

DIVISION 2. CREATION, PROCEDURE AND GENERAL AUTHORITY

Sec. 82-96. Created; designation as local planning agency and land development regulation commission.

The city planning commission, created pursuant to city Charter and Ordinance No. 75-13, along with the city manager, shall administer this Land Development Code as specified in this chapter and as otherwise authorized throughout this Land Development Code. The planning commission is also hereby designated and appointed to serve:

- (1) As the "local planning agency" for the city pursuant to F.S. § 163.3174(1), with all the authority and responsibilities of a local planning agency as specified in F.S. §§ 163.3161—163.3215; and
- (2) As the "land development regulation commission" for the city pursuant to F.S. § 163.3194(2) with all the authority and responsibilities of a land development regulation commission as specified in F.S. §§ 163.3161—163.3215.

(Ord. No. 85-26, § 1(III.A.1), 11-27-1985)

Sec. 82-97. Conduct of hearings; action.

- (a) *Generally.* The planning commission shall adopt by resolution rules of procedure for its review of applications and conduct of hearings. The rules of procedure shall be approved by city council prior to implementation.
- (b) *Quasi-judicial hearings.* For hearings of a quasi-judicial nature, the rules of procedure shall provide for and shall be implemented in a manner as to ensure that due process is afforded, that the correct law is applied and that the decision is based upon competent, substantial evidence.
- (c) *Legislative hearings.* For hearings of a legislative nature, the rules of procedure shall provide for and shall be implemented in a manner as to ensure that there is a full public airing of the legislative proposal and that the duties of the planning commission as the land development regulation commission are discharged.
- (d) *Continuances; additional information.* The planning commission may continue or adjourn a hearing, or portion of a hearing, to a date certain or uncertain as it deems reasonable and necessary; and may request that the applicant, staff or any other person provide additional information or testimony as it deems necessary for proper consideration of the application.
- (e) *Recordings.* The planning commission shall make a full record of the hearing by sound recording, and upon request, shall provide a transcription, or copy of such recording, at the sole cost and expense of the person so requesting a copy of the proceedings. Fees for recordings, transcripts or copies shall be as established in chapter 90. Any person who wishes that a verbatim record be provided is responsible to so provide, at that person's sole expense. It shall not generally be grounds for challenge that portions of the record are missing.
- (f) *Actions by the planning commission.*
 - (1) Official actions of the planning commission shall be taken by majority vote of the quorum present, except that the planning commission rules may provide a method for resolving tie votes.

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- (2) All official actions, decisions and recommendations of the planning commission shall be in writing and shall be adopted by resolution.
- (g) *Contents of resolutions.*
- (1) *Generally.* Each resolution shall contain a resolution number; a heading identifying the nature of the action; an application number; a narrative reasonably describing the action taken and the basis for the action; a signature of the chair, vice-chair or other authorized planning commissioner; the date of the action, and the date the resolution is filed with the city manager.
- (2) *Quasi-judicial matters.* In any action taken with regard to a quasi-judicial matter, each resolution shall, in addition to the requirements set forth in subsection (g)(1) of this section, contain an identification of the property which is the subject of the application; an identification of the applicant and of the owner of the property; findings of fact based upon the application, the staff report and other relevant evidence; conclusions of law; and the action or decision, which may include conditions.
- (3) *Subsection directory.* This subsection is directory, not mandatory. It shall not be grounds for challenge that a resolution does not meet the technical requirements of this subsection unless substantial prejudice is shown.
- (h) *Filing with city manager.* All official actions of the planning commission, including those which constitute final decisions, shall be filed with the city manager as soon as practical after they are signed. A final decision of the planning commission shall be deemed rendered when a signed resolution or decision is filed with the city manager.
- (i) *Copy to applicant.* A copy of the resolution shall be sent to the applicant, or the applicant's attorney if represented by counsel, within ten days after it has been filed with the city manager.
- (j) *Issuance of permits.* Permits authorized by final decisions of the planning commission shall not be issued until one of the following has occurred:
- (1) The time for filing an appeal to city council has elapsed;
- (2) The applicant and all other persons having appeal rights have filed a written waiver of appeal rights;
- (3) If an appeal has been timely filed, the city council has finally disposed of the matter.
- (Ord. No. 85-26, § 1(III.A.2), 11-27-1985; Ord. No. 97-17, § 1, 11-4-1997)

Sec. 82-98. Appeals.

- (a) The following persons shall have the right to appeal a final decision of the planning commission adverse to their interests:
- (1) The applicant.
- (2) The owner of the property proposed for development.
- (3) The developer of the property proposed for development.
- (4) Any other person residing upon, or owning property within the city, or owning or operating a business within the city, who participated by written comment before or at the planning commission hearing or who participated in person or through an authorized agent at the planning commission hearing.
- (b) The appeal shall be filed within 15 days after the date that the planning commission decision was filed. The appeal shall be filed with the city manager, and the filing fee shall be paid as a prerequisite to filing.
- (c) The city manager shall schedule the appeal on the agenda of a city council meeting occurring within 30 days after the appeal has been filed, unless this time limit is waived by the applicant, and the appellant. The city

council, in its discretion, may continue or reschedule the hearing until such later date as is reasonable under the circumstances.

- (d) The city council's consideration on appeal shall be limited to whether the planning commission has properly interpreted and applied the provisions of this Land Development Code, based upon the application and evidence presented to the planning commission.
- (e) On any appeal, the city council shall have authority to uphold, reverse or modify the planning commission's decision; or to remand the application to the planning commission for rehearing, a new hearing, or for the consideration of additional evidence. In reversing or modifying the decision of the planning commission and approving an application, the city council shall have the same authority as the planning commission to place conditions on such approval.
- (f) In the case of an appeal of a planning commission decision approving an application with conditions unacceptable to the applicant, the city council's authority to review the decision of the planning commission extends to the entire application, not just to the condition unacceptable to the applicant.
- (g) If, in considering an appeal, any claim is made that the action taken by the planning commission is or would be in violation of a vested right, is prohibited due to an estoppel, constitutes a taking or is otherwise unlawful, and evidence has not been presented on the subject at the planning commission hearing, the city council may conduct an evidentiary hearing on that claim or may remand the application to the planning commission for an evidentiary hearing on that claim.

(Ord. No. 85-26, § 1(III.A.3), 11-27-1985; Ord. No. 92-14, § 2, 9-1-1992; Ord. No. 97-17, § 1, 11-4-1997)

Secs. 82-99—82-115. Reserved.