

ORDINANCE No. 2023-24

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, ESTABLISHING A SIX (6) MONTH MORATORIUM ON THE ACCEPTANCE, PROCESSING, AND CONSIDERATION OF ALL APPLICATIONS FOR DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, BUILDING PERMITS AND ZONING APPROVALS FOR PROPOSED DEVELOPMENT(S) AUTHORIZED UNDER SUBSECTION (7) OF SECTION 166.04151, FLORIDA STATUTES, FOR PROPERTY LOCATED WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY OF DORAL, FLORIDA; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the State of Florida adopted Chapter 2023-17 Laws of Florida, the Live Local Act (the “Act”), which among other things, and is designed to increase the development of affordable housing throughout the State of Florida, by, in part, prohibiting local governments from applying their use, height, and density regulations, as well as their hearing processes, to affordable housing developments authorized under, and meeting the criteria of Section 5 of the Act (“Qualifying Developments”); and

WHEREAS, specifically, Section 5 of the Act amends Section 166.04151, Florida Statutes, to create a new subsection (7) providing that a municipality must allow Qualifying Developments in commercial, industrial, and mixed-use zoning districts, even though residential may be expressly prohibited in said districts pursuant to the municipalities’ land development regulations or comprehensive plan, and may not be compatible in said districts; and

WHEREAS, at the time the City of Doral (the “City”) was incorporated in 2003, the City’s population was approximately 26,438, and in just twenty years, it has grown exponentially, and is now home to approximately 86,576 residents; and

WHEREAS, the City also has robust commercial and industrial sectors, which are the economic base of the City, as the City has over 10,000 businesses, including over 2,600 trade and logistics related companies (transportation & warehousing and wholesale trade); and

WHEREAS, the City's 2016 Comprehensive Plan update incorporated a number of individual amendments to address the City's rapid growth, future redevelopment efforts along the major corridors, and "minimize potential conversion of industrial lands to non-commercial uses that [would] erode the economic base of the City"; and

WHEREAS, through the implementation of the City's Comprehensive Plan and Land Development Regulations, the City has thoughtfully managed the City's drastic residential and industrial/commercial growth, including the implementation of several policies as more particularly set forth below, so that the City's commercial and industrial sectors are protected and can operate without the impediment of residential traffic and secondary residential impacts, and likewise, so residential uses are not placed in or near areas where noise, odor levels, and pollution can adversely affect quality of life for the City residents; and

WHEREAS, specifically, the City Comprehensive Plan Policy 4.1.9 requires appropriate buffers between the non-residential (industrial, commercial/retail and institutional uses) and residential developments (residential uses); and

WHEREAS, further, the City Comprehensive Plan Policy 2.1.18 provides that available "regulatory measures shall be used to prevent incompatible land uses from locating adjacent to or near otherwise stable and viable uses" and that rezoning

processes may be used “to discourage residential development in close proximity to industrial zoned areas and areas with unacceptable noise and/or odor levels”; and

WHEREAS, City Comprehensive Plan Policy 2.1.18 further provides that “where it is physically not feasible to separate incompatible land uses such as residential and non-residential, buffering shall be required to promote a smooth land use transition”; and

WHEREAS, City Comprehensive Plan Policy 4.1.9 also “require[s] appropriate buffers between the non-residential (industrial, commercial/retail and institutional uses) and residential developments (residential uses)”; and

WHEREAS, to ensure that the spirit and intent of the aforementioned policies apply to Qualified Developments, and to ensure that there is sufficient buffering between incompatible land uses, the City needs time to study, analyze, review, and consider the appropriate amount (and type) of buffering that will be necessary for Qualified Developments that will be located within commercial and industrial zoning districts; and

WHEREAS, there are also potential adverse public health, safety, and welfare implications with establishing residential uses in the City’s industrial and commercial zoning districts, where odor, dust, noxious fumes, noise, and other pollutants and contaminants may exist, and therefore, the City requires time to study, analyze, review, and consider whether it should implement additional environmental review processes and testing for Qualified Developments that will be located in industrial and commercial zoning districts; and

WHEREAS, additionally, because the Act will dramatically increase the City’s population by providing for additional unplanned residential development with “the highest allowed density on any land in the [City],” the City requires time to analyze, review,

consider, modify, process for adoption, and implement potential changes to its Comprehensive Plan and/or its Land Development Regulations to address the additional density and population growth, and its impact on, among other things, infrastructure, emergency and public service vehicular traffic, public safety, aesthetics, public welfare, and public facilities; and

WHEREAS, the City is committed to providing a sustainable community for its residents and future generations, and permitting significant amounts of unplanned development prior to studying and implementing potential amendments to the City's Comprehensive Plan and/or its Land Development Regulations is contrary to ensuring a sustainable community; and

WHEREAS, in addition to the above, the Act states that the City must administratively approve a Qualifying Development without holding hearings before the City Council; and

WHEREAS, as a result of the aforementioned change, the City needs time to review, analyze, and potentially amend its administrative development review and approval procedures to address how it receives and reviews applications for Qualifying Developments, including performing the appropriate studies to establish the fees it will impose for the expedited review of said projects; and

WHEREAS, preliminarily, the City has already identified the need to adopt revisions to its Land Development Regulations to impose similar regulations applicable to workforce housing projects to Qualifying Developments, including, by way of example, requirements that the affordable dwelling units in a Qualifying Development must be

reasonably dispersed throughout the project, and not clustered together or segregated in any way, from the market-rate units; and

WHEREAS, as stated above, the benefits afforded by the Act are only available to Qualifying Developments that provide certain threshold levels of affordable multifamily rental housing, which housing units are further required to remain affordable for at least 30 years; and

WHEREAS, the Act is silent on issues related to compliance reporting, monitoring, and enforcement of the mandatory affordability requirements applicable to Qualifying Developments, and there is significant potential for adverse impacts to the City in the event Qualifying Developments do not maintain their status as such for the required 30 year period; and

WHEREAS, the City needs time to develop and codify procedures to ensure that Qualifying Developments provide the requisite affordable housing units for the minimum 30 year period required by the Act, including development of appropriate covenants, restrictions, and/or agreements enforceable by the City, development and codification of annual monitoring and reporting requirements, and penalties for failure to comply with the same; and

WHEREAS, a temporary moratorium on the acceptance of applications for, the processing of, and the issuance of development permits and development orders within the City's municipal boundaries for Qualifying Developments under the Act will allow time for the City to review, study, hold public hearings, prepare, and adopt potential changes to its Comprehensive Plan and/or its Land Development Regulations, as well as time to

review, study, prepare, and adopt the administrative processes and procedures necessary to effectively implement the Act; and

WHEREAS, the adoption of this Ordinance is undertaken in good faith and is intended to further the goals of the Comprehensive Plan and the comprehensive planning process set forth in Chapter 163, Florida Statutes; and

WHEREAS, the City Council, in its capacity as the Local Planning Agency, has reviewed this Ordinance and has recommended approval; and

WHEREAS, the City Council held a public hearing at which all citizens so desiring had an opportunity to be heard; and

WHEREAS, the City Council finds that this Ordinance is consistent with the City's adopted Comprehensive Plan and is necessary for the preservation of the public health, safety and welfare of the City's residents.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA:

Section 1. Recitals. The foregoing Whereas clauses are hereby ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Definitions. For the purposes of this ordinance, the following terms are defined as follows:

Act means the Live Local Act as set forth in Chapter No. 2023-17, Laws of Florida.

City means the City of Doral, Florida.

Development order means the same as defined by Section 163.3164, Florida Statutes.

Development permit means the same as defined by Section 163.3164, Florida Statutes.

Qualifying Developments means a proposed development meeting the criteria of, and authorized under, subsection (7), of Section 166.04151, Florida Statutes.

Section 3. Temporary Moratorium. Beginning on the effective date of this ordinance and continuing for six (6) months, or as extended or terminated as provided by section 4 of this ordinance, a temporary moratorium is hereby imposed on the acceptance, processing and consideration of all applications for development orders, development permits, building permits and zoning approvals, for all proposed Qualifying Developments under the Act within the municipal boundaries of the City of Doral to allow time for the City to research, analyze, and consider the adoption of potential amendments to the City's Comprehensive Plan and/or Land Development Regulations, as well as time to review, study, prepare, and adopt the administrative processes and procedures necessary to effectively implement the Act.

Section 4. Extension or Early Termination of the Temporary Moratorium. The temporary moratorium imposed by section 3 of this ordinance may be extended or terminated early by adoption of an ordinance or resolution of the City Council.

Section 5. Severability. If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. **Conflicts.** All Sections or parts of Sections of the Code of Ordinances, all Ordinances or parts of ordinances, and all Resolutions or parts of resolutions, in conflict with this Ordinances are repealed to the extent of such conflict.

Section 7. **Effective Date.** This Ordinance shall be effective immediately upon passage by the City Council on second reading.

The foregoing Ordinance was offered by Councilmember Puig-Corbe who moved its adoption. The motion was seconded by Councilmember Cabral upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Maureen Porras	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 23 day of August, 2023.

PASSED AND ADOPTED on SECOND READING this 13 day of September, 2023.



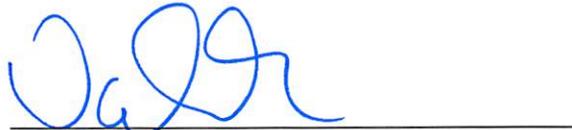
CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



VALERIE VICENTE, ESQ. for
NABORS, GIBLIN & NICKERSON, P.A.
CITY ATTORNEY