

ORDINANCE NO. 2002-02

AN ORDINANCE OF THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 23-20, HERNANDO COUNTY CODE OF ORDINANCES, RELATING TO COMPREHENSIVE PLANNING AUTHORITY; AMENDING SECTION 23-21, HERNANDO COUNTY CODE OF ORDINANCES, PROVIDING FOR DESIGNATION AND ESTABLISHMENT OF LOCAL LAND PLANNING AGENCY; AMENDING SECTION 23-22, HERNANDO COUNTY CODE OF ORDINANCES, PROVIDING FOR DUTIES AND RESPONSIBILITIES OF LOCAL PLANNING AGENCY; REPEALING SECTIONS 23-23, 23-24, AND 23-27, HERNANDO COUNTY CODE OF ORDINANCES, AS NO LONGER NECESSARY UPON DESIGNATION OF THE BOARD OF COUNTY COMMISSIONERS AS LOCAL PLANNING AGENCY; AMENDING SECTION 23-26, HERNANDO COUNTY CODE OF ORDINANCES, PROVIDING FOR PUBLIC PARTICIPATION IN COMPREHENSIVE PLANNING AND FOR FINAL ACTION BY THE BOARD OF COUNTY COMMISSIONERS; AMENDING APPENDIX A, ARTICLE V, SECTION 5, HERNANDO COUNTY CODE OF ORDINANCES, REMOVING OBSOLETE LANGUAGE AND ADDING THE DUTY TO HOLD A PUBLIC HEARING BEFORE THE PLANNING AND ZONING COMMISSION ON CERTAIN MATTERS; AMENDING ARTICLE VI, APPENDIX A, HERNANDO COUNTY CODE OF ORDINANCES, PRELIMINARY STATEMENT AND SECTIONS 1 THROUGH 6, TO CORRECT REFERENCE TO CONTROLLING STATUTE FOR ZONING ORDINANCE AMENDMENT AND TO REVISE PROCEDURES FOR AMENDMENTS TO CLARIFY THAT THE GOVERNING BODY SHALL BE RESPONSIBLE FOR REVIEW AND ADOPTION OF TEXT AMENDMENTS; PROVIDING FOR SEVERABILITY AND INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Amending Hernando County Code of Ordinances section 23-20, entitled "Authority," by deleting struck-through words and clauses and adding underlined words and clauses, to read as follows:

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

FILED

This article is enacted pursuant to and in accordance with those provisions of chapter 163, Florida Statutes, as amended from time to time, known as the "Local Government Comprehensive Planning and Land Development Regulation Act."

Section 2. Amending Hernando County Code of Ordinances section 23-21, entitled "Designation and establishment of local land planning agency," by deleting struck-through words and clauses and adding underlined words and clauses, to read as follows:

Pursuant to, and in accordance with section 163.3174, Florida Statutes, as amended from time to time, the Local Government Comprehensive Planning and Land Development Act, the ~~seven (7) five~~ members of the ~~LPA Local Planning Agency~~ (herein, "LPA") are the five (5) members ~~and two (2) alternate members~~ of the Hernando County Planning and Zoning Commission Board of County Commissioners, said ~~commission Board being having been established under the provisions set forth in chapter 163, Florida Statutes, as amended, is hereby designated as the and established as the Local Planning Agency (LPA)~~ for the unincorporated territory of Hernando County, Florida.

Section 3. Amending Hernando County Code of Ordinances section 23-22, entitled "Duties and responsibilities of the local planning agency," by deleting struck-through words and clauses and adding underlined words and clauses, to read as follows:

The LPA, in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act, section 163.3161 through 163.3215, Florida Statutes, as amended from time to time, shall:

- (a) Have the general responsibility for the conduct of the comprehensive planning program and ensure the preparation of the comprehensive plan, elements or portions thereof, plan amendment, or Evaluation and Appraisal Report (EAR) for Hernando County.
- (b) ~~For~~ Review the county proposed comprehensive plan, elements or portions thereof, or plan amendments for consistency with the comprehensive plans of the state, regional or appropriate local governments.
- (c) Have the general responsibility for review prior to recommendation of the adoption or amendment of such plan or any element thereof by the Board of County Commissioners as to the governing body ~~shall be the responsibility of the LPA, pursuant to section 163.3174(4), Florida Statutes, as amended. The board of county commissioners reserves the right to designate (in cooperation with the LPA) any agency, consultant, citizens advisory committee, or person to prepare the comprehensive plan or any element thereof, after such public hearing or hearings as state law may require or as may be deemed appropriate by the governing body or as otherwise provided for in this code.~~
- (d) Set rules of procedure to govern its review activities which are consistent with the public participation procedures, section 23-26 of this article, including but not limited to creating such additional advisory review committees as the LPA deems appropriate and authorizing public hearings which may exceed the minimum legal requirements for public participation. Such rules may provide for advertising and holding a joint public hearing before the Board of County Commissioners when such board is acting as both LPA and governing body.

(e) Monitor and oversee the effectiveness and status of the comprehensive plan and ~~recommend to the board of county commissioners~~ propose such changes in the comprehensive plan as may be ~~required~~ necessary or desirable from time to time.

(f) Review proposed land development regulations, land development codes, or amendments thereto, and make ~~recommendations to the board of county commissioners~~ determinations as to the consistency of the proposed land development regulations, land development codes, or amendments thereto with adopted comprehensive plan, or element or portion thereof, as the land development regulation commission. Any such determination may be made as a finding of fact by the Board of County Commissioners as LPA in the body of ordinances adopting such regulations, codes or amendments thereto.

(g) Perform such other duties and responsibilities ~~either as assigned by the board of county commissioners or as required by chapter 163, Florida Statutes, as amended~~ from time to time.

Section 4. Amending Hernando County Code of Ordinances, Chapter 23, by repealing sections 23-23, entitled "Organization and procedures of the local planning agency (LPA)," and 23-24, entitled "Public meetings and records."

Sections 23-23 and 23-24, Hernando County Code of Ordinances, are hereby repealed as unnecessary, in that the Board of County Commissioners is subject to its own rules, procedures and constitutionally and statutorily mandated requirements as to election, terms of office, and holding public meetings and maintaining public records, and such rules, procedures and constitutional and statutory provisions will continue to apply to the members of the Board as the LPA.

Section 5. Amending Hernando County Code of Ordinances section 23-26, entitled "Establishment of procedures for providing public participation," by deleting struck-through words and clauses and adding underlined words and clauses, to read as follows:

The following provisions set out procedures and responsibilities for meeting the public participation requirements of section 163.3181, Florida Statutes, as amended from time to time:

(a) Local Planning Agency (LPA): The LPA shall adopt procedures to provide for effective public participation in the comprehensive planning process. The procedure shall provide for broad dissemination of the proposal and alternatives, opportunity for written comments, public hearings, provisions for open discussion, communications programs, information services, notice to real property owners, and consideration of and response to public comments.

Section 6. Amending Hernando County Code of Ordinances, Chapter 23, by repealing sections 23-27, entitled "Method of choosing LPA members," as obsolete.

Section 23-27, Hernando County Code of Ordinances, is hereby repealed as unnecessary, in that designation herein of the Board of County Commissioners as LPA renders this section obsolete.

Section 7. Amending Hernando County Code of Ordinances, Chapter 23, section 23-28, "Relationship of the LPA to the board of county commissioners," clarifying how action is taken by the board as LPA and by the board as governing body, substantially revising said section to read as follows:

Action upon considering transmittal of any proposed comprehensive plan, plan amendment, element or portion thereof to the state land planning agency and action authorizing transmittal shall be by the Board of County Commissioners acting as both governing body and LPA. The board of county commissioners acting as governing body may adopt, or adopt with changes or amendments, or choose not to adopt, the proposed comprehensive plan, plan amendment, element or portion thereof, upon receipt of comments from the state land planning agency after transmittal and any required public hearings.

Section 8. Amending Hernando County Code of Ordinances, Appendix A, Article V, section 5, entitled "Planning and Zoning Commission," removing obsolete language and adding the duty to hold a public hearing on certain matters, by deleting struck-through words and clauses and adding underlined words and clauses, to read as follows:

Section 5. Planning and zoning commission.

~~Whereas, the Hernando County Planning and Zoning Commission was established previously under the provisions set forth in the Laws of Florida, chapter 163, the following provisions shall apply to appointees serving on this~~ the planning and zoning commission.

A. Terms of office. The terms of office for ~~original~~ members shall be ~~as follows: One member for a term of four (4) years; one member for a term of three (3) years; one member for a term of two (2) years; and two (2) members for terms of one year.~~ ReAppointments to fill positions vacated or otherwise becoming open prior to completion of a term shall be made for the remainder of the term. In addition, the governing body shall appoint two (2) alternate members, designating them as such. Such alternate members may act only in the temporary absence or disability of any regular member.

B. Removal from office, vacancies, officers, and rules of procedure. Removal of members from office, vacancies, officers, and rules of procedures for the commission shall be set forth in ~~the Laws of Florida, chapter 163~~ applicable laws, ordinances and county policies.

C. Functions, powers, duties of commission. The commission's powers and duties and exercise of power shall be as set forth in ~~the Laws of Florida, Chapter 163, and the commission shall have all the powers and duties set forth in the Laws of Florida, chapter 163, this any applicable statute or ordinance, or pursuant to direction of the governing body. Such duties shall include the responsibility for holding a public hearing on any proposed comprehensive plan, plan amendment, element or portion thereof, and for holding a public hearing on any proposed amendment to the text of the zoning ordinance or land development regulation, which hearing shall be separate and additional to any subsequent public hearings required or otherwise authorized before the LPA or any other committees established by the governing body. The~~

commission may provide comments on the subject of such a public hearing to the LPA as the commission deems appropriate, provided that any such comments shall have no official standing with respect to final LPA review and governing body action.

Section 9. Amending Article VI, Appendix A, Hernando County Code of Ordinances, Preliminary Statement, and sections 1 through 6, to correct reference to controlling statute for amendment of zoning ordinance and to revise procedures for amendments to clarify that the governing body shall be responsible for initial review and adoption of text amendments.

Article VI, Appendix A, Hernando County Code of Ordinances, is amended to read as follows, with struck-through clauses deleted and underlined clauses added:

ARTICLE VI. AMENDMENTS

To make any amendments to this ordinance, either to the text or to the zoning district map, the procedures and notice requirements set forth in ~~section 12 of the Laws of Florida, chapter 69-139~~ section 125.66, Florida Statutes, as amended from time to time, shall be followed. If any given use is not permitted in a given zoning district by the provisions of this ordinance, it may not be permitted by any agency unless this ordinance is ~~amendment~~ amended according to the required amendment procedure. In addition to the above, the following amendment procedures shall be followed:

Section 1. Submission of zoning amendment petition.

The procedure and data required for the submission of a zoning amendment petition by fifty-one (51) percent or more of the owners of land in the area involved in a proposed zoning change is as follows:

A. Every petition addressed to the governing body, requesting an amendment or change in the regulations, restrictions, and boundaries herein established shall contain the following information and shall be presented to the county administrator or designee in the following form:

- (1) The petition shall be typewritten and shall be sworn to by the petitioner or petitioners, and shall include the post office address of the petitioner or petitioners;
- (2) It shall give an accurate legal description of the land involved, including street address, if any, and the names of all owners, mortgage holders, lienors and lessees;
- (3) It shall state the reason why such regulations, restrictions or boundaries should be amended, supplemented, changed or repealed;
- (4) It shall give the existing zoning district classification on the land and the zoning district classification to which it is desired a change be made;
- (5) It shall have attached a drawing or blueprint of the surrounding portion of the subdivision in which the land is located, or if unplatted land, the streets, highways, roads, alleys and public places surrounding the land;
- (6) It shall include a statement which indicates whether or not the applicant requests a formal hearing process using procedures for rules of evidence, expert witnesses and/or cross examination of witnesses. If the petitioner desires additional time to make their presentation

beyond established time frames as described in the application instruction packet, the petitioner must indicate on the application form.

(7) The application for a zoning amendment petition shall be in the form prescribed by the rules of the governing body.

B. The administrative official, upon receipt of a petition for a zoning amendment, shall refer a copy thereof to the planning department, to the commission, to the governing body, and to the county attorney.

Section 2. Submission of zoning amendment plan.

The commission, as a condition to the reviewing of any proposed zoning change for an overlay district, special exception use permit, or a conditional use permit, shall require the submission of a site plan which, when approved by the planning and zoning commission or governing body, shall generally be followed, with no reduction in the approved minimum standards. The commission may require the submittal of a site plan for a standard rezoning case. The site plan shall show all of the pertinent and appropriate data and information necessary to indicate the intent of the proposed use and development of the area for which the request is being made. If a zoning amendment is approved by the governing body after commission review, comment or recommendation, if any, the petitioner shall be instructed to prepare a revised plan indicating all approved special conditions, if any, and showing all of the appropriate and applicable data and information within thirty days of approval or the rezoning shall become null and void. As a further condition to the granting of a zoning change, the governing body may require that substantial construction be initiated within a certain period of time of not less than one year. In any zoning change where substantial construction has not been initiated within the time limit set by the governing body, such zoning change shall become null and void and the parcel of land for which the zoning change was approved shall revert to the original zoning district classification and regulations that existed on the parcel of land prior to approval of the zoning change. Substantial construction, as set forth herein, shall mean that binding contracts for the construction of the main building, buildings, or other improvements have been let; or in the absence of contracts that the main building, buildings, or other improvement have been let; or in the absence of contracts that the main building, buildings, or other improvements, are under construction to a substantial degree, or that prerequisite conditions involving substantial investment shall be under contract, in development, or completed. When construction is not part of the use, substantial construction shall mean that the use is in operation in compliance with the conditions as set forth in the approval of the zoning change. Any approval for a rezoning, conditional use permit, special exception use permit or an overlay district, does not exempt the applicant from obtaining all other required permits from Hernando County and meeting all applicable land development regulations.

The governing body may approve a PDP rather than a conventional zoning district if the governing body finds that the county would be better served with a planned development project and the applicant has provided data acceptable to the governing body to support the rezoning for a planned development project and the planned development project is more restrictive than the district advertised for consideration.

Section 3. Referral of certain amendments to commission.

Regardless of the origin of any proposed amendment, if such amendment changes the zoning district map rather than the text of the zoning ordinance, it shall be referred to the commission for review and recommendation before adoption. The commission shall hold at least one public hearing after due public notice and shall then make its recommendation in writing to the governing body for official action of the governing body by resolution, pursuant to and consistent with notice and hearing requirements in this Code for rezoning and with notice and hearing requirements contained in s. 125.66, Florida Statutes, as amended from time to time.

Section 4. Action by governing body.

The commission shall submit its recommendation along with the proposed zoning map change to the governing body for adoption or denial. The governing body shall hold ~~a~~ at least one public hearing after due public notice if any change is to be considered and shall then act on the proposed change, provided that nothing herein shall alter any more stringent notice and hearing requirements provided by statute. ~~If the recommendation of the commission is adverse to the proposed change, such change shall not become effective except by the affirmative vote of a majority of the entire membership of the governing body.~~

Section 5. Rejected proposed zoning amendments.

The commission may refuse to review any proposed zoning district map amendment, and the governing body may refuse to review any proposed textual amendment to the zoning ordinance which has been rejected by either the commission or the governing body within the past twelve-month period.

Section 6. Currency of zoning district map.

The administrative official shall ensure that amended zoning district boundaries are accurately placed on the zoning district map and shall initial and date all such additions to the zoning district map. The zoning district map may be maintained in digital or hard copy format, or both, provided that Ch. 119, Florida Statutes, shall apply to any format. The administrative official's dating and initialing may be accomplished by appropriate digital files attached to or incorporated in a digitally formatted zoning district map.

Section 10. Severability

It is declared to be the intent of the Board of County Commissioners that if any section, subsection, clause, sentence, phrase or provision of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this Ordinance.

Section 11. Inclusion in the Code

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, including renumbering to be consistent with repeal of particular sections, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

Section 12. Effective Date


This Ordinance shall take effect upon receipt of official acknowledgment from the Secretary of State that said Ordinance has been filed.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS in Regular

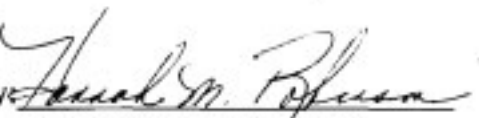
Session this 12th day of February, 2002, A.D.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA.**

Attest:


KAREN NICOLAI
Clerk

By:


HANNAH M. ROBINSON
Chairperson

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

BY

 2/12/02
County Attorney's Office