

**ORDINANCE 3269-23**

**AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING", SECTION 58-90 "CONDITIONAL USES" AND SECTION 58-92 "BOARD OF ADJUSTMENT – POWERS AND DUTIES" TO EXTEND THE EXPIRATION OF CONDITIONAL USE AND VARIANCE APPROVALS FROM TWO YEARS AND ONE YEAR RESPECTIVELY TO THREE YEARS AND TWO YEARS, 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 58-90 "Conditional Uses." Subsection (d) (1) and (e) (2) is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-90. – Conditional uses.

(d) *Expiration and re-establishment of conditional uses.*

(1) Conditional uses involving the use of land or buildings for a particular type of business or business activity determined to be a conditional use, such as, but not limited to, motor vehicle sales, live amplified musical entertainment, day care, alcoholic beverage licenses, etc., shall expire either one year from the date of the approval by the city commission if such use or business type has not yet been commenced or such conditional use shall expire 90 days from the time the business ceases to operate from the property or building. This shall apply if the business is closed for 90 consecutive days regardless of whether a business certificate continues to exist. Conditional uses involving approvals for the construction of buildings over 10,000 square feet or for three stories within the central business district geographical area shall expire after ~~one~~ two (2) years from the date of a preliminary approval by the city commission if a final development plan approval is not granted or such conditional uses shall expire after ~~two~~ three (3) years from the approval by the city commission from the date of the final development plan approval by the city commission unless a complete and sufficient building permit

application and construction plans are submitted or construction is underway or as may otherwise be specifically set forth in the conditional use approval or in the accompanying development agreement. Pursuant to such submittal of building permit application and construction plans, construction must commence no later than six (6) months from the date the building permit is issued. For phased projects without timetables specified in the conditional use approval or in the accompanying development agreement, all phases must be under construction within five (5) years from the date construction commences on the first phase.

*(e) Conditional use approval process.*

(1) For conditional uses approvals involving buildings over 10,000 square feet or for three-story buildings within the central business district geographic area as defined in this code, there is a two-step process established involving a preliminary approval and then a final development plan approval. Preliminary approvals may be recommended by the planning and zoning board and may be approved by the city commission at a single public hearing except for three-story buildings within the central business district and construction within stream floodplains which shall require two public hearing approvals of the preliminary conditional use by the city commission. Otherwise, at the discretion of the applicant, the applicant may apply and request a final development plan approval in one step by both the planning and zoning board and the city commission, if all relevant issues are addressed and complete submissions are approved. A preliminary approval is the first step of a two-step approval process. The second step is the final development plan approval which requires the resubmission of additional plan documents or other relevant materials as may be deemed necessary to the planning and zoning board for recommendation and for action by the city commission. Applicants shall maintain consistency in all plan submissions between the city commission approval of a preliminary conditional use and the request for a subsequent final conditional use approval. Consistency shall be both in the site plan layout and the architectural elevations proposed. If changes occur or are proposed in such plan documents submitted for final conditional use approval, as well as any other significant changes, as defined in this section, shall require that the revised documents be treated as a new preliminary conditional use request and none of the entitlements implied or prior approvals shall be valid. The city commission may, except for three-story buildings within the central business district and for construction within stream floodplains, at its choosing, delegate the subsequent review and final development plan approval authority to the planning and zoning board such as providing for a final development plan approval subject to the planning and zoning board's review and approval of a landscape plan, lighting plan, etc. The initial preliminary approval does not establish a contractual obligation for the city to issue development orders and building permits until the final approval is granted.

**SECTION 2.** That Chapter 58 "Land Development Code", Article III, "Zoning" of the Code of Ordinances, Section 58-90 "Board of Adjustment – Powers and duties." Subsection (e) is hereby amended as shown below (underlined language are additions; ~~stricken~~ ~~through~~ language are deletions; subsections not included are not being modified):

Sec. 58-92 Same – Powers and duties.

(e) Upon the granting of a variance as provided for in the preceding paragraphs, the person receiving such a variance shall exercise the same within a period of ~~one~~ two (2) years from such grant; and all such variances granted and not exercised within ~~one~~ two (2) years shall expire and be no further in force and effect.

**SECTION 3. CODIFICATION.** Section 1 and 2 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances.

**SECTION 4. 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 5. 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 6. 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 26th day of April, 2023.

By: \_\_\_\_\_  
Mayor Phillip M. Anderson

ATTEST:

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