



City of North Port

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE REGARDING UNIFIED CONTROL REQUIREMENTS AND RELATED DEFINITIONS BY AMENDING SECTIONS 37-6, 37-7, 53-117, 53-205, 53-220, 53-240, 54-3, AND 61-3; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 163, Florida Statutes provides that municipalities shall have power and responsibility to implement their comprehensive plan by adoption of appropriate land development regulations; and

WHEREAS, the City Commission finds it necessary to periodically revise and update the Unified Land Development Code; and

WHEREAS, the City Commission finds the proposed amendments are necessary to provide for consistency with the Florida Statutes, the Economic Development and Property Rights Element of the Comprehensive Plan, and the Economic Development and Growth Management Pillar of the North Port Strategic Plan; and

WHEREAS, the City Commission finds that some existing internal procedures and processes conflict with certain definitions within the Unified Land Development Code related to applications currently subject to the provision for “unified control,” and it is necessary to amend or delete those definitions in order to timely and consistently process development applications; and

WHEREAS, the City Commission finds that the proposed amendments simplify and clarify the documentation required by applicants for certain land uses; and

WHEREAS, the Planning and Zoning Advisory Board, designated as the local planning agency, held a properly noticed public hearing on December 1, 2022 to receive public comment on the subject matter of this ordinance and to make its recommendation to the City Commission; and

WHEREAS, the City Commission of the City of North Port held properly noticed public hearings at first and second reading of this ordinance to review the recommendations of the Planning and Zoning Advisory Board and to receive public comment on the subject matter of this ordinance; and

WHEREAS, the City Commission finds that its action serves the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1 – FINDINGS

- 1.01 The above recitals are true and correct and are incorporated in this ordinance by reference.
- 1.02 The City Commission finds the regulations in this ordinance to be consistent with the North Port Comprehensive Plan.

SECTION 2 – ADOPTION

- 2.01 Chapter 37 of the Unified Land Development Code is amended to read as follows:

“Chapter 37 – SUBDIVISION REGULATIONS

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ARTICLE II. – PROCEDURES FOR SECURING APPROVALS

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Sec. 37-6. - Subdivision plan submission requirements.

...

A. Documents.

...

- (3) ~~Ownership and unified control. A notarized statement of ownership or unified control of the entire subdivision. A recorded deed or title opinion reflecting the entity or person holding ownership of the land.~~

...

Sec. 37-7. - Infrastructure plan submission requirements.

...

A. Documents.

...

- (4) ~~Ownership and unified control. A notarized statement of ownership or unified control of the entire subdivision. A recorded deed or title opinion reflecting the entity or person holding ownership of the land.~~

...”

- 2.02 Chapter 53 of the Unified Land Development Code is amended to read as follows:

"Chapter 53 – ZONING REGULATIONS

...

ARTICLE VIII. PCD PLANNED COMMUNITY DEVELOPMENT DISTRICT

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Sec. 53-117. - Requirements for rezoning to a Planned Community Development District.

...

B. Unified control.

(1) All land included within the proposed Planned Community Development (PCD) District shall be under the legal control of the applicant(s), whether the applicant(s) be an individual, group(s) of individuals, partnership(s), corporation(s) or trust(s).

(a) The applicant(s) requesting approval of a PCD shall present a legal document indicating unified control of the entire area within the proposed PCD District.

(b) The applicant(s) shall furnish a written legal opinion that the applicant(s) and/or developer has the unrestricted right to impose all of the covenants and conditions upon the land, as are contemplated by the provisions of these regulations.

(2) Agreements and evidence.

(a) The applicant shall agree to:

(i) Proceed with the proposed development according to the provisions of these regulations and such conditions as may be attached to the rezoning to PCD;

(ii) Provide agreements, contracts, deed restrictions and sureties acceptable to the City Commission for completion of the development according to the approved plans and maintenance of such area, functions and facilities as are not to be provided, operated or maintained at public expense; and

(iii) Bind their successors in title to any commitments made under the preceding subsections.

(b) All such agreements and evidence of unified control shall be examined by the City Attorney, and no PCD shall be approved without a certification by the City Attorney that such agreement and evidence of unified control meet the requirements of these zoning regulations.

[Subsections C and D to be renumbered accordingly]

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ARTICLE XVIII. VILLAGE

Sec. 53-205. - Relationship to Comprehensive Plan.

The Zoning Regulations in this section implement Objective 1 and 13 of the Future Land Use Element of the Comprehensive Plan, which state: "Future development activities shall continue to be directed in appropriate areas as depicted on the Future Land Use Map, and shall encourage the use of innovative land development regulations, consistent with sound planning principles, minimal natural limitations, the goals, objectives and policies contained within this plan, and the community character" and "In order to fulfill the build-out vision for the City of North Port, any property under ~~unified ownership or~~ united application within the City, which can meet the minimum requirements to form a village, town center, and neighborhoods contributing to the formation of a village, may receive a Village Land Use Classification," as well as the following policy:

...

Sec. 53-220. Unified Control.

The applicant shall present evidence of the unified control of the development area within the proposed Village, and shall agree, if they proceed with the proposed development, to do so in accord with:

- A. The adopted Village Index Map, Pattern Book and VDPP and all applicable standards.
- B. Other such conditions or modifications as may be contained in the VDPP, subdivision plans, final plat or major site and development plan.
- C. Provide agreements, contracts, deed restrictions, covenants or sureties acceptable to the City for completion of the undertaking in accordance with the adopted Village Index Map, Pattern Book and VDPP as well as for the continuing operation and maintenance of such areas, functions and facilities that are not to be provided, operated or maintained at general public expense.
- D. Bind their development successors in title to any commitments made in the above stated conditions.

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ARTICLE XX. - SPECIAL CIRCUMSTANCE REGULATIONS

Sec. 53-240. - Special structures.

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- G. Cluster housing.

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(3) Ownership and encumbrance: A certificate of ownership and encumbrance or other evidence acceptable to the City, which evidence shows that the developer has unified control of the development, shall be submitted prior to development plan approval.

[renumber remaining subsection accordingly]

...”

- 2.03 Chapter 54 of the Unified Land Development Code is amended to read as follows:

“Chapter 54 – DEVELOPMENT AGREEMENT REGULATIONS

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Sec. 54-3. – Relationship to Comprehensive Plan.

The Major Development regulations in this chapter implement Objective 7 and Objective 13 of the Future Land Use Element of the Comprehensive Plan, which respectively state: "To the extent possible in light of the numerous outstanding sales agreements the City shall develop a CIP program for the extension of necessary City services. This program may include utility developers agreements, additional funding sources, etc." and "In order to fulfill the build-out vision for the City of North Port, any property ~~under unified ownership or united application within the City~~, which can meet the minimum requirements to form a village, town center, and neighborhoods contributing to the formation of a village, may receive a Village Land Use Classification," as well as the following policy hereunder:

...”

- 2.04 Chapter 61 of the Unified Land Development Code is amended to read as follows:

“Chapter 61 – DEFINITIONS

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Sec. 61-3. - Definitions and word usage.

...

~~ABUTTING PROPERTY — Any property that is immediately adjacent to, or contiguous with or that is located immediately across any road or right-of-way from property that may be subject to any review or hearing required to be held under these regulations (Chapter 37).~~

~~ABUTTING PROPERTY — Unless specifically stated otherwise within this ordinance, p~~
Properties having a boundary line, or point or portion thereof in common, with no intervening street right-of-way.

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~~BOUNDARY WALLS AND FENCES — A wall or fence constructed along the full perimeter of the property under unified ownership or by controlling home owners association, community development district or other entity to create a gated community. [Amended 11-24-2003 by Ord. No. 2002-56]~~

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~~DEVELOPMENT TRACT — The property under consideration for a development, which may contain one (1) or more development parcels and shall be under single ownership at the time of application.~~

...

~~FAR (Floor To Area Ratio) — The ratio of gross floor area of non-residential development to the square footage of a given lot, parcel, or site. With multi-story structures it gauges the~~

intensity of permitted or proposed non-residential development. When residential units are proposed to be vertically integrated with non-residential uses, the FAR shall NOT reflect the square footage devoted to the residential use.

...

FLOOR AREA RATIO (FAR) — The ratio of gross floor area of non-residential development to the square footage of a given lot, parcel, or site. With multi-story structures it gauges the intensity of permitted or proposed non-residential development. When residential units are proposed to be vertically integrated with non-residential uses, the FAR shall NOT reflect the square footage devoted to the residential use. FAR is a mathematical relation between the volume of building and unit of land equal to the total floor area of all non-residential buildings or structures on a lot, parcel, or site divided by the area of said lot, parcel, or site. When a proposed development includes a vertical mixing of uses, residential uses are included in the FAR calculation to ensure the bulk of the development does not exceed the Code allowances.

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MULTIPLE OCCUPANCY COMPLEX — A parcel of property under one (1) ownership or singular control, or developed as a unified or coordinated project, with a building or buildings housing two (2) or more occupants conducting a business operation ~~of any kind~~.

...

PLAN, MASTER — A graphic and informational representation of a specific design solution for the development of an area ~~under unified control~~, designed and planned to be developed in a single operation by a series of prescheduled development phases, as in planned community developments, showing the intended division and/or improvements of the property.

...

PLAN, SITE AND DEVELOPMENT — The site plan statements for use ~~and unified control~~, preliminary and/or final engineering plans, specifications and calculations and other required certifications, performance guaranties, bonds, agreements, approvals and materials for a development meeting the requirements of these regulations and all other applicable City regulations and codes.

PLANNED DEVELOPMENT — A development that is designed and developed as a cohesive, integrated unit ~~under single ownership or unified control~~ which permits flexibility in building sitting, mixture of housing types or land uses, clustering, common functional open space, the sharing of services, facilities and utilities and protection of environmental and natural resources.

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SHOPPING CENTER — A grouping of consumer-oriented commercial establishments, ~~planned and developed as a single structure or under a unified architectural theme, owned and managed as a unit, and~~ providing a range of goods and services specific to a definable market area and providing customer and employee parking off street and on site.

...

UNIFIED CONTROL — A recorded agreement or covenant running with a parcel of land stipulating that the subject parcel shall be held under single ownership or control and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety; provided, however, that-

- (1) ~~Individual condominium units or residential subdivision lots, if any, may be conveyed to a bona fide ultimate individual not intended for resale.~~
- (2) ~~A subunit of the project may be transferred, conveyed or sold if the purchaser agrees to abide with all applicable stipulations and conditions specified in the development permit.~~
- ...”

SECTION 3 – CONFLICTS

- 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance, in whole or in part, the provisions of this ordinance will prevail to the extent of the conflict.

SECTION 4 – SEVERABILITY

- 4.01 If a court of competent jurisdiction finds that any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason invalid or unconstitutional, that provision will be deemed a separate, distinct, and independent provision and will not affect the validity of the remaining portions of the ordinance.

SECTION 5 – CODIFICATION

- 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. Any additional codification information and notations appear in *italics*. These editorial notations are not intended to appear in the codified text.

SECTION 6 – EFFECTIVE DATE

- 6.01 This ordinance takes effect immediately upon adoption.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on December 13, 2022.

ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session on January 24, 2023.

CITY OF NORTH PORT, FLORIDA

BARBARA LANGDON
MAYOR

ATTEST

HEATHER FAUST, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS

AMBER L. SLAYTON, B.C.S.
CITY ATTORNEY