

**ORDINANCE NO. 04-15**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, AMENDING ARTICLE II OF CHAPTER 2 OF THE CODE OF ORDINANCES OF DEBARY TO DELETE AND RESERVE SECTIONS 2-46 THROUGH 2-65 REGARDING THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY; PROVIDING FOR THE ELIMINATION OF THE PLANNING AND ZONING COMMISSION; AMENDING CHAPTER 1, SECTION 1-5 OF THE LAND DEVELOPMENT CODE RELATING TO ADMINISTRATION TO CODIFY AND COMPORT WITH STATUTORY REQUIREMENTS FOR THE ADDITION OF A NONVOTING SCHOOL BOARD MEMBER REPRESENTATIVE FOR CERTAIN REZONINGS AND COMPREHENSIVE PLAN AMENDMENTS AND TO DESIGNATE AND AFFIRM THAT THE CITY COUNCIL SHALL SERVE AS THE LOCAL PLANNING AGENCY; AMENDING CHAPTER 1, SECTION 1-6 OF THE LAND DEVELOPMENT CODE RELATING TO REZONINGS TO DELETE THE REQUIREMENT FOR PLANNING AND ZONING COMMISSION RECOMMENDATIONS; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of DeBary (the “City”) has previously utilized a planning and zoning commission and local planning agency to perform recommendatory and other services to the City Council; and

**WHEREAS**, the City Council has determined that significant City resources, time, and expenditures could be conserved and various procedures and processes could be streamlined and simplified in the event the planning and zoning commission is eliminated and the City Council, in accordance with Florida law, performs all functions of the local planning agency; and

**WHEREAS**, the City Council finds that the elimination of the planning and zoning commission and the City Council’s performance of all duties of the local planning agency is in the best interest of the City and for future development, including but not limited to, preservation, appropriate use of land, water, and resources, and for efficient resolution of problems relating to development of land within the City; and

**WHEREAS**, the City desires to amend the City’s Code of Ordinances to eliminate the planning and zoning commission. Moreover, the City desires to clarify, designate, and reaffirm relevant provisions of the City of DeBary Land Development Code to provide that the City Council shall serve all functions of the local planning agency and to codify statutory requirements that when the City Council serves as the local planning agency for certain

comprehensive plan amendments and rezonings, the addition of a nonvoting school board member representative is required in chapter 163, Florida Statutes.

**IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:**

**SECTION I.** Chapter 2, Article II, Sections 2-46 through 2-65 of the Code of Ordinances of the City of DeBary is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

~~DIVISION 2. PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY~~

~~Sec. 2-46. Organization and intent.~~

~~The planning and zoning commission (P&Z)/local planning agency (LPA) is hereby created. It is the duty of the planning and zoning commission/local planning agency to encourage the most appropriate use of land consistent with the public interest.~~

- ~~(a) — The members of the planning and zoning commission/local planning agency shall be directly responsible to the city council and shall be a recommendatory agency with respect to the council. The commission shall be funded by the city council in a manner consistent with city's budgetary process and subject to the discretion of the city council.~~
- ~~(b) — Pursuant to F.S. § 163.3174, the planning and zoning commission shall also constitute the city's local planning agency.~~
- ~~(c) — It is the intent of this division to direct the planning and zoning commission/local planning agency to preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use or development of land within their jurisdiction.~~
- ~~(d) — The planning and zoning commission shall elect its chairman from among its members. The term of such office shall be one year with eligibility of reelection. The chairman remains a voting member of the commission with authority to make motions and to second motions.~~
- ~~(e) — The planning and zoning commission shall adopt rules necessary to the conduct of its affairs, and in keeping with this division.~~

~~Sec. 2-47. Designation of members of the agency; place of residency and terms of office.~~

- ~~(a) — The city council shall appoint the planning and zoning commission/local planning agency, which shall serve as a volunteer advisory board. Each council member shall nominate a board member for a term of four years ending on December 31st. A member may be reappointed upon approval by city council. There shall be no term limits for~~

~~planning and zoning commission/local planning agency members. The commission/agency shall have five voting members and each member shall reside within the city limits. No elected official, appointed state, county office holder, member of other city boards or commissions, or employees of city government shall be appointed to serve on the commission. The commission/agency shall also include a representative of the school district appointed by the school board as a nonvoting member.~~

- ~~(b) — The presence of three or more members shall constitute a quorum of the agency. Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the city council, or as otherwise provided by law.~~
- ~~(c) — The city attorney shall serve as counsel to the commission/agency.~~
- ~~(d) — Vacancies and removal: Appointments to fill any vacancy on the planning and zoning commission/local planning agency shall be for the remainder of the unexpired term of office. If any member fails to attend two of the three successive meetings without cause and without prior approval of the chairperson, the board should declare the member's office vacant and the city council shall promptly fill such vacancy.~~

~~Sec. 2-48. — Area of authority.~~

~~The planning and zoning commission/local planning agency shall exercise authority under this division within the entire city limits of the city.~~

~~Sec. 2-49. — Duties of commission/agency members.~~

- ~~(a) — The local planning agency shall have the following powers, duties, responsibilities and limitations.~~
  - ~~(1) — Through the process of comprehensive planning, it is intended that the local planning agency preserve, promote, protect, and improve the public health, safety, comfort, good order, appearance, convenience, law enforcement and fire prevention, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, recreational facilities, housing, and other requirements and services; and conserve, develop, utilize, and protect natural resources within their jurisdiction.~~
  - ~~(2) — The local planning agency shall perform the duties as established by F.S. § 163.3171 and review and make recommendations to the city council on all amendments to the comprehensive plan.~~
  - ~~(3) — The local planning agency shall be responsible for preparation of the comprehensive plan after hearing to be held after due public notice.~~

- ~~(4) — The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program.~~
  - ~~(5) — During the preparation of the plan the agency shall hold at least one public hearing with due public notice, on the proposed plan.~~
  - ~~(6) — All meetings of the local planning agency shall be public meetings, and agency records shall be public records.~~
- ~~(b) — The planning and zoning commission shall have the following powers, duties, responsibilities and limitations.~~
- ~~(1) — The planning and zoning commission may take a proactive role in drafting, reviewing and making recommendations to the city council as they relate to new zoning ordinances, amendments to existing zoning ordinances and amendments to the city's official zoning map.~~
  - ~~(2) — Both public and privately initiated proposed changes to the city's land development regulations, zoning classifications and zoning map shall be reviewed and recommended by the planning and zoning commission.~~
  - ~~(3) — The planning and commission shall also review and provide recommendations regarding variance and special exception requests.~~
  - ~~(4) — The planning and zoning commission shall hold a public hearing with due public notice to consider the proposed request/change and submit in writing its recommendation of the proposed change to city council for official action. All meetings of the commission shall be public meetings and all records shall be public.~~

Secs. ~~2-502-46-2-65~~. – Reserved.

**SECTION II.** Chapter 1, Section 1-5, **ADMINISTRATION** of the City of DeBary Land Development Code is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 1-5. – Administration.

- (a) *City Council.* The City Council is the governing body of the City, established and operating in accordance with law. The City Council shall have the following duties and responsibilities under this Code:
  - (1) The City Council shall serve as the Local Planning Agency (LPA) for all purposes and as provided in F.S. ch. 163, pt. II (F.S. § 163.2511 et seq.), and shall perform all duties and comply with the requirements established therein, including responsibility for review of the Land Development Code for consistency with the

adopted Comprehensive Plan. The LPA shall include a nonvoting school board representative member for certain comprehensive plan amendments and rezonings as provided by and in accordance with Florida law.

All other provisions shall remain the same.

**SECTION III.** Chapter 1, Section 1-6, **REZONING** of the City of DeBary Land Development Code is hereby amended to read as follows (words that are ~~stricken out~~ are deletions; words that are underlined are additions):

Sec. 1-6. – Rezoning.

(a) *Procedure.*

\* \* \*

(4) The City Council will review the request at a public hearing ~~following a recommendation by the City's Planning and Zoning Commission~~ and following public notice a required by law and by this Code, and will approve, deny, or approve with modifications.

All other provisions shall remain the same.

**SECTION IV. SEVERABILITY.** If any section or portion of a section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to impair the validity, force, or effect of any other section or part of a section of this Ordinance.

**SECTION V. CONFLICTS.** This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

**SECTION VI. CODIFICATION.** It is the intention of the City Council of the City of DeBary, Florida, and it is hereby ordained that Section I of this Ordinance shall become and be made a part of the Code of Ordinances of the City of DeBary, Florida.

**SECTION VII. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its passage and adoption.

**PASSED** on first reading the \_\_\_ day of \_\_\_\_\_, 2015.

**PASSED AND ADOPTED** on the second and final reading the \_\_\_ day of \_\_\_\_\_, 2015.

**CITY COUNCIL  
CITY OF DEBARY, FLORIDA**

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Clint Johnson, Mayor

**ATTEST:**

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Dan Parrott, Acting City Clerk