

ORDINANCE NO. 99-13

AN EMERGENCY ORDINANCE PROVIDING FOR REVIEW OF SPECIAL EXCEPTION DECISIONS RENDERED BY THE HERNANDO COUNTY PLANNING AND ZONING COMMISSION; PROVIDING FOR WAIVER OF NOTICE REQUIREMENTS AND EMERGENCY ENACTMENT; PROVIDING FOR INTENT; PROVIDING FOR SEVERABILITY, REPEAL OF INCONSISTENT ORDINANCES OR CODE PROVISIONS; INCLUSION INTO THE CODE, AND FOR AN EFFECTIVE DATE.

FILED
1999 JUL -9 PM 1:05
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

WHEREAS, the Hernando County Board of County Commissioners hereby finds that the current review procedures specified in Article V, Section 8, G for Special Exception Decisions made by the Planning and Zoning Commission are unreasonable and unworkable because of the truncated time frames specified in the Code; and

WHEREAS, when the Board originally adopted the truncated time frames for reviewing special exception decisions rendered by the Planning and Zoning Commission it probably did so under the erroneous presumption that it had to render a decision within thirty (30) days of the Planning and Zoning commission's decision to allow an applicant to appeal the Planning and Zoning Commission's decision by certiorari to the Circuit Court; and

WHEREAS, the Board of County Commissioners possesses plenary and administrative authority to review special exception decisions rendered by the Planning and Zoning Commission within thirty (30) days after the Planning and Zoning Commission renders a decision; and

WHEREAS, there is some doubt in the present code provisions whether the Board can continue a review of a Special Exception Decision rendered by the Planning and Zoning Commission; and

WHEREAS, all quasi-judicial bodies possess the inherent authority to reasonably continue appeals pending before them; and

WHEREAS, the Board of County Commissioners is presently reviewing a special exception decision rendered by the Planning and Zoning Commission and unless this emergency ordinance is enacted it may not be able to continue the hearing until a later date.

NOW THEREFORE BE IT ORDAINED BY THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS:

SECTION 1- INTENT.

It is the intent of the Hernando County Board of County Commissioners to adopt this ordinance allowing it additional time to consider review of special exception decisions rendered by the Planning and Zoning Commission and to provide that the Board of County Commissioners may reasonably continue matters pending before it regarding the appeal of special exception decisions; and also providing that the board's determination after reviewing a special exception decision of the Planning and Zoning Commission is the final quasi-judicial determination of this matter.

SECTION 2- WAIVER OF NOTICE REQUIREMENTS.

The Board of County Commissioners hereby finds by a four/fifths vote of the membership of such board declaring that an emergency exists and that the immediate enactment of said ordinance is necessary. Further this ordinance only establishes the review procedures for special exception review procedures and does not change or amend any zoning map designation or any permitted , conditional or prohibited use within any zoning category. Further, the board hereby declares that the immediate enactment of this ordinance is necessary to protect the health, safety, and welfare of the residents of Hernando County and to provide the Board of County Commissioners of Hernando County with a meaningful review of special exception decisions rendered by the Planning and Zoning Commission.

SECTION 3- REVIEW BY GOVERNING BODY

(a) The governing body, by a majority vote, may decide to review any special

exception decision rendered by the Planning and Zoning Commission;

(b) The decision of the governing body to review such decision by the Planning and Zoning Commission must be made within thirty (30) days of the rendition of the decision of the Planning and Zoning Commission. If at least a majority of (three (3) members) of the governing body do not vote to review the commission action within thirty days, the commission decision shall be deemed final and subject only to review by circuit court.

(c) 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, and such notice shall be posted in a conspicuous place or places on or around such lots, parcels or tracts of lands as may be involved in the hearing. Affidavit proof of the required publication and posting of the notice shall be presented at the hearing.

(d) The Board of County Commissioners by motion or written request of the applicant, any party with standing or by its own motion may extend or continue for a reasonable period, the time frames mentioned above. The Board also has the authority to continue, on its own motion, to a later date a final decision on any special exception matter pending before it for review.

(e) At the public hearing, the governing body may affirm, modify or reverse the decision of the Planning and Zoning Commission.

(f) The decision of the Board reviewing any special exception decision rendered by the Planning and Zoning Commission is final and any affected party has thirty (30) days from the rendition of the Board of County Commissioner's final decision to appeal to the Circuit Court by Certiorari the Board's final decision.

SECTION 4- REPEAL OF INCONSISTENT ORDINANCES OR CODE PROVISIONS

Article V, Section 8 G, of the Hernando County Code is hereby repealed in its entirety. Further, any other inconsistent ordinance or code provisions are hereby also

repealed.

SECTION 5- 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 the validity of the remaining portions of this Ordinance.

SECTION 6- INCLUSION IN THE CODE.

It is the intention of the Board of County 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, Florida. To this end, the sections of this Ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section", "article", or other appropriate designation.

SECTION 7- EFFECTIVE DATE.

This Emergency Ordinance shall become effective when a copy has been accepted by the United States Postal Service for special delivery or when deposited in the U.S. Mail with proper postage affixed certified mail to the Florida Department of State.

ADOPTED AS AN EMERGENCY ORDINANCE BY A VOTE OF FIVE TO ZERO OF THE HERNANDO COUNTY BOARD OF COUNTY COMMISSIONERS in Regular Session this 6th day of July 1999.

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA.**

Attest: *Michelle L. Henton*
KAREN NICOLAI *Deputy Clerk*
Clerk

By: *Pat Novy*
PAT NOVY
Chairman

