

ORDINANCE NO. 05-12

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING CHAPTER 2, ARTICLE II, DIVISION 2, CODE OF ORDINANCES OF THE CITY OF DEBARY TO ESTABLISH A PLANNING AND ZONING COMMISSION AS THE LOCAL PLANNING AGENCY FOR THE CITY OF DEBARY AND SETTING FORTH TERMS, REQUIREMENTS, AUTHORITY, AND DUTIES FOR THE PLANNING AND ZONING COMMISSION; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, Article VIII, § 2, Constitution of the State of Florida, as revised in 1968, grants to municipalities those governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions, render municipal services, and further authorizes such municipalities to exercise any power for municipal purposes, except as otherwise provided by law;

WHEREAS, Chapter 166, Fla. Stat., the Municipal Home Rule Powers Act, further affirms the authority, police power, and jurisdiction granted to municipalities by the Florida Constitution;

WHEREAS, this Ordinance has been advertised as required by Chapter 166, Florida Statutes, and the required readings and public hearing have been held by the City Council in order to adopt this Ordinance; and

WHEREAS, the City Council finds that this Ordinance is in the best interests of the public health, safety and welfare of the citizens of the City of DeBary.

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

SECTION I: Division 2, Article II of Chapter 2 of the Code of Ordinances for the City of DeBary is hereby amended to read as follows (~~struckout~~ text indicates deletions while underlined text indicates additions; provisions not referenced are not modified):

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. Ch. 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. ~~Through the process of comprehensive planning, it is intended that the 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.~~
- (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 hereby designates itself as the local planning agency for the city in the development and adoption of the city's comprehensive plan as authorized by F.S. § 163.3174. 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 (4) 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 mayor shall serve as the chairman of the local planning agency and shall be a voting member of the agency.~~ 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. ~~The local planning agency shall be responsible for preparation of the comprehensive plan after hearings to be held after due public notice.~~
 - 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. Ch. 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 agency shall have the general responsibility for the conduct of the comprehensive planning program.~~

~~(c) During the preparation of the plan the agency shall hold at least one public hearing, with due public notice, on the proposed plan.~~

~~(d) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.~~

~~(e) The agency is encouraged to articulate a vision of the future physical appearance and qualities of the city as a component to its local comprehensive plan. The vision should be developed through a collaborative planning process with meaningful public participation and shall be adopted by the agency. The city council may establish, by resolution, a citizens advisory council, for collective input for the agency.~~

(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.

SECTION II: Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent that any such conflict exists.

SECTION III: Severability. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION IV: Effective Date. After the second reading and final adoption this Ordinance shall take effect on January 1, 2013.

SECTION V: Codification. Section I of this Ordinance shall be codified and made a part of the City of DeBary Code of Ordinances. The provisions of this Ordinance may be renumbered or relettered to accomplish such intention. Furthermore, the word “*Ordinance*” may be changed to “*Section*”, “*Article*”, or other word as required.

First reading held on the 18th day of July, 2012.

PASSED AND ADOPTED on second reading this **1st day of August, 2012.**

**CITY COUNCIL
CITY OF DeBARY, FLORIDA**

By: BOB GARCIA, Mayor

ATTEST:

STACY TEBO,
City Clerk