the clerk of the circuit court of Orange County, Florida. A certified copy of the instrument shall be provided to the city at the time of application for a building permit or, if no building permit is required, upon the application for a business tax receipt for a use that must provide additional parking under this article. Such encumbrance shall be null and void and of no effect, if and when the city shall rescind or terminate off-street parking requirements for the building to be served by the encumbered lot, parcel or tract.

n. Parking garages. Parking garages shall be designed, constructed and maintained in accordance with the parking garage design guidelines outlined in Sections 58-71 and 58-84 of this Article. For any parking garage or deck there shall be at least two car lengths (35 feet) of stacking or queuing required whenever there is a parking ticket device or entrance gate so that such stacking does not extend over a public sidewalk or street. No parking ticket device or gate may be added to an existing parking garage unless this requirement is satisfied.

o. Parking garage management plans. The construction of any parking garage shall require the submission and approval by the City of a Parking Management Plan (PMP). The PMP shall include, at a minimum, the following elements:

1. The PMP shall include any method of charging for use of the parking structure and the proposed charges to be incurred for use of the parking garage. Without the express approval of the City, the parking garage shall not charge any fees in any manner to park within the parking garage or include charges to tenants for the ability to park within the parking garage. Any proposal to change for parking either directly or indirectly with tenant leases shall include the method by which visitors to the residential units or customers/clients to the businesses shall be entitled to park without payment of fees so that such visitors/customers/clients are not incentivized to park off-site on streets or other properties.
2. The PMP shall also include and require the City approval of signage and the location of such signage that reserves parking for specific tenant business usage. The City may require that

such reserved parking signage provide for the public use of those spaces at nights or on weekends when such businesses are closed in order to facilitate the public benefit of the parking structure.

3. The PMP shall also include the contacts for the property management company responsible for the maintenance and upkeep of the parking structure. Any dangerous or unsightly conditions such as trash, broken glass or graffiti shall be remedied with 48 hours of contact from the City or the failure to remedy shall be immediate grounds for action by the Code Enforcement Board.

It shall be the responsibility of the Owner(s) of the parking structure to request approval of any amendment to the PMP and no changes to the operations of the parking garage shall be undertaken without such consent.

Both the Owner(s) of the parking structure and the City may seek amendments or changes to the PMP. The City may seek changes to the PMP when the operation of the parking garage creates situations that adversely affect the City or other property owners.

p. Drainage. The Owner(s) and the Owner's engineer of record shall be responsible for ensuring proper design and construction of stormwater drainage systems and improvements to accommodate stormwater drainage associated with parking garages, structures and lots. The Owner(s) and their successors and assigns shall be responsible for ensuring the proper operation, maintenance and repairs of all private stormwater drainage systems and improvements that accommodate stormwater drainage parking garages, structures and lots. Owner(s) shall take particular caution when designing and construction parking garages and structures that are below grade and related stormwater systems and improvements to adequately address stormwater flows from adjacent public and private lands and public rights-of-way as stormwater drainage could flow down grade into such parking garages and structures. The City is not responsible for stormwater drainage flows (or for preventing the same) into below grade parking garages and structures. The City and its officers, employees and agents shall be held harmless by the Owner(s) and its successors and assigns from any and all stormwater drainage issues relating to parking garages, structures and lots, including but not limited to, in regards to below grade parking garages and structures which may receive stormwater flows from adjacent private or public properties and public rights-of-way. The City's approval of plans and issuance of permits and inspections approvals concerning parking garages, structures and lots or any stormwater drainage systems or improvements relating thereto shall not be construed as a guarantee, warranty or representation by the City or any of its officers, employees or agents that the Owner's or Owner's engineer of record's design plan is going to properly function or prevent stormwater drainage problems, or that the improvements are properly constructed or constructed in accordance with the applicable design plan or permits.

SECTION 3. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified within Section 58-90 Conditional Uses, subsections (a) (2) and (c) (2), in the "Zoning" Article of the Land Development Code to read as follows:

Sec. 58-90. Conditional uses.

(a) *Applications for conditional uses.*

(1) Within this article, various types of land uses, various types of structures, various types of businesses, certain types or sizes of buildings or certain types of licenses or business certificates have been deemed to require a conditional use approval prior to beginning operation or development. These conditional use approval requirements are to insure that such activities and

projects are in conformance with the comprehensive plan policies and that they do not result in lack of compatibility and adverse effects with the type and size of buildings and the character of the surrounding area. Aside from the ability to deny such conditional uses or impose conditions upon such conditional use approvals in order to achieve these objectives, the city may also reduce the size, height and intensity of such buildings, structures and uses of land below that normally permitted within the zoning district in order to insure that these objectives are achieved.

(2) The planning and zoning ~~board commission~~ may recommend and the city commission may impose conditions upon the approval of a conditional use request. Conditional use applications encompass the entire site or property involved and do not relate only to the component of the plans requiring such conditional use approval. For residential development projects, (other than one single family home or duplex) the total square footage of the collective buildings shall be utilized to determine if a conditional use requirement applies but for the type of notice the size of the largest individual building shall be the determinant. ~~As such~~ Conditions may be imposed regarding the manner in which the entire conditional use property is developed and used and the city may impose restrictions otherwise not applicable by other typical land development codes as part of the conditional use approval. Such conditions may also include trial periods or time limits placed upon an approval. Such conditions may also be limited to the time period during which the applicant maintains the business certificate or occupational license for the business requesting such conditional use approval. Such conditions may also require infrastructure improvements for transportation, mobility, water, sewer, storm water and such.

(c) *Approval of Conditional Uses.*

(1) A simple majority of the city commission may override any recommendation for denial or modify any conditions of approval in the recommendation of the planning and zoning board.

(2) In order to streamline the development plan approval process, the city commission in the approval of conditional uses may also grant limited exceptions from the terms of this article. Those exceptions shall be limited to the size, number and height of accessory structures such as walls, fences and signs and shall also be limited to site and building design features involving floor area ratio (but for floor area ratio, said exemption shall be limited exclusively to floor area ratio in a parking garage and further limited to no more than five (5%) of the total floor area ratio permitted by this article), the location or number of parking spaces, the location of storm water retention facilities, building setbacks, building lot coverage and building height, but for building height, said exception shall be limited to no more than five (5) feet above the height limits of this article.

SECTION 4. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified within Section 58-87 Lakefront Lots, Canalfront Lots, Steamfront Lots, Wetlands, Boathouses and Docks, subsection (d) (5); (d) (5) (b) and (6) in the "Zoning" Article of the Land Development Code to read as follows:

Sec. 58-87. Lakefront lots, canalfront lots, streamfront lots, wetlands, boathouses and docks.

(d) *Other structures on lakefront, canalfront or streamfront lots.* The following standards shall apply to all construction on lakefront, canalfront or streamfront lots:

(5) Structures on lakefront lots require the approval of the planning and zoning board prior to the issuance of a building permit. As conditions necessitate, the planning and zoning board or city commission may impose increased setbacks in concert with their waterfront review or conditional

use authority as necessary to accomplish the objectives in this section. Structures in this context shall also include parking lots, driveways, swimming pools, cabanas, gazebos, screen enclosures, tennis courts and other accessory buildings.

(a) Setbacks - Single family/duplex. The setback from the water's ordinary high water elevation for single family and duplex buildings and any other accessory structures on those properties (other than boathouses, docks, over the water gazebos or retaining walls) shall be the average established by the adjacent water front properties within 200 feet of the subject property, or 50 feet, whichever is greater. The planning and zoning board shall have the authority to approve water front setbacks less than the average to a minimum of 50 feet in accordance with their water front review authority.

(b) Setbacks - Multi-family/non-residential/mixed use. The water front setback from the water's ordinary high water elevation for multi-family (3 or more units) or non-residential or mixed use buildings and any other accessory structures on those properties (other than boathouses, docks, over the water gazebos or retaining walls) shall correspond to the height of the proposed structure. For buildings and structures 35 feet in height or less, the water front setback shall be a minimum of 75 feet. As the height of the building or structure increases, for each one foot increase in height over 35 feet in height, the water front setback shall increase by two and a half (2.5) feet. Parking lots, driveways, swimming pools or other accessory structures shall be setback a minimum of fifty (50) feet from the ordinary high water elevations below.

(c) Ordinary High Water Elevations. For convenience, the ordinary high water elevations of the city's principal lakes are listed below. These elevations have been determined by the Florida Department of Environmental Protection (FDEP) Bureau of Survey and Mapping. All elevations reference NGVD (88 datum). For canal and stream front locations, the ordinary high water elevations are to be provided by the public works department.

1. Lake Berry 69.4 feet
2. Lake Killarney.... 82.0 feet
3. Lake Maitland.... 65.7 feet
4. Lake Mizell.... 65.7 feet
5. Lake Osceola.... 65.7 feet
6. Lake Sue.... 70.7 feet
7. Lake Sylvan.... 71.2 feet
8. Lake Virginia.... 65.7 feet
9. Lake Bell.... 88.6 feet
10. Lake Spier.... 89.7 feet
11. Lake Forrest.... 100.0 feet
12. Lake Grace.... 100.8 feet
13. Lake Rose.... 87.8 feet
14. Lake Tuscany.... 69.1 feet
15. Lake Baldwin.... 90.7 feet
16. Lake Temple.... 66.6 feet

(6) Structures on canalfront or streamfront lots require the approval of the planning and zoning board prior to the issuance of a building permit. Other than boathouses, the waterfront setback shall be at least 50 feet from the canal bulkhead or stream. Structures in this context shall also include driveways, parking lots, swimming pools and pool decks, screen enclosures, tennis courts, cabanas and other accessory buildings. Swimming pools and decks on canalfront or streamfront lots may be permitted a minimum of 25 feet from the canal bulkhead or stream ordinary high water elevation, provided the swimming pool has an elevation of no more than two feet above the existing grade on

the side closest to the canal or stream. The planning and zoning board may require, as conditions necessitate, the imposition of increased setbacks to accomplish the objectives in this section.

SECTION 5. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by removing within Section 58-71 General Provisions for Residential Zoning Districts; subsections (i) (2) (a) and (b); (n) (2) and n (6); (8); (h) (5); (o) and (ee); and adding new subsections (ll); (mm) and (oo) in the "Zoning" Article of the Land Development Code as follows:

Sec. 58-71. General Provisions for Residential Zoning Districts.

(i) *Accessory buildings, structures, air conditioning equipment and other accessory uses in residential zones.*

(2) An accessory building may be attached to a principal structure by a one-story open sided roofed breezeway with a maximum width of eight (8) feet connected to the principal structure without meeting the setback requirements of the principal building and complying with the setbacks of the accessory building; however, all other zoning requirements must be met, such as impervious coverage, building coverage or floor area ratio, where applicable.

a. Accessory structures for the housing of persons such as guest houses, bedrooms and garage apartments including bathrooms but excluding swimming pool cabanas, shall not be located in any required yard. Pool cabanas and greenhouses no more than 500 square feet in area may be located five feet from the side lot line and ten feet from the rear lot line. Cabanas which include or are used as accessory living quarters or guest houses must meet the same setbacks as the principal home.

b. Air conditioning equipment, swimming pool equipment and electric generators shall not be located in any front yard or required side yard with street frontage unless totally shielded from view from the street by shrubbery or walls and fences otherwise complying with the zoning code. Air conditioning equipment may be located up to ten (10) feet from a rear lot line as long as they are adjacent to the accessory structure or principal structure. Air conditioning compressors and electric generators shall not be located in any side yard or within ten (10) feet from the rear lot line except that they may be permitted six (6) feet from a side or rear property line if written permission is granted by the adjacent property owner. In addition, for lots over 75 feet in width, air-conditioning and electric generators may be located ten feet from the side lot line. Any air conditioning equipment placed on a roof must be screened from view from surrounding properties and from public streets.

(n) Walls and fences.

(2) Height and setbacks in residential districts. In front yards and in side yards with street frontages, walls and fences shall not exceed three feet in height above the street curb elevation. However, these decorative front yard or street frontage walls and fences may be permitted columns or posts to exceed this height limit by one foot provided they are spaced at least ten feet apart. Light fixtures may also be placed on columns at driveway entrances up to one foot in height. In street-side yard areas of corner lots, a decorative fence or wall may be constructed five feet in height above the existing ground level when setback at least ten feet from the street-side property line. In all other side and rear yard areas, walls and fences may be a maximum of six feet in height above the ground. Where compliance with these height limits could cause a hardship due to the natural sloping topography of a particular lot, the administrative official may permit portions of a fence or wall to be up to eight feet in height in areas where the normal maximum height would be six feet;

and where fences are normally limited to three feet in height above the street curb elevation, the administrative official may permit the fence to be measured from the natural ground level rather than the curb. No wall or fence shall be permitted which would in any way obstruct or impair the visibility of automobiles at intersections and points of ingress and egress to the public right-of-way. For walls and solid fences located on any street, a setback of one (1) foot from the lot line is required to prevent interference with pedestrian mobility on existing or future sidewalks. Gates located on any street must match the openness of the fencing or no less than 60% open in composition whichever is greater. Walls and fences on the lakefront, canalfront, or streamfront side of properties shall meet the requirements established in this article for such waterfront properties. For purposes of locating walls and fences, front yards shall be the area from the front lot line to the front building wall or as determined by the building director.

(6) Walls and fences shall be finished on both sides with similar architectural treatments and color on both surfaces so that, for example, a brick-veneered masonry wall shall have brick veneer on both sides or a stuccoed masonry wall shall have a stucco finish on both sides, a painted wood fence would be painted on both sides, unless different surface treatments and color are agreed upon by the property owners on both sides of the wall and the building director.

(8) Corner lots with nonconforming walls or fences for one or two family dwellings: When an existing dwelling has a nonconforming building wall or fence located along a street side yard at a distance of 10 feet or greater from the street side lot line, a new fence or wall complying with a permitted material up to six (6) high is allowed to be constructed at the same nonconforming street side setback as a replacement in the same location.

(h) *Corner lot and other residential setbacks.*

(5) Garage and carport setbacks. All ~~corner~~ lots shall maintain a setback to a garage or carport opening door(s)/entry of at least twenty (20) feet from any street front lot line so as to preclude the parking of autos vehicles over a sidewalk or in the right-of-way. Unless approved as part of an overall project development plan by the City Commission, any garage doors or carport entry facing a public or private alley or access easement or other roadway used by more than two (2) residences shall maintain a setback of at least twenty (20) feet from the garage door(s) or carport entry to the roadway pavement of the public or private alley or access easement so as to preclude the parking of vehicles over the roadway. In addition, for garages doors and a carports entry facing a side or rear interior property line, a minimum distance of 22 feet shall be provided in front of garages and carports for the minimum parking exiting and turn around space.

(o) *Building to have access on a public street.* Every building hereafter erected or moved shall be on a lot ~~adjacent to~~ with frontage on a public street or previously approved private street. The structures on these lots shall be so located so as to provide safe and convenient access for servicing, fire protection, other emergency vehicles, and required off-street parking. Furthermore, no building hereafter erected or moved shall be on a lot solely adjacent to an unpaved road.

(ee) *Solar panels.* Solar photovoltaic (PV) is a permitted accessory use, provided that it meets the provisions of the respective zoning district and limited to the setbacks, area and coverage limitations of accessory structures in the respective zoning district. Solar panels shall be placed in locations that, to the greatest extent possible, are not visible from the public right-of-way or, as an alternative, other technologies such as roofing materials designed as photo voltaic collectors shall be used if the optimum location is visible from the public right-of-way.

(II) *Parking Shelters.* For multi-family residential projects, the City may permit open accessory detached shelter structures for shade and rain protection for vehicles provided that the parking shelter is at least eighty (80%) open, that the posts or columns meet a minimum five (5) foot setback

from adjacent properties, that the structures meets all Building Code wind load requirements; are not more than one story in height and limited to no more than 10 feet in height to the roof eave. Such parking shelters shall only cover a row of parking one space deep and may not span across a landscape island or the drive aisle. Such shelters may only located in the rear of the property or side of the property and not located in any area within twenty-five (25) feet of a right-of-way. Furthermore, such parking shelters must be architecturally consistent with the principle building and as such, metal post and canvas type coverings are not permitted.

(mm) Gated streets and gated communities. Consistent with the subdivision regulations provisions that prohibit private streets, and in order to promote vehicular and pedestrian ingress and egress access and for providing uninhibited emergency services access to any neighborhood, in subdivision or other housing community or housing projects, the use of gates or other access controls to restrict access to streets, neighborhoods, condominiums or other housing communities shall be prohibited. This shall not interpreted to prohibit the access management controls and gates to private residential parking garages provided unrestricted access is provided to visitor parking, that may be required per this Code or by a condition of approval of a residential project by the city commission nor shall it be interpreted to prohibit gates on driveways to any individual single family home.

(oo) Split Residential Zoning. In cases where a property has split and different zoning designations, the property may be used cumulatively for the density permitted by the combined zoning designations, subject to approval by the City Commission.

SECTION 6. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified within Section 58-84 General Provisions for Non-Residential Zoning Districts; revising subsection (r) and adding new subsections (v) (aa) and (gg) in the "Zoning" Article of the Land Development Code as follows:

Sec. 58-84. General Provisions for Non-Residential Zoning Districts.

(r) Display of merchandise outside commercial buildings within the C-2 zoning district. Only within the Central Business District and the Hannibal Square Business District, those properties which are zoned C-2 are allowed One display of merchandise may to be located outside of a commercial business exclusive of beautification elements such as plants (that are not for sale). This display must be placed within two (2) feet of the front wall or window of the building. This display must not block or impede pedestrian traffic or be placed on the public sidewalk and at least six (6) feet of clear sidewalk width must remain for pedestrian traffic. This display must be no more than six (6) feet in height and no more than two (2) feet in width. The display must be safely secured and removed under windy conditions. The display must be removed when the business is not open. An outside display is not permitted if the business chooses to place an outdoor portable sign.

(v) Solar photovoltaic (PV). Solar PV is a permitted accessory use, provided that it meets the provisions of the respective zoning district and limited to the setbacks, area and coverage limitations of accessory structures in the respective zoning district.

(aa) Parking Shelters. For office and commercial properties, the City may permit open parking shelter structures for shade and rain protection for vehicles provided that the shelter is at least eighty (80%) open, that the posts or columns meet a minimum five (5) foot setback from adjacent properties, that the structures meets all Building Code wind load requirements; are not more than one story in height and limited to no more than 10 feet in height to the roof eave. Such parking shelters shall only cover a row of parking one space deep and may not span across a landscape island or the drive aisle. Such shelters may only located in the rear of the property or side of the

property and not located in any area within twenty-five (25) feet of a right-of-way. Furthermore, such parking shelters must be architecturally consistent with the principle building and as such, metal post and canvas type coverings are not permitted.

(gg) Alcohol sales and consumption. Chapter 10 of the Code of Ordinances establishes classifications for city licenses permitting the sale and consumption of alcoholic beverages. The sale and/or consumption of alcoholic beverages is limited and restricted only to the business types listed below and any other business type not listed, such as salons, spas, is not permitted alcoholic beverage sales and consumption. As such, alcoholic beverage sales and consumption is limited only to the following locations and uses listed below.

- (1) Commercially zoned retail stores but only for off-site consumption. Retail food and beverage retail stores may be permitted limited on-site consumption only for samples during wine/beer tastings, cooking school demonstrations, as special events;
- (2) Commercially zoned restaurants and food and beverage establishments having a seating capacity of not less than 24 seats for on-site and off-site consumption;
- (3) Adult congregate living facilities having a minimum of 50 living units and a seating capacity for not less than 100 seats but only for on-site consumption;
- (4) Golf clubs, tennis clubs and other private recreational facilities but only for on-site consumption;
- (5) Theatres for live performances or for films/movies with not less than 100 seats but only for on-site consumption;

SECTION 7. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by removing within Section 58-95 Definitions to amend the definition of "gross floor area"; subsection (1) in the "Zoning" Article of the Land Development Code as follows:

Sec. 58-95. Definitions.

For the purposes of this article, certain terms or words used herein shall be interpreted as follows:

Smoke shop – means a store selling tobacco products, electronic cigarettes or other substances, smoking equipment and accessories for the consumption of any product or businesses offering related or similar services and products; provided however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "smoke shop" and shall not be subject to the restrictions in this chapter.

Gross floor area means, for the purpose of determining the floor area ratio of a building, the sum of the gross horizontal areas of the several floors of a building or buildings measured from the exterior surface of the walls or exterior of columns for roofed structures without walls. The means of deriving "gross floor area" for special circumstances is clarified as follows:

- ~~(1) Basement areas or other below grade floor areas are excluded from the "gross floor area" when more than one-half of that basement or floor height is below the existing grade or below the established curb level, if the lot grade is lower than the established curb level. However, in multi-family residential condominiums and apartment projects and in office, commercial or industrial projects, these basement floor areas shall be restricted to parking, service, mechanical, or storage~~

uses. Furthermore, these basement areas when used for service, mechanical, or storage purposes shall be limited in size for those uses to no more than 7 1/2 percent of the first floor area.

Lakefront lot means a lot or property which is bounded by or within 200 feet of Lakes Maitland, Osceola, Virginia, Mizell, Sue, Sylvan, Berry, Forrest, Killarney, Temple, Tuscany, Spier, Grace, Rose, Tuscany, Baldwin and Lake Bell.

Vapor lounge – also known as “vapor bar”, “smoking device bar” or “electronic smoking device lounge” shall be defined as a store or lounge selling or allowing onsite consumption of tobacco or any alternative to cigarettes and/or liquid products that are manufactured for use with electronic cigarettes, tobacco products, and devices capable of providing an inhalable dose of nicotine or any other substances within the establishment.

SECTION 8. That Chapter 58 “Land Development Code”, Article III “Zoning” of the Code of Ordinances is hereby amended and modified by adding within Section 58-76 Commercial (C-3) District; subsection (b) (8) and (e) (1) in the “Zoning” Article of the Land Development Code as follows:

Sec. 58-76. Commercial (C-3) District.

(b) *Permitted uses.*

(8) Animal hospitals, veterinary clinics, pet stores and other animal care businesses provided that they are in a freestanding building or have consent of the other tenants within that building; that there shall be no outside kennels, pens or runs, and there shall be no overnight or weekend boarding of animals unless the structure is located more than 200 250 feet from a residentially zoned parcel of land from the nearest residential building measured building to building.

(e) *Development standards.*

(1) Any building constructed within this district shall adhere to the following minimum or required setbacks for front, rear and side yards. The front setback to all streets shall be a minimum of ten (10) feet from the property line and a minimum of fifteen (15) feet on Orlando Avenue ~~and on the north side of Fairbanks Avenue and twenty (20) feet on the south side of Fairbanks Avenue.~~ For properties along Orange Avenue, the front setback may be reduced to the average front setback of the existing buildings within that block if approved by the City Commission. Side yard setbacks shall be a minimum of five (5) feet from each property line unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. The rear setback shall be a minimum of thirty (30) feet from the property line unless the rear yard abuts a residentially zoned parcel, then a thirty-five (35) foot setback shall be observed. However, within the Hannibal Square Neighborhood Commercial District area, as set forth in this section, new buildings shall have a required ten (10) foot front setback and may be permitted zero-foot side setbacks unless the parcel shares a common line with a residentially zoned parcel, then a fifteen (15) foot setback shall be observed. For any required front setback, the distance may be increased upon the determination by the public works director and police chief that a traffic sight distance safety problem may exist, to the extent required to remedy the problem.

SECTION 9. That Chapter 58 “Land Development Code”, Article III “Zoning” of the Code of Ordinances is hereby amended and modified by amending within Section 58-64 Nonconforming Lots, Nonconforming Uses and Nonconforming Structures; subsections (c) (2) and (c) (3) in the “Zoning” Article of the Land Development Code as follows:

Sec. 58-64. Nonconforming Lots, Nonconforming Uses and Nonconforming Structures.

(c) *Nonconforming structures.*

(2) If a nonconforming structure or portion thereof be demolished or destroyed through repair, remodeling, reconstruction or any other means to an extent of more than 50 percent of its replacement cost at the time of demolition or destruction, it shall not be reconstructed or restored except in conformity with the provisions of these zoning regulations. Removal and replacement of a nonconforming portion of a building with a new structure (such as new walls or roof) is not to be permitted. When 90% or more of the roof structure of a nonconforming building is removed, and interior floor areas are remodeled including the substantial removal of existing plumbing, electrical and mechanical systems, then that building shall be deemed to have exceeded the 50% destruction threshold referenced in this paragraph.

(4) Should such nonconforming structure be demolished, destroyed, or damaged by fire, wind storm, hurricane, tornado, flood, explosion, or other such calamity, such structure may be rebuilt or restored to its original dimensions and building setback as long as the nonconformities are not increased beyond the pre-existing condition and the building is rebuilt at same setback but not less than least five (5) feet from the closest property line for those portions of the building which had nonconforming setbacks.

SECTION 10. That Chapter 58 "Land Development Code", Article III "Zoning" of the Code of Ordinances is hereby amended and modified by amending within Section 58-66 R-1AA and R-1A Districts; subsections (e) (1) and (2) in the "Zoning" Article of the Land Development Code as follows:

Sec. 58-66. R-1AA and R-1A Districts.

(e) *Minimum building site.*

(1) The minimum lot area for the R-1AA district shall be 10,000 square feet with a minimum frontage at the building line of 100 feet. Corners lots shall have an extra 10 feet of lot width required.

(2) The minimum lot area for the R-1A district shall be 8,500 square feet with a minimum frontage at the building line of 75 feet. Corners lots shall have an extra 10 feet of lot width required.

(3) The minimum lot width for lakefront property located across a street from the principal lot with the main residence shall be the same lot width as is required for main residence.

SECTION 11. 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 12. 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;

SECTION 13. CONFLICTS. All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

SECTION 14. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 11th day of December, 2017.

Mayor Steve Leary

ATTEST:

City Clerk Cynthia S. Bonham