

ORDINANCE NO. 007-2006

AN ORDINANCE OF MONROE COUNTY, FLORIDA, AMENDING CHAPTER 9.5 ENTITLED "LAND DEVELOPMENT REGULATIONS" BY AMENDING SECTION 9.5-22; ESTABLISHING THAT AFTER JANUARY 1, 2006, VACANCIES SHALL BE FILLED BY NOMINATION BY THE COMMISSIONER OF THE DISTRICT WHO MADE THE APPOINTMENT FOR THE CURRENT VACANT POSITION; REQUIRING APPROVAL BY A VOTE OF THREE MEMBERS OF THE COUNTY COMMISSION; PROVIDING NEW EFFECTIVE DATES FOR APPOINTMENTS; ALLOWING CANDIDATES WITH EXPERIENCE FROM THE BUSINESS COMMUNITY AND OTHER LOCAL INDUSTRY; PROVIDING FOR NOMINATION BY THE MAYOR UNDER CERTAIN CONDITIONS; ALLOWING REMOVAL OF A PLANNING COMMISSIONER ONLY BY VOTE OF AT LEAST THREE MEMBERS OF THE COUNTY COMMISSION; ESTABLISHING THAT PLANNING COMMISSIONERS SERVE AT THE PLEASURE OF THE BOARD OF COUNTY COMMISSIONERS; ELIMINATING TERM LIMITS; PROVIDING FOR EXCUSED ABSENCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE OF ORDINANCES; PROVIDING FOR FILING WITH THE SECRETARY OF STATE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY:

Section 1. Findings by the Board of County Commissioners.

- A. The current ordinance on appointments to the Planning Commission gives more control over the appointments to the person who is the mayor than to the individual commissioners.
- B. It is difficult to find a number of planning commission candidates who meet the current selection criteria of expertise only in environmental fields, development and planning. Allowing persons who represent the diverse, local, business community to serve on the planning commission will add other qualified persons to the candidate pool.
- C. A planning commissioner may be removed for cause by a majority of the Board of County Commissioners, allowing two members of a three member quorum to remove a member of the planning commission, when by procedures adopted by the county commission a vote of at least three of the members of the county commission is required to appoint a member of the planning commission.

D. At present there is a term limit of three (3) consecutive terms for each planning commissioner. This does not serve the public's interest in retaining those persons who are diligent in their duties and have an expertise with the procedures and history of the planning commission if they so desire to serve.

E. Termination of a member of the planning commission is only for cause, parenthetically listed as three consecutive absences in a three month period, allowing for no excusable absences. There may be occasions when it is desirable to keep the current member if there are extenuating circumstances.

F. The only other provision for termination of a planning commissioner's term is a mandatory termination by reason of a conviction of a felony or offense of moral turpitude or not being a qualified elector of Monroe County.

G. It is in the best interests of the public that members of the planning commission serve at the pleasure of the county commission.

H. The absence of a planning commissioner for lack of an appointment is not in the public interest and leads to stalled projects, land development regulations and other growth management issues if there is a tie vote or lack of quorum. Retaining the planning commissioner whose term has expired until the vacancy is filled will insure the presence of a quorum and help to prevent tie votes. Assuring the vacancy will be filled by the mayor if a County commissioner does not put forth a candidate within 60 days will insure that a vacancy does not persist.

I. Since the inception of the Planning Board, the mayor and commissioners have individually nominated candidates for the planning commission and voted for or against the person nominated. The procedure for appointment by the mayor with the advice and consent of the commission that is prescribed in the current ordinance has not been followed. The procedure that is followed is a fair procedure and the ordinance should reflect the actual procedure used by the board of county commissioners.

Section 2. Sec. 9.5-22 is hereby amended to read as follows:

Sec. 9.5-22. Planning commission.

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(d) Membership: Appointment, Removal, Terms, and Vacancies:

(1) The planning commission shall be composed of five (5) members. Vacancies shall be filled by the county commissioner member for the district who made the previous appointment for the vacant seat. The county commissioner shall nominate a person qualified as provided in paragraph (c) above to be approved by the board of county commissioners by a vote of at least three (3) members. Members shall be chosen from electors with experience in the areas of planning, environmental science, the business community, the development industry, and other Keys local industries. The geographical representation of the Keys shall be considered, but not required when making appointments to the planning commission. If no candidate is put forth for approval by the county commissioner member for the district prior to sixty days of expiration of the respective planning

commissioner's term, the mayor shall submit a candidate for approval by the board of county commissioners.

(2) Members shall serve at the pleasure of the county commission and may be removed for cause prior to the expiration of their appointment and such removal shall be approved by the affirmative vote of at least three (3) members of the board of county commissioners.

(3) All members shall serve a term of two (2) years and there shall be no term limit, however each member shall be reappointed. Planning commission members shall be compensated as determined by the board of county commissioners.

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(6) If any member of the commission shall fail to attend three (3) regular consecutive meetings without prior notice and an excuse sufficient to the planning commission within any three month period, such failure shall constitute sufficient grounds for termination of the member's appointment. The commission coordinator shall notify the chairman or the vice-chairman, as the case may be, and he/she shall immediately file a notification of such nonattendance with the county administrator for placement on the agenda of the board of county commissioners; and the board shall, by appropriate action, terminate the appointment of such person and fill the vacancy thereby created as soon as practicable. A member who desires to be excused shall contact the commission coordinator prior to the meeting. The commission coordinator shall report the request to the chairman who shall make the determination to grant or deny the request.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of said conflict.

Section 5. The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the County of Monroe, Florida, as an addition or amendment thereto.

Section 6. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office and upon approval by the Department of Community Affairs of the State of Florida according to the terms of the approval.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the 15th day of March, 2006.

Mayor Charles "Sonny" McCoy
Mayor Pro Tem Murray Nelson
Commissioner George Neugent
Commissioner David Rice
Commissioner Dixie Spehar

Not Present

Yes

Yes

Yes

Yes

(SEAL)

Attest: DANNY L. KOLHAGE, Clerk

By *Janet Hancock*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By *Murray Nelson*
Mayor Pro Tem

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM
[Signature]
Date: 3/23/06

FILED FOR RECORD
2006 MAR 31 AM 11:36
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.