

ORDINANCE NO. 02-2020

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AMENDING ARTICLE XII. – PLANNING AND ZONING BOARD; CHAPTER 110, OF THE CODE OF ORDINANCES, CITY OF DELTONA, FLORIDA PERTAINING TO THE OPERATION AND STRUCTURE OF THE PLANNING AND ZONING BOARD; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City of Deltona Article XII – Planning & Zoning Board- Chapter 110 details the operation and structure of the Board; and

WHEREAS, it is important to optimize the efficient operation of this very important City Board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

SECTION ONE. City Code of Ordinances, Article XII, Chapter 110 is hereby amended to revise or delete the following, as evidenced by underlining to add text and ~~striketroughs~~ to delete text; Section 110-1200 of the Code of Ordinances, City of Deltona, Florida is hereby amended to read as follows:

ARTICLE XII. - PLANNING AND ZONING BOARD

Sec. 110-1200. - Creation.

A planning and zoning board is hereby created, effective April 1, 1999. The Planning and Zoning Board is the quasi-judicial board that serves as the local planning agency for the City as required by Florida Statute. It shall be referred to in this article as "the board." The jurisdiction of the board shall be throughout the area of the City of Deltona. It shall have the following membership, powers, duties, responsibilities, and limitations.

- (a) *Membership, place of residence, terms of office.* The board shall have seven members appointed by the city commission. Each member shall serve for a term of three years. Each city commissioner and the mayor shall appoint one member to the board, said appointments to be ratified by a majority vote of the city commission. No board member shall serve on the board for more than two consecutive three-year terms. No elected official and no employee of the city government shall be appointed to serve on the board.
- (b) *Alternate members.* The City Commission shall appoint up to five (5) alternate members. Each alternate member shall serve for a term of no more than three years. An active

board member who is term limited as per Sec. 110-1200(a) may not serve as an alternate member until eligible to serve as an active member. No attendance requirements are specified for alternate members. The alternate members may not take part in discussion, make motions or vote unless they are seated, filling in for a Board Member in their absence. Notwithstanding there being a quorum consistent with Sec. 110-1201, each alternate will take turns filling in for an absent board member by rotation based on alphabetical order by last name. However, the intent is there will be as many board seats filled as possible not to exceed seven voting seats. If a board member has a conflict of interest concerning a particular case in front of the board then for that particular case an alternate may replace the board member. The board member with the conflict shall remove themselves from the dais and not speak on the matter and otherwise recuse themselves unless and until they resume their position as a regular member or if they are speaking as a directly affected party to an item being considered by the board.

(c) *Removal from office, vacancies.* - ~~If a member is absent for three consecutive meetings without being excused by the chairperson, said member shall forfeit his or her office and it shall be deemed vacant. Any vacancy occurring during the un-expired term of office of any member shall be filled by the city commission for the remainder of the term. The vacancy shall be filled within 30 days from the time it occurs. Any member of the board may be removed from office for cause by the city commission, upon written charges and after public hearing.~~ Board members shall serve at the pleasure of the City Commission. If any regular voting member fails to attend two (2) consecutive meetings, unexcused or three (3) meetings (excused or not) out of twelve (12) meetings per calendar year, the board shall automatically declare the member's office vacant. The board chairperson shall through the City Clerk's office notify the City Commission of any vacancies on the board.

(d) *Officers.* The board shall elect a chairperson, vice-chairperson and a secretary from among its members. The terms of all board officers shall be one year, each having eligibility for re-election. At the first meeting of the board of each calendar year, the secretary shall call the board meeting to order and shall then call for nominations for the chairperson. Upon election of a chairperson, the secretary shall pass the gavel to the chair. The chairperson shall then call for nominations for vice-chairperson. Upon election of a vice-chairperson, the chair shall call for nominations for secretary.

(e) *Employees, administrative services.* The board shall have no employees or contract vendors. The planning and development services department shall provide clerical and staff support by formatting and packaging board agendas, creating summary minutes of meetings, and maintaining board records. The planning and development services department shall also provide professional and technical assistance to the board consistent with its staffing and funding as approved by the city commission. The director of development services or his or her designee shall bring board reports and recommendations to the city commission in appropriate communications, the format and medium of which shall be determined by the city manager. Such communications shall include staff reports and recommendations, application materials, correspondence, and

other relevant information as determined by the board, the director of development services, the city manager, or the city commission to be necessary to assist the city commission in its deliberations. The board shall not direct the staff to undertake any project, but may request reasonable staff assistance, and may report through the staff and city manager to the city commission any projects which the board deems worthwhile for commission consideration by a majority vote of the board's entire membership.

- (f) *Education.* Each board member and alternate members are ~~strongly encouraged~~ required to engage in at least 8 hours of continuing education per each year of service. Education includes but is not limited to the following: attendance at a seminars or conferences, either in person or on-line; ~~and/or~~ engage in the study of literature regarding the duties and subject matters relevant to the role as a planning board member, such as reviewing legal journals regarding property rights jurisprudence, etc.; ~~a member of the City's Planning and Zoning Board,~~ and presentations by City legal and/or planning staffs. The Planning & Development Services Department will make members and alternates aware of League of Cities or other training sessions offered and dates and locations and/or provide written materials concerning the role and duties of the board. New board members and alternates are encouraged to ~~attend and/or engage in the study of literature~~ start continuing education activities within the first six months of their term. Staff will maintain a current record of all training/educational activities. The City will pay reasonable expenses for such training/education. Continuing education hours will be calculated as follows: 1) Read and study planning journals; case law; and other literature – two (2) hours per session. 2) Attend a seminar or participate in a webinar – two (2) hours per session. 3) Attend a legal staff presentation on Sunshine law; ethics, etc. – two (2) hours per session.
- (g) *Compensation, annual budget.* Each board member may be reimbursed for reasonable expenses incurred in connection with his or her duties on the board in accordance with reimbursement policies and amounts established by a resolution of the city commission. The city commission shall provide members of the board with professional liability insurance to cover potential claims of personal liability for damages as a result of their formal actions and decisions as members of the board. The city manager shall recommend the amounts of insurance coverage and potential insurance carriers to the city commission. The city commission shall provide an annual budget for training and education of board members; for printing of training materials and decision support materials; and for the purchase of books and publications that increase the board members' understanding of the board's functions and of the issues faced by the board. The amount budgeted for each purpose shall be determined by the city commission upon the receipt of the recommendations of the city manager. The city commission may also budget for public information and participation, and for other items that it deems appropriate to include in the board's budget.

Sec. 110-1201. - Rules of procedure.

The board shall meet at regular intervals once each month, and at such other times as it may deem necessary, for the transaction of its business. It shall follow the by-laws adopted by resolution of the city commission. Unless otherwise stated in the by-laws, and until such by-laws are adopted by the city commission, the board shall conduct its affairs in accordance with Robert's Rules of Order. Points of order shall not be raised in board meetings by members of the audience. The sheriff's office or, upon its creation, the city's police department shall provide a sergeant-at-arms to maintain order at board meetings upon the request of either the chairperson, or the director of development services. The board shall keep a properly indexed public record of its resolutions, transactions, findings and recommendations. The board may by resolution limit the number of applications of all types or of any type which it shall hear each month. A quorum shall be four members. No recommendations for approval of any application shall be made unless four members concur.

Sec. 110-1202. - Powers and duties.

- (a) *Designation as the local planning agency.* The Board is hereby designated as the city's local planning agency (LPA), as required by the Local Government Comprehensive Planning and Land Development Regulation Act, Section 163.3161 et seq., and F.S. § 163.3174. The Board shall have the general responsibility for adherence to the comprehensive planning program. The Board and the comprehensive planning program shall comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulation Act and the board shall monitor and oversee the effectiveness and status of the comprehensive plan, plan and recommend to the city commission such changes in the comprehensive plan, as may from time to time. The board shall perform any other duties assigned by the city commission and may prepare and recommend to the city commission any other proposals to implement the comprehensive plan.
- (b) *Designation as ~~land development regulations commission~~. the Planning and Zoning Board.* The board is hereby designated as the city's ~~land development regulations commission~~ Planning and Zoning Board in accordance with the provisions of the Local Government Comprehensive Planning and Land Development Regulations Act, F.S. § 163.3161, et seq., and F.S. § 163.3194. The board shall develop and recommend to the city commission land development regulations that implement the comprehensive plan and review land development regulations or amendments thereto for consistency with the adopted comprehensive plan.
- (c) *Applications and proposals requiring public hearings.* The planning and zoning board shall review all applications and proposals to be transmitted to the city commission for a vote on the following items:
 - (1) Plan amendments, including future land use map amendments;
 - (2) Zoning map changes;
 - (3) Changes to the Land Development Code or a proposed new Land Development Code, including subdivision regulations;
 - (4) Planned unit developments;

- (5) Conditional uses;
- (6) Zoning variances;
- (7) Amendments to the approved capital improvements program or budget;
- (8) The establishment of, or changes to established, community development districts;
- (9) Changes to proposed architectural design standards; and
- (10) Proposed development agreements created pursuant to the "Florida Local Government Development Agreement Act";
- ~~(11) Proposed developments of regional impact (DRI); and~~
- ~~(12) Proposed final plat subdivisions containing more than 200 lots.~~

When reviewing applications and proposals requiring public hearings, the Board shall consider the following criteria, as applicable, per application and proposal:

- (1) Consistency with the city's comprehensive plan;
 - (2) Consistency with adopted ordinances, relevant laws, and zoning regulations;
 - (3) Land use compatibility, neighborhood character, community safety, land uses for function and aesthetics, and the physical ability to construct or alter a site;
 - (4) Impacts of the development on the natural environment including flora, fauna, and other natural resources;
 - (5) Public facilities and services (i.e. water, sanitary sewer, parks, schools, fire, police, etc.); and
 - (6) Transportation systems.
- (d) *Advisory recommendations to the city commission.* The board shall make a recommendation to the city commission by formal written approved motion of the board as to the conclusion of the board's review that an application or proposal should be considered by the city commission for approval, approval with specific conditions recommended by the board, or denial. The board's recommendation shall be transmitted to the city commission with all related information through the established city commission agenda process.
- (e) *Applications and proposals exempt from board review.* Planning and zoning board review shall not be required for amendments to city ordinances that are initiated by the staff or the city commission to correct grammar and spelling errors, change fees as set by the city commission, change the organization of the ordinances with no content changes, or change processing procedures when mandated by state statutes.

(Ord. No. 19-2011, § 1(Exh. A), 11-7-2011; Ord. No. 18-2013, § 1(Exh. A), 2-3-2014)

Sec. 110-1203. - Board review procedures.

~~a) *Deadline for submission of applications.* Complete applications requiring planning and zoning board review must be submitted to the planning and development services department at least 20 working days prior to the board meeting at which the applications are to be heard. Complete applications submitted after this deadline shall be processed for consideration at the following board meeting. An application shall be considered complete if it meets all of the submission requirements established by the applicable ordinance, fees are paid, a fully executed city application form is included, and sufficient information is included in the application to enable the staff and the board to evaluate the application.~~

a) Application forms and processing procedures. Applications shall be submitted on forms and processed in accordance with written administrative procedures created and published by the planning and development services department. All required attachments shall be included with each application, including, but not limited to, proof of ownership or permission of the owner to make the application, location maps, surveys, and site plans, as required. No application will be deemed complete until the required fees have been paid, including the estimated costs of the services of consultants to the city, if any such consultants are needed.

(b) Expiration of planning and zoning board recommendations. Applicants may postpone city commission review of any application up to a maximum of one year following action by the planning and zoning board. Any applications not heard by the city commission within that period shall require re-submittal of the proposal, including the payment of all applicable fees and processing requirements as required for a new proposal. The review of a re-submitted proposal shall not be shortened in time, or otherwise abridged, in order that the staff and the board shall have adequate opportunity to determine whether or not there are any changes in the proposal or any changed conditions that may alter the review results.

(Ord. No. 19-2011, § 1(Exh. A), 11-7-2011)

SECTION TWO. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

SECTION THREE. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA THIS _____ DAY OF _____, 2019.**

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
Heidi K. Herzberg, Mayor

ATTEST:

JOYCE RAFTERY, CMC, MMC, City Clerk

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

CITY ATTORNEY