



# HAINES CITY

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## **CITY MANAGER MEMORANDUM**

**To:** The Honorable Mayor and City Commissioners

**From:** James R. Elensky, City Manager  
Fred Reilly, City Attorney

**Date:** December 6, 2022

**Subject:** Ordinance No. 22-2033 Amending Land Development Regulations Concerning Affordable Housing

### **Executive Summary**

The intent of this business item is to present an amendment to the City Land Development Regulations to establish applicable Code provisions related to affordable housing.

Staff Contact: Fred Reilly, City Attorney

### **Introduction**

The intent of this business item is to present an amendment to the City Land Development Regulations to establish applicable Code provisions related to affordable housing.

### **Background**

Section 166.04151(1), Florida Statutes states:

Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

Section 166.04151(6), Florida Statutes states:

Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use. If a parcel is zoned for commercial or industrial use, an approval pursuant to this subsection may include any residential development project, including a mixed-use residential development project, so long as at least 10 percent of the units included in the project are for housing that is affordable and the

developer of the project agrees not to apply for or receive funding under s. 420.5087. The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

The proposed Ordinance provides an amendment to the City Land Development Regulations which adds a new Section 5.2.25 which provides that the City Commission may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential or industrial use within the city.

The proposed amendment contained in the Ordinance states:

Sec. 5.2.25. Applicability – Affordable Housing. This chapter applies to all development in the City, except for Affordable Housing projects approved pursuant to F.S. 166.04151(6), which states, in pertinent part, that notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential or industrial use. No development shall be undertaken except as authorized by this chapter. No structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure or land be used or occupied which does not comply with all the regulations established by this chapter for the district in which the building or land is located. When a violation of this chapter exists on any property, no development permits shall be issued for such property, except permits which are necessary to correct the violation or for necessary maintenance, until the violation is corrected.

**Organizational Goal(s)**

Quality of Life: Create an environment that enhances the quality of life and benefits the community culturally, recreationally and economically.

**Budget Impact**

There is no direct budget impact related to the adoption of the proposed Ordinance.

**Recommendation**

Staff recommends approval of the proposed Ordinance related to affordable housing.

**ORDINANCE 22-2033**

**AN ORDINANCE OF THE CITY OF HAINES CITY, FLORIDA ADDING SECTION 5.2.25 TO THE CITY LAND DEVELOPMENT REGULATIONS; PROVIDING FOR SECTION 5.2.25 TO PRECLUDE APPLICATION OF THE LAND DEVELOPMENT REGULATIONS TO CERTAIN AFFORDABLE HOUSING PROJECTS APPROVED PURSUANT TO SECTION 166.04151(6), FLORIDA STATUTES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AFFORDABLE HOUSING PROJECTS; PROVIDING FOR A COPY TO BE KEPT ON FILE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 166.04151(1), Florida Statutes states:

Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

**WHEREAS**, Section 166.04151(6), Florida Statutes states:

Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. [420.0004](#), on any parcel zoned for residential, commercial, or industrial use. If a parcel is zoned for commercial or industrial use, an approval pursuant to this subsection may include any residential development project, including a mixed-use residential development project, so long as at least 10 percent of the units included in the project are for housing that is affordable and the developer of the project agrees not to apply for or receive funding under s. [420.5087](#). The provisions of this subsection are self-executing and do not require the governing body to adopt an ordinance or a regulation before using the approval process in this subsection.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF HAINES CITY, FLORIDA:**

**Section 1. Incorporation of Recitals.** The above recitals are true and correct and are incorporated herein by reference.

**Section 2. Addition of Section 5.2.25 to the Land Development Regulations.** Section 5.2.25 is hereby added to the City Land Development Regulations which shall read as follows:

Sec. 5.2.25. Applicability – Affordable Housing. This chapter applies to all development in the City, except for Affordable Housing projects approved pursuant to F.S. 166.04151(6), which states, in pertinent part, that notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential or industrial use. No development shall be undertaken except as authorized by this chapter. No structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any structure or land be used or occupied which does not comply with all the regulations established by this chapter for the district in which the building or land is located. When a violation of this chapter exists on any property, no development permits shall be issued for such property, except permits which are necessary to correct the violation or for necessary maintenance, until the violation is corrected.

**Section 3. Copy of Ordinance to be kept on file.** The City Clerk shall keep and retain a copy of this Ordinance on file.

**Section 4. Severability.** The provisions of this Ordinance are severable; and, if any section, sentence, clause, or phrase is for one reason held to be unconstitutional, invalid or ineffective, this holding shall not affect the validity of the remaining portions of this Ordinance, it being expressly declared to be the City Commission's intent that it would have passed the valid portions of this Ordinance without inclusion of any invalid portion or portions.

**Section 5. Repeal of Ordinance in Conflict.** All other ordinances of the City of Haines City, Florida, or portions thereof which conflict with this or any part of this Ordinance are hereby repealed.

**Section 6. Effective Date.** This Ordinance shall take effect immediately upon it being read in two meetings of the City Commission of the City of Haines City, its approval and adoption by said Commission.

**INTRODUCED AND PASSED** on first reading in regular session of the City Commission of the City of Haines City, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Auburn Taylor, Interim City Clerk

\_\_\_\_\_  
Anne Huffman, Mayor

**APPROVED AS TO FORM AND CORRECTNESS:**

\_\_\_\_\_  
Fred Reilly, City Attorney

**ADOPTED AND ENACTED** on second reading in regular session of the City Commission of the City of Haines City, this \_\_\_\_ day of \_\_\_\_\_, 2022.

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Auburn Taylor, Interim City Clerk

\_\_\_\_\_  
Anne Huffman, Mayor

**APPROVED AS TO FORM AND CORRECTNESS:**

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Fred Reilly, City Attorney

