



**TOWN OF HIGHLAND BEACH
ORDINANCE NO 18-004 O**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION”, BY ENACTING A NEW ARTICLE V “BOARDS AND COMMITTEES” TO CREATE UNIFORM RULES AND REGULATIONS RELATED TO THE VARIOUS TOWN BOARDS; BY AMENDING AND RENUMBERING ARTICLE V “CODE ENFORCEMENT BOARD”; BY CREATING A NATURAL RESOURCES PRESERVATION ADVISORY BOARD WITH RESPONSIBILITIES; BY CREATING A FINANCIAL ADVISORY BOARD WITH RESPONSIBILITIES; BY AMENDING CHAPTER 20 “PLANNING AND DEVELOPMENT” TO AMEND ARTICLE II “PLANNING BOARD” AND ARTICLE III “BOARD OF ADJUSTMENT AND APPEALS; ADMINISTRATION” IN ORDER TO CLARIFY RULES AND REGULATIONS RELATED TO THE BOARDS; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT; PROVIDING FOR CODIFICATION AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Highland Beach, Florida, is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the Town Commission wishes to modify, clarify, and create regulations governing its various boards; and

WHEREAS, the Town Commission hereby creates regulations applying to all boards, creates regulations relating to its existing Financial Advisory Board which was created by resolution, creates a new board called the Natural Resources Preservation Advisory Board, and modifies and clarifies regulations relating to its Code Enforcement Board, its Planning Board, and the Board of Adjustment and Appeals; and

WHEREAS, the Town Commission believes the amendments to the Town of Highland Beach Code of Ordinances as specified in this Ordinance are in the best interest of the Town of Highland Beach.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF HIGHLAND BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing facts and recitations contained in the preamble to this Ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2. The Town of Highland Beach Code of Ordinances, Chapter 2 “Administration”, is hereby amended to create a new Article V “Boards and Committees” to read as follows:

ARTICLE V. – BOARDS AND COMMITTEES

DIVISION 1. - GENERALLY

Sec. 2-96. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Board” or “board” shall mean and include any board or committee of the town, both regulatory and advisory, at least one (1) member of whom is appointed by the town commission, and which is established by ordinance or resolution. Board shall not be construed to include the town commission.

“Inadequate attendance” shall mean a member’s absence at three (3) or more consecutive regular meetings of a board. A member shall be deemed absent if the member attends less than 70% of a meeting, or a member is absent at 30% or more of the regularly scheduled meetings of a board during a calendar year.

“Member” shall mean an individual selected to serve on any board, whether regular or alternate, as appointed by the town commission.

Sec. 2-97. - Scope.

The provisions of this article shall apply to all boards, both regulatory and advisory, of the town and shall govern all members thereof, both regular and alternate.

Sec. 2-98. – Attendance at town commission meetings by the chairperson.

The chairperson of each town board shall be required to attend all town commission workshops and regular town commission meetings. In the event the chairperson is not able to attend a town commission workshop or regular meeting it is the duty of the chairperson to appoint a replacement member to attend. If the chairperson is unable to attend, the chairperson shall attempt to appoint the vice chairperson to attend the workshop or meeting and thereafter board members based on seniority. If there is not a representative from a board at a town commission workshop or regular town commission meeting, such absence shall be counted against the chairperson. The town commission workshops and regular town commission meetings shall be deemed regular meetings of the board as it relates to absences.

Sec. 2-99. - Removal of board members.

- (1) The town clerk shall certify to the town commission the inadequate attendance of any member and that the member has received written notification of the member's inadequate attendance. A member who has inadequate attendance shall be deemed automatically removed as a member of the board on the date that the town clerk provides certification to the town commission. The vacancy shall be filled in the same manner as the original selection.
- (2) (a) Except as provided under subsection (1), and except as otherwise provided by general or special law, a member of a board shall serve at the pleasure of the town commission notwithstanding that the member's appointment may be for a specified term. No member derives any property rights in the position on the board.

(b) The town commission may remove a board member appointed by the town commission for any reason or no reason by a majority vote of the membership of the town commission. The removal shall take effect immediately or upon any later date which the town commission may specify.

(c) The vacancy of an appointed board member shall be filled in the same manner as the original selection.

Sec. 2-100. - Procedure for appointment and filling vacancies; qualification for membership of boards and committees; terms.

- (1) Except as otherwise provided in this Code, appointments to boards shall be filled by the town commission in accordance with the following procedure:

 - (a) The chairperson of each board shall interview new applicants and reappointment applicants for the board and provide a recommendation to the town commission. Such recommendation shall be provided to the town clerk within a time frame so as to provide for the efficient appointment of board members.
 - (b) The town commission shall interview board members who desire reappointment and/or new applicants, regarding the vacancy to be filled.
 - (c) After the town commission has completed such interviews, it shall, in public session, select the person needed to fill such vacancy. A motion appointing a person to a town board shall require an affirmative vote of not less than a majority of the town commission.
- (2) As a condition of eligibility for appointment and to serve as a member of any board, a person shall be a resident of the town and shall meet such other eligibility requirements as may be established by ordinance or resolution. However, residency in the town shall not be required for membership by any town employee on a board.
- (3) A board member may become eligible for appointment to a different board by filing his/her conditional resignation with the town clerk, the effective date of which resignation shall be immediately upon appointment to a different board.
- (4) Unless otherwise provided in this Article, the term for all boards shall be three (3) years and no board member may serve more than two (2) consecutive terms on the same board without first taking a one (1) year hiatus from the board. Appointments for partial terms shall not count toward the two term limit.

Sec. 2-101. - Attendance records.

The town clerk shall maintain an attendance record of the members of all town boards which shall be furnished to the town clerk on a quarterly basis by each board.

Section 2. The Town of Highland Beach Code of Ordinances, Chapter 2 “Administration”, Article V “Boards and Committees” is amended by creating Divisions 2, 3, and 4 as follows:

~~ARTICLE V. CODE ENFORCEMENT BOARD⁽⁴⁾~~

DIVISION 2. - CODE ENFORCEMENT BOARD

Sec. 2-~~96~~110. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Code enforcement officer means any authorized agent or employee of the town whose duty it is to ensure code compliance.

Enforcement board means the town code enforcement board.

Special magistrate means an attorney admitted to the Florida Bar who possesses experience in zoning and land use law, building control and administrative law, and has been designated by the town commission with the power and authority to hold hearings and assess fines against violators of the town codes. In such instances, the special magistrate shall act in lieu of the code enforcement board.

Sec. 2-~~97~~111. - Intent

It is the intent of this article to promote, protect and improve the health, safety and welfare of the citizens of the town by providing an equitable, expeditious, effective and inexpensive method of enforcing the hereinafter described codes of the town.

Sec. 2-~~98~~112. - Applicability.

- (a) The code enforcement board or special magistrate shall enforce and have jurisdiction to enforce all technical codes in force in the town, including, but not limited to, occupational license, fire, building, zoning and sign codes. Effective with the adoption of Ordinance No. 11-001-O, the code enforcement board shall be reestablished and shall have jurisdiction to enforce all technical codes in force in the town in place of the special magistrate.
- (b) The code enforcement officer may, in his/her discretion, refer violations of this Code to the court having jurisdiction in the county.

Sec. 2-~~99~~113. - Organization.

- (a) *Generally.* The town commission shall appoint a seven-member code enforcement board and legal counsel for the board or, may appoint a special magistrate in place of the code enforcement board.
- (b) *Residency requirement; appointments.* Members of the enforcement board shall be residents of the town. Appointments shall be made on the basis of experience or interest in the fields of zoning and building control. The membership of the enforcement board shall, whenever possible, include:
 - (1) An architect;
 - (2) A businessman;
 - (3) An engineer;
 - (4) A general contractor;
 - (5) A subcontractor; and
 - (6) A realtor.
- (c) *Terms of office; vacancies; absence from meetings.* All appointments to the enforcement board shall be made for staggered terms of three (3) years. A member may be reappointed for one successive term upon approval of the town commission, except that no member may serve for more than six (6) consecutive years. Appointments to fill any vacancy on the enforcement board shall be for the remainder of the unexpired term of office. ~~If any member fails to attend two (2) of three (3) successive meetings without cause and without prior approval of the chairman, the enforcement board shall declare the member's office vacant, and the town commission shall promptly fill such vacancy.~~
- (d) ~~*Chairman*~~*Chairperson; quorum; compensation.* The members of the enforcement board shall elect a ~~chairman~~ chairperson, who shall be a voting member, from among its members. The presence of four (4) or more members shall constitute a quorum of the enforcement board. ~~Members shall serve without compensation, but may be reimbursed for such travel expenses, mileage expenses, per diem expenses and such honorariums as are received by members of other appointed boards, as may be authorized by the town commission.~~
- (e) *Counsel.* The town attorney firm shall either be counsel to the enforcement board or ~~shall~~ may assist staff in ~~represent the town by~~ presenting cases before the board.
- (f) *Special magistrate.* A special magistrate shall be an attorney admitted to the Florida Bar who possesses experience in zoning and land use law, building control, code enforcement, and administrative law. A special magistrate shall not be a town employee, but shall enter into an agreement to provide professional services at a rate established by the town commission. The town shall provide necessary and reasonable clerical and administrative support to enable a special magistrate to perform his or her duties. A special magistrate shall not be authorized to hire or use the services of any other person except those provided by the town to assist him or her in the performance of his or her duties.

Sec. 2-10014. - Enforcement procedure.

- (a) It shall be the duty of the code inspector to initiate enforcement proceedings of the various codes and ordinances; however, no member of the enforcement board nor the special magistrate shall have the power to initiate such enforcement proceedings.
- (b) Except as provided in subsection (c), if a violation of the codes or ordinances is found, the code enforcement officer shall notify the violator and give him a reasonable time to correct the violation. Should the violation continue beyond the time specified for correction, the code enforcement officer may utilize whatever powers are available to him under the town building code and related codes or may notify the enforcement board or the special magistrate and request a hearing pursuant to the procedure in section 2-10115. Written notice of such hearing shall be mailed or delivered to the violator, and posted, as provided in section 2-10620. If the violation is corrected and then recurs or if the violation is not corrected by the time specified for correction by the code enforcement officer, the case may be presented to the enforcement board or the special magistrate even if the violation has been corrected prior to the board hearing, and the notice shall so state.
- (c) If the code enforcement officer has a reason to believe a violation presents a serious threat to the public health, safety and welfare, the code enforcement officer shall make a reasonable effort to notify the violator and may utilize whatever powers are available to him under the town building code and related codes or may proceed directly to the procedure in section 2-10115.

Sec. 2-10115. - Conduct of hearing.

- (a) Upon request of the code enforcement officer, the town manager may call hearings of the enforcement board. Minutes shall be kept of all hearings by the enforcement board or the special magistrate and all hearings shall be open to the public. The town clerk shall provide clerical and administrative personnel as may be reasonably required by the enforcement board or the special magistrate.
- (b) Each case before the enforcement board or the special magistrate shall be presented by either the town attorney firm or by a member of the town's administrative staff.
- (c) The enforcement board or the special magistrate shall proceed to hear the cases on the agenda for that day. All testimony shall be under oath and shall be recorded. The enforcement board or the special magistrate shall take testimony from the code enforcement officer and the alleged violator. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings.
- (d) At the conclusion of the hearing, the enforcement board or the special magistrate shall issue findings of fact, based on evidence of record and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted herein. The order may include a notice that it must be complied with by a specified date and that a fine may be imposed if the order is not complied with by that date.

Sec. 2-10216. - Powers.

The enforcement board or the special magistrate shall have the power to:

- (1) Adopt rules for the conduct of its hearings;

- (2) Subpoena alleged violators and witnesses to its hearings. Subpoenas may be served by the town's police department;
- (3) Subpoena evidence;
- (4) Take testimony under oath;
- (5) Issue orders having the force of law commanding whatever steps are necessary to bring a violation into compliance;
- (6) Perform such other duties, in an advisory capacity, as directed by the Town Commission.

Sec. 2-10317. - Administrative fines.

- (a) *Generally.* The code enforcement board or the special magistrate, upon notification by the code enforcement officer that an order of the code enforcement board or the special master has not been complied with by the set time, or upon the finding that a repeat violation has been committed, may order the violator to pay a fine in an amount specified in this section for each day the violation continues past the date set for compliance or, in the case of a repeat violation, for each day the repeat violation continues, beginning with the date the repeat violation is found to have occurred by the code enforcement officer.
- (b) *Amount of fines.*
 - (1) A fine imposed pursuant to this section shall not exceed two hundred fifty dollars (\$250.00) per day for a first violation and shall not exceed five hundred dollars (\$500.00) per day for a repeat violation. If the code enforcement board or the special magistrate finds the violation to be irreparable or irreversible in nature, the code enforcement board or the special magistrate may impose a fine not to exceed five thousand dollars (\$5,000.00) per violation.
 - (2) In determining the amount of the fine, if any, the code enforcement board or the special magistrate shall consider the following factors:
 - a. The gravity of the violation;
 - b. Any actions taken by the violator to correct the violation; and
 - c. Any previous violations committed by the violator.
 - (3) The code enforcement board or the special magistrate may reduce a fine imposed pursuant to this section.
- (c) *Administrative costs related to the prosecution of code enforcement cases.* Costs incurred by the town in the successful prosecution of a code enforcement case shall be assessed against the violator pursuant to F.S. § 162.07(2). The amount of these costs shall be set from time to time by resolution of the town commission. The code enforcement board or the special magistrate shall not have authority to reduce or eliminate the administrative costs assessed against a violator pursuant to this section.
- (d) *Fine imposed.* A certified copy of an order imposing a fine may be recorded in the public records and thereafter shall constitute a lien against the land on which the violation exists and upon any other real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of

this state, including levy against personal property, but such order shall not be deemed to be a court judgment except for enforcement purposes. A fine imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on a lien pursuant to this section, whichever occurs first. A lien arising from a fine imposed pursuant to this section runs in favor of the town, and the mayor may execute a satisfaction or release of lien entered pursuant to this section. However, the town commission shall not review an order of the code enforcement board or special magistrate. Only the code enforcement board or the special magistrate have the power to reduce code enforcement liens (but not administrative costs) pursuant to the provisions contained in this article. The mayor shall execute a satisfaction or release of lien upon direction of the building official. After three (3) months from the filing of any such lien which remains unpaid, the code enforcement board or the special magistrate may authorize the town attorney to foreclose on the lien. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead property under Section 4, Article X of the Florida State Constitution.

Sec. 2-10418. - Duration of lien.

No lien provided under this article shall continue for a period longer than twenty (20) years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

Sec. 2-10519. - Appeals.

An aggrieved party, including the town commission, may appeal a final administrative order of the enforcement board or the special magistrate to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the enforcement board or the special magistrate. An appeal shall be filed within thirty (30) days of the execution of the order to be appealed.

Sec. 2-10620. - Notices.

All notices required by this article shall be by certified mail, return receipt requested; by hand delivery by the code enforcement officer, sheriff or other law enforcement officer, or other person designated by the commission; and/or by other methods provided for in F.S. § 162.12, including posting, publication and substitute service.

Sec. 2-10721. - Provisions of Local Government Code Enforcement Boards Act supplemental.

It is the legislative intent of F.S. §§ 162.01—162.12 to provide an additional or supplemental means of obtaining compliance with local codes. Nothing contained in such sections shall prohibit the town commission from enforcing its codes by any other means.

DIVISION 3. – NATURAL RESOURCES PRESERVATION ADVISORY BOARD

Sec. 2-135. - Created; composition; terms of office.

A natural resources preservation advisory board is hereby created, consisting of seven (7) members, each of whom shall be appointed by the town commission for a term of three (3) years. The regular term of a board member shall commence on May 1 and shall expire on April 30 of the third year following appointment. Each member of the board shall serve until the expiration of the member's term, or until a successor is appointed. The town commission shall initially appoint members for staggered terms; however, no terms shall extend beyond six (6) consecutive years. In the event a member is appointed for a term that will continue beyond the six (6) consecutive years limit, the member shall be allowed to complete the term.

Sec. 2-136. - Qualifications for membership.

Members of the natural resources preservation advisory board shall be appointed from the residents of the town who shall be knowledgeable concerning environmental issues and problems, and concerned with the need to effect reasonable solutions thereto. Membership of the board may be composed of both laymen and professional representatives from such related fields of study as are pertinent to the scope of environmental problems, including the fields of law, biology, chemistry and engineering.

Sec. 2-137. - Vacancies.

Vacancies on the natural resources preservation advisory board shall be filled by appointment of the town commission for the unexpired term of the membership vacated pursuant to section 2-100 et seq.

Sec. 2-138. - Organization; rules of procedure; quorum; records.

- (a) An organizational meeting of the natural resources preservation advisory board shall be held on May 1 of each year, or as soon thereafter as is practicable, for the purpose of electing officers for the ensuing year. A chairperson and vice-chairperson shall be elected for a one year term by the board. The board may adopt rules of procedure to govern the conduct of its business. At least one (1) regular meeting of the board shall be held each quarter, and special meetings may be called by the chairperson or by any three (3) members of the board.
- (b) Four (4) members in attendance shall constitute a quorum.
- (c) Minutes shall be kept of the proceedings at each meeting and shall record the official acts taken by the board. All meetings, records and files of the board shall be open and available to the public.

Sec. 2-139. - Purpose.

The purpose of the natural resources preservation advisory board shall be to provide constructive advice and counsel to town departments and boards, and to the town commission, with a broad outlook toward environmental and natural resources preservation, protection, and conservation.

Sec. 2-140. - Powers and duties.

The powers and duties of the natural resources preservation advisory board shall include the following:

- (a) Coordinate activities related to regular beach clean-up events.
- (b) Assist the Sea Turtle program with activities related to the program and recruitment of volunteers.
- (c) Review existing and proposed town ordinances which affect the environment, and advise the town commission regarding the need for modifications or changes to such ordinances.
- (d) Assist in the effort to encourage homeowners and associations to keep adequate levels of vegetation on the beach in order to avoid erosion.
- (e) Promoting green landscaping and advocating environmental concerns relating to plastics, etc.
- (f) Make recommendations about regulations related to beach cleaning as the board sees fit.
- (g) Assist the town commission, upon the commission request, with items and issues related to waterways within the corporate limits of Highland Beach including boat wakes, manatee protection and mangroves.
- (h) Perform other reviews as assigned or requested by the town commission.

Sec. 2-141. - Advisory capacity.

The actions decisions and recommendations of the natural resources preservation advisory board shall not be final or binding on the town commission but shall be advisory only.

DIVISION 4. - FINANCIAL ADVISORY BOARD

Sec. 2-155. - Created; composition; terms of office.

A financial advisory board is hereby created, consisting of seven (7) members, each of whom shall be appointed by the town commission for a term of three (3) years. The regular term of a board member shall commence on May 1 and shall expire on April 30 of the third year following appointment. Each member of the board shall serve until the expiration of the member's term, or until a successor is appointed. The town commission shall initially appoint members for staggered terms; however, no terms shall extend beyond six (6) consecutive years. In the event a member is appointed for a term that will continue beyond the six (6) consecutive years limit, the member shall be allowed to complete the term.

Sec. 2-156. - Qualifications for membership.

Members of the financial advisory board shall be appointed from the residents of the town who shall have expertise applicable to municipal finance issues and problems and who shall be concerned with the need to effect reasonable solutions thereto. Membership of the board may be composed of both laymen and professional representatives from such related fields of study as are pertinent to the scope of municipal finance, including the fields of law, accounting, and finance.

Sec. 2-157. - Vacancies.

Vacancies on the financial advisory board shall be filled by appointment of the town commission for the unexpired term of the membership vacated pursuant to section 2-100 et seq.

Sec. 2-158. - Organization; rules of procedure; quorum; records.

(a) An organizational meeting of the financial advisory board shall be held on May 1 of each year, or as soon thereafter as is practicable, for the purpose of electing officers for the ensuing year. A chairperson and vice-chairperson shall be elected for a one year term by the board. The board may adopt rules of procedure to govern the conduct of its business. At least one (1) regular meeting of the board shall be held each quarter, and special meetings may be called by the chairperson or by any three (3) members of the board.

(b) Four (4) members in attendance shall constitute a quorum.

(c) Minutes shall be kept of the proceedings at each meeting and shall record the official acts taken by the board. All meetings, records and files of the board shall be open and available to the public.

Sec. 2-159. - Purpose.

The purpose of the financial advisory board shall be to provide constructive advice and counsel to town departments and boards, and to the town commission regarding the budget, capital improvement programs and recommendations regarding practices and procedures related to benefiting the financial condition of the town.

Sec. 2-160. - Duties and powers.

(1) The financial advisory board shall have the following duties, powers and responsibilities:

(a) Conduct ongoing, selective review of the annual budget and capital improvement programs with a view towards recommendations on format and content.

(b) Review the annual financial audit report and management letter concerning the town's fiscal status, practices and procedures. Copies of the report shall be forwarded by the town manager to the board promptly after receipt from the auditor. The board shall provide its comments and recommendations, including any pertinent comments relative to the status of all town special and reserve funds, within thirty (30) days after receipt of the audit report from the town manager.

(c) Perform special studies upon the board's own initiative or upon the request of the town commission on matters that could either directly or potentially have financial impact upon

the town or could provide financial aid or assistance to the town. Such studies may include, but not be limited to, the interim as well as long-term aspects of the budgetary process, proposed legislation, programs, policies or regulations of other governmental bodies or agencies.

- (2) Except as may be specifically provided by other ordinances of the town, the actions, decisions and recommendations of the financial advisory board shall not be final or binding on the town commission but shall be advisory only.

Section 4. The Town of Highland Beach Code of Ordinances, is hereby amended by amending Chapter 20 “Planning and Development”, Article II “Planning Board” and Article III “Board of Adjustment and Appeals; Administration” as follows:

ARTICLE II. - PLANNING BOARD

Sec. 20-26. - Established; membership; function.

- (a) A planning board is hereby established. Such board shall consist of seven (7) regular members appointed by the town commission. Prior to appointment, all applicants must complete the town's application form and must be residents of the town. The members shall serve staggered terms commencing with the date of their appointment. All regular appointments shall be made for a term of three (3) years. ~~No member shall serve for more than six (6) consecutive years. Members may miss no more than three (3) consecutive regular meetings. Unexcused absence from three (3) consecutive regular meetings will be considered as resignation subject to automatic acceptance. Excused absences may be given in the discretion of the chairman and must be noted in the minutes of the missed meeting or the meeting immediately thereafter.~~
- (b) The planning board shall review all matters of community planning, site plan reviews, plat reviews for subdivisions and any other division of land, with a recommendation of approval, approval with conditions or disapproval by a majority vote being submitted to the building official for transmittal to the town commission. Prior to such submittal, all plans shall be signed by the members, with their voting noted, and dated. ~~Acting as the local planning agency, the planning board shall be responsible for annual reviews of the comprehensive plan and zoning code, making recommendations to the town commission.~~
- (c) The planning board shall process plans in the manner described in Chapter 30 of this Code. See also Chapter 30 regarding application for building permit and regarding certificates of occupancy.
- (d) The planning board shall keep minutes of all meetings. The minutes shall be signed by all members of the planning board and retained in the ~~building department of the town clerk's office.~~ A chairman chairperson and other officers deemed necessary to the operation of the board shall be elected yearly for one-year terms by the planning board members.
- (e) Meetings of the planning board shall be held at the call of the town manager.

Sec. 20-27. - Qualifications; filling vacancies; compensation; rules.

The town commission shall by resolution establish qualifications of planning board members, provide for filling vacancies and removal, provide for compensation, and provide for rules governing the proceedings of the planning board.

Sec. 20-28. - Designation of local planning agency.

- (a) The town hereby declares its intent to exercise authority granted by F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.).
- (b) The planning board is hereby designated as the local planning agency pursuant to F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.).
- (c) The local planning agency shall prepare a comprehensive plan pursuant to F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), after hearings to be held after due public notice and shall make recommendations to the town commission regarding the adoption of such plan or element or portion thereof.

ARTICLE III. - BOARD OF ADJUSTMENT AND APPEALS; ADMINISTRATION

Sec. 20-46. - Membership; terms; removal; filling of vacancies.

A board of adjustment and appeals having been established pursuant to the town's adoption of F.S. ch. 163, pt. II (F.S. § 163.3161 et seq.), shall consist of seven (7) members designated as such to be appointed by the town commission, each for a term of ~~at least~~ three (3) years, ~~but not more than five (5) years~~. No member shall serve for more than six (6) consecutive years. ~~Members of the board may be removed from office for cause by the town commission on written charges and after a public hearing. Appointed members may miss no more than three (3) consecutive meetings unexcused. Absence from three (3) consecutive meetings will be considered as resignation subject to automatic acceptance. Excused absences may be given in the discretion of the chairman and must be noted in the minutes of the missed meeting or the meeting immediately thereafter.~~ Vacancies shall be filled by the town commission within thirty (30) days after the vacancy occurs for the unexpired term of the member affected. No member of the board shall be an official or employee of the town.

Sec. 20-47. - Organization; rules; records.

The board of adjustment and appeals shall elect a ~~chairman~~person and vice-~~chairman~~person and shall appoint a secretary who may be an officer or employee of the town. Terms of all officers shall be for one year with eligibility for reelection. The board shall adopt rules for transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which shall be public record. The board shall keep minutes of its proceedings, showing the vote of each member on each question, or if absent or failing to vote indicating such fact.

Sec. 20-48. - Meetings; filing of minutes.

Meetings of the board of adjustment and appeals shall be held at the call of the town manager. Minutes of the board shall be filed promptly ~~by the secretary in a secure place with the~~ Town Clerk.

Sec. 20-49. - Copies of all business; distribution.

Copies of every application and appeal, notice of public hearing, and resolution of the board of adjustment and appeals shall be forwarded to each member of the town commission and ~~planning commission~~ board if the development will be presented to the town commission or planning board.

Sec. 20-50. - Funding; establishment of fees.

The town commission is authorized and empowered to appropriate such funds as it may see fit for honoraria, fees and expenses necessary in the conduct of the work of the board of adjustment and appeals. The town commission is authorized and empowered to establish a schedule of fees to be charged by the board.

Sec. 20-51. - Inspections.

The board of adjustment and appeals ~~shall~~ may conduct on-site inspections in conjunction with all applications for variances and for administrative review.

Section 5. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Repeal of Laws in Conflict. All ordinances or parts of ordinances, or all resolutions or parts of resolutions, in conflict herewith are hereby repealed to the extent of such conflict.

Section 7. Codification. Section 2 of the Ordinance may be made a part of the Town Code of Ordinances and may be re-numbered or re-lettered to accomplish such, and the word “ordinance” may be changed to “section,” “division,” or any other appropriate word.

Section 8. Effective Date. This Ordinance shall be effective immediately upon adoption at second reading.

The foregoing Ordinance was moved by Commissioner Riesa, seconded by Commissioner Zelniker and upon being put to the vote, the vote was as follows:

	AYE	NAY	
Mayor Carl Feldman	<u> </u>	<u> X </u>	<u>Carl Feldman</u>
Vice Mayor Alysén A. Nila	<u> X </u>	<u> </u>	<u>Alysen Nila</u>
Commissioner Rhoda Zelniker	<u> X </u>	<u> </u>	<u>Rhoda Zelniker</u>
Commissioner Elyse Riesa	<u> X </u>	<u> </u>	<u>Elyse Riesa</u>
Commissioner Peggy Gossett-Seidman	<u> X </u>	<u> </u>	<u>Peggy Gossett-Seidman</u>

PASSED on first reading at the Regular Commission meeting held on this 1st day of May, 2018.

The foregoing Ordinance was moved by Commissioner Zelniker, seconded by Commissioner Riesa and upon being put to the vote, the vote was as follows:

	AYE	NAY	
Mayor Carl Feldman	<u> </u>	<u> ✓ </u>	<u>Carl Feldman</u>
Vice Mayor Alysén A. Nila	<u> ✓ </u>	<u> </u>	<u>Alysen Nila</u>
Commissioner Rhoda Zelniker	<u> ✓ </u>	<u> </u>	<u>Rhoda Zelniker</u>
Commissioner Elyse Riesa	<u> ✓ </u>	<u> </u>	<u>Elyse Riesa</u>
Commissioner Peggy Gossett-Seidman	<u> ✓ </u>	<u> </u>	<u>Peggy Gossett-Seidman</u>

PASSED AND ADOPTED on second and final reading at the Regular Commission meeting held on this 5th day of June, 2018.

ATTEST:

By: Lanelda Gaskins
Lanelda Gaskins, MMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY:

By: Pamela H. Ryan
Pamala H. Ryan, Town Attorney