

ORDINANCE NO. 2023 - 011

AN ORDINANCE OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA, PERTAINING TO LAND USE; AMENDING SECTIONS 9.00.00 THROUGH 9.04.00, INCLUSIVE, OF THE TOWN'S LAND DEVELOPMENT CODE (LDC); CLARIFYING THAT CHAPTER 9 OF THE LDC APPLIES ONLY TO BOARDS AND COMMITTEES INVOLVED IN LAND-DEVELOPMENT MATTERS; CLARIFYING THAT DEVELOPMENT REVIEW COMMITTEE (DRC) MEETINGS ARE OPEN TO THE PUBLIC AND REQUIRED TO INCLUDE PUBLIC COMMENT ON AGENDA ITEMS; MAKING OTHER CHANGES TO PROVISIONS GOVERNING THE DRC; CLARIFYING NUMEROUS PROVISIONS RELATED TO APPOINTMENTS, TERMS, QUORUMS, AND VACANCIES FOR LAND-DEVELOPMENT BOARDS AND COMMITTEES; REVISING PROVISIONS PERTAINING TO VOTING CONFLICTS OF INTEREST ON THE PART OF BOARD AND COMMITTEE MEMBERS TO INCORPORATE THE STATE ETHICS CODE FOR PUBLIC OFFICERS; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HOWEY-IN-THE-HILLS, FLORIDA:

Section 1. Sections 9.00.00 through 9.04.00, comprising Chapter 9 of the Land Development Code of the Town of Howey-in-the-Hills, are amended to read:

9.00.00 REQUIREMENTS FOR ALL LAND-DEVELOPMENT BOARDS AND COMMITTEES

9.00.01 Appointment, Term of Office, and General Membership Requirements

- A. All members of the Planning & Zoning Board shall be appointed by the Town Council.
- B. The Planning & Zoning Board shall have the opportunity to review each applicant's resume and make a recommendation on the appointment.
- C. All members shall reside within the Town limits, with the exception of members of the Development Review Committee.
- D. Unless expressly stated otherwise in this LDC, Town Council members shall not be eligible to serve on other Town boards or committees.
- E. Town employees shall only be eligible to serve on the Development Review Committee.

- 46 F. Each member of the Planning & Zoning Board and Development Review Committee
47 serves at the pleasure of the Town Council.
48 G. The term of office for Planning & Zoning Board members shall be three ~~(3)~~ years, but
49 members may serve until a successor is appointed.
50 H. Planning & Zoning Board members may seek re-appointment by applying for the new
51 term with other applicants who are interested in the position.
52

53 **9.00.02 Attendance**

- 54
55 A. Each Planning & Zoning Board member shall attend all regular and called meetings.
56

57 **9.00.03 Officers and Committees**

- 58
59 A. Each board or committee shall have a chairperson and a vice chairperson. For the
60 Board of Adjustment, the chairperson shall be the Mayor and the vice chairperson
61 shall be the Mayor Pro Tem.
62 B. The Planning and Zoning Board chairperson and vice chairperson shall serve one-
63 year one (1) year terms. Officers shall not serve more than two ~~(2)~~ consecutive terms.
64 C. The Planning & Zoning Board may create whatever committees it deems necessary to
65 carry out its purposes. The chairperson of the board shall appoint the membership of
66 each committee from the members of that board.
67

68 **9.00.04 Planning & Zoning Board ~~Removal and~~ Vacancies**

- 69
70 A. When a position on the Planning & Zoning Board becomes vacant before the end of
71 the term, the Town Council shall appoint a member to fill the vacancy for the
72 duration of the term.
73 B. When a term is two months from expiring, the Town shall accept applications for the
74 position and shall endeavor to fill the position so that the new board member starts at
75 the meeting following the term's end.
76 C. When ~~the~~ an unexpired term is two ~~(2)~~ months or less, the Town Council may appoint
77 a new member to fill both the unexpired term and the following full term.
78 D. ~~A When a member who~~ moves outside the Town or otherwise no longer meets
79 eligibility requirements for membership the Town Council shall declare the seat
80 vacant and proceed accordingly ~~shall be removed immediately.~~
81 E. Any member who misses two consecutive regular meetings without first providing
82 notice of the absence to the Town Clerk shall be deemed to have resigned from the
83 Board and shall be replaced accordingly. Any member who misses four regular
84 meetings during the course of a calendar year, regardless of prior notice, shall be
85 deemed to have resigned from the Board and replaced accordingly.
86

87 **9.00.05 Public Meetings, Hearings, and Records**

- 88 A. All meetings and hearings of boards and committees, including specifically (but not
89 limited to) the Development Review Committee, shall be open to the public and shall
90 allow public comment on agenda items.
91 B. All meeting agendas of boards and committees shall be posted in advance.

- 92 C. Each board and committee shall keep minutes of its proceedings, indicating the
93 attendance of each member and the decision of the board or committee on every item.
94 The minutes shall be signed by the chairperson and the Town Clerk.
95 D. A record shall be made of all resolutions, transactions, findings, recommendations,
96 and decisions, which record shall be a public record on file in the office of the Town
97 Clerk.
98 E. At its option the DRC may forward separate recommendations of each DRC member,
99 in his or her professional specialty, rather than recommendations of the DRC as a
100 whole.

101 **9.00.06 Quorum and Voting**

- 102 A. For the purpose of ~~transacting business~~ taking action at any meeting or hearing, a
103 majority of the existing board members shall constitute a quorum.
104 B. Approval of actions before any Board or Committee requires an affirmative vote of a
105 majority of the members in attendance.
106

107 **9.00.07 By-Laws**

- 108 A. Each board may enact by-laws to govern its operation and procedures.
109 B. By-laws shall not conflict with the requirements of this LDC. In the event of any
110 conflict between the provisions of this LDC and the by-laws, the provisions of this
111 LDC shall control.
112 C. The following topics may be included in the by-laws:
113 1. The designation of officers.
114 2. The specific duties of officers.
115 3. The creation of committees.
116 4. Code of conduct.
117 5. Voting procedures.
118 6. Scheduling of meetings.
119 7. Order of business; and
120 8. Preparation of minutes.
121 D. The Town Council shall approve all Advisory Board By-Laws.
122
123
124

125 **9.00.08 Parliamentary Authority**

126 All meetings shall be conducted in accordance with parliamentary procedure as set forth
127 and explained in the latest revised edition of Robert's Rules of Order, which shall serve
128 as the official rules of procedure.
129

130 **9.00.09 Legal Representation**

131 The Town Council may retain legal counsel to represent a board or committee.
132

133 **9.00.10 Compensation**

134 Planning & Zoning Board members shall serve without compensation but may be
135 reimbursed for actual expenses incurred in connection with their official duties.
136

137 **9.00.11 Funding**

The Town Council may appropriate funds at its discretion for expenses necessary in the conduct of the duties of appointed boards and committees.

9.00.12 Conflict of Interest

~~A. A member shall abstain from voting on a particular issue if the member has a voting conflict under section 112.3143 of Florida Statutes (or successor statutes). In general terms a voting conflict under that statute arises when a vote would inure to the special private gain or loss of the voting member or of the member's family, business associate, employer, or client. any of the following circumstances apply:~~

~~1. The member has a direct financial interest in the outcome of the matter at issue.~~

~~2. The matter at issue involves the member's own official conduct.~~

~~3. Participation in the matter violates the member's code of professional responsibility.~~

~~4. The member has such close personal ties to a person involved with the issue that the member cannot reasonably be expected to exercise sound judgment in the public interest; or~~

~~5. Other applicable law.~~

B. If a member owns a property within the area entitled to receive mailed notice of the hearing, that board member may voluntarily abstain from voting if the board member believes that the proximity of the project constitutes the appearance of a voting conflict of interest, as contemplated by section 286.012 of Florida Statutes, or otherwise will interfere with his or her ability to be a an impartial decision maker in the case.

~~C. An abstaining member of a board shall not be counted for purposes of forming a quorum.~~

~~D. A member who takes a position on the issue based upon personal interest may do so only by abstaining from voting on the proposal, vacating the seat on the board, physically joining the audience, and making full disclosure of his status and position at the time of addressing the board.~~

9.00.13 General Powers

A board or committee may request information from any official, staff member, or department of the Town, which is necessary in order to carry out specific roles and responsibilities.

9.01.00 PLANNING & ZONING BOARD

9.01.01 Establishment

There is hereby created a Planning & Zoning Board, with the roles and responsibilities as set forth herein.

9.01.02 Membership and Terms of Office

A. There shall be not less than three (~~3~~) nor more than seven (~~7~~) ~~regular~~ members.

B. Terms shall be staggered such that no more than three (~~3~~) terms expire simultaneously.

- 184 1. Appointments shall be for ~~three (3)-year~~ three-year terms or until a successor is
185 chosen.
- 186 2. When a term is two months from expiring, the Town shall accept applications for
187 the position and endeavor to fill the position so that the new board member starts
188 at the meeting following the term's end.
- 189 3. When ~~the an~~ an unexpired term for a vacant seat is two ~~(2)~~ months or less, the Town
190 Council may appoint a new member to fill both the unexpired term and the
191 following full term.
- 192 C. Any interested and eligible citizen as provided for in this section may be appointed to
193 the board, but those with experience or interest in the field of planning and zoning or
194 related fields shall receive special consideration.
- 195

196 **9.01.03 Roles and Responsibilities**

197 The Planning & Zoning Board shall have the roles and responsibilities described below.

- 198 A. To serve as the Local Planning Agency (LPA), pursuant to Chapter 163.3174, F.S. As
199 the LPA, the Planning & Zoning Board shall:
- 200 1. Make recommendations to the Town Council regarding adoption of a
201 Comprehensive Plan.
- 202 2. Monitor and oversee the effectiveness and status of the Comprehensive Plan,
203 including periodic evaluations.
- 204 3. Make recommendations to the Town Council regarding amendment of its adopted
205 Comprehensive Plan; and
- 206 4. Carry out such other duties as may be specified in Chapter 163, Part II, of Florida
207 Statutes~~F.S.~~.
- 208 B. To provide advice and recommendations to the Town Council regarding growth, land
209 use, long range planning, and redevelopment.
- 210 C. To hear, consider, and make recommendations to the Town Council regarding
211 applications to:
- 212 1. Amend the Zoning Map (zoning or rezonings).
- 213 2. Amend the text of the LDC.
- 214 3. Create a subdivision
- 215 4. Amend the Comprehensive Plan.
- 216 5. Create a site plan; and
- 217 6. ~~To determine the appropriateness of~~ Grant variances and conditional uses.
- 218 D. In carrying out its duties, the Planning & Zoning Board may:
- 219 1. Establish such committees as may be necessary to gather facts, analyze findings,
220 and make recommendations to the Planning & Zoning Board as a whole.
- 221 2. Acquire and maintain such information and materials as are necessary for an
222 understanding of past trends, present conditions, and forces at work to cause
223 changes in these conditions.
- 224 3. Periodically evaluate the Comprehensive Plan and LDC and propose amendments
225 to the Town Council.
- 226

227 **9.01.04 Quorum and Voting**

- 228 A. For the purpose of ~~transacting business~~ taking action at any meeting or hearing, a
229 majority of the existing board members shall constitute a quorum, but shall be at least
230 three members.
231 B. Approval of actions before the Board requires an affirmative vote of a majority of the
232 members present, but not less than three affirmative votes.
233
234

235 **9.02.00 TOWN COUNCIL AS BOARD OF ADJUSTMENT**

236 **9.02.01 Establishment**

237 There is hereby established a Board of Adjustment (BOA) for the purpose of hearing and
238 deciding ~~on~~ appeals of administrative decisions and hearing and ~~deciding~~ taking action on
239 applications for variances.
240
241

242 **9.02.02 Membership**

243 The BOA shall be comprised of the Town Council members.
244

245 **9.02.03 Roles and Responsibilities**

246 The BOA shall have the roles and responsibilities described in this section. The Board
247 shall conduct public hearings and render decisions in compliance with the requirements
248 of this LDC on the following matters:

- 249 A. ~~To hear and decide appeals~~ Appeals where it is alleged there is error in any order,
250 interpretation, requirement, decision, or determination made by an administrative
251 official in the enforcement of this LDC; and
252 B. Applications for a variance from a provision of the LDC, as set forth in Chapter 4.
253

254 **9.02.04 Notice Procedures for Administrative Appeals**

- 255 A. Publication of notice. Notice of public hearing shall be published in a newspaper of
256 general circulation at least 10 days prior to the public hearing. Notice shall also be
257 posted at Town Hall and on the Town's website.
258 B. After the public hearing, the BOA shall uphold the administrative decision, reverse
259 the administrative decision, or render an alternate decision.
260
261

262 **9.03.00 DEVELOPMENT REVIEW COMMITTEE**

263 **9.03.01 Establishment**

264 There is hereby created and established a Development Review Committee (DRC) for the
265 purpose of receiving, reviewing, and rendering recommendations on applications subject
266 to administrative review and decision as set forth in Chapter 4.
267
268

269 **9.03.02 Membership**

270 Membership of the DRC shall include, but is not limited to, the following:

- 271 A. Town Planner
272 B. Town Engineer
273 C. Town Traffic Engineer

- D. Public Works Director
- E. Police Chief
- F. Town Manager
- G. Town Clerk

9.03.03 Roles and Responsibilities

- A. The DRC shall review applications and provide recommendations to the Planning & Zoning Board, the Board of Adjustment and the Town Council for annexations, zonings and rezonings, amendments to this LDC, Comprehensive Plan amendments, subdivision plans, subdivision plats, site plans, variances, conditional uses, and amendments to previously issued local development orders.
- B. The DRC shall perform such other duties as may be assigned by the Town Council or Town Manager~~Mayor~~.

9.03.04 Rules of Procedure

- A. The Town Manager ~~Planner~~ shall chair meetings of the DRC.
- B. The DRC shall meet as necessary.
- C. The DRC may establish such additional rules of procedure as needed to carry out its roles and responsibilities.

9.04.00 DESIGN REVIEW BOARD

9.04.01 Establishment

There is hereby created and established a Design Review Board for the purpose of receiving, reviewing and rendering recommendations on the architectural requirements for residential and non-residential development and other design considerations as may be brought before the Board.

9.04.02 Membership

- A. There shall be not less than three ~~(3)~~ nor more than seven ~~(7)~~ regular members.
- B. Terms shall be staggered such that no more than three (3) terms expire simultaneously
 - 1. Appointments shall be for ~~three (3) year~~ three-year terms.
 - 2. When a term is two months from expiring, the Town shall accept applications for the position and endeavor to fill the position so that the new board member starts at the meeting following the term end.
 - 3. When ~~the~~ an unexpired term is two months or less, the Town Council may appoint a new member to fill both the unexpired term and the following full term.
- C. Any interested and eligible citizen as provided for in this section may be appointed to the board, but those with experience in building design, construction or related fields shall receive special consideration.

9.04.03 Roles and Responsibilities

The Design Review Board shall review and approve all applications for compliance with architectural plan requirements for residential and non-residential development as set

forth in Chapter 4. The Board shall also review and recommend approval of proposed improvements to any buildings on the local, state or ~~Federal~~ federal lists of historic buildings. Decisions of the Design Review Board may be appealed to the Town Council.

Section 2. This ordinance shall take effect upon its enactment.

ORDAINED AND ENACTED this ____ day of _____, 2023, by the Town Council of the Town of Howey-in-the-Hills, Florida.

TOWN OF HOWEY-IN-THE-HILLS, FLORIDA

By: its Town Council

By: _____
Hon. Martha MacFarlane, Mayor

ATTEST:

APPROVED AS TO FORM AND LEGALITY
(for the use and reliance by the Town only)

John M Brock, Town Clerk

Thomas J Wilkes, Town Attorney

First Reading: _____, 2023

Second Reading and Adoption: _____, 2023

Advertising :