

ORDINANCE 25-23

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER GARDEN, FLORIDA, AMENDING CHAPTER 98, PLANNING AND DEVELOPMENT, TO CREATE A NEW SECTION 98-1, CITY OF WINTER GARDEN CODE OF ORDINANCES TO ADDRESS RELIEF CONCERNING DECLARED EMERGENCY RESTRICTIONS OF SECTION 28 OF CHAPTER 2025-190, LAWS OF FLORIDA; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City desires to amend its land development regulations to address the declared emergency restrictions of Section 28 of Chapter 2025-190, Laws of Florida (SB 180);

WHEREAS, the City Commission of the City of Winter Garden deems it necessary for the general welfare of the City to amend the City of Winter Garden land development regulations 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 Garden, Florida;

WHEREAS, the City Commission hereby finds that the land development regulations adopted herein are necessary for compliance with Section 28 of Chapter 2025-190, Laws of Florida;

WHEREAS, the Winter Garden Planning and Zoning Board, acting as the designated Local Planning Agency, has reviewed and recommended adoption of proposed amendments to the Land Development Code set forth in this Ordinance having held an advertised public hearing, and has recommended approval of this Ordinance to the City Commission.

NOW, THEREFORE, BE IT ENACTED BY THE CITY OF WINTER GARDEN, FLORIDA, AS FOLLOWS:

SECTION 1: Authority. The City of Winter Garden has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes.

SECTION 2: Adoption. A new Section 98-1 of Chapter 98 of the City of Winter Garden Code is hereby created to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not included are not being amended):

Section 98-1. Relief Concerning Declared Emergency.

- (a) The purpose of this section is to address the restrictions of Section 28 of Chapter 2025-190, Laws of Florida. This section shall sunset and expire on October 1, 2027 unless extended pursuant to the provisions of Section 28 of Chapter 2025-190, Laws of Florida or otherwise by general law. If Section 28 of Chapter 2025-190, Laws of Florida is repealed or expires as it applies to the city, this section shall automatically expire simultaneously therewith. If Section 28 of Chapter 2025-190, Laws of Florida is substantially amended after the effective date of this section, the Planning Director may freeze use of this section until an amendment to this section is adopted to incorporate the amendments made to Section 28 of Chapter 2025-190, Laws of Florida. If a court of competent jurisdiction issues an injunction against the enforcement of or declares invalid or unconstitutional Section 28 of Chapter 2025-190, Laws of Florida, the Planning Director may freeze use of this section until an amendment to this section is adopted or it is repealed.
- (b) If an authorized applicant for a development order believes that any city-initiated amendment to land development regulations and/or Comprehensive Plan, that occurred after August 1, 2024 is “more restrictive or burdensome” than existed prior to August 1, 2024, the applicant may file an application with the City to have the version of land development regulations and/or the Comprehensive Plan existing as of August 1, 2024 apply to and govern the development order application at issue pursuant to the following provisions:
- (i) The applicant shall submit in writing to the Planning Director a sworn, notarized statement: (i) describing the development order sought and the details of the proposed development project; (ii) describing with citations and specificity which provisions of land development regulations and/or the Comprehensive Plan that have been amended since August 1, 2024 are “more restrictive and burdensome” than existed on August 1, 2024; (iii) describing how such “more restrictive and burdensome” provisions are applicable to the development order application; (iv) describing how, when applied to the development order application such “more restrictive and burdensome” provisions result in more restrictive and burdensome impacts on the proposed development than the August 1, 2024 version of land development regulations and/or the Comprehensive Plan; (v) requesting that the version of land development regulations and/or the Comprehensive Plan existing as of August 1, 2024 apply to and govern the development order application at issue and agreeing to be bound by such provisions; and (vi) agreeing that the authorized applicant and property owner will not receive any benefits of the then current version of the land development regulations and/or Comprehensive Plan if it/they elect to request relief pursuant to this section. If the authorized applicant is not the fee simple property owner(s), the property owner(s) shall be required to join in and consent to the sworn, notarized statement.

- (ii) Upon receipt of the sworn, notarized statement pursuant to subsection (i), the Planning Director or designee will evaluate the notarized statement to determine if the statement is complete and whether the information submitted in the statement presents a good faith claim that there are “more restrictive and burdensome” provisions of the land development regulations and/or Comprehensive Plan than existed on August 1, 2024 entitling the authorized applicant to relief pursuant to Section 28 of Chapter 2025-190, Laws of Florida. If the sworn, notarized statement is incomplete, the Planning Director or designee will request the authorized applicant to provide additional information to complete the requirements of subsection (i).
- (iii) If the sworn, notarized statement pursuant to subsection (i) is determined by the Planning Director or designee to present a good faith claim that there are “more restrictive and burdensome” provisions of land development regulations and/or the Comprehensive Plan than existed on August 1, 2024, the development order application will proceed to be reviewed and considered for approval pursuant to the August 1, 2024 version of land development regulations and/or the Comprehensive Plan. The authorized applicant and property owner will not receive any benefits of the then current version of the land development regulations and/or Comprehensive Plan if it/they elect to use this section.
- (iv) The Planning Director or designee is not required to agree with the “more restrictive and burdensome” claim contained within the sworn, notarized statement in order to grant relief of applying the August 1, 2024 version of the land development regulations and/or the Comprehensive Plan.

(c) Any decision made by the Planning Director under this section may be appealed by the applicant to the City Commission by filing a written notice of appeal with the City Clerk and Planning Director within ten (10) days of the date of Planning Director’s written decision. Thereafter, the City Commission will hold a de novo public hearing on the appeal within sixty (60) days from the City’s receipt of the appeal unless otherwise agreed by the applicant and Planning Director. The City Commission’s decision on the appeal shall be final and subject to challenge in circuit court pursuant to Section 98-32.

SECTION 3: Codification: Section 2 of this Ordinance shall be codified and made part of the City of Winter Garden Code of Ordinances.

SECTION 4: Control: In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance controls.

SECTION 5: Severability: It is the intent of the City Commission of the City of Winter Garden, and is hereby provided, that if any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall be construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 6: Effective Date: This Ordinance shall become effective upon adoption at its second reading.

FIRST READING: SEPTEMBER 11, 2025.

SECOND READING: SEPTEMBER 25, 2025.

ADOPTED this 25TH day of SEPTEMBER, 2025, by the City Commission of the City of Winter Garden, Florida.

APPROVED:


JOHN REES, Mayor/Commissioner

ATTEST:


ANGELA J. GRIMAGE, City Clerk

