

## RESOLUTION NO. 2024-60

**A RESOLUTION OF CITY OF DELTONA, FLORIDA, RECOGNIZING AND CONFIRMING LEGISLATION IN PROGRESS REGARDING AMENDMENTS TO THE LAND DEVELOPMENT CODE TO CLARIFY PROVISIONS IN THE LIVE LOCAL ACT, WHICH AMENDED FLA. STAT. 166.04151, TO FACILITATE THE DEVELOPMENT OF AFFORDABLE HOUSING IN CERTAIN AREAS OF THE CITY; PROVIDING FOR LEGISLATIVE FINDINGS; RECOGNIZING LEGISLATION IN PROGRESS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Article VIII, Section 2 of the Florida Constitution and Section 166.021, Florida Statutes, the City has the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power except when expressly prohibited by law; and

**WHEREAS**, the City of Deltona continuously monitors and reviews the Comprehensive Plan and the Land Development Code to ensure the City adopts appropriate regulations for development and zoning within the City, and from time to time recognizes the need to study and amend aspects of same; and

**WHEREAS**, while the City recognizes the need for affordable housing, the Act requires the City to adopt revisions to its Comprehensive Plan and Land Development Code (LDC) that have not been previously contemplated by the City, as the City does not have definitions for some of the terms used in the Act, the City does not have adequate regulations to address multi-family development in certain areas within the City where residential development is prohibited or limited, certain terms in the LDC now need clarification, and the City wishes to encourage the development of affordable housing in certain area of the City; and

**WHEREAS**, the purpose of this Resolution is to provide notice that the City is developing on or more ordinances to clarify the Act consistent with the regulations and preemptions under the Act and to further the public health, safety and welfare of the Citizens of Deltona, and to inform all interested parties that all applications will be subject to the amendments that are in progress.

**WHEREAS**, it is anticipated that City staff will prepare appropriate regulations in approximately four months and requests for 120 days to reconcile existing regulations with Florida law; and

**WHEREAS**, until the City Commission has time, approximately 120 days, to review, study, and hold public hearings, prepare and adopt revisions, the City Commission finds that it is in the best interests of the City to declare that there is “zoning in progress” relating to these issues and that any application, inquiry or submittal shall be made subject to the ultimate determinations to be made by the City Commission; and

**WHEREAS**, Florida law recognizes the doctrine of “Zoning in Progress” that allows applications for permitting to be accepted, but temporarily delayed or suspended for a reasonable amount of time, while Land Development Code changes are pending that would affect a permit, as explained in *City of Hollywood v. Hollywood Beach Hotel Co.*, 283 So.2d 867 (Fla 4th DCA 1973) aff'd in pertinent part. 329 So.2d 10 (Fla. 1976), and *City of Pompano Beach v. Yardarm Restaurant, Inc.*, 509 So.2d 1295 (Fla. 4th DCA 1989).

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:**

**Section 1.** The above recitals are hereby adopted as the legislative findings of the City Commission. The City Commission finds and determines that there is competent substantial evidence to support the findings and determinations made in this Resolution.

**Section 2.** The City is currently engaged in “zoning in progress” to adopt amendments to the Land Development Code to clarify provisions in the Live Local Act, which amended Fla. Stat. 166.04151. Staff is directed not to issue any permits or Business Tax Receipts, or approve applications for building permits, development orders or other land use activity within the City of Deltona which would be in conflict with the pending amendments, to the extent permissible under the Act. The following amendments are contemplated:

- 1) Define “designates” as used in Fla. Stat. 166.04151(7)(f), in the Land Development Code, to mean property with a future land use category in the comprehensive plan.

- 2) Define “zoned” as used in Fla. Stat. 166.04151(7)(f), in the Land Development Code, to mean, as it has been traditionally defined, the division of the City into areas, or districts, which specify allowable uses for real property and restrictions on size and placement of buildings within these areas, all as set out in the Land Development Code as directed in the policies of the comprehensive plan.
- 3) Define “Mixed-use residential,” as used in Fla. Stat. 166.04151(7)(a) and (f), in the Land Development Code as follows:

For purposes of Fla. Stat 166.04151, “mixed use residential” means a maximum of 65% of the square footage is residential; and 35% is high end commercial or class-A office, not including a home-based business or an institutional use. The ground floor of each building includes a non-residential use, and all non-affordable residential product must be “for sale” condominiums. For purposes of this definition, “high end commercial” means specialty retail stores focusing on certain categories of goods; “class-A office” means premier office space with high quality finishes, amenities and technology systems. All “mixed use residential must comply with Section 110-310 and 110-311 of the Land Development Code.

- 4) Define “mixed use zoning” as used in 166.04151(7)(a), in the Land Development Code:

For purposes of Fla. Stat. 166.04151, “mixed use zoning” means property with a zoning category consistent with a comprehensive plan future land use designation of “Mixed Use.”
- 5) Define “commercial” as used in 166.04151(7) to exclude properties that are used for medical purposes such as hospitals and clinics, as well as to exclude property with a conservation overlay.
- 6) Define “administratively approved” to mean approval by the Development Review Committee. Include an appeal from that administrative approval to the City Commission.
- 7) Amend Land Development Code Section 110-310 and 110-311 to provide certain minimum development standards for multi-family housing throughout the City to protect residential properties from non-residential properties. These additional

requirements are imposed in order for the multi-family development to be compatible and consistent with the City's comprehensive plan with other uses and to meet the requirements of workers that would be most likely to live in the City, including:

- a. First floor of each building must be non-residential and all floors must be built out in one phase. The non-residential use must have a certificate of occupancy before the residential use is given a certificate of occupancy.
- b. At least two uses are required in each multi-family building, both residential and specialty retail or class-A office, and home-based businesses or institutional uses are not appropriate second uses.
- c. First floor of each multi-family building must be concrete.
- d. All residential floors that do not qualify as "affordable housing" under Fla. Stat. 166.04151 must be "for sale" condominiums.
- e. Minimum multi-family and condominium unit size; one-bedroom must be larger than 750 sq. ft.; two-bedroom must be larger than 1,000 sq. ft.; three or more bedrooms must be larger than 1,350 sq. ft.
- f. Minimum building setback 50 feet.
- g. Amenities required: decorative lights, washer/dryer, balconies, pools with restrooms, gyms, park space, doggy runs, internal concierge trash service, additional landscaping, larger sidewalks, flex office space, parking garages, additional guest spaces.
- h. Enhanced architectural standards to include building mass with a base, middle and top to maintain pedestrian scale. The building mass shall be proportionate to the site, streets, open space and surrounding developments. Building elements including arcades, awning, varied roof line and form, parapets, cornices and eaves, building articulation including projections and recesses with a minimum depth. Building facades shall have a minimum percentage of glazing (windows/doors). Windows shall include surrounds, casing or headers. Stucco finish is only acceptable for architectural accents; EFIS shall not be used as a primary material.
- i. Transportation Demand Management requirements or standards including, but not limited to, strategies to reduce trips and parking demands, pedestrian

oriented design elements, bicycle facilities, pay to park, or other fees based on demand.

- 8) Add a regulation to the Land Development Code that provides that a property that is required to have affordable housing must comply with Fla. Stat. 166.04151's mandate of providing a minimum of 40% affordable housing for 30 years per the statute and must record a restrictive covenant on the property to that effect; if the development does not comply with the Act for 30 years, then the multi-family units will become non-conforming uses, subject to Section 110-600 and 110-601 of the LDC. The City will enforce the restrictive covenant. After a property is no longer qualified as affordable housing, the City is free to impose additional regulations to include stricter design standards, landscaping, upgraded amenities, and other regulations designed to protect the area.
- 9) Amend the Land Development to state that if construction has not begun on the affordable housing within 2 years of the issuance of a building permit, then the property converts back to the entitlements under the underlying zoning or, if zoned PUD, under the PUD Agreement prior to the enactment of Fla. Stat. 166.04151.

**Section 3. Conflicts.** All Resolutions, or parts of Resolutions in conflict with any provisions of this Resolution are hereby repealed to the extent of the conflict.

**Section 4. Severability.** If any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other Section or part of this Resolution.

**Section 5. Effective Date.** This Resolution shall become effective immediately upon the passage and adoption.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.**

BY: \_\_\_\_\_

Santiago Avila, Jr., MAYOR

ATTEST:

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Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality  
for use and reliance of the City of  
Deltona, Florida

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CITY ATTORNEY