

ORDINANCE NO. 23-2239

AN ORDINANCE OF THE CITY OF LONGWOOD, FLORIDA, AMENDING THE LONGWOOD CITY CODE CHAPTER 58 ARTICLE IV "PLANNING AND SPECIAL USES AND EVENTS," UPDATING STANDARDS RELATED TO TEMPORARY USE PERMITS INCLUDING THE TYPES OF AND DURATION OF PERMITS, AND ESTABLISHING A FOOD TRUCK SITE VERIFICATION PROCESS FOR THE REVIEW AND APPROVAL OF MOBILE FOOD DISPENSING VEHICLES (ALSO KNOWN AS FOOD TRUCKS) LOCATIONS; PROVIDING FOR ENFORCEMENT PENALTIES AND REMEDIES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Longwood wishes to update the standards regarding Temporary Use Permits contained in City Code Chapter 58 "Planning and Special Uses and Events" to increase flexibility for events while adopting broad standards that protect potential negative outcomes for surrounding properties and infrastructure; and

WHEREAS, the Governor of the State of Florida signed into law the Occupational Freedom and Opportunity Act (SB474/HB1171), which became effective on July 1, 2020; and

WHEREAS, the Act created Florida Statutes Section 509.102 – mobile food dispensing vehicle ("MFDV") preemption in which a municipality, county or other local governmental entity may not require a separate license, registration, permit or fee from MFDVs and may not prohibit MFDVs from operating within the entirety of the jurisdiction; and

WHEREAS, Mobile Food Dispensing Vehicles can provide opportunities for entrepreneurs and small businesses to start up and operate at relatively low cost. They may add interest, vibrancy, and activity to the city. However, without proper regulation they can have potentially negative effects by posing a threat to brick-and-mortar restaurants, blocking of public right-of-ways, creating traffic, negatively impacting the function and flow of parking facilities, posing a fire and life safety risk, etc.; and

WHEREAS, the City Commission finds it is in the best interest of the health, safety, and welfare of the public to adopt standards for the location and operation of MFDVs within the City to address and mitigate the potential negative effects as recited above.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LONGWOOD, FLORIDA, AS FOLLOWS:

SECTION 1. The Longwood City Code shall be Amended as follows (Words that are ~~stricken-out~~ are deletions; words that are underlined are additions; Articles, Sections, Subsections and Provisions not referenced in this ordinance are not modified):

ARTICLE IV. TEMPORARY USES ON PRIVATE PROPERTY

Sec. 58-191. Temporary uses on private property table.

A temporary use is a use or activity offered to the general public on private property in all zoning districts except for Conservation, Low Density Residential, and Medium Density Residential 7 and 15, unless otherwise specified, which is not contemplated in the approved site plan or other development approval, and which is generally consistent with the applicable district. Temporary uses shall include gatherings or events, or series of related consecutive or recurring daily gatherings or events, including but not limited to, those of an entertainment, cultural, recreational, educational, commercial, social or sporting nature, which occur outdoors on a site and/or create traffic and site impacts that exceed those generally anticipated for the site.

~~The following table identifies the temporary uses permitted within the various land use designations on privately owned property.~~

Temporary Uses

Temporary Uses Permitted	Land Use Where Permitted
Produce/seasonal or other food sales, new and used goods sales, outdoor sales, outdoor music festivals/arts and crafts shows and other cultural or educational events, recreational/sporting events	Infill and Mixed Use, Neighborhood Commercial Mixed Use, Industrial, and Downtown Historic
Carnivals, circuses and revivals	Infill and Mixed Use or contained on the property of the church/school/not for profit hosting the event
Semi-annual inventory sales	Infill and Mixed Use and Industrial

~~For uses that are not listed, the community development services director may approve similar uses based upon an evaluation of projected impacts in terms of parking, trip generation, environmental impact, impact on city facilities, consistency with Comprehensive Plan and Development Code standards, and/or other pertinent factors.~~

Sec. 58-192. Temporary use permits (TUP).

A temporary use permit must be obtained from the planning division prior to beginning operation of a qualifying event as described in 58-191. ~~A complete application shall be submitted to the city at least 15 working days prior to the scheduled start of the event. When requesting a waiver, a completed application shall be submitted 30 days prior to the scheduled start date of the event to allow for city commission review.~~ The planning division shall submit distribute TUP applications to the appropriate city departments for review and comment prior

to its issuance. Following the submittal of an application, the community development services department may determine that a proposed use does not generate impacts beyond those anticipated for the site and does not require a temporary use permit. Temporary use permits take the following forms:

a. **Single-day temporary use permits.**

1. A permit of this type is appropriate for single-day (or 24-hour period) events in which the overall event, including set-up and take-down do not significantly exceed a 24-hour period.
2. Single-day permits may exceed a 24-hour period for reasonable set-up and tear down periods where specified in the TUP and approved.

b. **Multi-day temporary use permit.**

1. An individual multi-day permit may be anywhere from 2 to 90 consecutive days, but the approval of a specific number of days is contingent on meeting the standards of subsection (c) below, with an understanding that a longer duration calls for a commensurate increase in scrutiny of the impact on neighboring properties and public facilities.
2. Multi-day temporary use permits may be utilized for temporary outdoor storage of materials for up to 90 days, where the temporary storage area can be screened from adjacent properties, right-of-way, and certain commercial properties as appropriate. A storage TUP will not be approved adjacent to a residential property unless the storage is fully screened and not visible from the residential property and is not likely to cause other negative externalities. The request to utilize the TUP for temporary outdoor storage must include a demonstrable circumstance that has led to the request (building damage, supply chain and distribution issues, etc.)
3. Multi-day temporary use permits may be utilized by the City Manager to allow certain temporary uses city-wide with no approval, or a modified approval process, by the City, related to situations deemed an emergency by the City Manager or where the permit may benefit multiple similar properties throughout the City.
4. An event that includes multiple food trucks/mobile food dispensing vehicles may be considered under this permit type, however, the permit shall be limited in duration so as to not circumvent Section 58-195 including the limitation of one truck per site.

c. **Recurring temporary use permit.**

1. A permit of this type is most appropriate for farmer's and artisan markets, food truck events with multiple vendors, a recurring food cart, and other similar events that are weekly or monthly, and is valid for six

months from issuance and authorizes a maximum of two single-day events per week during this six-month period. The permit may be renewed after six months.

2. No more than one monthly/recurring temporary use permit may be active at any given time.

Sec. 58-193. Issuance of temporary use permits.

(a) A complete application shall be provided to the city at least seven working days prior to the scheduled start of the event. The community development director may waive this requirement for extenuating circumstances, and where there is enough time for staff to reasonably complete the review of the application. A fee double the amount of the standard fee may be assessed in addition to the permit fee where a temporary use permit application is submitted less than 7 working days prior to the event where the applicant, business, or property owner has previously submitted for a TUP or been given direction to apply for a TUP previously.

(b) All signs used in conjunction with the temporary use permit shall be identified and located on a plan for review by the planning division in accordance with the land use district regulations. A building permit for all tents and/or other structures shall be required as specified by the Florida Building Code.

(1) Temporary signage related to a TUP shall only require an additional sign permit where such permit is required by the Florida Building Code. A requirement for a sign permit shall be identified by the Building Division before or during the review of the TUP application.

~~(2) Temporary signs allowed as part of a temporary use permit include: ground signs, banners, and pennants. Wind signs, balloons, and a frame signs, otherwise prohibited by LDC Section 6.2.2. are allowed exclusively in association with and only for the duration of a approved temporary use permit pursuant to the standards of this section. Portable signs may be utilized for the duration of a valid TUP, regardless of the 30-day time restriction in LDC Section 6.6.3(H).~~

(2) Signage. Applications shall include a map depicting the location and type of all signage associated with the TUP. Staff may approve minor variations to the signage allowances below based on the impact of potential sign clutter (i.e. internal signs are less impactful than those visible from the right-of-way), the duration of the event, and other similar factors, but the variation shall not be extended in a manner that impacts public safety. Specific General signage requirements for TUPs are as follows:

a. For ~~30-day and 24-hour~~ single-day and multi-day TUPs:

1. Two banners with a maximum size of 32 square feet, and a maximum height from the ground of 15 feet. A portable sign may be used in place of one of the banners regardless of the timing restrictions of Article VI.

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2. One balloon with a maximum height of 25 feet above the ground or the roof of the building it is attached to or one portable/trailer sign with a maximum size of 32 square feet. Balloon displays comprised of tethered balloons shall not exceed 100 feet in height above ground level. This height allocation may be reduced or the balloon permit application may be denied if site conditions are such as trees, aerial utility lines, adjacent roadways, or other circumstances warrant, in order to ensure the safety and welfare of the public. Tethered balloon displays shall not be displayed between dusk and dawn each day or on excessively windy days where the wind causes the display to be offset more than 30 degrees from vertical. Balloon displays secured by a cable, cord, or rope may have small pennants attached thereto for visibility purposes, but shall not contain additional advertising.
 3. One wind sign per 20 lineal feet of frontage or five feet of pennants per lineal foot of frontage
 4. One A-frame sign is allowed.
- b. ~~For monthly/~~ Recurring TUPs:
1. Two banners with a maximum size of 32 square feet and a maximum height from the ground of 15 feet only for the day(s) of the event. A portable sign may be used in place of one of the banners regardless of the timing restrictions of Article VI.
 2. ~~Two~~ Four on-site signs at the location of the recurring event of no more than four square feet, to be allowed ~~for the duration of the temporary use permit.~~
 3. One wind sign per 20 lineal feet of frontage or five feet of pennants per lineal foot of frontage
 - 3 4. One A-frame sign is allowed.
- ~~(4) Signage included as part of a 30 day or 24 hour temporary use permit may be placed on site up to seven days prior to the commencement of the temporary use, but must be removed within 24 hours of the completion of the event.~~
- (5) Signage that is printed onto the canopy material of a canopy or tent is allowed and not subject to signage restrictions.
- (6) Temporary signage associated with a TUP must meet the general design and location standards of Longwood Development Code Section 6.6.2, with the exception of:
- a. The minimum separation distance of Section 6.6.2(A).
 - b. The size requirements of Section 6.6.2(D).
 - c. The five-foot setback described in Section 6.6.2(H).

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- (c) The community development services department may issue a temporary use permit if the following conditions are determined to be met either through the proposal as submitted, or as modified by mandatory conditions imposed by the appropriate city departments reviewers:
- (1) The proposed use ~~provides safe ingress and egress to the site for both vehicles and pedestrians.~~ is on its face temporary in nature and is not extensive enough or continuous enough to be construed as an attempt to add a permanent use that is not supported by the site.
 - (2) Temporary use permits may be issued in any combination unless otherwise specified and in rare cases concurrently, but only with a finding by staff that the concurrency of events does not conflict with the standards of this section.
 - (3) There is no set cap to the number of total days a site can have a temporary use permit, but where a parcel or development has had multiple temporary use permits in a calendar year exceeding 90 total days, the cumulative effect of subsequent events shall be considered and may result in the denial of a TUP application.
 - (4) The temporary use is either permitted as an allowable use in the zoning district outright, or not expressly prohibited in the zoning district. While Temporary Uses are allowed in multiple zoning districts, not every use or proposed scope is appropriate for each district, and as such some uses may be deemed inappropriate for a particular property or zoning district. The temporary use may also be considered as a “pilot program” for uses that could be deemed as permanent primary or accessory uses in the future.
 - (5) Temporary Use Permits shall not be utilized to circumvent requirements of the Comprehensive Plan, Longwood Development Code, City Code, or this section. Examples of circumvention include but are not limited to submitting a TUP without a bona fide event solely for the purpose of adding more food trucks or signage on a permanent or semi-permanent basis to a site than would otherwise be allowed.
 - (6) The proposed use is not detrimental to property or improvements in the surrounding area, particularly existing residential properties, or to the public health, safety, or general welfare.
 - (7) In situations where the proposed use is found to be generally appropriate, the proposal limits noise and other negative externalities to the maximum extent practicable while reasonably allowing the temporary use, particularly when the property is near residential properties. In applying this standard, reviewers shall weigh the impacts of the temporary use against the proposed duration of the event, i.e., the impacts of a once-a-year event may be found to differ from the impacts of a weekly event on the same property.

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- (8) The proposed site contains sufficient land area to allow the temporary use and associated structures, and accommodate any associated parking and traffic movement or mitigates these deficiencies through approved off-site options. Adequate parking shall be available either on-site or within 300 feet (with written consent of the off-site property owner) to service both the temporary use and the permanent uses on the site. Shuttle or valet operations from further distances will be considered on a case-by-case basis subject to the criteria of this section.
- (9) The proposed use complies with the appropriate building, fire and safety code requirements.
- ~~(3) The proposed use complies with the appropriate building code requirements.~~
- (10) The proposed use is not anticipated to be detrimental to property or improvements in the surrounding area, including public and/or private infrastructure, or to the public health, safety, or general welfare. The applicant may be required to provide adequate assurance, including but not limited to performance bonds or letters of credit, that the site conditions will be restored at the end of the time limit.
- (11) Each temporary use permit shall indicate the day(s) and the operating hours of the event as well as any reasonable and limited set-up or preparation time deemed necessary for the event. Temporary use permits shall be issued in the following increments:
- ~~a. 24 hour temporary use permits. No more than three 24 hour temporary use permits shall be issued per development per calendar year.~~
 - ~~b. 30 day temporary use permit. No more than three 30 day temporary use permits may be issued per development per calendar year.~~
 - ~~c. Monthly/recurring temporary use permit. A permit of this type is valid for six months from issuance and authorizes a maximum of one nine-hour event (including setup/tear-down time) per month during this six-month period. The permit may be renewed after six months. No more than one monthly/recurring temporary use permit may be active at any given time.~~
- (12) Operating hours are limited to 7:00 a.m. to 11:00 p.m., though compliance with any nuisance requirements is still required. The temporary use may be authorized by staff to exceed these operating hours where it can be demonstrated that there is no reasonable expectation that the use will violate the City's nuisance standards.
- ~~(6) The temporary use permit shall be displayed in an all-weather container that allows the permit to be viewed from the adjacent public street.~~
- (13) No ingress or egress to the site shall be solely through a residential street.
- (14) Events with amplified music or sound must be, at a minimum, consistent with the nuisance standards in Chapter 38. All lighting shall be directed away from adjacent

properties and public rights-of-way. Additional conditions may be required as part of the permit.

(15) All temporary use permits shall require signature of the property owner or a signed authorization by the property owner for the applicant to apply for the permit.

(16) The applicant testifies that all applicable licenses, including state licenses, have been acquired or will be acquired prior to the issuance of the permit. Business tax receipts (BTRs) are required for certain temporary use permits pursuant to the requirements of Chapter 82, Article II.

(17) Where a food cart that does not meet the definition of a food truck (MFDV) is proposed, the following additional standards shall apply:

(a) Only one food cart shall be allowed per parcel or development with an existing, active commercial use. Vacant, undeveloped lots/parcels or inactive commercial use areas are not eligible for food cart operation.

(b) The food cart shall be located on a paved surface that is not located within the primary structure setbacks of the subject site or within any public right-of-way, and shall not be located within or impede the function of drive aisles, sidewalks or walkways, retention areas, required parking spaces or loading spaces, or within required landscaped areas.

(c) Where the owner or designee demonstrates as part of their application that the site has excess parking that can be utilized by the food cart, or that the hours of operation of the food cart differ enough from that of the primary use or uses as to allow the use of a certain amount of spaces, the food cart may utilize those spaces for operation.

(d) Where the site is adjacent to a residential use, the location of the food cart shall be located as far away as is reasonable from the residential use while meeting other applicable standards, and where possible shall be screened from the residential uses by the existing building or other features.

(e) No customer seating areas including tents, tables, chairs, or storage are permitted unless authorized as a permanent part of the site through an outdoor seating permit.

(f) No additional signage, beyond that incorporated on the food cart itself, is allowed. Banners, balloons, windfeathers, flashing lights, or similar are not allowed.

(g) Proper disposal of trash and waste must be provided and maintained at all times.

(h) No amplified music, speakers, or other similar noise-producing elements are allowed as part of the food cart operation

(i) Food carts and related operations shall be consistent with the Florida Fire Prevention Code as updated from time to time.

~~(11) Residential garage and yard sales are regulated under Chapter 66, Article II.~~

~~(18) Tents over 200 square feet, and the like, in addition to obtaining a proposed as part of a temporary use permit, are also required to obtain a building permit.~~

~~(19) Any other information as determined necessary for a temporary use permit at a particular location shall be properly analyzed and approved.~~

~~(14) Adequate parking is available on site or within 300 feet (with written consent of the property owner) to service both the temporary use and the permanent uses on the site.~~

~~(15) Based on its review and the comments received from other city departments, the planning division may attach additional conditions on the temporary use permit as may be deemed necessary to ensure compliance with this section.~~

Sec. 58-194. Approval, Waiver or modifications of requirements of temporary use permits.

The Community Development Director may require, based on their review of the application and comments received from relevant City reviewers, any conditions necessary to reduce the impacts associated with the temporary use, including but not limited to:

- (1) Limitations on the operation of the use, including location within the proposed site, duration, frequency, and intensity
- (2) Additional provisions for public safety including provisions for overflow parking and traffic management
- (3) Requiring advance notice to surrounding property owners at the expense of the applicant

~~The city commission City Manager may at their discretion waive or modify any provision of this article, where it can be shown that impacts associated with the temporary use (including traffic, parking, restrooms, noise, aesthetics, etc.) can be adequately mitigated and a finding is made that the temporary use is beneficial to the community and the approval of the modification or waiver does not provide for the permanent establishment of a temporary use. The commission may attach as a part of their approval any conditions necessary to reduce the impacts associated with the temporary use, including but not limited to the location of the event on the property, place limitations on the operation of the use, place restrictions on the duration and frequency of the event, make provision for overflow parking, require additional provision for public safety, and provide for additional requirements pertaining to signage.~~

~~To request a waiver or modification, a completed temporary use permit application and the required fees, along with a letter indicating the requested waivers/modification and a justification for the need for the waiver/modification must be submitted to the city no later than 30 working days prior to the event.~~

Sec. 58-195. Food truck standards and site verification letters.

- (a) Prior to the location of a food truck on a property, a property owner that wishes to host a single food truck on site on a regular basis that is not associated with a temporary use must procure a food truck site verification letter from the City that confirms that the site and zoning are suitable for the location of the food truck. The verification letter may include any conditions that ensure the site is suitable for a food truck.
- (b) While securing the letter is the responsibility of the property owner, the property owner may designate a food truck operator as the applicant for the purposes of applying for the letter.
- (c) A food truck site verification letter is valid for one year from issuance, and may be renewed each year, but no more than one food truck may be active at any given time on any parcel or development, unless otherwise specified through a TUP or similar approval.
- (d) A *Mobile Food Dispensing Vehicle* (referred to herein as a *food truck*) is a vehicle that is a public food service establishment and is self-propelled or otherwise moveable from place to place and includes self-contained utilities, including, but not limited to gas, water, electricity, or liquid waste disposal, and otherwise regulated by the Department of Business and Professional Regulation (DBPR) requiring a mobile food vendor license subject to F.S. Section 509.102. Food trucks are stationary for periods greater than 10 minutes while foodstuffs are prepared, served and/or sold. A food truck does not include roving vehicles, like an ice cream truck, that periodically travel through residential neighborhoods selling pre-prepared or prepackaged food items, or a street peddler of unprepared foodstuffs, makeshift, standalone restaurants or buffets such as a food tent, or a mobile vendor selling anything other than food/foodstuffs.
- (e) Food carts that do not meet the definition of MFDV under state law may be permitted under a Temporary Use Permit.
- (f) Food trucks operating under a special event permit or under a bona fide temporary use permit issued by the City are exempt from the food truck site verification letter – however, the TUP process shall not be used in a manner to circumvent these restrictions.
- (g) The following standards apply to food trucks within the City of Longwood. Food truck site verification letters shall be issued where the requestor has provided information that they can and intend to meet the following standards, which are the responsibility of the property owner to maintain:
 - (1) Only one food truck shall be allowed per parcel or development with an existing, active commercial use. Vacant, undeveloped lots/parcels or inactive commercial use areas are not eligible for food truck operation.
 - (2) The food truck shall be located on a paved surface that is not located within the primary structure setbacks of the subject site or within any public right-of-way, and shall not be located within or impede the function of drive aisles, sidewalks or

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- walkways, retention areas, required parking spaces or loading spaces, or within required landscaped areas.
- (3) Where the owner or designee demonstrates as part of their application that the site has excess parking that can be utilized by the food truck, or that the hours of operation of the food truck differ enough from that of the primary use or uses as to allow the use of a certain amount of spaces, the food truck may utilize those spaces for operation.
 - (4) Where the site is adjacent to a residential use, the location of the food truck shall be located as far away as is reasonable from the residential use while meeting other applicable standards, and where possible shall be screened from the residential uses by the existing building or other features.
 - (5) No customer seating areas including tents, tables, chairs, or storage are permitted unless authorized as a permanent part of the site through an outdoor seating permit.
 - (6) No additional signage, beyond that incorporated on the food truck itself, is allowed. Banners, balloons, windfeathers, flashing lights, or similar are not allowed.
 - (7) Proper disposal of trash and waste must be provided and maintained at all times.
 - (8) No amplified music, speakers, or other similar noise-producing elements are allowed as part of the food truck operation
 - (9) Food trucks and related operations shall be consistent with the Florida Fire Prevention Code as updated from time to time, including the following standards unless otherwise amended by the FFPC:
 - a. Mobile food dispensing vehicles shall be not less than 10 feet from all buildings
 - b. Mobile food dispensing vehicles shall be not less than 10 feet from all other vehicles
 - c. Mobile Food dispensing vehicles shall be not less than 10 feet from combustible materials
 - d. Access to fire lanes and/or fire prevention devices shall be maintained
 - e. L/P gas and generator storage and use shall be consistent with the Florida Fire Prevention Code
 - (10) The application shall include the following:
 - a. The Department of Business and Professional Regulation (DBPR) mobile food dispensing vehicle license for the proposed vendor
 - b. A completed fire safety inspection report performed by a fire department within Seminole County. A fire inspection shall be conducted every six months.

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- c. A notarized authorization letter from the property owner permitting the operations of a food truck on an eligible private property. The authorization shall include a phone number contact for the property owner and an acknowledgment the owner shall be responsible for any infractions associated with the food truck operator/owner including a fine of \$200.00 per infraction/day.
 - d. Licenses associated with alcohol sales if applicable.

Sec. 58-~~195~~196. Appeals.

The decision by the ~~planning division~~ Community Development Director regarding a temporary use permit may be appealed to the city commission pursuant to the requirements of the Longwood Development Code.

Sec. 58-~~196~~197. Enforcement.

Failure to comply with the requirements of this article, including compliance with any conditions approved as part of a temporary use permit, shall be considered a violation of the City Code and shall be subject to the enforcement actions described in this Code. A citation in the amount of no less than \$200.00 per infraction per day will be issued to the landowner and the City will bring forward a code compliance case against the underlying landowner with the intent of collecting the fine in accordance with the City's code compliance procedures. ~~The planning division shall notify the codes enforcement section of all temporary use permits and associated dates of operation.~~

Sec. 58-~~197~~198. Fees.

The fees for temporary use permits shall be as established by the city commission by resolution.

SECTION 2. CONFLICTS. If any ordinance or part thereof is in conflict herewith, this Ordinance shall control to the extent of the conflict.

SECTION 3: CODIFICATION. Section 1 of this Ordinance shall be codified; and any sections, subsection, paragraph, or subparagraph may be renumbered or re-lettered as appropriate and to accomplish the intent of this Ordinance.

SECTION 4: SEVERABILITY. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 5: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption.

FIRST READING: August 7, 2023

SECOND READING AND ADOPTION: August 21, 2023

PASSED AND ADOPTED THIS 21st DAY OF August, 2023

CITY OF LONGWOOD, FLORIDA



Tony Boni, Mayor

Attest:



Michelle Longo, MMC, FCRM, City Clerk

Approved as to form and legality for the use and reliance of the City of Longwood, Florida, only.



Daniel W. Langley, City Attorney

