

BCC Mtg. Date: September 1, 2020

Effective Date: September 4, 2020

ORDINANCE NO. 2020-23

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 8, 2020, to March 8, 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.

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If the school capacity report indicated that there is insufficient capacity, and the applicant requesting the comprehensive plan amendment or rezoning proposes a capacity enhancement agreement, the school board shall approve or deny the capacity enhancement agreement within an agreed-upon time period. Approval by the school board of a capacity enhancement agreement shall constitute its certification that sufficient school capacity will exist to handle the additional students generated by 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

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

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

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

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

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

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

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

Sec. 30-744. Remedies.

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

Secs. 30-745—30-750. Reserved.

Section 3. Effective date. This ordinance shall become effective pursuant to general law.

ADOPTED THIS 1st DAY OF September, 2020.

ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Jerry L. Demings*
Jerry L. Demings
for Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

By: *Phil Diamond*
Deputy Clerk

