

ORDINANCE # 2016-2088

AN ORDINANCE OF THE CITY OF NEW PORT RICHEY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING SECTION 5.01.03, SAME—ACTION OF CITY UPON SUBMITTAL, TO UPDATE OUTDATED REFERENCES; AMENDING SECTION 5.01.04, PUBLIC NOTICE OF CONSIDERATION BY CITY COUNCIL, TO UPDATE OUTDATED REFERENCES AND TO DELETE THE REQUIREMENT THAT PUBLIC NOTICE OF CITY COUNCIL CONSIDERATION OF A REZONING INCLUDE THE RECOMMENDATION BY THE PLANNING AND ZONING COMMISSION; AMENDING SECTION 5.01.05, FILING, CONSIDERATION OF OBJECTIONS, TO UPDATE OUTDATED REFERENCES; AND AMENDING SECTION 5.02.03, SAME—ACTION OF CITY UPON SUBMITTAL, TO UPDATE OUTDATED REFERENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is necessary to promote more efficiency in the notification of public hearings for rezoning and special exceptions; and

WHEREAS, the New Port Richey Land Development Code contains references that are outdated and obsolete; and

WHEREAS, the former Planning and Zoning Board and former Board of Adjustments and Appeals were renamed the Land Development Review Board on September 5, 1995; and

WHEREAS, the City's Land Development Code requires public notice of the City Council's consideration of a rezoning request to include the recommendation made to the City Council by the planning and zoning commission (now known as the Land Development Review Board) at their hearing; and

WHEREAS, the Land Development Review Board's regularly scheduled monthly meetings frequently fall too soon before the next occurring City Council meeting date to meet the 20-day and 15-day public notice timing requirements; and

WHEREAS, deleting the requirement to include the recommendation of the planning and zoning commission (now known as the Land Development Review Board) in the public notice of the City Council's consideration of a rezoning will allow the City Council's first public hearing to be scheduled sooner than currently feasible; and

WHEREAS, the City Council recognizes the need to amend the regulations to improve the development review process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA:

SECTION I. That Section 5.01.03, Same-Action of city upon submittal, of the New Port Richey Land Development Code is hereby amended to read as follows:

5.01.03 - Same—Action of city upon submittal.

Whenever a written application is presented and filed to zone or rezone any real property within the corporate limits of this city the following procedures shall be followed:

1. The city manager shall refer the application for the proposed zoning or rezoning to the Land Development Review Board ~~planning and zoning commission~~ for a public hearing on such proposed zoning or rezoning. At least twenty (20) days prior to the hearing a notice thereof in the form which is specified in paragraph 2 hereof shall be mailed by first class mail, to all owners of real property which is located within a radius of five hundred (500) feet of any of the corners of the real property which is proposed for such zoning or rezoning. For the purpose of providing such notice, it shall be sufficient for the same to be mailed to the person listed as the owner thereof on the tax rolls of the county tax assessor as the first day of the month of January immediately preceding the date when the notice is mailed. An affidavit stating that the mailing has been sent to the designated area of notification will be signed by the city clerk, or their designate, and attached to a copy of the mailing list which will be kept on file with the records of an individual case, pertaining to that property. In addition to notice by mail, a conspicuous sign board setting forth the following inscription shall be erected in a conspicuous location on such real property at least twenty (20) days prior to the hearing thereon:

Notice of (Zoning)(Rezoning)

This property is proposed for (zoning)(rezoning) from a _____ zoning classification to a _____ zoning classification and a public hearing thereon shall be held before the planning and zoning commission of the City of New Port Richey, Florida, commencing at the hour of _____ m., on the _____ day of _____/_____/_____, 2019 _____, at the City Council Chambers, City Hall Municipal Building, 5919 320 East Main Street, New Port Richey, Florida.

2. At least fifteen (15) days prior to the public hearing the following notice shall be published in one (1) issue of any newspaper of general circulation within the City of New Port Richey, Florida:

Notice of (Zoning)(Rezoning)

Notice is hereby provided to all interested persons that a public hearing will be held before the Land Development Review Board ~~planning and zoning commission~~ of the City of New Port Richey, Florida, commencing at the hour of _____ m., on the _____ day of _____/_____/_____, 2019 _____, at the City Council Chambers, City Hall Municipal Building, 5919 320 East Main Street, New Port Richey, Florida, for the purpose of considering a proposal to (zone)(rezone) the following described real property, having a street address of _____, New Port Richey, Florida, from a _____ zoning classification to a _____ zoning classification:

(Legal Description)

City Clerk

3. At the time of the hearing before the Land Development Review Board ~~planning and zoning commission~~, on such zoning proposal, the Land Development Review Board ~~commission~~ shall hear the evidence of the proponents for the zoning or rezoning and the opponents thereto, if any, and, based upon the evidence heard at such meeting, the Land Development Review Board ~~planning and zoning commission~~ shall then file written findings of fact and a report and recommendation to the city council within thirty (30) days from the date of such hearing.

SECTION II. That Section 5.01.04, Public notice of consideration by city council, of the New Port Richey Land Development Code is hereby amended to read as follows:

5.01.04 - Public notice of consideration by city council.

1. At least twenty (20) days prior to the date when the findings of fact and the report and recommendation of the Land Development Review Board ~~planning and zoning commission~~ are to be considered by the city council, a notice thereof in the following form shall be mailed to the same property owners as described in Section 26-233:

Notice of (Zoning)(Rezoning)

Notice is hereby provided to all interested persons that a public hearing will be held before the city council of New Port Richey, Florida, commencing at the hour of _____m., on the _____ day of _____/_____/_____, 2019, at the City Council Chambers, City Hall Municipal Building, 5919 320 East Main Street, New Port Richey, Florida, for the purpose of considering a proposal to (zone) (rezone) the following described property, having a street address of _____, New Port Richey, Florida, from a _____ zoning classification to a _____ zoning classification:

(Legal Description)

~~It is the recommendation of the New Port Richey Planning and Zoning Commission that the proposed _____ classification for said real property should be (approved)(disapproved).~~

City Clerk

Such notice shall be published in any newspaper of general publication in the city at least fifteen (15) days prior to the consideration thereof by the city council.

2. In addition to the notice which is described in Subsection 1, a conspicuous sign board setting forth the following inscription shall be erected in a conspicuous location on such real property at least twenty (20) days prior to the hearing:

Notice of (Zoning)(Rezoning)

The property is proposed for (zoning)(rezoning) from a _____ classification to a _____ zoning classification and a public hearing thereon shall be held before the City council of the City of New Port Richey, Florida, at the hour of _____m., on the _____ day of _____/_____/_____, 2019, at the City Council Chambers, City Hall Municipal Building, 5919 320 East Main Street, New Port Richey, Florida. ~~It is the recommendation of the New Port Richey Planning and Zoning Commission that the proposed _____ zoning classification for such real property should be (approved)(disapproved).~~

SECTION III. That Section 5.01.05, Filing, consideration of objections, of the New Port Richey Land Development Code is hereby amended to read as follows:

5.01.05 - Filing, consideration of objections.

If fifty (50) percent or more of the owners of real property who are entitled to receive notice, by certified mail, as provided in section 5.01.05(1) shall object by filing a written affidavit with the city clerk, under oath,

to the proposed zoning or rezoning of the real property which is the subject of such zoning action, the same shall not be zoned or rezoned as requested by the applicant for such zoning or rezoning unless four (4) members of the city council shall vote in favor of such zoning or rezoning. All such affidavits must be filed with the city clerk no later than twenty-four (24) hours prior to the public hearing before the Land Development Review Board ~~planning and zoning commission~~, as specified in sections 5.01.05(1)—(3) and 5.01.04(1), (2) so that the Land Development Review Board ~~planning and zoning commission~~ may have the benefit of the affidavits at the time of the public hearing and their deliberations pertaining thereto. Any such affidavits which are filed with the city clerk in conformance with this section shall be considered at any public hearing by either the Land Development Review Board ~~planning and zoning commission~~ or the city council in either of their considerations or deliberations in regard to any such application for zoning or rezoning. The affidavit shall be in the following form:

State of _____
County of _____

On this day personally appeared before me, the undersigned notary public, _____ who first being duly sworn, deposes and says that (he)(she) has an ownership interest in that certain real property known as _____, New Port Richey, Florida, which is within a radius of five hundred (500) feet of any of the corners of the real property known as _____, New Port Richey, Florida, which is proposed for a zoning classification of _____.

The affiant (objects to)(supports) the proposal for such (zoning)(rezoning) for the following reasons:

Further affiant sayeth not.

Sworn and subscribed to before me this _____ day of _____, 2019.

Notary Public
My Commission Expires:

SECTION IV. That Section 5.02.03, Same—Action by city upon submittal, of the New Port Richey Land Development Code is hereby amended to read as follows:

5.02.03 - Same—Action by city upon submittal.

Whenever the city council is presented with a written application for a special exception the following procedure shall be followed:

1. A public hearing shall be held before the city council on such proposed special exception. At least twenty (20) days prior to the hearing, a notice thereof in the form which is specified in paragraph 2 hereof shall be mailed by first class mail, to all owners of real property which is located within a radius of five hundred (500) feet of any of the corners of the real property which is proposed for such special exception. For the purpose of providing such notice, it shall be sufficient for the same to be mailed to the person listed as the owner thereof on the tax rolls of the county tax assessor as of the first day of the month of January immediately preceding the date when the notice is mailed. An affidavit stating that the mailing has been sent to the designated area of notification will be signed by the city clerk, or their

designate, and attached to a copy of the mailing list which will be kept on file with the records of an individual case, pertaining to that property. In addition to notice by mail, a conspicuous sign board setting forth the following inscription shall be erected in a conspicuous location on such real property at least twenty (20) days prior to the hearing:

Notice of Special Exception

This property is proposed for a special exception to allow _____ and a public hearing thereon shall be held before the city council of the City of New Port Richey, Florida, commencing at the hour of _____m. on the _____ day of _____/_____/_____, ~~2019~~ _____ at the City Council Chambers, ~~City Hall Municipal Building, 5919 320 East Main Street,~~ New Port Richey, Florida.

- 2. At least fifteen (15) days prior to the public hearing the following notice shall be published in one (1) issue of any newspaper of general circulation within the city:

Notice of Special Exception

Notice is hereby provided to all interested persons that a public hearing will be held before the city council of the City of New Port Richey, Florida, commencing at the hour of _____m., on the _____ day of _____/_____/_____, ~~2019~~ _____, at the City Council Chambers, ~~City Hall Municipal Building, 5919 320 East Main Street,~~ New Port Richey, Florida, for the purpose of considering a proposed special exception to the zoning of the following described real property, having a street address of _____, New Port Richey, Florida so as to allow the following proposed use: _____

(Legal Description)

City Clerk

- 3. In addition to the notice which is described in paragraph 1 hereof, a conspicuous sign board setting forth the following inscription shall be erected in a conspicuous location on such real property at least twenty (20) days prior to the hearing:

Notice of Special Exception

The property is proposed for a special exception to allow _____ and a public hearing thereon shall be held before the city council of the City of New Port Richey, Florida at the hour of _____m. on the _____ day of _____/_____/_____, ~~2019~~ _____, at the City Council Chambers, ~~City Hall Municipal Building, 5919 320 East Main Street,~~ New Port Richey, Florida.

- 4. At the time of the hearing before the city council, on such special exception, the city council shall hear the evidence of the proponents for the special exception and the opponents thereto, if any.

SECTION V. If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION VI. It is the intention of the City Council and it is hereby ordained that the provisions of this Ordinance shall be codified and made a part of the New Port Richey City Code, and that the sections of this Ordinance may be renumbered to accomplish such codification, and that the word Ordinance may be changed to “section” to accomplish such codification.

SECTION VII. This Ordinance shall become effective immediately upon its adoption.

The above and foregoing Ordinance was read and approved on first reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2016.

The above and foregoing Ordinance was read and approved on second reading at duly convened meeting of the City Council of the City of New Port Richey, Florida this _____ day of _____, 2016.

ATTEST:

Doreen Summers, City Clerk

Rob Marlowe, Mayor-Council Member

APPROVED AS TO FORM

By: _____
Joseph A. Poblick, City Attorney