



City of North Port

ORDINANCE NO. 2018-37

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE CHAPTER 1 - GENERAL PROVISIONS, ARTICLE III - BOARDS AND DUTIES, SECTION 1-28 – ZONING BOARD OF APPEALS AND SECTION 1-29 – PLANNING AND ZONING ADVISORY BOARD, ADDRESSING QUALIFICATIONS OF MEMBERS, REMOVAL, VACANCIES, AND COMPENSATION; MAKING RELATED FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, section 5.06 of the Charter of the City of North Port provides that the City Commission may appoint advisory boards and committees composed of citizens qualified to act in an advisory capacity to the City Commission, the City Manager or to any department of the City government, with respect to the conduct and management of any property or institution or the exercise of any public function of the City; and

WHEREAS, pursuant to these authorities, the City Commission created a Zoning Board of Appeals (ZBA) and a Planning and Zoning Advisory Board (PZAB) to assist it in the development, interpretation, and application of zoning and land development policies of the City; and

WHEREAS, Chapter 4, Article I of the Code of the City of North Port generally regulates boards created by the City Commission; and

WHEREAS, Section 4-1 of the Code of the City of North Port provides that the provisions of Article I apply to all boards, except that if a board's enacting legislation conflicts with Article I, that legislation controls over Article I; and

WHEREAS, Section 1-28 and 1-29 provide regulations specific to the ZBA and PZAB, respectively; and

WHEREAS, the City Commission desires to achieve uniformity between the Code of the City of North Port and the Unified Land Development Code with respect to certain regulations related to its boards; and

WHEREAS, the City Commission recognizes the value in some members of the ZBA and PZAB having experience and expertise related to land use, zoning, and related topics; and

WHEREAS, the City of North Port Planning and Zoning Advisory Board is designated as the Local Planning Agency and held a public hearing on December 6, 2018 with due public notice to receive public comments on the revision of the Unified Land Development Code; and

WHEREAS, the City Commission held public hearings with due public notice on the proposed amendments described herein, in accordance with the requirements of the City of North Port Unified Land Development Code, and has considered the information received at said public hearings; and

WHEREAS, the City Commission has determined that the proposed amendments serve the public health, safety, and welfare of the citizens of the City of North Port, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA, AS FOLLOWS:

SECTION 1 – FINDINGS:

- 1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

SECTION 2 – ADOPTION:

- 2.01 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

“Chapter 1 – GENERAL PROVISIONS

...

ARTICLE III. – BOARDS AND DUTIES

...

Sec. 1-28. - Zoning Board of Appeals (ZBA).

- A. Establishment and composition. A Zoning Board of Appeals is hereby established, which shall consist of seven (7) regular members and two (2) alternate members to be appointed by the City Commission. An alternate may participate in a meeting only when taking the place of a regular member. Each member shall serve a three (3) year term.
- B. Qualifications of members.
- (1) No member of the Zoning Board of Appeals shall hold any elective office or be employed by the City.
- (2) All board appointees shall have resided within the city for a period of one year. Residency must be maintained throughout the term of office. Failure to maintain permanent residency within the city shall result in automatic vacation of the board seat. Members of the Board ~~board~~ appointed after the effective date of these regulations

~~shall have been residents of the City of North Port for one (1) year and appointed from among persons in a position to represent the public interest, and no~~

(3) No person shall be appointed with private or personal interests likely to conflict with the general public interest.

(4) To the greatest extent possible, at least three (3) members of the Zoning Board of Appeals shall have experience and expertise in zoning, land use, and related topics.

C. Vacancies. Vacancies in the Zoning Board of Appeals membership shall be filled pursuant to Section 4-3 of the ~~City of North Port Code~~ of the City of North Port, Florida.

D. Removal. Members of the Zoning Board of Appeals may be removed from office ~~for cause by the affirmative votes of three (3) members of the City Commission upon written charges and public hearing, if the member of the Zoning Board of Appeals so affected requests such public hearing pursuant to Section 4-3 of the Code of the City of North Port, Florida.~~

~~E. Compensation. Members of the Zoning Board of Appeals shall receive no salaries or fees for service on the Board but may receive reimbursement of actual and necessary expense incurred in the performance of their duties of office.~~

~~FE.~~ Proceedings.

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~~GF.~~ Filing of appeals; hearing; stay of proceeding; assistance.

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~~HG.~~ Powers and duties. The Zoning Board of Appeals shall have the following powers and duties:

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~~HI.~~ Reversal of decision of Department responsible for Land Development Services Directors.

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~~II.~~ Appeals from decisions of Zoning Board of Appeals. Any person or persons, jointly or severally, including any officer, department, board or commission of the City, aggrieved by any decision of the Zoning Board of Appeals may apply to the Circuit Court having jurisdiction in the City of North Port for judicial relief within thirty (30) days after the rendition of the decision by the Zoning Board of Appeals. The proceedings in the Circuit Court shall be by petition for writ of certiorari, which shall be governed by the Florida Rules of Appellate Procedure."

2.02 The City Commission hereby approves and adopts the following amendments to the City of North Port Unified Land Development Code:

"Chapter 1 – GENERAL PROVISIONS

...

ARTICLE III. – BOARDS AND DUTIES

...

Sec. 1-29. - Planning and Zoning Advisory Board (PZAB).

- A. Establishment and composition. A Planning and Zoning Advisory Board is hereby established, which shall consist of seven (7) regular members and two (2) alternate members to be appointed by the City Commission. An alternate may participate in a meeting only when taking the place of a regular member. Terms of appointment are for four (4) years.
- B. Qualifications of members.
- (1) No member of the Planning and Zoning Advisory Board shall hold any elective office of or be employed by the City. ~~Members of the Planning and Zoning Advisory Board appointed after the effective date of these regulations shall have been residents of the City for at least one (1) year prior to the date of appointment.~~
 - (2) All board appointees shall have resided within the city for a period of one year. Residency must be maintained throughout the term of office. Failure to maintain permanent residency within the city shall result in automatic vacation of the board seat.
 - (3) No more than two (2) members of the ~~Board~~ board, including alternate members, shall be of the same business, trade or profession. To the greatest extent possible, at least three (3) members shall have experience and expertise in planning, zoning, land use, and related topics.
- C. Vacancies. Vacancies in Planning and Zoning Advisory Board membership shall be filled pursuant to Section 4-3 of the ~~City of North Port Code~~ of the City of North Port, Florida.
- D. Removal. Planning and Zoning Advisory Board members may be removed from office pursuant to Section 4-3 of the Code of the City of North Port, Florida.
- ~~If a member's absences exceed four (4) consecutive or twenty-five percent (25%) of scheduled/regular Board meetings in a calendar year, excluding special meetings, the Planning and Zoning Advisory Board may recommend to the City Commission that the appointment be terminated. The only exception to this requirement shall be absences due to illness/death in family.~~
- ~~E. Compensation. Members of the Planning and Zoning Advisory Board shall receive no salaries or fees for service on the Board but may receive reimbursement for actual and necessary expenses incurred in the performance of their duties of office.~~
- ~~F~~E. Proceedings.
- ...
- ~~G~~F. Appropriations, fees and other income. The City Commission shall make available to the Planning and Zoning Advisory Board such appropriations as it may see fit for salaries, fees and expenses necessary in the conduct of Planning and Zoning Advisory Board work. No public funds shall be expended or be caused to be expended by the Planning and Zoning Advisory Board without express approval of the City Commission.
- ~~H~~G. Functions, powers and duties.
- ...

- H. Appeals to the Planning and Zoning Advisory Board (PZAB) and City Commission concerning the interpretation or administration of the requirements of a previously adopted "Pattern Book" may be taken by any person aggrieved by any decision, determination or requirement of the Department responsible for land development services.

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SECTION 3 – CONFLICTS:

- 3.01 In the event of any conflict between the provisions of this ordinance and any other ordinance or provisions thereof, the provisions of this ordinance shall prevail to the extent of such conflict.

SECTION 4 – SEVERABILITY:

- 4.01 If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION 5 – CODIFICATION:

- 5.01 In this ordinance, additions are shown as underlined and deletions as ~~striketrough~~. These editorial notations shall not appear in the codified text.

SECTION 6 – EFFECTIVE DATE:

- 6.01 This ordinance shall take effect immediately after adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY at first reading by the City Commission of the City of North Port, Florida, in public session on the 8th day of January 2019.

PASSED and DULY ADOPTED by the City Commission of the City of North Port, Florida, on the second and final reading in public session this 22nd day of January 2019.

CITY OF NORTH PORT, FLORIDA

CHRISTOPHER HANKS
MAYOR

ATTEST:

KATHRYN PETO
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

AMBER L. SLAYTON
CITY ATTORNEY