



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

December 9, 2021

Ms. Nikki Alvarez-Sowles, Esq.
Pasco County Clerk and Comptroller
The East Pasco Governmental Center
14236 6th Street, Suite 201
Dade City, Florida 33523

Attention: Jessica Basak

Dear Ms. Alvarez-Sowles:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Pasco County Ordinance No. 21-35, which was filed in this office on December 9, 2021.

Sincerely,

Anya Owens
Program Administrator

AO/lb

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 21-35

AN ORDINANCE BY THE PASCO COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE PASCO COUNTY LAND DEVELOPMENT CODE; CHAPTER 200 DECISION MAKING BODIES AND OFFICIALS; SECTION 204 PLANNING COMMISSION, AMENDING THE APPOINTMENT OF MEMBERS; AND OTHER SECTIONS, AS NECESSARY, FOR INTERNAL CONSISTENCY; PROVIDING FOR APPLICABILITY; REPEALER; PROVIDING FOR SEVERABILITY; INCLUSION INTO THE LAND DEVELOPMENT CODE, AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Pasco County, Florida, is authorized under Chapters 125, 162, 163, 177, and 380 Florida Statutes, to enact zoning and other land development regulations to protect the health, safety and welfare of the citizens of Pasco County; and

WHEREAS, on July 10, 2018, the Board of County Commissioners adopted Ordinance 18-27, which amended the composition, appointment of members, meetings, and general functions of the Pasco County Planning Commission; and

WHEREAS, Ordinance 18-27 was codified in Section 200 of the Land Development Code; and

WHEREAS, the Pasco County Board of County Commissioners desires to amend the appointment of Planning Commission Members and their terms; and

WHEREAS, the Local Planning Agency conducted a public hearing on October 28, 2021 and found the proposed amendments consistent with the Pasco County Comprehensive Plan; and

WHEREAS, the Board of County Commissioners conducted duly noticed public hearings on November 9, 2021 and December 7, 2021, where the Board of County Commissioners considered all oral and written comments received at public hearings, including staff reports and information received during said public hearings and found the proposed amendment consistent with the Pasco County Comprehensive Plan; and

WHEREAS, the citizens of Pasco County were provided with ample opportunity for comment and participation in this amendment process through Horizontal Roundtable and Interested Parties meeting, public meetings and public hearings; and

WHEREAS, in exercise of said authority the Board of County Commissioners of Pasco County, Florida, has determined that it is necessary and desirable to amend the restated Pasco County Land Development Code to implement policy direction and to correct internal inconsistencies.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Pasco County, Florida, as follows:

SECTION 1. Authority.

This ordinance is enacted pursuant to Chapter 125 and 163, Florida Statutes, as amended and under the home rule powers of the County.

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SECTION 2. Legislative Findings of Fact.

The foregoing Whereas clauses, incorporated herein, are true and correct.

SECTION 3. Applicability and Effect.

The applicability and effect of this amendment shall be as provided for in Section 103.1 of the restated Land Development Code.

SECTION 4. Repealer.

Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 5. Amendment.

The Pasco County Land Development Code Section 204 Planning Commission is hereby amended as follows:

Chapter 200. DECISION MAKING BODIES AND OFFICIALS

SECTION 201. GENERAL PROVISIONS

The purpose of this chapter is to establish the authority for review and consideration of development applications and other proposed actions in the County and to assign such authority to the following boards and officials:

- The Board of County Commissioners (BCC);
- The Local Planning Agency (LPA);
- The Planning Commission (PC); and
- County Administration and staff.

201.1 Delegation of Authority

The BCC is authorized to create boards and agencies to administer the provisions of this Code under the authority prescribed by such regulations and State law. The delegation of authority to these boards and the County administrative officials shall be as set forth in this Code.

The BCC shall have the authority to appoint necessary personnel, designate the proper agencies, and promulgate and establish the necessary rules and regulations for the proper enforcement of this Code.

Whenever a County administrative official is authorized to do some act or perform some duty, it is to be construed to authorize delegation to an appropriate subordinate to perform the authorized act or duty unless the terms of the provision or section specify otherwise.

The BCC hereby retains full discretion to interpret and apply the provisions hereof as it shall deem appropriate, and nothing in this section shall be construed to mean that the BCC relinquishes any legislative authority over the unincorporated area of the County.

201.2 **Parliamentary Rules**

When a County board, commission, or committee has not adopted rules of procedure, the current edition of *Robert's Rules of Order*, revised, not in conflict with this Code, shall govern the conduct of those meetings.

For the purpose of this Code, a tie vote on any motion before the BCC or PC shall constitute a denial of that motion. However, during public hearings for final determinations before the BCC or PC, a tie vote on a motion for final disposition of a quasi-judicial decision resulting when less than the full BCC or PC voting, due to the absence of a member, shall cause an automatic continuance of the application to a date certain.

201.3 **Ethics and Sunshine**

All County boards, commissions, and committees are subject to the applicable provisions of the Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes, as amended; and the Florida's Government in the Sunshine Law, Section 286.011, Florida Statutes, as amended.

SECTION 202. BOARD OF COUNTY COMMISSIONERS

202.1 The BCC shall render final determinations pertaining to the amendment of the Comprehensive Plan, amendments to this Code, any development order, or any development approval, except where authority for a final determination is delegated to another agency or administrative official pursuant to this chapter.

202.2 The BCC has those expressed and implied powers and duties necessary to carry on County government as contemplated in the Florida Statutes and the Constitution of the State of Florida.

202.3 Any irregularity in complying with the procedures imposed by this Code, other than procedures which compliance is required by statute, may be waived by the BCC in an appropriate motion or by action taken, provided that such a waiver does not materially and substantially injure the interests of the affected party.

203. LOCAL PLANNING AGENCY

203.1 The LPA is established pursuant to Section 163.3174, Florida Statutes, and shall have all the duties as required by statute. The BCC hereby designates the PC as the LPA, and the PC shall have all the functions, powers, and duties as set forth in Section 163.3174, Florida Statutes.

203.2 The LPA shall include a representative of the District School Board of Pasco County (School Board) appointed by the School Board (district appointee). The School Board member of the County's LPA shall attend and vote at those meetings of the LPA at which the LPA:

A. Considers proposed Comprehensive Plan Amendments that would, if approved, increase residential density on the property that is the subject of the Amendment; and/or

B. Adopts or modifies Comprehensive Plan Goals, Objectives, or Policies that pertain to school

concurrency, siting or development standards, or the Public School Facilities Element generally.

204 PLANNING COMMISSION

204.1 Planning Commission

- A. The PC shall be comprised of seven (7) voting members, all of whom, except one (1), shall be appointed by the BCC; one (1) member is to be appointed by each commissioner and there shall be one (1) at-large member selected by a majority of the BCC. The PC members' terms shall run concurrently with the term of office of the commissioner who appointed them, with the at-large member serving a four (4) year term. The remaining member shall be appointed by the School Board (district appointee), pursuant to Section 163.3174(1), Florida Statutes. The district appointee to the PC shall vote on:
1. All matters (including procedural votes and votes on individual conditions) relating to rezonings or land use changes that would allow one (1) or more residential units (regardless of what the existing zoning or land use allows);
 2. All matters related directly to a proposed or existing school site (e.g. whether a site is required, impact fee credit value for a school site, collocation with a proposed school site);
 3. Issues related to roads, interconnections, sidewalks, bike paths or roadway crossings that will be used to access an existing or planned school site and that are within two (2) miles of such school site;
 4. All matters related directly to the application of school concurrency and Level of Service (LOS) standards for schools to a project; and,
 5. All matters related directly to proposed or existing ancillary school facilities, as such facilities are defined by the State Requirements for Educational Facilities, and owned by the School District.
 6. Regardless of the foregoing, the district appointee shall vote in the case of a tie vote of the PC on any other matter. The district appointee shall serve at the pleasure of the School Board until replaced or upon resignation.
 7. In all other matters, the representative appointed by the School Board shall not be required to vote.
- B. If any member, other than the district appointee, is absent from three (3) consecutive meetings without cause and without prior notification to the chairman, the County Administrator or designee shall declare the member's office vacant and the BCC shall promptly fill such vacancy. In any event, the BCC may remove any PC member with or without cause at any time at its discretion.
- C. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the BCC.

- D. A chairman and a vice-chairman shall be elected from among the PC members. In the absence of both the chairman and vice-chairman from a PC meeting, an acting chairman shall be elected.

204.2

Meetings

The PC shall meet as required. The presence of four (4) members or more shall constitute a quorum of the PC for items where the district appointee is eligible to vote. On all other items, the quorum shall be three (3). The BCC may establish rules for the conduct of PC meetings.

204.3

General Functions, Powers, and Duties

Except in the locations subject to Section 602, where these duties are the responsibility of the Advisory and Policy Committee created pursuant to Section 602.7, the PC shall:

- A. Issue final determinations on special exception applications.
- B. Hold public hearings and transmit to the BCC, recommendations on zoning district amendments, conditional use applications proposed Master Planned Unit Development zoning amendments, Operating Permit Applications, and certain appeals.
- C. Except where the BCC has specifically delegated variance authority to some other person, body, or entity, or specifically reserved variance authority to itself, the PC shall hear and issue final determinations on all variance requests pursuant to the requirements of this Code. The PC's variance authority includes variances from the requirements of land development regulations located in this Code, the Code of Ordinances, and resolutions of the BCC.
- D. The PC has no authority to grant variances from uses of land or to grant variances from the requirements of State or Federal law.
- E. The PC has the authority to hear and decide appeals for administrative variances pursuant to Section 407.3.
- F. Hear requests for alternative standards that have not been approved by the County Administrator or designee pursuant to Section 407.5.D.2.
- G. Hear requests for a determination that a proposed change is "minor" when the County Administrator or designee has determined that there will be an adverse impact pursuant to Section 402.2.N.2.i and hear appeals of other determinations by the County Administrator or designee pursuant to Section 402.2.N.
- H. The PC is authorized to hear and decide appeals as provided for in this Code, Section 407.1.

SECTION 205. RESERVED

SECTION 206. ADMINISTRATIVE OFFICIALS

206.1 **Administrative Officials**

- A. Except where State law or the BCC has specifically delegated authority to some other person, body, or entity, or specifically reserved authority to itself, the County Administrator and designated administrative officials are authorized to perform all administrative functions of the County government relating to the administration of this Code.
- B. For the purpose of carrying out the provisions and requirements of this Code and all rules and regulations made pursuant thereto, the County Administrator or designee are duly authorized and empowered by the BCC to investigate possible violations; inspect premises, to the extent allowed by law; and to issue violation warnings and citations to persons violating the terms of this Code. The County Administrator or designee shall have the authority to investigate all alleged violations; to provide evidence to the State or County Attorney's Office relative to such violations; and to testify on matters relating to this Code, regulations, or investigations conducted in accordance with such regulations. Furthermore, the County Administrator or designee shall be responsible for the interpretation and for the enforcement of this Code through appropriate administrative determinations. In any quasi-judicial or judicial proceeding, the administrative interpretation of any provision of this Code shall be presumed to be correct, unless such interpretation is clearly proven to be arbitrary, unreasonable, or contrary to law.
- C. The powers and duties of the County administrative officials or their staff, for the purposes of this Code, may include those listed below and any other duties specifically cited in this Code:
 - 1. To receive applications for development activities and to approve application criteria deviations where appropriate and authorized by this Code.
 - 2. To make all necessary site visits and field inspections and, where necessary and approved by the BCC, to retain experts as they may deem necessary to report on technical issues.
 - 3. To interpret the provisions of this Code, subject to the provisions of this Code governing appeals and judicial proceedings.
 - 4. To review and issue final determinations on Administrative Permits as required in this Code.
 - 5. To make recommendations to the PC, LPA, and BCC.
 - 6. To review and issue final determinations on administrative variances and alternative standards.
 - 7. To interpret the provisions of this Code, subject to the provisions of this

Code governing appeals and judicial proceedings.

- D. Neither the County Administrator nor designees or other staff members shall have the authority to permit any construction, use, or change of use which does not conform with the provisions of this Code.

SECTION 6. Severability.

It is declared to be the intent of the Board of County Commissioners of Pasco County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance shall be declared invalid, the remainder of this Ordinance shall be construed as not having contained said section, subsection, sentence, clause, or provisions and shall not be affected by such holding.

SECTION 7. Effective Date.

A certified copy of this ordinance shall be filed with the Florida Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption and shall take effect on February 17, 2022.

ADOPTED with a quorum present and voting this 7th day of December, 2021.

BOARD OF COUNTY
COMMISSIONERS
OF PASCO COUNTY, FLORIDA



NIKKI ALVAREZ-SOWLES, ESQ
PASCO COUNTY CLERK & COMPTROLLER

CHAIRMAN, Kathryn Starkey

APPROVED
IN SESSION
DEC 07 2021
PASCO COUNTY
BCC