

ORDINANCE NO. 2013 -1 ?

AN ORDINANCE AMENDING APPENDIX A (ZONING CODE) ARTICLE V (ADMINISTRATION), SECTION 4 (CONDITIONAL USE PERMIT), PROVIDING FOR REVISIONS TO THE REQUIREMENTS FOR CONDITIONAL USE PERMITS; PROVIDING FOR APPLICABILITY; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (County) has adopted the Hernando County Comprehensive Plan within which are included goals, objectives, and policies related to the process for review and approval of certain development applications; and

WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these goals, objectives, and policies through the adoption of consistent land development regulations; and

WHEREAS, the County desires to update and modernize its land development regulations, and to provide for additional criteria and standards for conditional use permits; and

WHEREAS, this proposed substantive amendment to the Hernando County Land Development Regulations, Appendix "A", (Zoning Code), has received public hearings before the Planning and Zoning Commission, Local Planning Agency, and the Board of County Commissioners as required by state and local law; and

WHEREAS, the Board of County Commissioners, for itself and acting as the Local Planning Agency, finds and determines that the proposed amendment is consistent with the goals, objectives, and policies of the Comprehensive Plan.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

The recitals set forth above, including findings of fact and conclusions of law, are true and correct and incorporated herein by this reference.

SECTION I. Hernando County Code of Ordinances, Appendix "A" (Zoning Code) Article V (Administration), Section 4 (Conditional Use Permit), is hereby amended to expand the authority of the administrative official to approve certain conditional uses under specified criteria and standards, including temporary retail vendors, as more precisely delineated with strike-through and underlined text below:

Section 4. - Conditional use permit.

The conditional use permit is intended to be utilized as a special permit which temporarily allows uses not otherwise permitted by this ordinance for a specified period of time.

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

1
2 A. *Conditional use allowable in any zoning district with planning and zoning*
3 *commission approval:*

- 4
5 (1) Temporary real estate sales office exclusively for real estate sales of
6 property in a developing subdivision.
7
8 (2) Temporary second principal building on one lot of record in cases of
9 extreme personal hardship.
10
11 (3) Temporary structures, other than those permitted by the Administrative
12 Official pursuant to paragraph C below.
13
14 (4) Temporary uses, other than those permitted by the Administrative Official
15 pursuant to paragraph C below, or as accessory uses and structures in all
16 commercial districts.
17
18 (5) Seasonal sales of plants or plant materials which are not accessory to
19 churches, schools or fraternal organizations as principal uses of property.
20
21 (6) Uses allowable by special exception use permit.
22

23 B. *Other conditional uses permitted in specific zoning districts with planning and*
24 *zoning commission approval:*

- 25
26 (1) Conditional uses other than those listed above may be permitted in
27 specific zoning districts as provided for in this ordinance.
28

29 C. *Conditional use permits allowable with administrative official approval:*

- 30
31 (1) ~~Carnivals, circuses, tent revivals, festivals and special events of a similar~~
32 ~~nature where any associated retail sales are incidental to the use and not a~~
33 ~~principal or primary aspect of the use. Special Events may be approved by~~
34 ~~the Administrative Official in any zoning category for a period not to~~
35 ~~exceed 45 days for the purpose of promotions, entertainment, educational,~~
36 ~~religious, or similar events. The sale of alcoholic beverages in association~~
37 ~~with these types of events must provide the Administrative Official with a~~
38 ~~copy of the necessary permits from the state. Such sales are exempt from~~
39 ~~the minimum separation distance for the sale of alcoholic beverages from~~
40 ~~a church or school. Such permit request is also subject to the following:~~
41
42 (a) Adequate off-street parking, restroom, and emergency access shall
43 be provided as required.
44 (b) Provisions for any required traffic control must be demonstrated,
45 and provided.

1 (c) The applicant shall submit a detailed site plan showing the location
2 of all temporary structures, vendors, tents, the number and location
3 of off-street parking spaces, a traffic circulation plan showing all
4 ingress/egress locations, and the location of any structures existing
5 on site. Such plan shall be examined by the Administrative Official
6 and other applicable departments and agencies to determine
7 compliance with all applicable codes, ordinances, or regulations.
8 No clearance for a building permit shall be issued until such plan
9 complies with these provisions and a conditional use permit has
10 been issued.

11
12 (2) ~~Conditional use permits approved by the administrative official may be~~
13 ~~issued for a period not to exceed four (4) weeks. A temporary retail vendor~~
14 ~~may be approved by the Administrative Official in any commercial or~~
15 ~~industrial zoning category for a period of up to 1 year provided that a~~
16 ~~principal structure exists on site and adequate parking and access is~~
17 ~~available. Such permits may be renewed on an annual basis subject to the~~
18 ~~approval of the Administrative Official. A temporary retail vendor shall~~
19 ~~mean a single-vendor that sells food, drinks, or merchandise by means of a~~
20 ~~stand, table, truck, van, wagon, pushcart, handcart or other vehicle.~~

21
22 (3) *[Paragraph unchanged from codified language adopted under Ordinance*
23 *2013-08 on March 12, 2013.]*

24
25 (4) Community gardens may be approved by the Administrative Official for a
26 maximum time period of up to five (5) years.

27
28 D. Application procedure for conditional uses that require planning and zoning
29 commission approval:

- 30
31 (1) This provision shall govern applications for all conditional use permits:
- 32 (a) The application for a conditional use permit hereunder shall be in
33 the form prescribed by the County planning department or the
34 ~~administrative official~~ and shall include a site plan which, at a
35 minimum, depicts the proposed conditional use in relation to the
36 parcel of property on which it is to be located and adjoining
37 properties, parking, access, buffers.
 - 38 (b) The application shall be signed by the property owner or
39 accompanied by an affidavit of written permission by the property
40 owner of record and shall include payment of any applicable
41 application fees.
 - 42 (c) A public contact person must be designated on the application. The
43 public contact person would be required to answer questions and
44 provide information to the public.
 - 45 (d) Depending upon the size, location or complexity of the requested
46 conditional use, planning department staff may request additional

1 information. It is the ultimate responsibility of the property owner
2 or designated agent to ensure that the application is complete and
3 sufficient and all requested information and materials have been
4 provided to county staff.
5

6 (2) The applicant, upon being first advised by the planning department that
7 the application is incomplete or insufficient, shall have a total of one
8 hundred and eighty (180) days to correct all completeness and sufficiency
9 deficiencies. If the applicant fails or refuses to correct such deficiencies
10 within this period, the said application shall be deemed abandoned and
11 void. Any applicant whose application is declared abandoned or void
12 under this provision may re-file such application at a subsequent date,
13 without prejudice, upon payment of all required fees and submitting a
14 complete and sufficient application.
15

16 (3) Upon an applicant being advised by the planning department that the
17 application is complete and sufficient, a public hearing shall be promptly
18 scheduled at the next available planning and zoning commission meeting
19 allowing sufficient time for public notice and advertising. At the request of
20 the commission, the governing body or the applicant, any scheduled public
21 hearing may be continued until a date certain (which date shall be set by
22 the commission or the governing body, respectively, in their sole
23 discretion). Notwithstanding the foregoing, the commission shall render a
24 decision on the merits of the application within one hundred and eighty
25 (180) days of the applicant being advised that the application is complete
26 and sufficient. It shall be the responsibility of the applicant to ensure that
27 its application is scheduled and acted upon in a timely fashion. Any
28 application not acted on by the commission within said one hundred and
29 eighty (180) day period shall be deemed abandoned and void, and such
30 application shall be closed out by the planning department with no refunds
31 of any fees paid by the applicant. Any applicant whose application is
32 declared abandoned or void under this provision may re-file such
33 application at a subsequent date, without prejudice, upon payment of all
34 required fees and submitting a complete and sufficient application.
35

36 ~~E.~~(4) *Public Inquiry Workshop*: Upon determination of need by the County staff
37 based upon the number of public inquiries or the size, location or
38 complexity of the proposed project, the applicant shall be required to
39 conduct a Public Inquiry Workshop prior to the scheduling of a public
40 hearing on the application at a location convenient to the site in question
41 and appropriate for public assembly in Hernando County as follows.
42

43 ~~(4)~~(a) The applicant shall provide sign notice by posting the property a
44 minimum of ten (10) days prior to the scheduled workshop with a
45 Public Inquiry Workshop notice sign as supplied by the planning

1 department. The sign notice hereunder shall be in addition to all
2 other sign notice requirements under this article.

3
4 ~~(2)~~(b) The applicant shall provide mail notice a minimum of ten (10)
5 days prior to the scheduled Public Inquiry Workshop giving the
6 time, place and purpose of the meeting to each property owner
7 within five hundred feet (500') of the parcel covered by the
8 application based on the mail list generated by the Property
9 Appraiser's Office. The applicant shall provide the planning
10 department a copy of the mail list and a notarized affidavit
11 indicating that said notice was mailed. The mail notice hereunder
12 shall be in addition to all other mail notice provisions under this
13 article.

14
15 ~~(3)~~(c) The applicant shall provide a Citizen Sign-in sheet and executive
16 summary explaining what information was provided to the public
17 at the meeting to the County accompanied by a notarized affidavit
18 indicating that the list is an official record of attendance at the
19 meeting. The Citizen Sign-In sheet and executive summary will
20 become a part of the official application file.

21
22 ~~F.~~ (5) *Notice requirements for public hearing:*

23
24 ~~(1)~~(a) If a public hearing before the Planning and Zoning Commission or
25 Board of County Commissioners is required or requested by appeal
26 hereunder, upon fixing a date for the public hearing the applicant
27 shall provide sign notice by posting the property with a public
28 notice sign as supplied by the planning department. The notice
29 shall be posted in a conspicuous location at the front lot line at
30 least ten (10) days prior to the scheduled hearing date. It is the
31 responsibility of the applicant to ensure that the sign(s) are
32 appropriately posted and remain on the property during the public
33 hearing process in a legible condition. If the condition of the
34 sign(s) deteriorate through the process, it shall be the responsibility
35 of the applicant to repost the property at no cost to the county.
36 Failure to maintain the signs in accordance with this section may
37 result in a delay of the public hearing process. The applicant shall
38 be responsible for removal of the sign(s) within 10 days of the date
39 the decision on the applicant's application becomes final or the
40 date of appeal of a commission or governing body decision for
41 judicial determination, whichever comes first. Failure to timely
42 remove any such sign(s) is prohibited.

43
44 ~~(2)~~(b) Additionally, the planning department shall provide mail notice
45 giving the time, place, and purpose of the public hearing to each
46 property owner within two hundred fifty (250) feet of the parcel

1 covered by the application based upon the mail list generated by
2 the Property Appraiser's Office and furnished by the applicant. The
3 notice shall be mailed at least ten (10) days prior to the scheduled
4 public hearing date.
5

6 ~~(3)~~(c) The applicant shall be responsible for all costs incurred in the
7 notice procedure for the public inquiry workshop and the public
8 hearing.
9

10 G.E. *Issuance of permit by the Administrative Official:*

- 11
- 12 (1) After the application and accompanying information has been received
13 and processed by the development department, those applications
14 submitted for conditional use permits ~~allowable in any zoning category~~
15 with administrative official approval pursuant to paragraph 4(c) above,
16 shall be approved or denied by the administrative official within fourteen
17 (14) days, unless referred to the planning and zoning commission for
18 review and action. The administrative official's decision may be appealed
19 to the board of county commissioners.
20
- 21 (2) All other applications for conditional use permits must be reviewed and
22 acted upon by the planning and zoning commission.
23
- 24 (3) No conditional use permit shall be issued for a period to exceed two (2)
25 years unless otherwise specified in this ordinance. However, conditional
26 use permits may be renewed or extended upon reapplication.
27
- 28 (4) All conditional uses must meet the minimum requirements of the county's
29 land development regulations unless specific deviations are requested and
30 approved.
31
- 32 (5) All requests for a Conditional Use Permit shall meet the requirements of
33 this code for Temporary Uses and Structures and adequate utility, refuse
34 management, access, fire and similar facilities shall be available for the
35 proposed use.
36
- 37 (6) As a condition of approval of a Conditional Use Permit, the applicant shall
38 submit a sworn statement attesting to compliance with all applicable
39 federal, state and local permit(s) and approval(s); in the alternative, the
40 County shall impose a condition which prohibits commencement of
41 construction or operations upon receipt (copy to the County) of all
42 applicable federal, state and local permit(s) and approval(s). The Affidavit
43 shall be submitted in a form approved by the Administrative Official.
44

1 H.F. *Review by governing body.* The governing body, by a majority vote, may decide
2 to review any conditional use permit decision rendered by the planning and
3 zoning commission.
4

5 The decision of the governing body to review such decision must be made within
6 thirty (30) days of the rendering of the decision of the planning and zoning
7 commission. If at least a majority (three (3) members) of the governing body do
8 not vote to review the commission action within thirty (30) days, the commission
9 decision shall be deemed final and subject only to review by circuit court.
10

11 The initial review of the decision by the governing body shall be at a public
12 hearing held within sixty (60) days of the commission decision. Public notice, for
13 this subsection, shall mean publication of notice of the time, place and purpose of
14 such hearing one time in a newspaper of general circulation in the county, such
15 publication to be at least five (5) days prior to such hearing. Mail notice and sign
16 notice shall be provided in the same manner as the public hearing before the
17 planning and zoning commission. Affidavit proof of the required publication and
18 posting of the notice shall be presented at the hearing.
19

20 At the public hearing, the governing body may affirm, modify or reverse the
21 decision of the planning and zoning commission.
22

23 **SECTION II. APPLICABILITY.** This Ordinance shall be applicable throughout the
24 unincorporated area of Hernando County.
25

26 **SECTION III. SEVERABILITY.** It is declared to be the intent of the Board of County
27 Commissioners that if any section, subsection, clause, sentence, phrase, or provision of this
28 ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect
29 the validity of the remaining portions of this ordinance.
30

31 **SECTION IV. CONFLICTING PROVISIONS.** Special acts of the Florida Legislature
32 applicable only to unincorporated areas of Hernando County, Hernando County ordinances,
33 County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this
34 ordinance to the extent of such conflict except for ordinances concerning either adoption or
35 amendment of the Comprehensive Plan, pursuant to Chapter 163, part II, Florida Statutes.
36

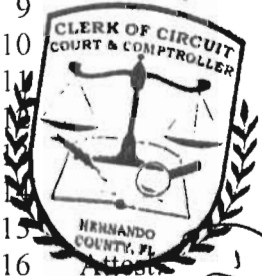
37 **SECTION V. FILING WITH THE DEPARTMENT OF STATE.** The clerk shall be and is
38 hereby directed forthwith to send a certified copy of this ordinance to the Bureau of
39 Administrative Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street,
40 Tallahassee, FL 32399-0250.
41

42 **SECTION VI. INCLUSION IN CODE.** It is the intention of the Board of County
43 Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of
44 this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County,
45 Florida. To this end, any section or subsection of this Ordinance may be renumbered or re-
46 lettered to accomplish such intention, and the word "ordinance" may be changed to "section,"

"article," or other appropriate designation. Whereas Clauses, and Sections II through Section VII need not be codified.

SECTION VII. EFFECTIVE DATE. This ordinance shall take effect immediately upon filing with the Department of State.

DULY PASSED AND ADOPTED IN REGULAR SESSION THIS 23rd DAY OF April, 2013.



Donald C. Barbée Jr.
DONALD C. BARBEE JR, CLERK

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

David D. Russell, Jr.
By: DAVID D. RUSSELL, JR, CHAIRMAN



Approved as to Form and
Legal Sufficiency

By: *[Signature]*



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

April 30, 2013

Honorable Don Barbee, Jr.
Clerk of the Circuit Court
Hernando County
Room 131, 20 North Main Street
Brooksville, Florida 34601-2800

Attention: Ms. Sherry L. Crum, Deputy Clerk

Dear Mr. Barbee:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 25, 2013 and certified copies of Hernando County Ordinance Nos. 2013-11 through 2013-13, which was filed in this office on April 30, 2013.

As requested, the date-stamped original is being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud
Program Administrator

LC/elr

Enclosure