

ORDINANCE NO. 2022-12

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, SEMINOLE COUNTY, FLORIDA; ADOPTING A TEMPORARY MORATORIUM WITHIN THE JURISDICTIONAL LIMITS OF THE CITY OF WINTER SPRINGS REGARDING THE FILING, PROCESSING, CONSIDERATION, OR DECISION OF FINAL ENGINEERING PLAN AND SUBDIVISION OF LAND APPLICATIONS FOR DEVELOPMENT REQUIRING CONSTRUCTION OF STORMWATER MANAGEMENT AND DRAINAGE SYSTEMS UNDER SECTION 9-241 OF THE CITY CODE IN ALL ZONING DISTRICTS OF THE CITY; PROVIDING THAT SAID MORATORIUM PERIOD SHALL BE EFFECTIVE FOR A PERIOD OF 90 DAYS, WITH THE OPTION FOR THE CITY COMMISSION TO EXTEND THE MORATORIUM PERIOD FOR AN ADDITIONAL THREE MONTHS IF NECESSARY TO ALLOW THE CITY COMMISSION, CITY LAND PLANNING AGENCY, CITY STAFF AND CITY ATTORNEY TO DEVELOP AMENDMENTS TO CHAPTER 9 OF THE CITY CODE AND APPLICABLE COMPREHENSIVE PLAN REQUIREMENTS TO ENHANCE THE STORMWATER DESIGN REQUIREMENTS OF THE CITY; PROVIDING FOR PENALTIES, REPEAL OF PRIOR INCONSISTENT ORDINANCES AND RESOLUTIONS, CONFLICTS WITH STATE AND FEDERAL LAW AND SEVERABILITY, NON-CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, the City is granted the authority, under § 2(b), Art. VIII of the State Constitution, to exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Chapter 9 of the City Code allows developers to make application for site plan, final engineering plans, and subdivision of land applications within the City and establishes design requirements for required improvements, including stormwater management and drainage systems pursuant to Section 9-241 of the City Code; and

WHEREAS, Section 9-241 of the City Code, consistent with applicable levels of service established in the City's Comprehensive Plan, requires all drainage facilities in the City of Winter Springs to be designed for a rainfall of a twenty-five year/twenty-four hour return period using an SCS Type II Modified rainfall distribution and establishes the twenty-five year/twenty-four hour storm as the "design storm" for the City; and

WHEREAS, flooding from extreme storm events has affected many cities and communities across the country, causing billions of dollars in damages annually; and

WHEREAS, the City of Winter Springs has recently experienced an unprecedented flooding event following the impact of Hurricane Ian causing significant damage to the community, and the City Commission desires the City engineer and appropriate City staff and consultants to investigate and provide proposals increasing the “design storm” standards of the City for which all drainage systems will be designed as well as any other necessary updates to the City’s Comprehensive Plan and City Code to enhance the quality and capacity of drainage systems required for new development within the City for purposes of mitigating against flooding; and

WHEREAS, except as otherwise expressly provided hereunder, the City Commission desires a temporary moratorium to be enacted to temporarily cease the filing, processing, consideration, and decisionmaking, including holding quasi-judicial public hearings, related to final development plans and subdivision of land applications requiring construction of stormwater management and drainage systems under Section 9-241 of the City Code; and

WHEREAS, a temporary moratorium allows such review of the stormwater management regulations and applicable Comprehensive Plan policies to occur unhindered by developments that could frustrate the objective of the review, and eliminate the race of diligence that may occur while such reviews are underway, and allows for necessary code changes and/or policy changes to be fully evaluated and/or implemented before new permitting and construction takes place; and

WHEREAS, the City Commission finds that improving flood resilience by enhancing drainage facility standards for new development will protect people, buildings, infrastructure and other facilities from flooding risk and serves a compelling government interest and public purpose; and

WHEREAS, the City Commission of the City of Winter Springs, Florida, hereby finds this Ordinance to be in the best interests of the public health, safety, and welfare of the citizens of Winter Springs.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS HEREBY ORDAINS, AS FOLLOWS:

Section 1. **Recitals.** The foregoing recitals are hereby fully incorporated herein by reference as legislative findings of the City Commission of Winter Springs.

Section 2. **Adoption of Temporary Moratorium.** Beginning on the effective date of this Ordinance and continuing for ninety (90) days thereafter, or sooner if provided by an ordinance by the Winter Springs City Commission, a temporary moratorium is hereby imposed upon filing, processing, considering, and decision making related to final engineering plan and subdivision of land applications for development requiring construction of stormwater management and drainage systems under Section 9-241 of the City Code in all zoning districts of the City, except for such applications exempt from the temporary moratorium as expressly set forth

in Section 3 of this Ordinance and except as otherwise expressly provided in Section 4 of this Ordinance. The temporary moratorium adopted herein may be extended by the City Commission for up to an additional ninety (90) days by Resolution.

Section 3. Exemptions from Temporary Moratorium. The following permit applications are exempt from the temporary moratorium:

A. Applications for final engineering plans and subdivisions of land which were formally filed with, and deemed complete by, the City on or before October 10, 2022.

B. Applications for final engineering plans and subdivisions of land for developments that will be entirely served by a master stormwater system which previously received final engineering plan approval by the City Commission.

C. Pre-application meetings.

D. Applications for development which do not require permitting and construction of a stormwater management and drainage systems under Section 9-241 of the City Code.

Section 4. Processing and Filing Applications during the Temporary Moratorium. Applications for final engineering plans and subdivisions of land for development requiring construction of stormwater management and drainage systems under Section 9-241 of the City Code may continue to be filed and preliminarily reviewed by city staff during the period of the temporary moratorium, provided that the applicant files an affidavit agreeing that the applicant has waived the limitations for processing applications set forth in Section 166.033, Florida Statutes, and that such filing shall be at the applicant's sole risk and expense given that amended stormwater management and drainage standards and Comprehensive Plan policies, to the extent adopted by the City Commission, may require significant revisions to applications. The "sole risk and expense" affidavit shall be in a form prepared and approved by the City Attorney. However, in accordance with Section 2 of this Ordinance and unless otherwise exempt under Section 3 of this Ordinance, no land use application that is filed or receives preliminary staff review comments during the period of the temporary moratorium will be scheduled for a public hearing, recommendation, or decision by either the Planning and Zoning Board or the City Commission until the temporary moratorium has expired.

Section 5. Recommendations for Land Development Regulations. The City Manager and appropriate staff, in consultation with the City's consultants and City Attorney, are hereby requested to evaluate the aforementioned requirements and develop and recommend, as may be deemed advisable by the City Manager and City Attorney, land development regulation amendments and/or Comprehensive Plan text amendments consistent with the direction provided hereunder.

Section 6. Penalties. Violations of this Ordinance are punishable as provided by

Section 1-15 of the City Code of Winter Springs, Florida or other applicable Code provisions.

Section 7. Repeal of Prior Inconsistent Ordinances and Resolutions. All prior inconsistent ordinances and resolutions adopted by the City Commission, or parts of prior ordinances and resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

Section 8. Non-Codification. This Ordinance shall not be incorporated into the Winter Springs City Code.

Section 9. Conflicts with State and Federal Law; Severability. No provision herein is intended to impose a moratorium on the processing of land use applications required to be processed within certain time frames by state or federal law. If any section, subsection, sentence, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, whether for substantive, procedural, or any other reason, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 10. Effective Date. This Ordinance shall become effective immediately upon adoption by the City Commission of the City of Winter Springs, Florida, and pursuant to City Charter.

ADOPTED by the City Commission of the City of Winter Springs, Florida, in a regular meeting assembled on the ____ day of _____, 2023.

KEVIN McCANN, Mayor

ATTEST:

CHRISTIAN GOWAN
City Clerk

**APPROVED AS TO LEGAL FORM AND SUFFICIENCY
FOR THE CITY OF WINTER SPRINGS ONLY.**

ANTHONY A. GARGANESE
City Attorney

First Legal Ad Published:
First Reading:
Second Legal Ad Published:
Effective Date: