

ORDINANCE NO. 19-043

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT PIERCE, FLORIDA CHAPTER 5, ARTICLE IX, SECTION 5-303, CLARIFYING THAT THE PLANNING DIRECTOR MAY GRANT A SETBACK VARIANCE FOR THE CONSTRUCTION OF A FALLOUT SHELTER; CHAPTER 22, ARTICLE IV, SECTION 22-59, CHAPTER 22, ARTICLE VIII, SECTION 22-109, SECTION 22-111, SECTION 22-112, & SECTION 22-117, AND ARTICLE XIV, SECTION 22-118, **AMENDING THE TITLE OF THE PLANNING DIRECTOR AND NAME OF THE PLANNING DEPARTMENT**; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Pierce in 1960 created the original Code of Ordinances; and

WHEREAS, the City Commission of the City of Fort Pierce on July 16, 2007, approved Ordinance K-497 that created Section 22-59, Design Review; and

WHEREAS, the City Commission of the City of Fort Pierce on March 2, 1987, approved Ordinance I-208 that created Section 22-109, Variances for FH Zone Provisions; and

WHEREAS, the City Commission of the City of Fort Pierce on June 15, 1981, approved Ordinance H-186 that created Section 22-111, Stay of Proceedings; and

WHEREAS, the City Commission of the City of Fort Pierce on June 15, 1981, approved Ordinance H-186 that created Section 22-112, Variance Procedure and later amended Section 22-112, Variance Procedure, by approving Ordinance I-98; and

WHEREAS, the City Commission of the City of Fort Pierce on June 15, 1981, approved Ordinance H-186 that created Section 22-117, Notice Requirement for Certain Structures in FH Zones; and

WHEREAS, the City Commission of the City of Fort Pierce on January 2, 2007, approved Ordinance K-465 that created Section 22-218, Concurrency Assessment; and

WHEREAS, the Code of Ordinances has been amended from time to time since it was first formally adopted in 1960; and

WHEREAS, the City of Fort Pierce has consistently referenced the Planning Department and the Planning Director by these titles; and

WHEREAS, the City of Fort Pierce Planning Board held a public meeting on September 17, 2019, to consider the land development code amendment and recommended approval of the amendment, with one modification, by a vote of 6 to 0; and

NOW, THEREFORE BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida as follows:

SECTION 1. Article IX Section 5-303 is hereby amended so that the same shall read as follows:

ARTICLE IX. - FALLOUT SHELTERS

Sec. 5-303. - Setback variances.

In the event a variance in the existing setback regulations is necessary for the construction of a fallout shelter, the planning director ~~of planning and zoning~~ may grant such variance and make a special exception without the necessity of

advertising and holding a public hearing before the board of adjustments and appeals, provided however, that no fallout shelter shall be constructed unless there is a minimum distance of three (3) feet between the shelter and the property line.

SECTION 2. Article IV, Section 22-59(a) is hereby amended so that the same shall read as follows:

ARTICLE IV. - SUPPLEMENTARY REGULATIONS

Sec. 22-59. - Design review.

(a) *Applicability.* All development requiring site plan approval, or development abutting arterial roads, which submits application for development subsequent to the enactment of this ordinance, shall be subject to the city's design review process. In addition, all city-sponsored development projects not subject to site plan review shall require administrative review and approval according to the guidelines of this section. Such development proposals shall be reviewed for consistency with the city's design review guidelines outlined in this chapter. Until such time as a separate design review board is established, the city's planning board shall function as the design review board and shall be responsible for such design review, which shall be completed as part of the development review process. Applications for design review approval must satisfy the application submission requirements and shall be submitted to the planning department ~~of planning~~. Design review related to any changes to historic structures, or any new construction on an historic site or in an historic district shall be reviewed by the historic preservation board in lieu of the design review board in accordance with chapter 23. Use of obligatory verbs in this section such as "shall" and "must" are imperatives applicable as binding directives of the ordinance. Discretionary language such as "should," "may," "might," and "is encouraged" are applicable as general guidance for design choices. Design choices based on discretionary language will be subject to the assessment and recommendation of the ~~director of planning~~ director and the design review board.

SECTION 3. Article IV, Section 22-59(c) is hereby amended so that the same shall read as follows:

ARTICLE IV. - SUPPLEMENTARY REGULATIONS

Sec. 22-59. - Design review.

(c) *Submission requirements.* Applications for design review approval shall be submitted on a supplemental application form as published by the planning department ~~of Planning~~ along with the appropriate fee as required by section 22-142, Filing fees. All presentation materials shall include a graphic scale and may include scale figures of pedestrians, vehicles and other common elements found in the public environment. The following materials must be submitted with an application, unless waived by city administrative staff as not necessary, before an application shall be considered complete and accepted for review:

SECTION 4. Article VII, Section 22-109(5) is hereby amended so that the same shall read as follows:

ARTICLE VII. - VARIANCES

Sec. 22-109. - Variances for FH zone provisions.

(5) Conditions for variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic

character and design of the buildings;

- b. Variances shall only be issued upon (i) a showing of good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship; and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
- c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built and stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation;
- d. The planning director of ~~development~~ shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

SECTION 5. Article VII, Section 22-111 is hereby amended so that the same shall read as follows:

ARTICLE VII. - VARIANCES

Sec. 22-111. - Stay of proceedings.

An appeal for a variance stays all proceedings in furtherance of the action appealed from, unless the planning director of ~~the department of development~~ certifies to the board of adjustment after the notice of appeal shall have been filed ~~with him~~, that by reason of facts stated in the certificate, a stay would, in the director's opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment ~~or by a court of record on application~~, on notice to the planning director, of ~~the department of planning and development~~ and on due cause shown.

SECTION 6. Article VII, Section 22-112(a) is hereby amended so that the same shall read as follows:

ARTICLE VII. - VARIANCES

Sec. 22-112. - Variance procedure.

- (a) The ~~department of planning~~ department and ~~development~~ will prepare a staff report which presents any inconsistencies found between the requested variance and zoning ordinance requirements and will submit it to the board of adjustment.

SECTION 7. Article VII, Section 22-117 is hereby amended so that the same shall read as follows:

ARTICLE VII. - VARIANCES

Sec. 22-117. - Notice requirement for certain structures in FH zones.

When a variance is granted allowing a structure to be built or placed with the lowest floor elevation at or below the base flood elevation, the planning director of ~~the department of planning and development~~ shall give written notice to the owner of the structure that this is allowed and that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation.

SECTION 8. Article XIV, Section 22-218 is hereby amended so that the same shall read as follows:

ARTICLE XIV. – CONCURRENCY MANAGEMENT

Sec. 22-218. - Concurrency assessment.

(c) Certificate of concurrency. A valid, unexpired certificate of concurrency shall be obtained prior to site plan or temporary plat approval.

(1) Review prior to application for development approval. At the applicant's request, the city shall review and approve, approve with conditions or deny an application for a certificate of concurrency prior to consideration of a development approval application.

a. Application. An application for a certificate of concurrency determination shall be submitted to the planning director ~~of planning~~ at the time of filing an application for site plan or temporary plat approval. An application processing fee established by the city commission shall be part of the application. Applications for projects containing over ten (10) dwelling units or five hundred (500) gross square feet of nonresidential floor area shall also be required to bear the cost of preparing any necessary supplemental demand analyses at the time of application.

b. Determination of completeness. After receipt of an application for a certificate of concurrency, the planning director ~~of planning~~ shall determine whether it is complete within ten (10) business days. If it is determined to be incomplete, written notice shall be served on the applicant specifying the deficiencies. No further action on the application shall be taken by the city unless the deficiencies are remedied. Within twenty (20) business days after the application is determined complete, the planning director ~~of planning~~ shall review and grant, grant with conditions, or deny each public facility component in the application pursuant to the standards in section 1.5-6(f).

c. Appeals. Within thirty (30) business days after issuance of the determination of the planning director ~~of planning~~ on the application for a certificate of concurrency, an applicant may appeal to the board of adjustment. An application fee for processing appeals shall be established by the city commission. The committee shall hold a hearing on the appeal to consider the determination of the planning director ~~of planning~~ and public testimony. The city commission shall adopt, reject or modify the ~~director of planning's~~ planning director's determination on the application for a certificate of concurrency determination. The board of adjustment shall modify or reject the planning director's determination unless it finds that such determination is not supported by substantial competent evidence and is contrary to the criteria established in article XIV of chapter 22 of this code of ordinances and the intent of the comprehensive plan. Committee decisions shall include findings of fact for each criteria.

SECTION 9. 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 shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of

any part.

SECTION 10. All ordinances or parts thereof that may be determined to be in conflict herewith are hereby repealed.

SECTION 11. This Ordinance shall become effective on December 6, 2019.

APPROVED AS TO FORM & CORRECTNESS:

Peter J. Sweeney
City Attorney

STATE OF FLORIDA
COUNTY OF ST. LUCIE

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. 19-043 was duly advertised by title only in the St. Lucie News Tribune on Sunday, October 6, 2019, and Sunday, October 20, 2019; copy of said Ordinance was made available at the office of the City Clerk to the public upon request; said Ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on October 21, 2019; and was duly introduced, read by title only, and passed on second and final reading November 4, 2019, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this 4th day of November, 2019.

Linda Hudson
MAYOR COMMISSIONER

ATTEST

Linda W. Cox
CITY CLERK

(CITY SEAL)