

## Staff Report

**ZTA #23-08 Request of the City of Winter Park for:** 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 of Florida Statutes.

### Background:

Effective, July 1, 2023 the Florida Legislature amended State Statutes to enact a Live Local Act in order to promote the construction of affordable housing. There are some facets of the Act that are positive including the express approval of inclusionary housing ordinances that can require affordable housing, as a component of housing projects in certain circumstances. However, there are certain terms in the Act that are not defined as to their meaning in the Act and other local zoning over-rides that are of concern in the Act.

In particular, the Act overrides local zoning regulations for any housing project, if that project includes a minimum of 40% of the units as affordable housing. In that case:

1. "A municipality must authorize multi-family and mixed-use residential as allowable uses in any area zoned for commercial, industrial or mixed use if at least 40% of the residential units are, for a period of 30 years, affordable as defined in S. 420.004. A municipality may not require a zoning or land use change, special exception, conditional use or comprehensive plan amendment for the building height, zoning and densities authorized under this section.
2. "A municipality may not restrict the density authorized by this section below the highest density on any land in the municipality where residential development is allowed."
3. "A municipality may not restrict the height below the highest currently allowed height for a commercial or residential development located within 1 mile of the proposed development or 3 stories."
4. "A proposed development must be administratively approved if the development satisfies the municipality's land development regulations for multi-family developments in areas zoned for such with the exceptions of densities and height."

The first purpose of this Ordinance is to provide definitions as to terms used in the Act that are otherwise not defined in order to avoid legal debates between developers and the City as to the meaning of such terms. The City needs to be proactive in defining such terms as the City understands their meaning to be.

The second purpose of this Ordinance is to provide an application and certification process with submittal requirements in order to certify that the proposed housing development does provide such affordable housing as required, submits commitment to do such, and provides such information or reporting requirements during the operation of the housing development. Otherwise, under the Act, one can declare that they are providing affordable housing but never demonstrate how they are doing such at any time during the initial approval process, during construction or operation for the 30 years required. There also are no penalties within the Act

for non-compliance.

Most cities in Florida are enacting similar Ordinances as proposed by staff. We have borrowed liberally from the regulations adopted by the City of Tampa.