

ORDINANCE 23-____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE (LDC) AS IT PERTAINS TO A SETTLEMENT AGREEMENT; AMENDING LDC SECTION 2.7.1., APPLICABILITY; AMENDING LDC SECTION 2.8.1., APPLICABILITY; AMENDING LDC SECTION 2.7.4., COMPLETION AND CLOSE OUT; AND AMENDING LDC SECTION 2.8.4., COMPLETION AND CLOSE OUT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners is authorized by general law, e.g., Section 125.01(h), Florida Statutes, to establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public; and

WHEREAS, the Board of County Commissioners has adopted a land development code (LDC) as required by Section 163.3202, Florida Statutes; and

WHEREAS, this ordinance is enacted in furtherance of the terms of the Settlement Agreement effective March 1, 2022, by and between On Top of the World Communities, L.L.C., LS Enterprises Florida, L.L.C., and the Board; and

WHEREAS, pursuant to LDC Section 2.4.4, on April 13, 2023, and May 2, 2023, the Board held a duly noticed public hearing on the proposed ordinance amending the LDC.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Marion County, Florida, as follows:

Note: Deletions are shown in ~~strikeout~~ text. Additions are shown in underscore text.

SECTION 1. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 7, Zoning Change, Section 2.7.1, Applicability, is hereby amended to add a new paragraph C., as follows:

C. An application for rezoning shall not be construed to be, or be processed as, an application for a special use permit or vice versa. However, an applicant may submit applications in the alternative, one being an application for a rezoning, and the other being an application for a special use permit, upon payment of the applicable fee for each type of application. The Board of County Commissioners may consider such alternative applications with respect to the same parcel at the same public hearing. In such case, each alternative application shall be noticed and advertised so that the public will be on notice that the two alternatives will be considered during the same public hearing. Each alternative will receive the appropriate staff analysis and recommendation in a written report, but such analysis and recommendation may be included in a single staff report as long as the two alternatives are clearly distinguished for the reader. Notwithstanding the foregoing, the Marion County Board of County Commissioners shall have the authority to approve a pending zoning application to a lesser intensive zoning classification than the classification applied for at a public hearing without the necessity of the applicant filing either a revised rezoning application or an alternative application for a less intense zoning application.

SECTION 2. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 8, Special Use Permit, Section 2.8.1, Applicability, is hereby amended to add a new paragraph as follows:

Uses not specifically listed by this Code in a zoning classification may be deemed by the Growth Services Director to be permissible in such zoning

classification, based on their similarity with listed uses; any other non-listed use may be considered for approval by a Special Use Permit (SUP). The listing of permitted uses in a zoning classification is not meant to be all inclusive.

An application for a special use permit shall not be construed to be, or be processed as, an application for a rezoning or vice versa. However, an applicant may submit applications in the alternative, one being an application for a rezoning, and the other being an application for a special use permit, upon payment of the applicable fee for each type of application. The Board of County Commissioners may consider such alternative applications with respect to the same parcel at the same public hearing. In such case, each alternative application shall be noticed and advertised so that the public will be on notice that the two alternatives will be considered during the same public hearing. Each alternative will receive the appropriate staff analysis and recommendation in a written report, but such analysis and recommendation may be included in a single staff report as long as the two alternatives are clearly distinguished for the reader.

SECTION 3. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 7, Zoning Change, Section 2.7.4, Completion and close out, paragraph A., is hereby amended to read as follows:

Sec. 2.7.4. – Completion and close out.

A. Public hearing. The Board shall hold a public hearing after each P&Z public hearing with due public notice as defined in Division 1.2 herein, to consider recommendations from the P&Z for approval or denial of proposed conventional rezoning, and approval, approval with conditions or denial for a Planned Unit Development (PUD) rezoning. The Board may approve a conventional rezoning to a lesser intensive zoning classification than the classification applied for at the public hearing. In addition, the Board may approve a PUD rezoning with different and additional conditions than that recommended in the staff report or with a less intensive density or intensity

than the maximum allowed by the adopted Future Land Use Map Series designation.

SECTION 4. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 7, Zoning Change, Section 2.7.4, Completion and Closeout, paragraph C. is hereby amended to read as follows:

2.7.4. Completion and Closeout.

C. Applicant's request for withdrawal. At the request of the applicant, the P&Z or the Board shall permit withdrawal of an application. The fee paid shall not be refunded. If an applicant withdraws one type of application and files a different type of application, the new application shall satisfy all requirements of the Land Development Code including all advertising, notice and fee requirements shall be enforced with respect to the new application.

SECTION 5. Article 2 of the Marion County Land Development Code, Application Types and Standard Requirements, Division 8, Zoning Change, Section 2.8.4, Completion and Closeout, paragraph B. is hereby amended to read as follows:

2.8.4. Completion and Closeout.

B. Applicant's request for withdrawal. At the request of the applicant, the P&Z or the Board shall permit withdrawal of an application. The fee paid shall not be refunded. If an applicant withdraws one type of application and files a different type of application, the new application shall satisfy all requirements of the Land Development Code including all advertising, notice and fee requirements shall be enforced with respect to the new application.

SECTION 6. CONFLICTS. In the event that any provision of this ordinance is in conflict with any other county ordinance, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 7. SEVERABILITY. It is hereby declared to be the intent of the Board of County Commissioners of Marion County that if any section,

subsection, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining provisions of this ordinance. The Board of County Commissioners do not intend that this ordinance be held applicable in any case where its application would be unconstitutional, as a constitutionally permitted construction is intended and shall be given.

SECTION 8. INCLUSION IN COUNTY CODE. It is the intent of the Board of County Commissioners of Marion County, Florida, and it hereby provided that the provisions of this ordinance be incorporated into the Marion County Code of Ordinances, specifically, the Land Development Code, and that the sections of this ordinance may be re-numbered or re-lettered to accomplish such intent.

SECTION 9. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the Secretary of State by the Clerk within ten days after enactment by the Board of County Commissioners, and shall take effect upon such filing as provided in Section 125.66(2)(b), Florida Statutes.

DULY ADOPTED this 2nd day of May, 2023.

BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA

CRAIG CURRY, CHAIRMAN

ATTEST:

GREGORY C. HARRELL

CLERK OF CIRCUIT COURT