

*Excerpt from the City of Pompano Beach Code of Ordinance
Chapter 157/full code available online at www.amlegal.com*

In accordance with F.S. § 163.3225, there shall be two public hearings conducted for entering into, amending or revoking a Development Agreement. One public hearing shall be conducted by the Local Planning Agency and one public hearing shall be conducted by the City Commission. Development Agreements shall be adopted, amended or revoked by resolution of the City Commission.

(Ord. 90-27, passed 2-6-90)

APPEALS AND VESTED RIGHTS

§ 157.60 DEVELOPMENT OF LAND APPEALS.

(A) Appeals from determination of Zoning Director, Planning Director or Development Review Committee.

(1) The denial or other disputed determination of a development permit by the Zoning Director or Planning Director pursuant to § 155.010, or the Development Review Committee may be appealed to the City Commission by the applicant for the development permit by filing a Notice of Appeal of development permit determination with the City Manager within 30 days of the date of the proposed action.

(2) After receipt of the Notice of Appeal of development permit determination, the appeal will be placed on a City Commission agenda for a hearing within a reasonable time. At the hearing the applicant may present evidence and testimony relating to the issues appealed. The applicant shall bear the burden of proof at the hearing to demonstrate that the action of the Development Review Committee or Director was inconsistent with the requirements of this chapter.

(3) At the hearing, the City Commission shall either grant the appeal, deny the appeal or grant the appeal subject to conditions or requirements. If the appeal is granted or granted subject to conditions or requirements the City Commission shall require the appropriate city official to issue the requested development permit as approved by the City Commission.

(B) Appeal from Planning and Zoning Board.

(1) A final decision of the Planning and Zoning Board may be appealed to the City Commission by any person who will suffer an adverse effect to a legally recognizable interest which will be affected by the Planning and Zoning Board's action by filing a Notice of Appeal with the City Manager within 30 days of the date of the rendering of a decision by the Planning and Zoning Board.

(2) The person appealing the Planning and Zoning Board's decision shall be responsible for providing an accurate transcript of the record of the proceedings for the purpose of permitting the City Commission to hear the appeal of the Planning and Zoning Board's decision. Such record of the proceedings shall be filed with the City Manager within 15 days after the filing of the Notice of Appeal. Failure to timely provide the transcript shall be grounds for dismissal of the appeal with prejudice by the City Manager.

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(3) After receipt of the transcript, the appeal will be placed on the City Commission agenda for hearing within a reasonable period of time. The appellant shall bear the burden of proof. At the hearing, the City Commission shall determine if:

- (a) There was a departure from the essential requirements of law in the proceedings appealed;
and
- (b) The decision was not supported by competent, substantial evidence.

(4) Hearings before the City Commission are not trial de novo, but rather appellate in nature and such appeal shall be limited to the record of the Planning and Zoning Board proceedings. Argument may be made and public input may be heard during the meeting solely limited to whether the record supports or fails to support the decision of the Planning and Zoning Board based upon the criteria set forth in subsection (3) above.

(5) For the purpose of this section, **COMPETENT AND SUBSTANTIAL EVIDENCE** shall mean evidence deemed competent to the extent that it would be sufficiently relevant and material so that a reasonable person would accept it as adequate to support the conclusion reached. Evidence shall be deemed substantial if it will establish a substantial basis of fact from which the fact at issue can be reasonably inferred, or such relevant evidence as a reasonable mind would accept as adequate to support the conclusion.

(6) At the conclusion of the hearing, the City Commission shall either grant the appeal, deny the appeal or grant the appeal subject to conditions or requirements. If an appeal is granted or granted subject to conditions or requirements, the City Commission shall require the Planning and Zoning Board to take any action required as approved by the City Commission.

(C) Appeals from a final decision of the City Commission shall be to the Circuit Court by filing a Petition for Writ of Certiorari within 30 days of the City Commission's decision.

(Ord. 90-27, passed 2-6-90; Am. Ord. 95-66, passed 5-23-95; Am. Ord. 2007-70, passed 9-25-07)

§ 157.61 VESTED RIGHTS DETERMINATIONS.

(A) Nothing contained in this chapter shall be construed or applied to constitute a temporary or permanent taking of private property or the abrogation of validly existing rights. It shall be the duty and responsibility of the party alleging a taking or vested rights to affirmatively demonstrate the legal requisites of a taking or vested rights. Rights shall vest upon a demonstration to the City Commission that the provisions of F.S. § 163.3167(8), (1987) apply or that the applicant has relied in good faith upon some act or omission of the government; and has made such a substantial change in position or incurred such extensive obligations and expenses to their detriment that it would be highly inequitable to deny relief. To establish a taking, the burden shall be on the applicant to demonstrate that denial of the application will deny the applicant of all beneficial use of the property; and that no variances, alternative uses or other forms of relief are available which could, if approved afford the applicant a beneficial use of the property. Mere diminution of property value shall not constitute a temporary or permanent taking of private property.

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(B) Notwithstanding any contrary provisions of this chapter of the code, no applicant claiming this chapter as applied to a particular development action or order, constitutes or would constitute a temporary or permanent taking of private property or an abrogation of vested rights may pursue such claim in court or before a quasi-judicial body unless he has first made an application to the City Commission for vested rights or takings determination. The City Commission has final determination on said application. An application for a vested rights or takings determination processed in accordance with the appeals process set forth in this section.

(Ord. 90-27, passed 2-6-90)

§ 157.62 RECOVERY OF COST OF ADMINISTRATIVE REVIEW AND PROCESSING OF TRAFFIC STUDIES.

(A) There is hereby imposed an administrative fee for the various costs of administrative processing of traffic studies required to meet concurrency, such fees to be equal in amount to the city's actual costs as set forth in subsection (D) below, in terms of time expended by the city's staff and outside consultants.

(B) Persons who are required by the Development Review Committee, Planning Department report to submit a traffic study to meet concurrency requirements on the regional or local roadway systems shall pay, prior to or at the time the traffic study is submitted for review, a preliminary deposit as set forth in the Fee Schedule Appendix, which shall be credited toward the administrative fee charged for such review and processing, and additional shall pay additional deposits as may be required from time to time as provided herein.

(C) When the initial deposit has been paid, a financial account for said traffic study review (the "traffic study account") will be opened and maintained throughout the entire traffic study review process until the project is found to be in compliance and has received Planning and Zoning Board approval, at which time the traffic study account will be closed and any remaining funds therein shall be refunded to the person depositing same no later than two months after the traffic study account's closing date. The traffic study account will be monitored on a periodic basis. If the account balance is reduced to 25% of the initial deposit, a supplemental deposit will be required before any further review or processing continues. The person making the initial deposit will be notified in writing when a supplemental deposit will be required. The amount of the supplemental deposit will be 50% of the initial deposit.

(D) The Planning Department staff and the city's outside traffic consultants who are involved in the review and processing of traffic study review request shall maintain records of the time expended and tasks conducted regarding each such request. A debit based upon the time expended and the applicable hourly rate shall be charged against the project account. For purposes of this program, the applicable hourly rate shall be fully equal to a city staff person's approximate hourly compensation (based upon a weekly salary divided by 40 hours, a factor reflecting the city staff person's hourly fringe benefits, and indirect costs shall be added. The applicable hourly rate for the review and processing by the city's outside traffic consultants shall equal therein the actual hourly charge for such review and processing.

(E) This program shall not apply to traffic study review requests which are originally initiated by or on behalf of the city.

(Ord. 91-46, passed 4-23-91)

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155.2204. PLANNING AND ZONING BOARD (P&Z)

A. Establishment

The Planning and Zoning Board (P&Z) is hereby established in accordance with state law.

B. Powers and Duties

The P&Z shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Major Site Plan (Sec. [155.2407](#)); and
- b. Major Administrative Adjustment (Sec. [155.2421](#)).

2. Make Recommendations on Applications for Development Permit

To review and make a recommendation on the following applications for a development permit:

- a. Text Amendment (Sec. [155.2402](#));
- b. General Map Amendment (Rezoning) (Sec. [155.2403](#));
- c. Site-Specific Map Amendment (Rezoning) (Sec. [155.2404](#));
- d. Planned Development (Sec. [155.2405](#));
- e. Plat (Sec. [155.2410](#));
- f. Interim Use Permit (Sec. [155.2415](#));
- g. Development Agreement (Sec. [155.2427](#));
- h. Takings or Vested Right Determination (Sec. [155.2429](#)) [placeholder]; and
- i. Right-of-Way of Easement Vacation or Abandonment (Sec. [155.2431](#)).

3. Other Powers and Duties

- a. To act as the city's local planning agency and assume general responsibility for conduct of the city's comprehensive planning program;
- b. To work in conjunction with the Development Services Director and other city staff to prepare the city's comprehensive plan and plan amendments, and to make final recommendations to the City Commission regarding the adoption or amendment of the plan;
- c. To monitor and oversee the effectiveness and status of the comprehensive plan, make recommendations to the City Commission regarding necessary changes to the plan, work with the Development Services Director and other city staff to prepare periodic evaluation and appraisal reports assessing the city's progress in implementing its comprehensive plan in accordance with Florida Statutes (Sec. 163.3191, Fla. Stat.), and make recommendations to the City Commission regarding adoption of the report;
- d. To promote public interest in an understanding of the comprehensive plan and the city's planning, development regulation, and community development programs;
- e. To annually submit to the City Commission, not less than 90 days before the beginning of the budget year, a prioritized list of recommended capital improvement projects deemed necessary or desirable in the next five years;
- f. To work with the Development Services Director and other city staff to prepare the official city map of streets and changes to such map, and to make recommendations to the City Commission regarding adoption or amendment of the map;
- g. To request city staff assistance in the preparation of special studies;
- h. To seek through the City Manager information from other city agencies that is pertinent to the board's work; and

i. To carry out any other powers and duties delegated to it by the City Commission, consistent with state law.

C. Membership, Appointment, and Terms of Office

1. Membership and Appointment

a. The P&Z shall consist of seven regular voting members and three alternate members appointed by resolution of the City Commission as a whole.

b. Appointed regular voting members shall include:

i. One member nominated by the Mayor;

ii. One member nominated by each City Commissioner from among residents of the Commissioner's district-provided, however, that a City Commissioner may nominate a person who does not reside in the City Commissioner's district on determining such person would better serve the public interest; and

iii. One member appointed by the City Commission as a whole.

c. Alternate members shall be appointed by the City Commission as a whole.

d. Each regular voting member and alternate member shall be a resident of the city.

e. The P&Z shall also include one nonvoting member appointed by the Broward County School Board, to attend those meetings at which the board considers applications for a comprehensive plan amendment (See [Chapter 154](#) (Planning) of the Code of Ordinances .), General Zoning Map Amendment (Rezoning) (See Section [155.2403.](#)), Site-Specific Zoning Map Amendment (Rezoning) (See Section [155.2404.](#)), or Planned Development (See Section [155.2405.](#)) that proposes increasing the residential density of land.

f. Regular voting members and alternate members shall serve without compensation.

2. Terms

a. Regular voting members of the P&Z shall be appointed for a term which shall run concurrently with the term of the member of the City Commission who appointed them.

b. Alternate members shall be appointed for three-year, concurrent terms.

c. Regular and alternate members shall continue to serve until their successors are appointed.

3. Alternate Members

The Chair of the P&Z shall be authorized to assign one of the three alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

a. The Chair shall rotate assignments among the alternate members unless the unavailability of alternate members makes such rotation impossible.

b. No alternate member may serve as a substitute member for a period of more than three months.

c. No more than two alternate members may serve as substitute members at any one time.

d. No alternate member may take action as a substitute member unless the Chair first announces assignment of that role and the assignment is recorded in the official minutes of the meeting.

e. When substituting for regular voting members, alternate members shall have the same powers and duties as the regular voting member they replace.

4. Removal and Replacement; Attendance

a. Removal for Good Cause

The City Commission may, by majority vote of a quorum present, remove and replace any member of the P&Z at any time for good cause, including, but not limited to, poor attendance (See subsection b below.), lack of participation, unfitness, malfeasance, and conflict of interest (See Section [155.2204.H.](#)). Any allegation of cause for removal shall be in writing, and the City Commission shall hold a public hearing on such an allegation before taking action to remove a board member.

b. Removal for Poor Attendance

Any member of the P&Z who is absent from three consecutive regularly scheduled board meetings or more than 50 percent of regularly scheduled board meetings held within a calendar year shall be removed from the board by the City Commission in accordance with subsection a. above. The Chair of the P&Z shall notify the Mayor and City Commission if a member qualifies for removal under this subsection.

5. Vacancies

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only, in accordance with the following:

a. A vacancy in the term of a regular voting member nominated by the Mayor or by an individual City Commissioner shall be filled with a person nominated by the Mayor or the City Commissioner, respectively.

b. A vacancy in the term of the regular voting member and alternate members appointed by the City Commission as a whole shall be filled by the City Commission as a whole.

D. Chair and Vice-Chair

1. The P&Z shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term. The Chair and Vice-Chair may be elected to successive terms without limitation.

2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the P&Z shall vote to determine who shall serve as acting Chair for the meeting.

E. Staff

The Development Services Director shall serve as the professional staff liaison to the P&Z, provide it with administrative support, and serve as its Secretary, notifying board members of all meetings and keeping the minutes of the meetings.

F. Meetings

1. Schedule

The P&Z shall adopt a schedule establishing the date, time, and location of regular meetings, provided that the ZBA shall meet at least once in a calendar month. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call special meetings.

2. Official Record

The P&Z shall keep a written record of its recommendations, transactions, findings, and determinations. Such record shall include minutes of meetings in

accordance with state law (Sec. 286.011, Fla. Stat.) and shall be a public record and filed with the Development Services Director.

3. Notice of Meetings

a. The Development Services Director shall provide notice of P&Z meetings to each board member at least 48 hours before the meeting.

b. Notice of all P&Z meetings and public hearings shall be provided in accordance with state law and the public hearing requirements in Section [155.2305.C](#), Public Hearing Notice, as appropriate.

4. Open Meetings

All meetings of the P&Z shall be open to the public.

5. Procedure

In conducting its meetings, the P&Z shall follow rules of procedure adopted in accordance with Section [155.2204.I](#), Rules of Procedure.

G. Quorum and Necessary Vote

1. Quorum

Four voting members of the P&Z shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

An affirmative vote of the majority of P&Z members present and constituting a quorum is required for all decisions of the P&Z.

H. Disqualification from Participation and Voting Based on Conflict of Interest

1. A member of the P&Z shall not participate in the review of, or vote on, an application for a development permit if the action proposed by the application creates a conflict of interest—that is, if the action proposed by the application would inure to the special private gain or loss of the member, any principal or corporation (or a parent organization or subsidiary of such corporation) that employs or otherwise retains the services of the member, or a close relative (e.g., parent, sibling, spouse, or parent- or sibling-in-law) or business associate of the member.

2. If an objection is raised to a board member's participation in a matter based on a conflict of interest (as defined in subsection 1 above), and that member does not recuse himself or herself, the remaining members of the board present shall, by majority vote of a quorum present, determine whether the member is or is not disqualified from participating in and voting on the matter.

3. If a board member is disqualified on a regular and continuing basis due to a conflict of interest (as defined in subsection 1 above), the Chair of the board may request, in writing, that the member resign. If the member does not resign in response to such a request, the Chair shall report the conflict of interest to the Mayor and City Commission, who may consider whether to remove and replace the member in accordance with Section [155.2204.C.4](#), Removal and Replacement; Attendance.

I. Rules of Procedure

The P&Z shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Development Services Department.

(Ord. 2012-64, passed 9-11-12; Am. Ord. [2013-37](#), passed 1-22-13; Am. Ord. [2014-16](#), passed 1-28-14)

ORDINANCE NO. 2006- 18

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 154, "PLANNING", OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 154.16, "PLANNING AND ZONING BOARD", TO ADD A NON-VOTING REPRESENTATIVE OF THE BROWARD COUNTY SCHOOL BOARD TO THE PLANNING AND ZONING BOARD/LOCAL PLANNING AGENCY; PROVIDING FOR FUTURE APPOINTMENTS BY THE MAYOR; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 163.3174 F.S. requires that municipalities include a representative of the Broward County School Board to be appointed as a non-voting member of the Planning and Zoning Board/Local Planning Agency to attend those meetings at which the Planning and Zoning Board/Local Planning Agency considers comprehensive plan amendments and rezoning requests that would, if approved, increase residential densities on subject properties; and

WHEREAS, the City Commission has passed Resolution 2003-173, effective April 22, 2003, which authorized the proper City officials to enter into an Interlocal Agreement with the School Board of Broward County, Florida, the City of Pompano Beach and various other municipalities, said Interlocal Agreement requiring that the City of Pompano Beach to include a representative of the School Board to serve on the Planning and Zoning Board/Local Planning Agency; and

WHEREAS, two public hearings, duly advertised, have been held pursuant to said published hearings and all persons so desiring had the opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 154.16, "Planning and Zoning Board", of Chapter 154, "Planning", of the Code of Ordinances of the City of Pompano Beach, Florida, is amended to read as follows:

§ 154.16 PLANNING AND ZONING BOARD.

(A) Creation. ~~In accordance with section 234 of the Charter,~~ There is hereby created the Planning and Zoning Board.

(B) (1) Members. There shall be seven voting members of the Planning and Zoning Board; all of which shall be city residents and there shall be one non-voting member. The Mayor shall nominate one voting member and each Commissioner shall nominate for appointment one voting member who shall be a resident of the nominating Commissioner's district; however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. The remaining one seat shall be filled by the City Commission. Thereafter, upon expiration of a member's term, the Mayor, if the member was the mayor's appointment, or the Commissioner, if the member was the Commissioner's appointment, in whose district the vacancy occurs shall nominate for appointment, or if in the event the vacancy was the one of the two seats the City Commission appointed, the City Commission shall fill such vacancy. In the event of a vacancy other than by expiration of the term, the appointment to fill such vacancy shall be of the unexpired term. The term of office of the voting members of the Planning and Zoning Board shall be three years except that of the seven members first appointed, two members shall be appointed for a term of one year; two shall be appointed for a term of two years; and three for a term of three years. Members of the Board shall serve without compensation. The Board shall elect a Chairman and Vice Chairman from its members. The City Manager, City Attorney and other city officials are considered as advisors to the Planning and Zoning Board and may be called on from time to time to meet with the Board.

(2) The City Commission shall by resolution appoint three alternate voting members of the Planning and Zoning Board, to be designated as alternate 1, alternate 2, and alternate 3. Each alternate member shall be appointed for a term of three years, the terms to run concurrently. Vacancies shall be filled for the unexpired term of any alternate member by the City Commission. In case of temporary absence or disqualification of any member of the Planning and Zoning Board, the Chairman of the Board shall have the right and authority to designate one of the alternate members to serve as a substitute for voting members on the Planning and Zoning Board during the continuance of absence or disqualification. The Chairman shall rotate assignments among the three alternate members, unless unavailability of an alternate or alternates make rotation

impossible. No substitute shall serve in such a capacity for a longer period than three months, nor shall more than two substitutes serve on the Planning and Zoning Board at any time. In cases where substitutes are designated to serve for such limited periods, that fact shall be recorded in the official minutes of the Planning and Zoning Board before the substitute shall act in any manner presented to the Board and, while serving, substitutes shall have the same powers as regular voting members.

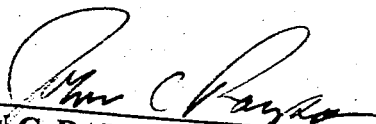
(3) A representative of the Broward County School Board, appointed by Broward County School Board, shall serve as a non-voting member of the Planning and Zoning Board/Local Planning Agency to attend those meetings at which the Planning and Zoning Board/Local Planning Agency considers comprehensive plan amendments and rezoning requests that would, if approved, increase the residential density on subject properties.

...
SECTION 2. If any section or provision of this Ordinance shall be held invalid, such holding shall not affect or indicate any other section or provision which may be given effect without the invalid provision, and to this end, the provisions of this Ordinance are declared to be severable.

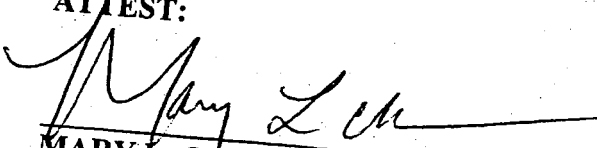
SECTION 3. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 10th day of January, 2006.

PASSED SECOND READING this 24th day of January, 2006.



JOHN C. RAYSON, MAYOR

ATTEST:


MARY L. CHAMBERS, CITY CLERK

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 154, "PLANNING", OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 154.16, "PLANNING AND ZONING BOARD", TO PROVIDE FOR NOMINATION OF A MEMBER OF THE PLANNING AND ZONING BOARD BY THE MAYOR AND ESTABLISHING A TERM OF OFFICE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Commission established the Planning and Zoning Board consisting of seven (7) members; and

WHEREAS, the City Commission now wishes to allow for the nomination of a member by the Mayor; and

WHEREAS, the City Charter has been amended to allow the City Commission to establish the number and term of office of members on advisory boards; and

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 154.16, "Planning and Zoning Board", of Chapter 154, "Planning", of the Code of Ordinances of the City of Pompano Beach is hereby amended to read as follows:

§ 154.16 PLANNING AND ZONING BOARD.

(B) (1) Members: There shall be seven members of the Planning and Zoning Board; all of which shall be city residents. The Mayor shall nominate one member and Each Commissioner shall nominate for appointment one member who shall be a resident of the nominating Commissioner's district; however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. The remaining ~~two~~ one seats shall be filled by the City Commission. Thereafter, upon the expiration of a member's term, the Commissioner in whose district the vacancy occurs shall nominate for appointment, or in the event the vacancy was one of the two seats the City Commission appointed, the City Commission shall fill such vacancy. In the event of a vacancy other than by expiration of the term, the appointment to fill such vacancy shall be for the unexpired term. ~~In accordance with section 234 of the Charter,~~ The term of office of the members of the Planning and Zoning Board shall be three years except that of the seven members first appointed, two members shall be appointed for a term of one year; two shall be appointed for a term of two years; and three for a term of three years. Members of the Board shall serve without compensation. The Board shall elect a Chairman and Vice-chairman from its members. The City Manager, City Attorney and other city officials are considered as advisors to the Planning and Zoning Board and may be called on from time to time to meet with the Board.

...

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith be and the same are hereby revoked.

SECTION 4. This Ordinance shall become effective upon passage.

PASSED FIRST READING this 11th day of January, 2005.

PASSED SECOND READING this 25th day of January, 2005.


JOHN C. RAYSON, MAYOR

ATTEST:


MARY L. CHAMBERS, CITY CLERK

GBL/jrm
12/22/04
l:ord/ch154/2005-103

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE CREATING A SEVEN (7) MEMBER "PLANNING AND ZONING BOARD" OF THE CITY OF POMPANO BEACH; PROVIDING FOR THE REPEAL OF THOSE ORDINANCES WHICH CREATED THE "PLANNING BOARD" AND THE "ZONING BOARD"; PROVIDING FOR THE DUTIES OF THE "PLANNING AND ZONING BOARD"; PROVIDING FOR THE MEMBERSHIP AND TERMS OF THE "PLANNING AND ZONING BOARD"; PROVIDING FOR THE "PLANNING AND ZONING BOARD" TO RECOMMEND REGULATIONS REGARDING THE SUBDIVISION OR PLATTING OF LAND; PROVIDING FOR THE "PLANNING AND ZONING BOARD" TO PREPARE MAPS OF STREETS TO BE EXTENDED, WIDENED, OR CONSTRUCTED AND TO PRESENT SUCH RECOMMENDATIONS TO THE CITY COMMISSION; PROVIDING FOR MONTHLY MEETINGS; PROVIDING THAT THE "PLANNING AND ZONING BOARD" BE DESIGNATED AS THE LOCAL PLANNING AGENCY FOR THE CITY OF POMPANO BEACH; PROVIDING THAT REFERENCES TO "PLANNING BOARD" AND "ZONING BOARD" IN THE CODE OF ORDINANCES BE CHANGED TO "PLANNING AND ZONING BOARD"; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the electorate of the City of Pompano Beach did on March 10, 1981 approve Charter Amendment No. 1 to repeal Articles XXI and XXII of the Charter of the City of Pompano Beach, which Articles established the City Planning Board and City Zoning Board; and

WHEREAS, the Charter Amendment repealing Articles XXI and XXII provided for the establishment by ordinance of either a Planning Board and a Zoning Board or a single board which would perform both the planning and zoning advisory functions; and

WHEREAS, it was provided in the Charter Amendment repealing the Articles which established the Planning Board and the Zoning Board that such Boards would remain in existence until such time as an ordinance creating a new board or boards was passed; and

WHEREAS, the electorate of the City of Pompano Beach did on March 9, 1982 approve Charter Amendment No. 1 which amended Section 234 of the City Charter to provide that a Planning and Zoning Board may consist of seven (7) members; and

WHEREAS, the City Commission is desirous of effectuating the mandate of the electorate with regard to the above approved Charter Amendments; and

WHEREAS, pursuant to law, fourteen (14) days notice has been given by publication in a newspaper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the Commission Meeting Room of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held, pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were in fact heard; now, therefore

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That Sections 41.04, 41.05, and 41.05.1 of Article II, Chapter 41 of the Code of Ordinances of Pompano Beach, Florida are hereby repealed.

SECTION 2: That a successor Article II of Chapter 41 of the Code of Ordinances of Pompano Beach, Florida is hereby created which shall be entitled "Planning and Zoning Board". Section 41.04 of the Code of Ordinances is hereby created as follows:

Sec. 41.04. Created; powers and duties.

In accordance with section 234 of the charter of the City of Pompano Beach, there is hereby created the City of Pompano Beach Planning and Zoning Board. The powers and duties of the Planning and Zoning Board are as follows:

- (1) To act as the local planning agency for the City of Pompano Beach and to fulfill the responsibilities of that agency as prescribed by the Local Government Comprehensive Planning Act (LCCPA) of 1975, Florida Statutes 163.3161 et seq;
- (2) To act in an advisory capacity with the director of planning to the city commission in the formulation of the City's comprehensive plan and any amendments thereto as required by the LCCPA of 1975;
- (3) To make recommendations and assist in the preparation of the official map of the city and to recommend proposed changes in such official map from time to time;
- (4) To submit annually to the city manager, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended capital improvements, which in the opinion of the Planning and Zoning Board are necessary or desirable to be constructed during the

forthcoming six (6) year period. Such list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year;

- (5) To promote public interest in an understanding of the comprehensive plan, and of planning, zoning and community development;
- (6) To keep a public record of its resolutions, findings and determinations;
- (7) To seek pertinent information from the other agencies of the city government through the city manager in relation to the work of the Planning and Zoning Board;
- (8) To request of the city manager additional assistance for special studies who may at his discretion assign to the Planning and Zoning Board, members of the staff of any city department or direct such department to make special studies requested by the Planning and Zoning Board;
- (9) To review all rezoning petitions and plats before they are presented to the City Commission to determine that all right-of-way necessary to meet the requirements of the City Trafficways Plan and any other applicable city law, are designated as public right-of-way and dedicated to the City. Additionally the proposed plat or rezoning shall be reviewed for compliance with all other requirements of the city's comprehensive plan.
- (10) To review any changes or amendments relating to the boundaries of the various zoning districts, or any changes in the text of the city's zoning regulations. No action may be taken by the City Commission until it has received a recommendation from the Planning and Zoning Board on a proposed zoning change or a proposed change in the text of the regulations of any zoning district.
- (11) Such other powers and duties as are or may be provided for elsewhere in this Code of Ordinances or as may be established from time to time by the City Commission.

SECTION 3: Section 41.05 of the Code of Ordinances is hereby created

as follows:

Sec. 41.05. Membership; terms; compensation.

There shall be seven (7) members of the City of Pompano Beach Planning and Zoning Board, each shall be appointed by separate resolution of the City Commission. In accordance with section 234 of the city charter, the term of office of the members of the Planning and Zoning Board shall be three years except that of the seven (7) members first-appointed, two (2) members shall be appointed for a term of one year; two (2) shall be appointed for a term of two (2) years; and three (3) for a term of three (3) years. Members of the board shall serve without compensation. The board shall elect a chairman and vice-chairman from its members. The city manager, city attorney and other city officials are considered as advisors to the Planning and Zoning Board and may be called on from time to time to meet with the board.

The City Commission shall by resolution appoint three (3) alternate members of the Planning and Zoning Board, to be designated as Alternate 1, Alternate 2, and Alternate 3. Each alternate member shall be appointed for a term of three (3) years, said terms to run concurrently, and shall be subject to removal for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any alternate member whose term becomes vacant. In case of temporary absence or disqualification of any member of the Planning and Zoning Board, the Chairman of the Board shall have the right and authority to designate one of such alternate members to serve as a substitute on the Planning and Zoning Board during the continuance of such absence or disqualification. The Chairman shall rotate such assignments among the three (3) alternate members, unless unavailability of an alternate or alternates makes such rotation impossible. No substitute shall serve in such capacity for a longer period than three (3) months, nor shall more than two (2) substitutes serve on the Planning and Zoning Board at any time. In cases where substitutes are designated to serve for such limited periods, such facts shall be recorded in the official minutes of the Planning and Zoning Board before such substitute shall act in any matter presented to the Board and, while serving, substitutes shall have the same powers as regular members.

SECTION 4: Section 41.05.1. of the Code of Ordinances is hereby created as follows:

Sec. 41.05.1. Regulations governing the subdivision or platting of land.

The Planning and Zoning Board shall recommend to the City Commission for adoption regulations regarding the subdivision or platting of land within its jurisdiction. Such regulations may provide for the harmonious development of the city and its environs, for the coordination of streets and other ways within the subdivided or platted land with other existing or planned streets and ways, or for conformance to the comprehensive plan or official map, for adequate open spaces, for spaces for traffic, utilities, recreation, light and air, and for the avoidance of congestion of population. Such regulations may include requirements as to the extent to which and the manner in which streets and other ways shall be graded and improved and water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to the approval of a subdivision of plat.

SECTION 5: Section 41.05.2. of the Code of Ordinances is hereby created as follows:

Sec. 41.05.2. Lines of mapped streets.

The Planning and Zoning Board may request the City to make or cause to be made, from time to time, surveys for the exact location of the lines of new, extended, or widened streets in any portion of the City, and to make and certify to the City Commission plats of the area thus surveyed, on which are indicated the location of the lines recommended by the Planning and Zoning Board as the planned or mapped lines of future streets, street extensions or street widenings, together with the Planning and Zoning Board's estimate of the time period within which the land shown on the plat or street locations should be acquired for street purposes. The City Commission may by ordinance adopt any such plat, in accordance with the procedure prescribed by state statute for the adoption of municipal ordinances, provided, that notice of the time and place when and where it will be considered for first reading and final passage, shall be sent by mail to the record owners of land on or abutting which the future street lines designated on the plat are located. Any modification of such plat shall before passage be submitted to the Planning and Zoning Board for examination and recommendation to the City Commission.

SECTION 6: Section 41.05.3. of the Code of Ordinances is hereby created as follows:

Sec. 41.05.3. Meetings of the Board.

- (1) Regular monthly meetings of the board shall be held on the last Wednesday of each month, but emergency or special meetings may be called throughout the year.
- (2) All meetings shall be public and a quorum shall consist of four members and notice shall be given by the secretary to each member of the board at least forty-eight hours in advance of said meeting.
- (3) The board shall adopt reasonable rules and regulations for the presentation of matters before the board.

SECTION 7: That Section 41.06. of Article III of Chapter 41 of the Code of Ordinances, is hereby amended as follows:

Sec. 41.06. ~~Planning-board-~~ Planning and Zoning Board to serve as local planning agency; officers, staff, budget, meetings, etc.

~~The planning-board-~~ Planning and Zoning Board of the City of Pompano Beach is hereby designated as the local planning agency for the City of Pompano Beach Comprehensive Plan. The agency has that title as defined under the Local Government Comprehensive Planning Act of 1975. The proper city officials are hereby directed to officially inform the ~~Division of State Planning of the State of Florida-~~ Department of Veteran and Community Affairs and the South Florida ~~Regional Planning Agency-~~ Council of the aforesaid designation. The agency shall choose its officers and set its rules of procedure. Clerical and secretarial staff for the local planning agency shall be provided by the administration of the City of Pompano Beach. The agency shall be funded by the city commission in the annual budget of the City of Pompano Beach. All meetings of the agency shall be public meetings and its records shall be public records. Regular meetings of the agency shall be ~~regularly-scheduled-and-held-twice-monthly-~~ held on the last Wednesday of each month. Special meetings may be called by the chairman of the agency when deemed appropriate. The agency shall encourage comments from any citizen regarding the plan and its development. All written comments will be acknowledged and will become a part of the public records of the agency. The agenda for each meeting of the agency shall be published at least three (3) days prior to the date of the meeting and copies made available at Pompano Beach City Hall. Each agenda shall contain an "audience to be heard" item where members of the audience may speak on any subject not on that meeting's agenda.

SECTION 8: That Section 41.10.(3) of Article IV of Chapter 41 of the Code of Ordinances, is hereby amended as follows:

Sec. 41.10.(3)

Board shall mean the ~~planning~~ Planning and Zoning Board of the City of Pompano Beach.

SECTION 9: That Sections 50.288., 50.289., 50.290., 50.291. of Article XIV., Chapter 50 of the Code of Ordinances are hereby repealed.

SECTION 10: That Article XIV. of Chapter 50 of the Code of Ordinances entitled "ZONING BOARD" shall be amended to read "ZONING PETITIONS."

SECTION 11: That Sections 50.287.(5), 50.292.1., 50.293., 50.293.1., 50.294., 50.294.1., of Article XIV. of Chapter 50 of the Code of Ordinances, and Sections 50.297., 50.298., of Article XV. of Chapter 50 of the Code of Ordinances shall be amended so that the term "zoning board" is replaced by the phrase "Planning and Zoning Board."


SECTION 12: If any section or provision of this ordinance shall be held invalid, such holding shall not affect or invalidate any other section or provision which is not of itself invalid.

SECTION 13: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 14: This Ordinance shall become effective upon passage.

PASSED FIRST READING this 25th day of May, 1982.

PASSED SECOND READING this 1st day of June, 1982.


HERB SKOLNICK MAYOR

ATTEST:


CHARLOTTE LUTZ

CITY CLERK

recommendations relative to the priority of items listed and their conformity to the comprehensive plan, for submission to the City Commission.

(4) Review and analyze all proposed subdivisions to assure that the development will be in conformance with the comprehensive plan, and prepare reports thereon for submission to the Planning and Zoning Board.

(5) Carry on research relative to existing subdivision and platting regulations and make recommendations to the Planning and Zoning Board concerning amendments or changes to these regulations.

(6) Investigate and examine all planning matters which have been referred to the Planning and Zoning Board.

(7) Make presentations on planning and zoning matters, before the City Commission, the Planning and Zoning Boards, and other governmental agencies and civic groups.

(8) To be responsible for determining the consistency of all governmental and private actions regarding the use and development of land with the comprehensive plan elements as adopted.

(9) Enforce the zoning code. This function may be performed by the Code Enforcement Officer and zoning inspectors under the supervision of the Director of Planning and Growth Management.

(10) Perform any other duties as prescribed in this code.

('58 Code, § 41.03)

(Ord. 75-16, passed 12-30-74; Am. Ord. 76-32, passed 3-2-76; Am. Ord. 82-1, passed 10-20-81)

Cross-reference:

Director of Planning and Growth Management, see § 31.18

§ 154.16 PLANNING AND ZONING BOARD.

(A) Creation. In accordance with section 234 of the Charter, there is hereby created the Planning and Zoning Board.

(B) (1) Members. There shall be seven members of the Planning and Zoning Board; all of which shall be city residents. Each Commissioner shall nominate for appointment one member who shall be a resident of the

nominating Commissioner's district; however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. The remaining two seats shall be filled by the City Commission. Thereafter, upon the expiration of a member's term, the Commissioner in whose district the vacancy occurs shall nominate for appointment, or in the event the vacancy was one of the two seats the City Commission appointed, the City Commission shall fill such vacancy. In the event of a vacancy other than by expiration of the term, the appointment to fill such vacancy shall be for the unexpired term. In accordance with section 234 of the Charter, the term of office of the members of the Planning and Zoning Board shall be three years except that of the seven members first appointed, two members shall be appointed for a term of one year; two shall be appointed for a term of two years; and three for a term of three years. Members of the Board shall serve without compensation. The Board shall elect a Chairman and Vice-Chairman from its members. The City Manager, City Attorney and other city officials are considered as advisors to the Planning and Zoning Board and may be called on from time to time to meet with the Board.

(2) The City Commission shall by resolution appoint three alternate members of the Planning and Zoning Board, to be designated as alternate 1, alternate 2, and alternate 3. Each alternate member shall be appointed for a term of three years, the terms to run concurrently. Vacancies shall be filled for the unexpired term of any alternate member by the City Commission. In case of temporary absence or disqualification of any member of the Planning and Zoning Board, the Chairman of the Board shall have the right and authority to designate one of the alternate members to serve as a substitute on the Planning and Zoning Board during the continuance of absence or disqualification. The Chairman shall rotate the assignments among the three alternate members, unless unavailability of an alternate or alternates makes rotation impossible. No substitute shall serve in such a capacity for a longer period than three months, nor shall more than two substitutes serve on the Planning and Zoning Board at any time. In cases where substitutes are designated to serve for such limited periods, that fact shall be recorded in the official minutes of the Planning and Zoning Board before the substitute shall act in any matter presented to the Board and, while serving, substitutes shall have the same powers as regular members.

(C) Meetings.

(1) Regular monthly meetings shall be held. The meeting date shall be established by the Board and set forth in the rules and regulations governing the presentation of matters before the Board, but emergency or special meetings may be called throughout the year.

(2) All meetings shall be public and a quorum shall consist of four members. Notice shall be given by the secretary to each member of the Board at least 48 hours in advance of the meeting.

(3) The Board shall adopt reasonable rules and regulations for the presentation of matters before the Board.

(D) Powers and duties. The powers and duties of the Planning and Zoning Board are as follows.

(1) To act as the local planning agency for the city and to fulfill the responsibilities of that agency as prescribed by the Local Government Comprehensive Planning Act (LGCPA) of 1975, F.S.A. §163.3161 et seq.

(2) To act in an advisory capacity with the Director of Planning and Growth Management to the City Commission in the formulation of the city's comprehensive plan and any amendments thereto as required by the LGCPA of 1975.

(3) To make recommendations and assist in the preparation of the official map of the city and to recommend proposed changes in the official map from time to time.

(4) To submit annually to the City Manager, not less than 90 days prior to the beginning of the budget year, a list of recommended capital improvements, which in the opinion of the Planning and Zoning Board are necessary or desirable to be constructed during the forthcoming six-year period. The list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.

(5) To promote public interest in an understanding of the comprehensive plan, and of planning, zoning, and community development.

(6) To keep a public record of its resolutions, findings, and determinations.

(7) To seek pertinent information from the other agencies of the city government through the City Manager in relation to the work of the Planning and Zoning Board.

(8) To request of the City Manager additional assistance for special studies who may at his discretion assign to the Planning and Zoning Board, members of the staff of any city department or direct the department to make special studies requested by the Planning and Zoning Board.

(9) To review all rezoning petitions and plats before they are presented to the City Commission to determine that all right-of-way necessary to meet the requirements of the city traffic ways plan and any other applicable city law, are designated as public right-of-way and dedicated to the city. Additionally the proposed plat or rezoning shall be reviewed for compliance with all other requirements of the city's comprehensive plan.

(10) To review any changes or amendments relating to the boundaries of the various zoning districts, or any changes in the text of the city's zoning regulations. No action may be taken by the City Commission until it has received a recommendation from the Planning and Zoning Board on a proposed zoning change or a proposed change in the text of the regulations of any zoning district.

(11) Other powers and duties as are or may be provided for elsewhere in this code, or as may be established from time to time by the City Commission. (Ord. 82-57, passed 6-1-82; Am. Ord. 83-10, passed 10-19-82; Am. Ord. 86-91, passed 9-30-86; Am. Ord. 95-45, passed 3-14-95; Am. Ord. 95-66, passed 5-23-95)

Cross-reference:

Planning and Zoning Board recommendations as to subdividing or platting of land, see § 154.19
Request for surveys of lines of mapped streets by Planning and Zoning Board, see § 154.21

§ 154.17 PLANNING AND ZONING BOARD AS LOCAL PLANNING AGENCY.

(A) The Planning and Zoning Board of the city is hereby designated as the Local Planning Agency for the city comprehensive plan. The Agency has that title as defined under F.S. §§ 163.3161 et seq. The proper city officials are hereby directed to officially inform the Department of Veteran and Community Affairs and the South Florida Regional Planning Council of this designation. The Agency shall choose its officers and set its rules of procedure. Clerical and secretarial staff for the Local Planning Agency shall be provided by the administration of the city. The Agency shall be funded by the City Commission in the annual budget of the city. All meetings of the Agency shall be public meetings and its records shall be public records. Regular meetings of the