

ORDINANCE NO. 2020-_____

AN ORDINANCE AMENDING ARTICLE XV, "MULTI-JURISDICTIONAL APPROVAL OF RESIDENTIAL REZONINGS AND COMPREHENSIVE PLAN AMENDMENTS," CHAPTER 30, OF THE ORANGE COUNTY CODE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

Section 1. Amendments; In General. Article XV, Chapter 30 of the Orange County Code is hereby amended as set forth in Section 2 of this ordinance with all new wording being indicated by underlines and all deleted wording being shown by strike-throughs.

Section 2. Amendments to Article XV, Multi-Jurisdictional Approval of Residential Rezonings and Comprehensive Plan Amendments. Article XV is amended to read as follows:

ARTICLE XV

MULTI-JURISDICTIONAL APPROVAL OF RESIDENTIAL REZONINGS AND COMPREHENSIVE PLAN AMENDMENTS

Sec. 30-740. Scope; abatement.

This article shall be effective throughout the unincorporated area of Orange County, and within each municipality in Orange County as provided by Section 704 B.2. of the Orange County Charter; provided, however, that from September , 2020, to March , 2021, or until such time as this section is further amended by the Board, whichever is later, this article shall only apply to those projects for which a legally sufficient application for a Capacity Enhancement Agreement was submitted prior to July 1, 2019.

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Sec. 30-741. Definitions.

As used in this article, the terms listed below shall have the meanings as set forth below:

Administrative rezoning: A rezoning initiated by a local government jurisdiction.

Applicant: The individual or entity submitting a request for proposed rezoning or comprehensive plan amendment.

Capacity enhancement agreement: An agreement between the school board and an applicant providing for sufficient capacity to accommodate the additional students that will be generated by a proposed rezoning or comprehensive plan amendment that also serves to certify to a significantly affected local government jurisdiction that the school board will have sufficient capacity to accommodate the additional students generated by the proposed rezoning or comprehensive plan amendment.

Comprehensive plan amendment: An amendment to a local government's comprehensive plan pursuant to F.S. ch. 163, including an amendment to the future land use map, which will result in a net increase of Residential Units on the property that is the subject of the amendment.

County: Orange County government.

De minimis impact: A comprehensive plan amendment or rezoning that would, if approved, result in a net increase of less than ten (10) residential units. However, a comprehensive plan amendment or rezoning for a property shall not be deemed to have a de minimis impact if, when the impact for such property is aggregated with a previous de minimis impact determination for adjacent property, the number of units equals or exceeds ten (10) residential units, and the subject property is in the same ownership or chain of title as the subject adjacent property.

Interlocal agreement regarding school capacity: An agreement entered into by the school board and Orange County or affected municipalities that establishes the process for determining the availability of school capacity and the roles and responsibilities of the respective parties in determining and resolving school capacity issues and the process for creating capacity enhancement agreements.

76 *Orange County:* All of the geographical area contained
within the boundaries of Orange County, including both
incorporated and unincorporated area.

78 *OCPS:* Orange County Public Schools, the Orange County
school district.

80 *Residential unit:* Single-family or multifamily dwelling
unit, attached or detached dwelling, house of conventional
82 construction, mobile home, manufactured home, and any other
structure used for permanent residence or for dwelling purpose,
84 regardless of whether occupied by an owner or tenant.

Rezoning: A change in zoning classification that will result
86 in a net increase of residential units on the property that is the
subject of the rezoning. The term "rezoning" shall also mean any
88 land use change not necessarily denoted or characterized as a
rezoning (such as a change to a land use plan, master plan or
90 development plan in a mixed use development, development of
regional impact, planned unit development, etc.) that will result in
92 a net increase of residential units on the property.

School board: The school board of Orange County, Florida,
94 the governing body of Orange County Public Schools.

Significantly affected local government jurisdiction: A
96 local government jurisdiction, either unincorporated Orange
County, or a municipality within Orange County, in which ten (10)
98 percent or more of the student population of a public school that is
affected by a proposed comprehensive plan amendment or
100 rezoning resides.

102 **Sec. 30-742. Effectiveness of comprehensive plan
amendments and rezonings.**

 (a) In order for a comprehensive plan amendment or
104 rezoning to become effective, the governing boards of all
significantly affected local government jurisdictions must approve
106 a comprehensive plan amendment or rezoning when OCPS cannot
certify to the governing bodies of all significantly affected local
108 government jurisdictions that the affected public school or schools,
the attendance zone(s) for which is (are) located within more than
110 one (1) significantly affected local government jurisdiction, can
accommodate the additional students resulting from the increase in
112 residential density.

 (b) The basis for not approving a comprehensive plan
114 amendment or rezoning by the governing body of a significantly

116 affected local government jurisdiction (other than the jurisdiction
in which the comprehensive plan amendment or rezoning would
118 occur) shall be limited to school capacity and the time at which
such school capacity shall be available.

120 (c) A local government jurisdiction may, with written
approval of OCPS and the consent of the applicant, elect to defer
122 consideration of school capacity from adoption of a comprehensive
plan amendment for a property until such time as the local
124 government jurisdiction considers a rezoning for the property. In
such a case, the comprehensive plan amendment may become
126 effective without the approval of other significantly affected local
jurisdictions.

128 (d) This section shall not apply to a comprehensive plan
amendment or rezoning with a de minimis impact. Such a
130 comprehensive plan amendment or rezoning shall be presumed not
to create an adverse impact on any affected public school.

132 (e) This section shall not apply to an administrative
rezoning that does not increase actual residential density, but
134 merely makes the zoning district or category representative of the
pre-existing development and pre-existing residential density in the
area.

136 **Sec. 30-743. Interlocal agreement regarding school capacity.**

138 (a) The county and the school board shall enter into an
interlocal agreement regarding school capacity which includes the
following:

140 (1) The school board shall respond to a local
government's request for a school capacity report within an agreed-
142 upon time period.

144 (2) If the school capacity report indicated that
there is insufficient capacity, and the applicant requesting the
146 comprehensive plan amendment or rezoning proposes a capacity
enhancement agreement, the school board shall approve or deny
148 the capacity enhancement agreement within an agreed-upon time
period. Approval by the school board of a capacity enhancement
150 agreement shall constitute its certification that sufficient school
capacity will exist to handle the additional students generated by
152 the proposed comprehensive plan amendment or rezoning and that
such capacity is based on a financially feasible and educationally
sound plan. Denial of a capacity enhancement agreement shall

154 constitute the school board's certification of insufficient school
155 capacity.

156 (3) The capacity enhancement agreement shall
157 take into account the time at which school capacity will be
158 available.

159 (4) The school board shall use funds collected
160 pursuant to a capacity enhancement agreement to provide school
161 capacity.

162 (5) A school board certification of insufficient
163 school capacity when an applicant has made a capacity
164 enhancement proposal, shall require the school board to
165 demonstrate that it has considered options to mitigate the impacts
166 created by the rezoning or comprehensive plan amendment.

167 (b) The City of Orlando, as the most populous
168 municipality within Orange County, along with the county and the
169 school board, shall be a party to the interlocal agreement regarding
170 school capacity negotiations. Any other municipality within the
171 county may request to be a party to the interlocal agreement
172 regarding school capacity negotiations. To the extent that
173 negotiations with individual cities are successful, they may be
174 parties to the interlocal agreement regarding school capacity. To
175 the extent that negotiations with individual municipalities,
176 including the City of Orlando, are unsuccessful, they will not be
177 parties to the interlocal agreement regarding school capacity.

178 (c) If the interlocal agreement regarding school
179 capacity negotiations between the county, school board and the
180 City of Orlando, as the largest city within the county, reach an
181 impasse, the parties shall enter mediation.

182 (d) The failure of any municipality, including the City
183 of Orlando, to enter into the interlocal agreement regarding school
184 capacity will not prevent the execution and implementation of the
185 interlocal agreement regarding school capacity between the county
186 and the school board.

Sec. 30-744. Remedies.

188 A significantly affected local government jurisdiction may
189 bring a lawsuit in the circuit court of Orange County, Florida, for
190 declaratory and/or injunctive relief to restrain, enjoin, or otherwise
191 prevent a violation of this article.

192 **Secs. 30-745—30-750. Reserved.**

