

ORDINANCE NO. 91-23

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PLANNING AND ZONING DEPARTMENT
HERNANDO COUNTY, FLORIDA

AN ORDINANCE AMENDING THE ZONING REGULATIONS, APPENDIX A, CODE OF ORDINANCES, HERNANDO COUNTY, FLORIDA; PROVIDING FOR DELETION AND MODIFICATION OF DEFINITIONS PERTAINING TO THE BOARD OF ZONING ADJUSTMENT AND APPEALS; PROVIDING FOR REGULATION OF FLAGS ON MODEL HOME SITES; PROVIDING FOR DELETION OF APPENDIX A, ARTICLE III, SECTION 2 IN ITS ENTIRETY; PROVIDING MODIFICATION TO SPECIAL REGULATIONS IN AGRICULTURAL DISTRICTS; PROVIDING FOR POWERS, DUTIES AND AUTHORITY OF THE ADMINISTRATIVE OFFICIAL; PROVIDING FOR APPEALS AND VARIANCES; PROVIDING FOR SPECIAL EXCEPTION USE REGULATIONS; PROVIDING FOR EXISTING UNDEVELOPED LOTS OF RECORD; PROVIDING FOR ASSIGNMENT OF POWERS, DUTIES AND AUTHORITY OF THE BOARD OF ZONING ADJUSTMENT AND APPEALS; PROVIDING FOR TERM OF OFFICE FOR MEMBERS OF THE PLANNING AND ZONING COMMISSION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. Hernando County Code of Ordinances Appendix A, Article I, Section 3, Item 1, "Board" is hereby deleted.

SECTION 2. Hernando County Code of Ordinances Appendix A, Article I, Section 3, Item 67, "Special exception use" is amended as follows:

67. Special exception use: A use which is appropriate in a zoning district if safeguards are imposed, but which would impair the integrity and character of the district in which it is located, or in adjoining districts unless restriction or conditions on location, size, extent, and character of performance are imposed in addition to those imposed in this ordinance. It is an additional Commission-approved use to the permitted uses of the district on the parcel.

SECTION 3. HERNANDO COUNTY CODE OF ORDINANCES APPENDIX A, ARTICLE II SECTION 2, SUBSECTION E(15) IS HEREBY AMENDED TO READ AS FOLLOWS:

15. Signs - Model Homes Located in Residential Area:

- a. Any model home or model home center built in a single family residential area is permitted no more than one sign per lot; identifying the builder and measuring no more than thirty-two (32) square feet in size.
- b. No portable signs shall be permitted.
- c. No flags or pennants except National, State, or the Confederate Flag shall be displayed on said model home sites with the exception of the first thirty-day grand opening period. During the first thirty-

day grand opening period, flags or banners shall not be regulated as to type or number. After the first thirty-day grand opening period, the model center may display a maximum of three (3) flags. One of the three flags displayed must be the American Flag and the other two may be either State Flags, National Flags, or the Confederate Flag. Confederate and State Flags shall be displayed in accordance with Chapter 256 of the Florida Statutes and National Flags shall be displayed in accordance with the Flag code of "36 U.S.C.S. Section 176".

- d. Each model within the model center shall be allowed to have a sign measuring no more than three square feet identifying each model within the model center.

SECTION 4. Hernando County Code of Ordinances Appendix A, Article III, Section 2 is hereby deleted in its entirety.

SECTION 5. Hernando County Code of Ordinances Appendix A, Article IV, Section 6 D is hereby amended to read:

Section 6. Agricultural District.

D. Special Regulations:

1. No odor or dust producing substance or use, except in connection with cultivation of permitted uses, shall be permitted within one hundred (100) feet of a property line if the adjoining property is being used for residential purposes.

2. No products shall be publicly displayed or offered for sale from the roadside unless approved as a special exception use.

SECTION 6. Hernando County Code of Ordinances Appendix A, Article V, Section 1, is hereby amended to read:

ARTICLE V. ADMINISTRATION

Section 1. Powers, duties and authority of the Administrative Official.

A. Appointment:

The Governing Body shall appoint an Administrative Official, who shall be charged and provided with the authority to administer the zoning ordinance and to enforce the regulations and procedures contained herein governing land development and use, indicating the issuance of zoning permits and certificates of use. The Administrative Official, in the performance of his duties and functions, may enter upon any land and make examination and surveys that do not occasion damage or injury to private property.

B. Powers and Duties:

The Administrative Official shall have the following powers and duties:

1. To decide the literal interpretation of the zoning ordinance including definitions and land use classifications.
2. To decide the interpretation of the exact location of zoning district boundaries according to the zoning ordinance.
3. To decide the interpretation of the amount of off-street

parking, loading and unloading space required according to the zoning ordinance.

4. To decide the interpretation of the general environmental control criteria and performance standards according to the zoning ordinance.
5. To decide any other interpretation or decision delegated by the Land Development Regulations.

C. Administrative Variances:

The Administrative Official shall have the authority to grant a minor dimensional variance of up to ten percent (10%) of adopted standards when the terms of this ordinance are met. When the terms of the ordinance are not met, the Administrative Official shall deny the request, at which time the petitioner shall have all rights of appeal as set forth in this ordinance.

SECTION 7. Hernando County Code of Ordinances Appendix A, Article V, Section 3, is hereby amended to read:

Section 3. Appeals and Variances.

A. Authority of the Governing Body:

The Governing Body shall have the following powers and duties.

1. The Governing body shall hear and decide appeals when it is alleged there is an error in any order, requirement, decision, or determination made by the Administrative Official in the enforcement of the zoning ordinance.

The Governing Body may, upon appeal and in conformity with provisions of this part, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the Administrative Official in the enforcement of the zoning ordinance. In making any necessary order, requirement, decision, or determination, the Governing Body shall have all the powers of the Administrative Official from whose decision the appeal is taken.

2. The Governing Body may authorize upon appeal a variance from the terms of the ordinance that will not be contrary to the public interest when due to special conditions, a literal enforcement of the provisions of the ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the ordinance, the Governing Body must find:

- a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

- b. That the special conditions and circumstances do not result from the actions of the applicant;

- c. That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;

- d. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;

e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

f. That the granting of the variance will be in harmony with the general intent and purpose of the Land Development Regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

3. The Governing Body may grant variances for selected historic structures. Variances may be granted for reconstruction, rehabilitation, or restoration of structures listed in or classified as contributing to a district listed in the National Register of Historic Places, the Local Register of Historic Places, or the State Inventory of Historic Places. The variance shall be the minimum necessary to protect the character and design of the structure. A variance shall not be granted if the proposed construction, rehabilitation, or restoration would cause the structure to lose its historical designation.
4. The Governing Body may prescribe appropriate conditions and safeguards in conformity with the Land Development Regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the ordinance.
5. The Governing Body may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

B. Variances:

1. Dimensional variance runs with the land: A dimensional variance applies to the property for which it is granted, and not to the individual who applies for it. A dimensional variance is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site.
2. Findings maintained by the Administrative Official: All findings necessary for the granting of a dimensional variance, along with any imposed conditions or restrictions, shall be maintained by the Administrative Official. These findings shall be issued in written form to the applicant to constitute proof of the dimensional variance.
3. A variance shall not be granted to allow a use not otherwise permitted in the zoning district.

C. Appeal and variance procedure:

1. For Hearing: Appeals to the Governing Body for a hearing may be taken by any person aggrieved or by any officer, board, or bureau of the Governing Body affected by any decision of the Administrative Official. Such appeal shall be taken within thirty (30) days after rendition of the order, requirement, decision, or determination appealed by filing with the Administrative Official from whom the appeal is taken and with the Governing Body an application of appeal specifying the grounds thereof. Upon a hearing, any party may appear in person, by agent, or by attorney.
2. Application for a variance or appeal: The application for a variance or appeal shall be in the form prescribed

by the rules of the Governing Body. An applicant appealing to the Governing Body shall submit an application to the Administrative Official along with any additional data and information required by the Governing Body.

D. Required Notice for Appeals and Variances:

1. Notice in Newspaper:

The Administrative Official shall cause a notice of the time, place and purpose of such hearing to be published in a newspaper of general circulation in the County at least ten (10) days prior to the hearing.

2. Mail Notice:

a. The Administrative Official shall mail notices setting forth the time, place and purpose of the hearing to the parties in interest when a specific parcel is involved. The Administrative Official shall also mail notices to the owner of every parcel of land within a distance of one hundred fifty (150) feet in any direction from the property line of the land in question when the hearing involves a specific parcel of land.

b. Notice shall be mailed to the owner's current address of record maintained by the assessor of taxes of the Governing Body and shall be postmarked no later than ten (10) days prior to the scheduled hearing date. The Administrative Official shall present an affidavit or mailing certification certifying compliance with the notice requirement of this section, along with a list of the persons and addresses to which notices were mailed, at the time of the hearing.

3. Sign Posting:

The applicant shall, upon the setting of the hearing on a proposed variance, and not less than fifteen (15) days prior to the date set for the public hearing, post sign(s) on the parcel of land for which the variance is proposed.

a. Such sign shall have the size, shape, design and color determined by the Administrative Official. The following information shall be printed or otherwise made to appear on the sign:

**PUBLIC NOTICE
VARIANCE HEARING
BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA
(insert date, meeting time, and location)
PROPOSED VARIANCE
(description of variance)**

b. The sign(s) furnished by the County shall be posted by the applicant along each front lot line with the bottom of the sign at least three (3) feet above grade on the property being considered for a variance. The sign cards shall be posted at the outer property line along the road or street frontage and shall be clearly visible. If the frontage is in excess of three hundred (300) feet, posting of the signs shall be determined by the County. In cases where the property does not have frontage on a road, the sign cards shall be posted at the property corners and where the access road intersects with the nearest county road.

c. After the signs are posted, the petitioner shall prepare an affidavit certifying that the required signs were posted, including a description of the parcel of land on which the signs were placed. This affidavit must be filed with the Administrative Official prior to the public hearing. The County shall make affidavit forms available for use by the applicant.

E. Fees:

The applicant shall pay all costs and expenses in connection with public notice of such hearing and related notices in addition to any other fee required for administration.

F. Review by circuit court:

An aggrieved party may appeal a final administrative order of the Governing Body to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the Governing Body. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

SECTION 8. Hernando County Code of Ordinances Appendix A, Article V, Section 8, is hereby created to read:

Section 8. Special exception use regulations.

Special exception uses may be permitted in those zoning districts where designated by this ordinance but only when specifically approved by the Planning and Zoning Commission in accordance with the provisions of this ordinance. All special exception uses shall be subject to the following regulations unless otherwise stated in this ordinance.

A. In considering the granting of a special exception permit the Planning and Zoning Commission shall have the following powers and duties.

1. The Commission shall hear and decide on applications for special exception use permits; to decide such questions as are involved in the determination of when special exceptions should be granted; to grant special exceptions with appropriate conditions and safeguards; to deny special exceptions when not in harmony with the purpose and intent of the Land Development Regulations.

2. In granting any special exception, the Commission shall find that such grant will not adversely affect the public interest.

3. In granting any special exception, the Commission may prescribe appropriate conditions and safeguards in conformity with the Land Development Regulations. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this ordinance.

4. In granting any special exception, the Commission may prescribe reasonable time limits for special exceptions.

B. Special exception general standards: All special exception uses shall be subject to the following regulations:

1. **Uses:** The premises of a special exception use shall be used for only those buildings, uses, and accessory buildings specifically indicated by the Commission in its approval of the special exception use.

2. Compatibility: The tract of land must be suitable for the type of special exception use proposed by virtue of its location, shape, topography and the nature of surrounding development.
3. Standards: Required standards and regulations for special exception uses and buildings are as follows:
 - a. All special exception uses shall be subject to the general regulations for structures and uses, lots and yards and vehicles contained in this ordinance for principal building and single lot development as well as the specific dimension and area regulations for lots and structures in the specific zoning district in which the special exception use is proposed.
 - b. Minimum lot frontage on a street shall be sufficient to permit properly spaced and located access points designed to serve the type of special exception use proposed. The proposed use shall not attract inappropriate traffic volumes, noise or congestion. Wider spacing between access points and intersecting street right-of-way lines should be required when the lot has more than the minimum required frontage on a street. All access points shall be specifically approved by the Administrative Official.
 - c. All buildings should be located an adequate distance from all property lines and street right-of-way lines. Greater building setback lines should be required when the lot has more than the minimum lot area required or when deemed necessary to protect surrounding properties.
 - d. Landscaped separation shall be provided along all property lines and along all streets serving the premises in conformance with the Hernando County Community Appearance Ordinance and as required by the Planning and Zoning Commission. The premises shall be permanently screened from adjoining and contiguous properties by a wall, fence, evergreen hedge and/or other approved enclosure when deemed necessary to buffer the special exception use from surrounding areas.
 - e. The use shall be of a similar architectural scale to existing neighborhood development or take advantage of an existing building for its purposes.
 - f. Visual and functional conflict between the proposed use and nearby neighborhood uses, if existent, shall be minimal.
4. Signs permitted: The following signs may be permitted when approving special exception uses:
 - a. One (1) attached sign not over six (6) square feet in area identifying each building plus one (1) freestanding sign not over twelve (12) square feet in area identifying the educational facilities, cultural facilities, noncommercial amusement facilities, religious establishments, hospitals or nursing care homes permitted as special exceptions on the premises.
 - b. One (1) freestanding sign not over twelve (12) square feet in area plus one (1) attached unlighted sign not over (6) six square feet in area

identifying permitted special exception uses on the premises other than those special exception uses for which permitted signs are specified.

5. Special exception runs with the land: A special exception applies to the property for which it is granted, and not to the individual who applies for it. A special exception is transferable to any future owner of the land, but it cannot be transferred by the applicant to a different site. Further, the special exception shall become null and void if the parcel of land granted the special exception is reduced in size from the original approval size.

C. Special Exception Uses:

1. The following special exception uses only may be approved in all zoning districts:
 - A. Educational facilities
 - B. Cultural facilities
 - C. Noncommercial amusement facilities
 - D. Religious establishments
 - E. Cemeteries
 - F. Hospitals
 - G. Nursing care homes
 - H. Community centers, civic centers and public meeting halls.
 - I. Child care facilities (more than five children unrelated to the operator)
 - J. Substance-abuse rehabilitation facilities
2. Specified zoning districts: Other special exception uses may be approved in only those zoning districts where they are designed as special exception uses under the zoning district regulations of this ordinance.

D. Required notice:

1. Publication Notice: The County shall cause a notice of the time, place and purpose of a special exception hearing to be published in a newspaper of general circulation in the County at least ten (10) days in advance of the hearing.
2. Mail Notice:
 - a. The County shall mail similar notices setting forth the time, place and purpose of the hearing to the parties in interest. The County shall also mail notices to the owner of every parcel of land within a distance of one hundred fifty (150) feet in any direction from the property line of the land in question.
 - b. Notice shall be mailed to the owner's current address of record maintained by the assessor of taxes of the Governing Body and shall be postmarked no later than ten (10) days prior to the scheduled hearing date. The County shall present an affidavit or mailing certification certifying compliance with the notice requirement of this section, along with a list of the

persons and addresses to which notices were mailed, at the time of the hearing.

3. Sign Posting:

The applicant shall post sign(s) on the proposed special exception parcel at least fifteen (15) days in advance of the hearing.

a. Such sign shall have the size, shape, design and color determined by the County . The following information shall be printed or otherwise made to appear on the sign:

PUBLIC NOTICE
SPECIAL EXCEPTION HEARING
BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA
(insert date, meeting time, and location)
PROPOSED SPECIAL EXCEPTION
(description of special exception)

b. The sign(s) furnished by the County shall be posted by the applicant along each front lot line with the bottom of the sign at least three (3) feet above grade on the property being considered for a special exception. The sign cards shall be posted at the outer property line along the road or street frontage and shall be clearly visible. If the frontage is in excess of three hundred (300) feet, posting of the signs shall be determined by the County. In cases where the property does not have frontage on a road, the sign cards shall be posted at the property corners and where the access road intersects with the nearest county road.

c. After the signs are posted, the petitioner shall prepare an affidavit certifying that the required signs were posted, including a description of the parcel of land on which the signs were placed. This affidavit must be filed with the County prior to the public hearing. The County shall make affidavit forms available for use by the applicant.

E. Fees:

The applicant shall pay all costs and expenses in connection with public notice of such hearing and related notices in addition to any other fee required for administration.

F. Review by Governing Body: The Governing Body, by a majority vote, may decide to review any special exception decision rendered by the Planning and Zoning Commission.

The decision of the Governing Body to review such decision must be made within fifteen (15) days of the decision of the Planning and Zoning Commission. If at least a majority (three (3) members) of the Governing Body do not vote to review the Commission decision within fifteen (15) days, the Commission decision shall be deemed final and subject only to review by circuit court.

The review of the decision by the Governing Body shall be at a public hearing held within twenty-two (22) days of the Commission decision. Public notice for this subsection shall mean publication of notice of the time, place and purpose of such hearing one (1) time in a newspaper of general circulation in the county, such publication to be at least two (2) days prior to such hearing, and such notice shall be posted in a conspicuous place or places on or around such lots, parcels or tracts of lands as may be involved in the

hearing. Affidavit proof of the required publication and posting of the notice shall be presented at the hearing.

At the public hearing, the Governing Body may affirm, modify or reverse the decision of the Planning and Zoning Commission.

SECTION 9. Hernando County Code of Ordinances Appendix A, Article V, Section 9, is hereby created to read:

Section 9. Existing undeveloped lots of record.

Existing undeveloped lots of record: If an undeveloped lot or parcel of land existing before the adoption of the zoning ordinance (May 1, 1972) is too small to allow conformance with the dimension and area regulations, and if the owner owns no adjoining parcel, the owner may be granted a dimensional variance to allow the reasonable use of the premises. The Administrative Official shall grant the variance in conformity with established neighborhood standards.

When adjoining undersized parcels are under the same ownership, they shall not be used or sold separately except in conformance with the dimension and area regulations of the zoning ordinance (No. 72-3). However, in the case of lots duly platted and recorded prior to May 1, 1972, the lots may be used individually or in groups of whole lots as platted, provided that the lot or group of lots meet at least 66% of the required minimum lot area and minimum lot width at building line for the applicable zoning district.

SECTION 10. Hernando County Code of Ordinances Appendix A, Article V, Section 10, is hereby created to read:

Section 10. Assignment of powers, duties and authority of the Board of Zoning Adjustment and Appeals.

All powers, duties and authority of the Board of Zoning Adjustment and Appeals in any and all Hernando County ordinances shall henceforth be assigned to the Governing Body.

SECTION 11. Hernando County Code of Ordinances Appendix A, Article V, Section 6, is hereby amended to read:

Section 6. Term of office for members of the Planning and Zoning Commission.

The term of office for members of the Planning and Zoning Commission shall be standardized to begin on January 1 and end on December 31.

SECTION 12. Severability.

If any section, subsection, sentence, clause, or phrase of this ordinance, for any reason, is held to be unconstitutional, void or invalid, the validity of the remaining portions of said ordinance shall not be affected.

SECTION 13. Inclusion into the Code.

The provision of this ordinance shall be included and incorporated in the Code of Ordinances of Hernando County, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Code.

SECTION 14. Effective Date.

This Ordinance shall become effective upon receipt of the official acknowledgement from the office of the Secretary of State of the State of Florida that this Ordinance has

been filed with said office.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS IN REGULAR SESSION
THIS 2ND DAY OF JULY, 1991.

BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA

BY *Harold D. Varvel*
HAROLD D. VARVEL, CHAIRMAN

ATTEST *Karen Nicolai*
KAREN NICOLAI, CLERK

