

ORDINANCE 3290-24

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA AMENDING CHAPTER 58, "LAND DEVELOPMENT CODE", ARTICLE III, "ZONING" SECTION 58-84 "GENERAL PROVISIONS FOR NON-RESIDENTIAL ZONING DISTRICTS", TO PROVIDE DEFINITIONS AND SUBMITTAL AND REPORTING REQUIREMENTS AND OTHER PROVISIONS FOR CERTIFICATION AND IMPLEMENTATION OF DEVELOPMENT PURSUANT TO THE LIVE LOCAL ACT, 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 in order to provide certification standards and implementation criteria for development proposed in conformance with the Live Local Act of Florida Statutes;

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 58-84 "General provisions for non-residential zoning districts" is hereby amended as shown below (underlined language are additions; ~~stricken through~~ language are deletions; subsections not included are not being modified):

Sec. 58-84. General provisions for non-residential zoning districts.

(hh) General provisions for development proposed in conformance with the Live Local Act of Florida Statutes.

- (a) **Definitions.** For the purposes of this subsection, the following definitions are provided for terminology not defined in Florida Statutes with respect to implementation consistent with the Winter Park Land Development Code:

Allowed as used in Fla Stat. 166.0415 shall mean as allowed under the provisions of the city land development code at the time of a proposal is submitted for development subject to Fla Stat. 166.0415 and shall not mean as allowed historically back in time previous to the present. It shall also mean allowed by right pursuant to the applicable zoning district and shall not include as may potentially be allowed via a conditional use approval, or access to any bonus

pool, or via special permit for non-conforming structures or settlement agreement or vesting agreement for such non-conforming allowances.

Commercial as used in Fla. Stat. 166.0415 shall mean only the commercial zoning districts of the city which are only the properties zoned C-1, C-3, C-3A and PD-OC as used in the Ravaudage PD, and no other zoning district.

Height within one mile as used in Fla Stat. 166.0415 shall mean one mile as can be traveled by human beings along the public streets of the city within the normal permitted lanes of travel from the center point of the proposed development site and shall not mean a straight-line distance as a bird might be able to travel.

Highest allowed density as used in Fla Stat. 166.0415 shall mean in the context of Winter Park, 17 units per acre as this is the highest residential density currently allowed and is expressed in units per acre and shall only mean residential units per acre and shall not mean density as in the context of floor area ratio as used elsewhere in Chapter 166 Fla Stat. which in reference to intensity terminology as applied to floor area ratio. Density is units per acre and intensity is floor area ratio.

Highest currently allowed height as used in Fla Stat. 166.0415 shall only mean such height allowed by right within the municipality and not heights allowed if such height would require conditional use approval under the city land development code based upon the size in square footage of the project proposed project under the Live Local Act.

Industrial as used in Fla Stat 166.0415 shall mean only the industrial I-1 zoning district of the city and no other industrial zoning district.

Mixed Use as used in Fla Sta. 166,0415 shall not apply in the City, as no mixed use zoning district exists within the city.

- (b) **Process for Approval.** The approval process for a qualifying development located within an eligible zoning district, shall include payment of a fee, and if application is not made by the owner of record, then a contract or agreement to purchase (that permits black-out of the financial purchase details) but is clear as to dates of effectiveness and due diligence periods, an application on a form provided by the city, site development plans, and affidavit of commitment to City of Winter Park's Affordable Housing standards for income qualification, monitoring, and inspection during the full minimum 30 years of operation including acknowledgement of the auditing requirements for eligibility of all tenants living within the designated affordable housing units in order to establish compliance with the provisions of the Live Local Act and penalties for non-compliance as further outlined below. Upon application, the city shall complete a sufficiency review of the materials submitted and provide a response that the application is complete or specifically what items are still required at a date sixty (60) days after submittal. The applicant shall then provide the items that are required for the sufficiency review which shall then begin another sufficiency review period that shall be completed at a date

sixty (60) days following re-submittal and so on until a complete application is provided. A contract to purchase must be in full force and effect during the sufficiency and review periods established within this Section. If any due diligence period or other contract matter expires within such time periods, then the city shall not begin or complete the sufficiency review or application review.

- (c) **Minimum Requirements.** The minimum requirements for certification of compliance with the Live Local Act are as follows:

Site Development Plan which includes the following:

1. Scale, date, and north arrow.
2. Legal Description of the property.
3. Site Data Table including gross square footage of the site and project, total impervious coverage and principal setbacks.
4. Dimensioned location, size, height and use of all proposed structures.
5. Project units, number of affordable units per area median income, and affordability period.
6. Label uses of adjacent parcels.
7. Location, dimension and method of buffering from adjacent uses.
8. Location and method of screening of refuse stations, storage areas and off-street parking and loading areas.
9. Method of stormwater retention.
10. Location, size and total amount of greenspace.
11. Tree table with tree retention and applicable mitigation.
12. The location, width, pavement type, right-of-way name and other related appurtenances of all public rights-of-way adjoining, traversing or proximate to the site.
13. Location and dimensions of proposed project ingress/egress, parking and service areas, including typical parking space dimensions.
14. Vehicle Use Area buffering adjacent to rights of way.
15. Southern Florida Building Code definitions for types of construction proposed and existing.
16. Proposed means of vehicular and pedestrian access from the site(s) within the development to adjacent streets and/or alleys, showing all existing and proposed curb cuts and sidewalks.
17. Building Elevations (4-sided) for each proposed building.
18. Commitment to complete a transportation study prior to issuance of the building permit.

19. Any other information required under the specific site plan districts pertaining to this article or which may be required, when commensurate with the intent and purpose of this Code, by city reviewing staff.
 20. An affidavit confirming a 30-year commitment to provide affordable housing and monetary cap on all rent charges including any and all other fees as may be assessed to the occupants of units deemed to be affordable, such that all rents and fees shall not exceed 30% of the gross income of all occupants of affordable units; affidavit attesting to agreement and acceptance as to the annual audit requirements by a certified public accounting firm attesting to satisfaction of the such income and total rental fees and affidavit attesting to agreement and understanding that violations of such commitments shall be subject to a fine of no less than \$5,000.00 per day for each violation determined by the annual audit and for each day the annual audit is not received by the city after March 1st of every year and affidavit agreement that any such fines shall constitute a lien on said property if not paid to the city within 60 days of receipt of the audit by the city by March 1st of every year and agreement to reimburse the city for any legal expenses in the enforcement of these provisions.
 21. A statement indicating the petitioners' commitment to comply with specific chapters of the City Code applicable to the project (i.e., tree and landscaping, fire, etc.) at the time of permitting.
 22. Compliance with all land development regulations applicable to the zoning district in which the project is proposed, except only as otherwise preempted by the Live Local Act with respect to height.
- (d) **Project Narrative.** Application shall contain a narrative which demonstrates compliance with section 166.04151(7)(a)- (g), Florida Statutes.
 - (e) **Orange Avenue Overlay District (OAO).** Projects within the Orange Avenue Overlay District must meet the applicable architectural requirements of the OAO and will be subject to review by Orange Avenue Overlay Appearance Review Advisory Board. The City may deny a project that receives a recommendation of denial or fails to meet the conditions of a recommendation for approval from the Orange Avenue Overlay Appearance Review Advisory Board.
 - (f) **Affidavit of Commitment and Restrictive Covenants.** As a condition of approval and prior to any site or building permits for the project being requested or obtained, the applicant (and the property owner, if different from the applicant) must execute and have recorded in the public records of Orange County, Florida, an Affidavit of Commitment and Restrictive Covenants. Such Affidavit of Commitment and Restrictive Covenants shall: (i) have terms acceptable to the city, (ii) run with and be binding upon the land for no less than thirty (30) years from the issuance of a certificate of occupancy for the last principal structure of the project (iii) be enforceable by the city; (iv) detail the affordable housing and project conditions and

restrictions required by this section, the Live Local Act and on the approval of the project; (v) provide for monitoring, and compliance requirements; and (vi) provide for the city's enforcement remedies. Mortgage holders will be required to execute and record a subordination of their lien interest to such Affidavit of Commitment and Restrictive Covenants prior to or simultaneously with the recording of the Affidavit of Commitment and Restrictive Covenants. The city will provide the monitoring and compliance forms upon submittal of the application, deemed complete and sufficient.

- (g) **Equivalent Treatment of all Dwelling Unit Requirements.** As a condition of approval prior to any site or building permits for the project being requested or obtained, such project must demonstrate and commit that all affordable dwelling units and market rate dwelling units shall be located within the same structure. all common areas and amenities shall be accessible and available to all residents (both affordable and market rate dwelling units). access to the required affordable dwelling units shall be provided through the same principal entrance(s) utilized by all other dwelling units in the development. in addition, the sizes and number of bedrooms in the affordable dwelling units shall be proportional to the square footage and number of bedrooms in the market rate dwelling units (e.g., for number of bedrooms, if 25 percent of the market rate dwelling units consist of two bedrooms, then 25 percent of the affordable dwelling units shall also have two bedrooms).
- (h) **Agent Authorization.** An affidavit with the property owner's notarized authorization.
- (i) **Timeframe for Review and Issuance of Approval:** Upon receipt of a complete application, the city will complete its review and provide a response sixty (60) days from receipt of such materials as required by this subsection.
- (j) **Fee:** The fee for a qualifying development will be \$2642.00 plus \$111/acre or portion thereof or as otherwise amended within the adopted Fee Schedule from time to time by the City Commission at public hearing.
- (k) **Duration of Approval:** An approval received through this process shall be effective for six (6) months from the date of approval. The application process and certification of compliance with the live local act shall begin again if a building permit has not been issued by the city within six (6) months of an approval under this section.

SECTION 2. CODIFICATION/SUNSETTING. Section 1 of this Ordinance shall be incorporated into the City of Winter Park Code of Ordinances. The provisions of Section 1 of this Ordinance shall sunset and be automatically repealed upon the occurrence of any one of the following: (1) Section 5 of The Live Local Act as set forth in Chapter 2023-17 expires on October 1, 2033; (2) Section 5 of The Live Local Act as set forth in Chapter 2023-17 is held unconstitutional or invalid by a court of competent jurisdiction; or (3) Section 5 of The Live Local Act as set forth in Chapter 2023-17 is repealed. The sunseting of Section 1 of this Ordinance will not terminate any conditions of approval

for projects utilizing Section 1 prior to its sunseting or the City's ability to enforce the same, including without limitations, any terms and conditions of Affidavit of Commitments and Restrictive Covenants pertaining to the project.

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 10th day of January 2024.

By: _____
Mayor Phillip M. Anderson

ATTEST:

Rene Cranis, City Clerk