From: Bryant, Linda C. <Linda.Bryant@DOS.MyFlorida.com>

Sent: Wednesday, October 9, 2019 10:55 AM

To: Ordinances

Cc: County Ordinances

Subject: [EXT.] -

Attachments: Hernando20191009_Ordinance2019_3_Ack.pdf



RON DESANTIS
Governor

LAUREL M. LEESecretary of State

October 9, 2019

Honorable Doug Chorvat, Jr. Hernando County Clerk's Office 20 North Main Street, Rm. 362 Brooksville, Florida 34601

Attention: Darlene Christensen

Dear Mr. Chorvat:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Hernando County Ordinance No. 2019-3, which was filed in this office on October 9, 2019.

Sincerely,

Ernest L. Reddick Program Administrator

ELR/lb

1 ORDINANCE NO. 2019 -3 2 3 AN ORDINANCE AMENDING THE HERNANDO COUNTY CODE OF 4 ORDINANCES BY AMENDING APPENDIX A (ZONING), ARTICLE V 5 (CONDITIONAL (ADMINISTRATION), SECTION USE 4 AMENDING APPENDIX A (ZONING), ARTICLE IV (ZONING DISTRICT 6 7 REGULATIONS), SECTION 3 (COMMERCIAL DISTRICTS); PROVIDING FOR 8 SEVERABILITY: **PROVIDING** FOR CONFLICTING **PROVISIONS:** 9 PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING 10 FOR INCLUSION IN THE CODE AND PROVIDING FOR AN EFFECTIVE 11 DATE. 12 13 WHEREAS, the Board of County Commissioners (County) has adopted the Hernando County 14 Comprehensive Plan within which are included goals, objectives, and strategies related to the 15 process for review and approval of certain development applications; and 16 17 WHEREAS, Chapter 163, Part II, Florida Statutes, requires the implementation of these goals, 18 objectives, and strategies through the adoption of consistent land development regulations; and 19 20 WHEREAS, the County desires to update and modernize its land subdivision regulations, and to provide for additional criteria and standards for County review and approval; and 21 22 23 WHEREAS, this proposed substantive amendment to the Hernando County Code of Ordinances (Appendix A, Zoning, Article V, Administration, Section 4, Conditional Use Permit), has 24 25 received public hearings before the Planning and Zoning Commission, Local Planning Agency, 26 and the Board of County Commissioners as required by state and local law; and 27 28 WHEREAS, the Board of County Commissioners, for itself and acting as the Local Planning 29 Agency, finds and determines that the proposed amendment is consistent with the goals, 30 objectives, and strategies of the Comprehensive Plan. 31 32 NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY 33 COMMISSIONERS OF HERNANDO COUNTY, FLORIDA: 34 35 SECTION I. Hernando County Code of Ordinances, Appendix A (Zoning), Article V 36 (Administration), Section 4 (Conditional use permit), is hereby amended to provide for revisions 37 as more precisely delineated with strike-through and underlined text below: 38 39 Section 4. - Conditional use permit. 40 41 The conditional use permit is intended to be utilized as a special permit which temporarily 42 allows uses not otherwise permitted by this ordinance for a specified period of time. 43 44 A. Conditional use allowable in any zoning district with planning and zoning commission 45 approval: 46

developing subdivision.

Temporary real estate sales office exclusively for real estate sales of property in a

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1 2 3	(2)	A temporary retail vendor may be approved by the administrative official in any commercial or industrial zoning category subject to the following: for a period of up to one (1) year provided that a principal structure exists on site and adequate		
4		parking and access is available. Such permits may be renewed on an annual basis		
5		subject to the approval of the administrative official. A temporary retail vendor		
6		shall mean a single vendor that sells food, drinks, or merchandise by means of a		
7		stand, table, truck, van, wagon, pushcart, handcart or other vehicle.		
8 9		(a) Second oder (Christmanton of the children		
10		(a) Seasonal sales (Christmas trees, flowers, pumpkin sales, or similar seasonal uses) for up to 45 calendar days.		
11		uses) for up to 43 calendar days.		
12		(b) The sale of fireworks is governed by Chapter 18, Article IV of the Hernando		
13		County Code of Ordinances.		
14		esanty code of ordinances.		
15		(c) A food truck, van. pushcart or similar vehicle used for the sale of food or		
16		agricultural produce may be approved for a period of up to one (1) year and		
17		a maximum of one (1) vendor per parcel.		
18				
19		(c) A food truck, van. pushcart or similar vehicle used for the sale of food or		
20		agricultural produce may be approved for a period of up to one (1) year and		
21		a maximum of one (1) vendor per parcel subject to the following additional		
22		requirements:		
23				
24		1. Shall not be located in the public right of way:		
25		2. Shall not be located on public property without an approved special		
26		event permit or concession license agreement from the County;		
27		3. Shall not be located on vacant property;		
28		4. Shall provide the written permission of the property owner in a format		
29		prescribed by the County;		
30		5. Each site must be separately permitted;		
31		6. The vendor shall prominently display all required state and local		
32 33		<u>licenses/permits.</u>		
33 34		(d) Outdoor retail calca events may be amounted three (2) times non-calcula-		
3 4 35		(d) Outdoor retail sales events may be approved three (3) times per calendar year, for up to fourteen (14) days each time, provided the temporary sales or		
36		display of retail items only occurs on the same site as a business in a		
37		permitted permanent structure, and the items sold on site are by the business		
38		in the permitted permanent structure.		
39		in the permitted permanent structure.		
40		(e) All requests for a temporary retail vendor permit must demonstrate safe and		
41		adequate access and parking; and shall also comply with the pertinent permit		
42		requirements from applicable departments and agencies that have		
43		jurisdiction over or review of such requests.		
44				
45	(3)	Backyard chickens may be permitted in any residential district, excluding		
46		multifamily districts, provided that no permit shall be issued unless the owners of		
47		all residentially zoned adjacent properties consent in writing to the permit and this		
48		consent is provided with the permit application. Adjacent property shall mean all		

1 2	parcels of land that the applicant's property comes into contact with at one (1) or more points, except for parcels separated by a public or private street. All permits shall be subject to the following restrictions:		
3 4			
5 6 7	(a)	The number of chickens shall be limited to no more than four (4) birds and no ducks, geese, turkeys, peafowl, male chickens/roosters, or any other poultry or fowl are allowed.	
8 9 10 11 12	(b)	Chickens shall be kept in an enclosed area with a coop that provides for the free movement of chickens, and are not permitted to be free range. The coop must have a roof, and be completely secured from predators, including all openings, ventilation holes, doors and gates. No more than one (1) coop allowed per permitted parcel.	
14 15 16 17	(c)	If the coop structure exceeds one hundred (100) square feet (ten (10) x ten (10) feet), a building permit shall be required pursuant to the Florida Building Code.	
18 19	(d)	The minimum lot size shall be ten thousand (10,000) square feet.	
20 21 22 23 24 25	(e)	The chicken coop shall be kept in the rear yard and must not be visible from adjoining properties or the street. Fence construction shall meet standards pursuant to the fence ordinance and shall be permitted separately. The	
25 25		chicken coop shall be situated a minimum of twenty-five (25) feet from the nearest neighbor's residence and at least five (5) feet from all property lines.	
26 27 28 29 30	(f)	Persons wishing to have chickens in residential districts shall be subject to a compliance inspection after permit issuance. Accessibility and allowable entry shall be required for such inspection.	
31 32 33 34 35	(g)	The coop shall provide a minimum of three (3) square feet per chicken and be of sufficient size to permit free movement of the chickens. The coop may not be taller than six (6) feet measured from the natural grade. The coop must be easily accessible for cleaning and maintenance.	
36 37 38	(h)	The coop and surrounding area shall be kept clean, sanitary and odor free at all times.	
39 40 41	(i)	Chickens shall not be permitted to create a nuisance consisting of odor, noise or pests, or contribute to any other nuisance condition.	
42	(j)	All stored feed must be kept in a rodent- and predator-proof container.	
43 44 45 46 47	(k)	The chickens shall be for personal use only, and there shall be no sales of products from the residence, and the breeding of chickens for commercial purposes shall not be allowed.	

- (l) In a public health emergency declared by the county health department, including, but not limited to, an outbreak of Avian flu or West Nile virus, the county may require immediate corrective action in accordance with applicable public health regulations and procedures.
- (m) Notwithstanding the issuance of a permit by the county, private restrictions on the use of property shall remain enforceable and take precedence over a permit. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association by-laws. and deed covenants. A permit issued to a person whose property is subject to private restrictions that prohibit the keeping of chickens and large animals is void. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.
- (n) The permit may be issued for a maximum time period of up to five (5) years by the approving authority.
- (o) Failure to comply with these standards, or any other standards imposed by the conditional use permit shall result in the permit being revoked by the administrative official.
- (4) Community gardens may be approved by the administrative official for a maximum time period of up to five (5) years.
- D. Application procedure for conditional uses that require planning and zoning commission approval:
 - (1) This provision shall govern applications for all conditional use permits:
 - (a) The application for a conditional use permit hereunder shall be in the form prescribed by the county and shall include a site plan which, at a minimum, depicts the proposed conditional use in relation to the parcel of property on which it is to be located and adjoining properties, parking, access, buffers.
 - (b) The application shall be signed by the property owner or accompanied by an affidavit of written permission by the property owner of record and shall include payment of any applicable application fees.
 - (c) A public contact person must be designated on the application. The public contact person would be required to answer questions and provide information to the public.
 - (d) Depending upon the size, location or complexity of the requested conditional use, planning department staff may request additional information. It is the ultimate responsibility of the property owner or designated agent to ensure that the application is complete and sufficient and all requested information and materials have been provided to county staff.

- (2) The applicant, upon being first advised by the planning department that the application is incomplete or insufficient, shall have a total of one hundred eighty (180) days to correct all completeness and sufficiency deficiencies. If the applicant fails or refuses to correct such deficiencies within this period, the said application shall be deemed abandoned and void. Any applicant whose application is declared abandoned or void under this provision may re-file such application at a subsequent date, without prejudice, upon payment of all required fees and submitting a complete and sufficient application.
- Upon an applicant being advised by the planning department that the application is complete and sufficient, a public hearing shall be promptly scheduled at the next available planning and zoning commission meeting allowing sufficient time for public notice and advertising. At the request of the commission, the governing body or the applicant, any scheduled public hearing may be continued until a date certain (which date shall be set by the commission or the governing body, respectively, in their sole discretion). Notwithstanding the foregoing, the commission shall render a decision on the merits of the application within one hundred eighty (180) days of the applicant being advised that the application is complete and sufficient. It shall be the responsibility of the applicant to ensure that its application is scheduled and acted upon in a timely fashion. Any application not acted on by the commission within said one hundred eighty (180) day period shall be deemed abandoned and void, and such application shall be closed out by the planning department with no refunds of any fees paid by the applicant. Any applicant whose application is declared abandoned or void under this provision may re-file such application at a subsequent date, without prejudice, upon payment of all required fees and submitting a complete and sufficient application.
- (4) Public inquiry workshop. Upon determination of need by the county staff based upon the number of public inquiries or the size. location or complexity of the proposed project, the applicant shall be required to conduct a public inquiry workshop prior to the scheduling of a public hearing on the application at a location convenient to the site in question and appropriate for public assembly in Hernando County as follows:
 - (a) The applicant shall provide sign notice by posting the property a minimum of ten (10) days prior to the scheduled workshop with a public inquiry workshop notice sign as supplied by the planning department. The sign notice hereunder shall be in addition to all other sign notice requirements under this article.
 - (b) The applicant shall provide mail notice a minimum of ten (10) days prior to the scheduled public inquiry workshop giving the time, place and purpose of the meeting to each property owner within one thousand (1.000) feet of the parcel covered by the application based on the mail list generated by the property appraiser's office. The applicant shall provide the planning department a copy of the mail list and a notarized affidavit indicating that

- said notice was mailed. The mail notice hereunder shall be in addition to all other mail notice provisions under this article.
- (c) The applicant shall provide a citizen sign-in sheet and executive summary explaining what information was provided to the public at the meeting to the county accompanied by a notarized affidavit indicating that the list is an official record of attendance at the meeting. The citizen sign-in sheet and executive summary will become a part of the official application file.
- (5) Notice requirements for public hearing:
 - If a public hearing before the planning and zoning commission or board of county commissioners is required or requested by appeal hereunder, upon fixing a date for the public hearing the applicant shall provide sign notice by posting the property with a public notice sign as supplied by the planning department. The notice shall be posted in a conspicuous location at the front lot line at least ten (10) days prior to the scheduled hearing date. It is the responsibility of the applicant to ensure that the sign(s) are appropriately posted and remain on the property during the public hearing process in a legible condition. If the condition of the sign(s) deteriorate through the process, it shall be the responsibility of the applicant to repost the property at no cost to the county. Failure to maintain the signs in accordance with this section may result in a delay of the public hearing process. The applicant shall be responsible for removal of the sign(s) within ten (10) days of the date the decision on the applicant's application becomes final or the date of appeal of a commission or governing body decision for judicial determination, whichever comes first. Failure to timely remove any such sign(s) is prohibited.
 - (b) Additionally, the planning department shall provide mail notice giving the time, place, and purpose of the public hearing to each property owner within five hundred (500) feet of the parcel covered by the application based upon the mail list generated by the property appraiser's office and furnished by the applicant. The notice shall be mailed at least ten (10) days prior to the scheduled public hearing date.
 - (c) The applicant shall be responsible for all costs incurred in the notice procedure for the public inquiry workshop and the public hearing.

E. Issuance of permit by the administrative official:

(1) After the application and accompanying information has been received and processed by the development department, those applications submitted for conditional use permits with administrative official approval pursuant to paragraph 4(c) above, shall be approved or denied by the administrative official within fourteen (14) days, unless referred to the planning and zoning commission for review and action. The administrative official's decision may be appealed to the board of county commissioners.

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- (2) All other applications for conditional use permits must be reviewed and acted upon by the planning and zoning commission.
- (3) No conditional use permit shall be issued for a period to exceed two (2) years unless otherwise specified in this ordinance [article]. However, conditional use permits may be renewed or extended upon reapplication.
- (4) All conditional uses must meet the minimum requirements of the county's land development regulations unless specific deviations are requested and approved.
- (5) All requests for a conditional use permit shall meet the requirements of this code for temporary uses and structures and adequate utility, refuse management, access, fire and similar facilities shall be available for the proposed use.
- (6) As a condition of approval of a conditional use permit, the applicant shall submit a sworn statement attesting to compliance with all applicable federal, state and local permit(s) and approval(s); in the alternative, the county shall impose a condition which prohibits commencement of construction or operations upon receipt (copy to the county) of all applicable federal, state and local permit(s) and approval(s). The affidavit shall be submitted in a form approved by the administrative official.
- F. Review by governing body. The governing body, by a majority vote, may decide to review any conditional use permit decision rendered by the planning and zoning commission.

The decision of the governing body to review such decision must be made within thirty (30) days of the rendering 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 action within thirty (30) days, the commission decision shall be deemed final and subject only to review by circuit court.

The initial review of the decision by the governing body shall be at a public hearing held within sixty (60) 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 time in a newspaper of general circulation in the county, such publication to be at least five (5) days prior to such hearing. Mail notice and sign notice shall be provided in the same manner as the public hearing before the planning and zoning commission. 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 II. Hernando County Code of Ordinances, Appendix A (Zoning), Article IV (Zoning District Regulations), Section 3 (Commercial districts), is hereby amended to provide for revisions as more precisely delineated with strike-through and underlined text below:

B. Permitted accessory or temporary uses and structures in all commercial districts:

- (1) Permitted accessory uses and structures in all commercial districts are: Signs identifying the name and type of activity conducted on the same premises; and, garages or other buildings not used as dwellings and accessories to the principal uses.
- (2) In the C-4 and A/C Commercial districts, screened outside storage shall be permitted behind the building line as an accessory use to a permitted use. Screening shall be required from adjoining and contiguous properties by a wall, fence or other approved enclosures. Screening shall meet an eighty (80) percent opacity standard. Such screening shall be located behind the building line and shall have a minimum height of five (5) feet and maximum of eight (8) feet.
- (3) In the C-2 district, welding shops customarily incidental to the principal use of the property shall be permitted as an accessory use provided the welding shop does not exceed twenty-five (25) [percent] of the principal use area.
- (4) Temporary uses or structures are allowable in the parking area of all commercial districts provided they are the same use or accessory to a permitted established use on the property. Such temporary uses or structures must be authorized by the property owner and authorized by the owner of an established use on the site. General Regulations for Temporary Uses and Structures set forth in Article II, Section 2 of this code [appendix] shall apply to temporary uses or structures allowable hereunder. Said temporary uses or structures shall be allowed on a commercial parcel no more than four (4) times during a calendar year and the aggregate duration of all such events totals no more than sixty (60) days per calendar year with no one event exceeding thirty (30) days in duration.
- (45) Portable storage structures are allowable in conjunction with the commercial use of a property provided an area for their placement is designated on a site plan. The area shall be located behind the principal permitted use on the property and not visible from the street. The area shall not be located within buffers or parking areas, or otherwise impede the traffic circulation associated with the principal permitted use. Placement of the storage structures must meet minimum setback requirements for accessory buildings and secure a zoning permit. If the portable storage structure area is placed adjacent to residentially zoned property, it must be shielded from view.
- (5 6) In all commercial districts the display of merchandise and products for retail sale is allowed provided the display occurs on the sidewalk adjacent to a customer entrance to the principle structure.
- **SECTION III. APPLICABILITY**. This Ordinance shall be applicable throughout the unincorporated area of Hernando County.
- **SECTION IV. 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 1 2 the validity of the remaining portions of this ordinance. 3 4 SECTION V. CONFLICTING PROVISIONS. Special acts of the Florida Legislature applicable only to unincorporated areas of Hernando County, Hernando County ordinances. 5 County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this 6 7 ordinance to the extent of such conflict except for ordinances concerning either adoption or 8 amendment of the Comprehensive Plan, pursuant to Chapter 163, part II, Florida Statutes. 9 SECTION VI. FILING WITH THE DEPARTMENT OF STATE. The clerk shall be and is 10 11 hereby directed forthwith to send a certified copy of this ordinance or electronically transmit the 12 ordinance by email to the Bureau of Administrative Code, Department of State, R.A. Gray Bldg., Room 101, 500 S. Bronough Street, Tallahassee, FL 32399-0250. 13 14 15 **SECTION VII. INCLUSION IN CODE.** It is the intention of the Board of County 16 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, 17 18 Florida. To this end, any section or subsection of this Ordinance may be renumbered or re-19 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 20 need not be codified. 21 22 23 **SECTION VIII. EFFECTIVE DATE.** This ordinance shall take effect immediately upon 24 filing with the Department of State. TED IN RI 25 DULY PASSED AND ADOPTED IN REGULAR SESSION THIS 3+h DAY OF 26 27 October 28 29 BOARD OF COUNTY COMMISSIONERS 30 HERNANDO COUNTY, FLORIDA 31 32 33 Attest: Susan Burn 34 35 DOUGLAS A. CHORVAT, JR. JEFF HOLCOMB 36 CLERK OF CIRCUIT COURT AND **CHAIRMAN** 37 COMPTROLLER 38 39 (SEAL) 40 41 Approved as to Form and Legal Sufficiency 42 43 By: Thell John 44