

**Summary of Ordinance**

The purpose of this Ordinance is to dissolve the Board of Adjustment and transfer its functions to the Lake County Planning and Zoning Board. The Ordinance will also update other provisions of the Lake County Code and Land Development Regulations to replace references to the Board of Adjustment with the Planning and Zoning Board.

Changes are shown as follows: ~~Strikethrough~~ for deletions and Underline for additions to existing Code sections. The notation “\* \* \*” shall mean that all preceding or subsequent text remains unchanged (excluding any renumbering or relettering that might be needed).

**ORDINANCE NO. 2023-\_\_**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LAKE COUNTY, FLORIDA; AMENDING OR REPEALING THE FOLLOWING SECTIONS OF THE LAKE COUNTY CODE, APPENDIX E, LAND DEVELOPMENT REGULATIONS: REPEALING SECTION 13.02.00 ENTITLED *ALTERNATE MEMBERS*; REPEALING SECTION 13.03.00, ENTITLED *BOARD OF ADJUSTMENT*; PROVIDING FOR TRANSFER OF THE DUTIES AND FUNCTIONS OF THE BOARD OF ADJUSTMENT TO THE PLANNING AND ZONING BOARD; AMENDING SECTION 13.04.01, REGARDING THE PLANNING AND ZONING BOARD, ENTITLED *FUNCTIONS, POWERS AND DUTIES*; AMENDING SECTION 13.04.02, ENTITLED *MEMBERSHIP*; AMENDING SECTION 14.00.04, ENTITLED *APPLICATIONS*; AMENDING OTHER SECTIONS OF THE LAKE COUNTY CODE AND LAND DEVELOPMENT REGULATIONS TO REPLACE BOARD OF ADJUSTMENT REFERENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Lake County Board of Adjustment (BOA) was created by the Board of County Commissioners on November 26, 1996, via Ordinance No. 1996-88; and

**WHEREAS**, the purpose of the BOA is to hear and decide appeals, variances and waivers as set forth in Section 14.14.00, Land Development Regulations, and other applicable sections of the County Code; and

**WHEREAS**, the Lake County Planning and Zoning Board (PZB) was established for the purposes of making recommendations to the Board of County Commissioners on the adoption or amendment of the comprehensive plan, to review proposed land development regulations or amendments thereto, to make recommendations on applications affecting the use of land and zoning of individual parcels, to conduct public hearings, and perform any other duties lawfully assigned; and

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2       **WHEREAS**, currently, the BOA and PZB hold public hearings on separate days,  
3 approximately one week apart, thereby requiring the Planning and Zoning staff to have separate  
4 application deadlines, advertising deadlines, and attend separate public hearings; and  
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6       **WHEREAS**, there are times where an applicant must present and attend separate public  
7 hearings to obtain variances and waivers separate from pursuing applications for comprehensive  
8 plan or zoning changes, which can frustrate not only applicants but residents alike with having to  
9 attend multiple public hearings to explain requests to different advisory or adjudicatory bodies;  
10 and  
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12       **WHEREAS**, the Board of County Commissioners deems it in the best interests of the  
13 public to dissolve the BOA and transfer its duties and functions to the PZB.  
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15       **NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of  
16 Lake County, Florida as follows:  
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18       **Section 1.**    **Legal Findings of Fact.** The foregoing recitals are hereby adopted as  
19 legislative findings of the Board of County Commissioners and are ratified and confirmed as being  
20 true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.  
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22       **Section 2.**    **Repealer.** Section 13.02.00, Lake County Code, Appendix E, Land  
23 Development Regulations, entitled *Alternate Members*, is hereby repealed in its entirety.  
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25       **Section 3.**    **Repealer.** Section 13.03.00, Lake County Code, Appendix E, Land  
26 Development Regulations, entitled *Board of Adjustment*, shall be repealed in its entirety. Section  
27 13.03.00 shall be marked as “Reserved”.  
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29       **Section 4.**    **Amendment.** Section 13.04.01, Lake County Code, Appendix E, Land  
30 Development Regulations, entitled *Lake County Planning and Zoning Board*, is hereby amended  
31 to read as follows:  
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33       **13.04.01       Functions, Powers, and Duties.** The Board of County Commissioners does  
34 hereby establish the Lake County Planning and Zoning Board. The functions, powers and duties  
35 of the Lake County Planning and Zoning Board shall be, in general:

- 36       A. To make recommendations to the Board of County Commissioners regarding the  
37 adoption or amendment of the comprehensive plan in its capacity as the Lake County  
38 Planning and Zoning Board.
- 39       B. To review proposed land development regulations, land development codes, or  
40 amendments thereto, and to make recommendations to the Board of County  
41 Commissioners as to the consistency of the proposal with the comprehensive plan.
- 42       C. To make recommendations to the Board of County Commissioners on applications  
43 affecting the land use and zoning of individual parcels of property within the  
44 unincorporated area of Lake County.

- 1 D. To determine whether specific proposed developments conform to the principles and
- 2 requirements of the comprehensive plan for growth and improvement and to the Lake
- 3 County Land Development Regulations.
- 4 E. To conduct such public hearings as may be required to review such proposed
- 5 developments.
- 6 F. To hear and decide appeals, variances and waivers as provided for in Section 14.15.00,
- 7 of these regulations and such decisions shall be final. Appeals of final decisions shall be
- 8 in the manner as provided for by law.
- 9 ~~FG.~~ To perform any other duties which may be lawfully assigned to it.

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11 **Section 5. Amendment.** Section 13.04.02, Lake County Code, Appendix E, Land  
12 Development Regulations, entitled *Membership*, is hereby amended to read as follows:  
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14 **13.04.02 Membership.**

- 15 A. The Lake County Planning and Zoning Board shall have eight (8) members, including one
- 16 (1) from each County Commissioner's district, one (1) member at-large, one (1) member and
- 17 one (1) alternate member recommended by the Lake County School Board, and one (1) ex-
- 18 officio, nonvoting representative of a military installations within Lake County. The member
- 19 recommended by the Lake County School Board shall be a voting member. The alternate
- 20 member recommended by the Lake County School Board shall serve in the absence of the
- 21 primary appointed member. The Board of County Commissioners may appoint alternate
- 22 members as deemed necessary in order to ensure that quorum requirements are satisfied.
- 23 B. Each Lake County Planning and Zoning Board member shall be appointed by the Lake
- 24 County Board of County Commissioners for a term of four (4) years. Initially the terms of the
- 25 member representing commission districts 1, 3, and 5 shall expire on January 31, 2005, and
- 26 the terms of the members representing commission districts 2 and 4, the at-large category,
- 27 and the Lake County School Board shall expire on January 31, 2007. Thereafter, all
- 28 appointments shall be made for a term of four (4) years each. Any vacancy occurring during
- 29 the unexpired term of office of any member shall be filled by appointment for the remainder
- 30 of the term. Any member of the Lake County Planning and Zoning Board may be removed
- 31 from office by a majority vote of the Board of County Commissioners.

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33 **Section 6. Amendment.** Section 14.00.04, Lake County Code, Appendix E, Land  
34 Development Regulations, entitled *Applications*, is hereby amended to read as follows:  
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36 **14.00.04 Applications.**

- 37 A. Determination of Sufficient Application. All applications filed with the County Manager
- 38 or designee will be reviewed for sufficiency within ten (10) days of submittal, unless
- 39 another provision of these regulations states otherwise. At such time, the applicant will
- 40 be notified in writing whether the application has been found insufficient, and notified
- 41 as to what the deficiencies are. Once deemed sufficient, the County Manager or designee
- 42 Shall notify the applicant in writing that the formal review process has begun and

1 indicate to the applicant the date on which comments on the application will be supplied  
2 to the applicant. The County Manager or designee Shall be entitled to inspect the  
3 property subject to the application at all reasonable times (1) without specific notification  
4 to the applicant, or to the property owner if different from the applicant, if the application  
5 so states; or (2) with twenty-four (24) hours-notice to the contact person listed by the  
6 applicant on the application. Such right of inspection Shall continue until the project is  
7 completed and all final approvals have been granted.

8 B. Review of Application by County Manager or Designee. When the County Manager or  
9 designee determines an application is sufficient, the County Manager or designee Shall  
10 review the application, and where authorized by these regulations, the County Manager  
11 or designee Shall approve or deny the application. In cases where the County Manager  
12 or designee is not authorized to approve or deny the application, the County Manager or  
13 designee Shall make a recommendation and notify the appropriate decision-making body  
14 so that a public hearing can be scheduled. The County Manager or Designee Shall  
15 comply with the review time frames established by a resolution of the Board of County  
16 Commissioners.

17 C. Lake County Planning and Zoning Board. For those applications required to go before  
18 the Lake County Planning and Zoning Board, the application Shall be placed on the  
19 agenda of a regular or special meeting for a public hearing that has been noticed in  
20 accordance with the requirements of Subsection 14.00.05, Land Development  
21 Regulations. In making a recommendation, the Lake County Planning and Zoning Board  
22 Shall consider the standards set forth in the applicable sections of these regulations for  
23 the particular action sought by the applicant, including but not limited to whether the  
24 application is consistent with the Comprehensive Plan. The Lake County Planning and  
25 Zoning Board may recommend approval, approval with conditions, or denial. The  
26 application and recommendation Shall then be forwarded to the Board of County  
27 Commissioners for consideration unless the decision of the Planning and Zoning Board  
28 is deemed final under Section 13.04.01.F of these regulations.

29 D. Board of County Commissioners. In making a decision on an application which has been  
30 presented to the Lake County Planning and Zoning Board, or making a decision on a  
31 application presented directly to the Board of County Commissioners, the board Shall  
32 consider the recommendation made by the Lake County Planning and Zoning Board, if  
33 applicable, the staff report and the standards relevant to the particular action sought by  
34 the applicant as set forth in the applicable sections of these regulations. The Board of  
35 County Commissioners may approve, approve with conditions, or deny the application.  
36 Notification of the Board of County Commissioners' decision Shall be mailed to the  
37 applicant, and the decision Shall be filed in the office of the County Manager or designee,  
38 if applicable.

39 E. Withdrawal of Applications. An application may be withdrawn at any time so long as  
40 written notice is given. However, when the application is being presented to the Board  
41 of County Commissioners for final approval, or to the Board of Adjustment Planning and  
42 Zoning Board for final approval as set forth in Section 13.0.01.F of these regulations,  
43 written notification of withdrawal must be given no later than twenty-four (24) hours  
44 prior to the hearing, or the applicant must appear at the hearing and withdraw the  
45 application in person. If written notice of withdrawal is not timely received, the

1 application Shall be presented to the appropriate body. An applicant withdrawing an  
2 application Shall not be entitled to a refund of any fees paid.

3 **Section 7. Amendment.** All other references to the Board of Adjustment contained  
4 within either the Lake County Code, or within Appendix E, Land Development Regulations  
5 (LDR), shall be changed to the Planning and Zoning Board, including but not limited to the  
6 following:

- 7 • Chapter II, LDR (definition of “Development Order”)
- 8 • 5.09.00, LDR
- 9 • 6.06.02.B, LDR
- 10 • 6.10.01, LDR
- 11 • 9.02.10.F, LDR
- 12 • 9.07.07, LDR
- 13 • 14.00.09, LDR
- 14 • 14.15.00, LDR
- 15 • 15.02.04.I, LDR
- 16 • Sec 6-9, Lake County Code
- 17 • Sec. 6-45, Lake County Code
- 18 • Sec. 13-148, Lake County Code

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21 **Section 8. Severability.** If any section, sentence, clause, or phrase or word of this  
22 Ordinance is for any reason held or declared to be invalid, unconstitutional, inoperative or void by  
23 any court of competent jurisdiction, then said holding shall in no way affect the validity of the  
24 remaining portion of this Ordinance; and it shall be construed to have been the Commissioners’  
25 intent to pass this Ordinance without such unconstitutional, invalid or inoperative part therein; and  
26 the remainder of this Ordinance, after the exclusion of such part or parts shall be deemed and held  
27 to be valid, as if such parts had not been included herein; or if this Ordinance or any provisions  
28 thereof shall be held inapplicable to any person, groups of persons, property, kind of property,  
29 circumstances or set of circumstances, such holding shall not affect the applicability thereof to any  
30 other person, property or circumstances.

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32 **Section 9. Inclusion in the Code.** It is the intent of the Board of County  
33 Commissioners that the provisions of this Ordinance shall become and be made a part of the Lake  
34 County Code and that the sections of this Ordinance may be renumbered or relettered and the word  
35 "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in  
36 order to accomplish such intentions.

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38 **Section 10. Filing with the Department of State.** The Clerk shall be and is hereby  
39 directed forthwith to send an electronic copy of this Ordinance to the Secretary of State for the  
40 State of Florida in accordance with Section 125.66, Florida Statutes.

