

ORDINANCE NO.: 2006-15

AN ORDINANCE AMENDING CHAPTER 23, ARTICLE I, OF THE HERNANDO COUNTY CODE OF ORDINANCES RELATING TO COMPREHENSIVE PLANNING; PROVIDING FOR ADDITIONAL PROCEDURES REGARDING THE TRANSMITTAL OR ADOPTION OF ANY COMPREHENSIVE PLAN AMENDMENT; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR A GRANDFATHER PROVISION; AND PROVIDING FOR SEVERABILITY.

WHEREAS, in 1985, the Florida Legislature adopted the Local Government Comprehensive Planning and Land Development Regulation Act (the "Act") as set forth in §§ 163.3161 through 163.3215 Florida Statutes (and which superseded and replaced §§ 163.160 through 163.250, Florida Statutes, relating to county and municipal planning); and,

WHEREAS, on June 7, 1989, the Board of County Commissioners adopted Ordinance 89-9 which adopted the Hernando County Comprehensive Plan (the "Comprehensive Plan"), as said Comprehensive Plan has been amended and re-adopted from time to time; and ,

WHEREAS, the Legislature declared that the intent of the Act "that local governments [*i.e.* Hernando County] can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions" (s. 163.3161, *Fla. Stat.*); and,

WHEREAS, the Legislature further declared that the provisions of the Act "in their interpretation and application are declared to be the minimum requirements necessary to accomplish the stated intent, purposes, and objectives of this act; to protect human, environmental, social, and economic resources; and to maintain, through orderly growth and development, the character and stability of present and future land use and development in this state" (s. 163.3161, *Fla. Stat.*); and,

WHEREAS, the Act, as adopted by the Legislature, dictates that a local government may not amend its comprehensive plan more than twice a year absent certain very limited exceptions (s. 163.3187(1), *Fla. Stat.*) therein affirming the special status of comprehensive plans; and,

WHEREAS, the Act provides that no comprehensive plan amendment may be transmitted or adopted by any local government except upon "an affirmative of *not less than* a majority of the members of the governing body present" (s. 163.3184(15), *Fla. Stat.*); and,

WHEREAS, the Board of County Commissioners (the "Board") desires to make the procedure to transmit or adopt any amendment to the County's comprehensive plan more stringent

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA
FILED

NOTE: additions/deletions = language proposed for addition/deletion to existing Code provisions.

1 by imposing an affirmative vote of four members of the Board as a procedural precondition to the
2 Board approving the transmission of any comprehensive plan amendment to the Florida Department
3 of Community Affairs for its review under s. 163.3184(3), *Fla. Stat.*, and as a procedural
4 precondition to the Board adopting any comprehensive plan amendment under s. 163.3184(7), *Fla.*
5 *Stat.*, subsequent to the Effective Date of this Ordinance.
6

7 **NOW THEREFORE:**
8

9 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
10 **HERNANDO COUNTY, FLORIDA:**
11

12 **SECTION 1. Amending Chapter 23 (Planning), Article I (In General), Section 23-3 (County**
13 **comprehensive plan).** Chapter 23 (Planning), Article I (In General), Section 23-3 (County
14 comprehensive plan) is amended to read as follows, with underlined matter added and struck-through
15 matter deleted:
16

17 **Sec. 23-3. County comprehensive plan.**

18 (a) *Stand alone status of Comprehensive Plan.* The Hernando County Comprehensive Plan adopted
19 on June 7, 1989, and all elements, sections, maps and parts thereof, as amended and hereinafter
20 amended ("Comprehensive Plan") shall have stand alone status and shall have such legal effect as
21 provided for in the Act.
22

23 (b) *Applicability.* The Comprehensive Plan shall govern the promulgation of all land development
24 regulations and the issuance of all development orders for unincorporated Hernando County.
25

26 (c) *Amendments to Comprehensive Plan.* The Comprehensive Plan shall be amended by ordinance
27 in accordance with the Act. No amendment to the Comprehensive Plan may be transmitted to the
28 Florida Department of Community Affairs pursuant to s. 163.3184(3), Fla. Stat., except upon an
29 affirmative vote of three members of the Board of County Commissioners. No amendment to the
30 Comprehensive Plan may be adopted by ordinance pursuant to s. 163.3184(7), Fla. Stat., except
31 upon an affirmative vote of four members of the Board of County Commissioners. All amendments
32 upon adoption and taking effect shall be deemed cumulative (unless otherwise noted) and shall
33 become part of the Comprehensive Plan. All later adopted amendments shall control over and
34 supersede all earlier adopted provisions of the Comprehensive Plan in conflict therewith.
35

36 **SECTION 2. Inclusion in the Code.** It is the intention of the Board of County Commissioners of
37 Hernando County, Florida, and it is hereby provided, that the provisions of this Ordinance shall
38 become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end,
39 any section or subsection of this Ordinance may be renumbered or relettered to accomplish such
40 intention, and the word "ordinance" may be changed to "section, "article," or other appropriate
41 designation.
42

1 **SECTION 3. Effective date and effect.** This ordinance shall take effect immediately upon filing
2 with the Department of State (the "Effective Date").
3

4 **SECTION 4. Grandfather provision.** This ordinance shall not affect any application(s) for a
5 comprehensive plan amendment received by the Hernando County Planning Department, with all
6 fees paid and received in full, prior to the Effective Date of this ordinance (collectively referred to
7 as the "Pending Applications"). All Pending Applications shall only be subject to an affirmative
8 vote of a simple majority of the Board of County Commissioners in order to approve transmittal or
9 adoption of such application(s). Any Pending Application(s) which has been duly denied by the
10 Board of County Commissioners following the adoption of this ordinance and which is then re-filed
11 or resubmitted at any time in the future shall be governed by the super-majority provision in this
12 ordinance.
13

14 **SECTION 5. Severability.** It is declared to be the intent of the Board of County Commissioners
15 that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any
16 reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the
17 remaining portions of this ordinance.
18

19 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO**
20 **COUNTY** in Regular Session this 17th day of October, 2006.
21

22 **BOARD OF COUNTY COMMISSIONERS**
23 **HERNANDO COUNTY, FLORIDA**

24
25 By: *Diane B. Rowden*
26 **DIANE M. ROWDEN**
27 **CHAIRPERSON**

24
25 Attest. *Karen Nicolai*
26 **KAREN NICOLAI**
27 **CLERK**

28
29 **Approved as to Form and**
30 **Legal Sufficiency**

31
32 By: *[Signature]* 10/17/06
33 **Assistant County Attorney**