



BOARD OF COUNTY COMMISSIONERS

DATE: March 19, 2013
AGENDA ITEM NO. 8.

Consent Agenda

Regular Agenda

Public Hearing

County Administrator's Signature: *[Handwritten Signature]*

Subject:

Authority to Advertise an Amendment of Section 110 of Chapter 1, Administration, of the Florida Building Code

Department:

Building & Development Review Services

Staff Member Responsible:

Larry G. Goldman, Director *[Handwritten Signature]*

Recommended Action:

I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS AUTHORIZE THE ADVERTISEMENT OF A PUBLIC HEARING TO BE HELD ON APRIL 9, 2013 ON A PROPOSED ORDINANCE AMENDING THE FLORIDA BUILDING CODE TO ADDRESS CHANGES TO THE LOCAL CONSTRUCTION BOARDS OF ADJUSTMENT AND APPEALS.

Summary Explanation/Background:

Pinellas County currently has five separate Boards of Appeals, these five boards have not met for several years. This ordinance will disband the five boards and all building code related appeals will be heard by the existing Pinellas County Construction Licensing Board.

Fiscal Impact/Cost/Revenue Summary:

N/A

Exhibits/Attachments Attached:

Strike-Through Ordinance
Proposed Clean Version of Ordinance

AN ORDINANCE OF THE COUNTY OF PINELLAS, PROVIDING FOR THE AMENDMENT OF SECTION 110 OF CHAPTER 1, ADMINISTRATION, OF THE FLORIDA BUILDING CODE, TO DELETE THE ESTABLISHMENT OF LOCAL CONSTRUCTION BOARDS OF ADJUSTMENTS AND APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND/OR WITH OTHER RESPONSIBLE PARTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Pinellas County Board of County Commissioners, in Ordinance No. 02-14, adopted the administrative chapter to the Florida Building Code for the administration and enforcement of the Florida Building Code within its jurisdiction and the selective municipalities that its Building Division currently act as the municipalities' building departments; and

WHEREAS, Section 110 of Chapter 1, Administration, of the Florida Building Code, adopted in Ordinance No. 02-14, established independent construction boards of adjustment and appeals for areas under the County's jurisdiction; and

WHEREAS, pursuant to Section 32 and 33, Chapter 89-504, Laws of Florida, as amended, the Pinellas County Construction Licensing Board ("PCCLB") has boards of adjustment and appeals that hear written appeals of any person aggrieved by a ruling of a local government's building director of an interpretation of the Florida Building Code, without the requirement of first appealing to a County Board of Adjustment and Appeals; and

WHEREAS, the Board desires to disband and dissolve its County's Boards of Adjustment and Appeals, established pursuant to Ordinance No. 02-14, and permit direct appeals to the PCCLB's boards of adjustment and appeals of the County building director's interpretations of the Florida Building Code.

Now Therefore, Be It Ordained by the Board of County Commissioners of Pinellas County, Florida;

SECTION 1. Section 110 of Chapter 1, Administration of the Florida Building Code, as adopted in Ordinance No. 02-14, is hereby amended to read as follows:

SECTION 110
BOARDS OF APPEALS

110.1 Administrative Appeals. Any person or entity aggrieved by a decision of the Building Official may file a written appeal to the proper board of adjustment and appeals of the Pinellas County Construction Licensing Board, as established pursuant to Chapter 89-504, Laws of Florida, as amended, whenever any one of the following conditions are claimed to exist:

1. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure, or service system.
2. The provisions of this code do not apply to this specific case.
3. That an equally good or more desirable form of installation can be employed in any specific case.
4. The true intent and meaning of this code or any of its regulations have been misconstrued or incorrectly interpreted.

110.2 Notice of Appeal. Petition for appeal of a Building Official decision shall be in writing and filed with the Pinellas County Construction Licensing Board within 15 days after a decision is rendered by the Building Official.

~~CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS~~

~~**110.1 Appointment, Membership and Terms.** Independent boards of adjustment, appeals, and examiners shall be created to address building, plumbing, mechanical, electrical, and gas related matters. Each board shall consist of seven regular members, one each nominated by each member of the board of county commissioners on an annual basis and appointed by the Board of County Commissioners. Such board should be composed of individuals with knowledge and experience with the regulations and technical codes governing their particular trade, such as design professionals, contractors, or building industry representatives. A board member shall not act in a case in which he has a personal or financial interest. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Board members absent from more than three consecutive required meetings without just cause shall be removed from office. Board members unable to continue membership because of change in status or personal reasons shall notify the chairman of their respective board in writing. Board members may be removed for cause, at the discretion of the appointing body, at any time.~~

~~**110.2 Creation of Boards; Meetings; Quorum and Voting**~~

~~110.2.1 Creation of Boards.~~ There is hereby created the following boards of adjustment, appeals and examiners:

- ~~1. building board of adjustment, appeals and examiners~~
- ~~2. electrical board of adjustment, appeals and examiners~~
- ~~3. gas board of adjustment, appeals and examiners~~
- ~~4. plumbing and mechanical board of adjustment, appeals and examiners~~
- ~~5. swimming pool board of adjustment, appeals and examiners~~

~~110.2.2 Compensation.~~ Each member of each board may receive as compensation such sum as may be set by the board of county commissioners. Each such board member may be reimbursed for its reasonable expenses.

~~110.2.3 Quorum and Voting.~~ The presence of at least four regular members of a board shall constitute a quorum. A majority vote of those present is required for board action.

~~110.2.4 Chairman, Vice chairman and Secretary of Board.~~ Each board shall select a chairman and vice chairman. The Building Official shall act as secretary of the board and shall cause a detailed record to be made of all its proceedings, which shall set forth the reasons for its decision, the vote of each member, the absence of a member, and any failure of a member to vote.

~~110.3 Powers~~ The boards of adjustment, appeals, and examiners shall have the power to hear the appeal of any person who may be aggrieved by any ruling or order of the Building Official.

~~110.4. Administrative Appeals~~

~~110.4.1 Decision of the Building Official.~~ Any person or entity aggrieved by a decision of the Building Official may make appeal to the appropriate board of adjustment, appeals, and examiners whenever any one of the following conditions are claimed to exist:

- ~~1. The Building Official rejected or refused to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building, structure, or service system.~~
- ~~2. The provisions of this code do not apply to this specific case.~~
- ~~3. That an equally good or more desirable form of installation can be employed in any specific case.~~
- ~~4. The true intent and meaning of this code or any of the regulations thereunder have been misconstrued or incorrectly interpreted.~~

~~110.4.2 Variances.~~ The appropriate board of adjustments, appeals, and examiners, when so appealed to and after a hearing, may vary the application of any provision of this code to any particular case when, in its opinion, the enforcement thereof would do manifest

~~injustice and would be contrary to the spirit and purpose of this or the technical codes or public interest, and also finds all of the following:~~

- ~~1. The special conditions and circumstances exist which are peculiar to the building, structure, service system, or individual involved and which are not applicable to others.~~
- ~~2. That the special conditions and circumstances do not result from the action or inaction of the applicant.~~
- ~~3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other buildings, structures, service systems, or individuals.~~
- ~~4. That the variance granted is the minimum variance that will resolve the issue.~~
- ~~5. That the granting of the variance will be in this code and will not be detrimental to the public health, safety, and general welfare.~~

~~**110.4.2.1 Conditions of the Variance.** In granting the variance, the board may prescribe a reasonable time limit within which the action for which the variance is required shall be commenced or completed or both. In addition, the board may prescribe appropriate conditions and safeguards in conformity with this code. Violation of the conditions of a variance shall be deemed a violation of this code.~~

~~**110.4.3 Notice of Appeal.** Petition for appeal of a Building Official decision shall be in writing and filed within 30 calendar days after a written decision is rendered by the Building Official. Appeals shall be in a form acceptable to the Building Official. The petitioner shall be provided notice of the time, date, and location for the appeal hearing. An appeals filing fee, as established by the Board of County Commissioners, may be charged for such appeal hearings and will be refunded if the Building Official's decision is not upheld.~~

~~**110.5 Procedures of the Board**~~

~~**110.5.1 Rules and Regulations.** A board of adjustment, appeals and examiners may establish rules and regulations for its own procedure not inconsistent with the provisions of this code. The board shall meet within 45 calendar days after a written petition for appeal of a Building Official decision has been received.~~

~~**110.5.2 Decisions.** A board of adjustment, appeals and examiners shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall be in writing and include the vote and reasons for the decision. If a decision of the board reverses or modifies a refusal, order, or disallowance of the Building Official or varies the application of any provision of this code, the Building Official shall immediately take action in accordance with such decision. Every decision shall be promptly filed in writing in the office of the Building Official and shall be open to public inspection. A copy of the decision shall be sent by mail or otherwise to the appellant. Decisions of a board of adjustment, appeals and examiners shall be final, subject however to such remedy as any aggrieved party might have at law or in equity.~~

SECTION 2. Severability.

If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance is adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of the Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or degree shall be rendered.

SECTION 3. Filing of Ordinance: Effective Date.

Pursuant to section 125.66, Florida Statutes, a certified copy of this Ordinance shall be filed with the Department of State by the Clerk of the Board of County commissioners within ten (10) days after enactment by the Board of County Commissioners. This Ordinance shall become effective upon the filing of the Ordinance with the Department of State.

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APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By 
Attorney