

## ORDINANCE 3263-23

### **AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" SECTION 58-94 "APPEALS FROM INTERPRETATIONS AND ENFORCEMENT DECISIONS OF THE BUILDING AND ZONING OFFICIAL", TO MODIFY THE PROCESS FOR APPEALS, PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of the City of Winter Park deems it necessary for the general welfare of the City to amend the City of Winter Park Land Development Code as set forth in this Ordinance;

**WHEREAS**, the City Commission hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Winter Park, Florida;

**WHEREAS**, the City Commission hereby finds that the land development regulations adopted herein are consistent with the Comprehensive Plan;

**NOW THEREFORE, BE IT ENACTED** by the City Commission of the City of Winter Park, Florida, after due notice and public hearing, that:

**SECTION 1.** That Chapter 58 "Land Development Code", Article III, "Zoning" of the Code of Ordinances, Section 58-94 "Appeals from interpretations and enforcement decisions of the building and zoning official." is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-94. - Appeals from interpretations and enforcement decisions of the building and zoning official.

- (a) A property owner may request a written decision from the building and zoning official setting forth the interpretation rendered in the application or enforcement of the code to that property owner's property in the event that (i) the property owner is unsure of his/her/its rights under this article and wants an interpretation of this article as applied to that property owner's property; or (ii) property owner desires to challenge an interpretation, application or enforcement of this article as applied to that property owner's property. The property owner's request for a written decision under this section should explain the circumstances and the applicable code provisions at issue in sufficient detail to give the building and zoning official adequate information to issue a written decision. Upon the receipt of a sufficient request for a written decision on the interpretation, application or enforcement of this article, the building and zoning official must issue a written decision within ten (10) days and send the same to the requesting property owner and to the owners of the properties adjacent to the requesting property owner's property. This section does not apply to final decisions on or the issuance of development orders or

building permits. Appeals concerning interpretation or enforcement of this article may be taken to the planning and zoning commission by any person aggrieved by any decision of the building and zoning official enforcing or interpreting this article. Such appeals shall be taken within 30 days of rendition in writing of that decision by the building and zoning official. Upon written request of a person aggrieved, the building and zoning official shall forthwith render in writing any previously unwritten decision. Appeals shall be commenced by filing with the building and zoning official a notice of appeal specifying the ground thereof. The building and zoning official shall within seven days of such an appeal being filed transmit to the planning and zoning commission all papers constituting the record upon which the decision appealed from was made by him.

- (b) A written decision issued by the building and zoning official under this section may be appealed by the property owner that sought the written decision or by any person aggrieved by the written decision by filing a written notice of appeal with the building and zoning official within fifteen (15) days from the rendition of the written decision. The written notice of appeal must state the grounds of the appeal and articulate in detail why the building and zoning official's written decision (or a portion thereof) is incorrect. The appeal will be transmitted to the planning and zoning board for a hearing.
- (b) The planning and zoning board ~~commission~~ shall hear the appeal at their first regular meeting ~~next~~ that is scheduled in the period between 20 days and 45 days after the filing of the appeal providing sufficient time for notice of such hearing to be distributed in the same manner as for variances to this article. Such notice shall reflect that the decision of the planning and zoning board ~~commission~~ is subject to appeal by the city commission. The appellant shall pay to the city a fee prescribed by the city commission to cover the administrative costs of such an appeal. At the hearing the aggrieved person and parties in interest may appear in person or by agent or attorney. The building and zoning official may be represented by the city attorney or by such city official as he may designate.
- (c) Review of the decision of the planning and zoning board ~~commission~~ may be taken in the manner described below to the city commission.
- (d) On written application by the person aggrieved, the building and zoning official, the city manager or any member of the city commission, the city commission shall schedule a public hearing to review in such manner as the city commission may choose the decision of the planning and zoning board ~~commission~~ on such an appeal.
- (e) Such application shall be filed in writing with the building and zoning official within 15 days of the rendition of the planning and zoning board ~~commission~~'s decision on the original appeal. Notice of the hearing shall be mailed to the person aggrieved and to all owners of property within 200 feet of the property affected.

- (f) At the conclusion of the public hearing, the city commission may affirm the decision of the planning and zoning board ~~commission~~ or override that decision and either reinstate the original decision of the building and zoning official or substitute its own decision for that of both the planning and zoning board ~~commission~~ and the building and zoning official.
- (g) An appeal to the planning and zoning board ~~commission~~ and an application for review before the city commission shall stay all proceedings in furtherance of the decision appealed from or from which review is sought, unless the building and zoning official certifies to the city manager after the notice of appeal or application for review is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

**SECTION 2. CODIFICATION.** Section 1 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

**SECTION 3. SEVERABILITY.** The divisions, sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection, section, or division of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, sections, and divisions of this Ordinance. The City Clerk is given liberal authority to ensure proper codification of this Ordinance, including the right to correct scrivener's errors.

**SECTION 4. CONFLICTS.** In the event of a conflict between this Ordinance and any other ordinance of the City of Winter Park, this Ordinance shall control to the extent of such conflict.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and in accordance with Florida law.

**ADOPTED** at a regular meeting of the City Commission of the City of Winter Park, Florida held in City Hall, Winter Park, on this 8th day of February, 2023.

By: \_\_\_\_\_  
Mayor Phil Anderson

ATTEST:

By: \_\_\_\_\_  
Rene Cranis, City Clerk