
Sec. 94-31. - Decision-making and administrative authorities.

- a. *City commission.* The city commission shall have the following duties and powers:
 1. To consider and enact zoning code regulations;
 2. To consider and enact, enact with modifications, repeal, partially repeal, or reject amendments to these regulations, provided that the city commission has first obtained the recommendation of the planning board;
 3. To establish fees, charges, and expenses imposed by these zoning code regulations;
 4. To enforce the zoning code regulations, provisions, and restrictions by appropriate administrative and legal action; and
 5. To consider and approve or disapprove applications for Class A special use permits.
- b. *Planning board.*
 1. *Establishment, composition, and terms.* The planning board shall consist of seven members and one alternate, who shall be electors of the city and shall serve without compensation. The mayor shall appoint each for a term of three years. The alternate shall act only in the absence, disability, or disqualification of a member. Each member and the alternate shall hold office for the term for which appointed. If a vacancy occurs in the membership of the planning board, the mayor within 20 days may fill the vacancy for the unexpired term. The resulting vacancy in the position of alternate shall be filled as provided in this section. Any member or alternate may be removed from office by the mayor in accordance with section 3.01 of the Charter.
 2. *Authority.* The planning board shall abide by all applicable provisions of the Charter, as amended.
 3. *Functions and powers.* The functions and powers of the planning board shall include:
 - a. To recommend to the city commission principles and policies for guiding action in the physical development of the city;
 - b. To advise and consult with the planning and zoning administrator in the preparation of a comprehensive plan; to consider it and amendments formulated, as well as proposed ordinances and regulations designed to promote orderly development consistent with the plan;
 - c. To recommend whether or not specific proposed developments conform to the principles and requirements of the comprehensive plan as to growth and improvement;
 - d. To keep the city commission and the general public informed and advised as to the physical development of the city;
 - e. To conduct such public hearings as may be required to gather information necessary for the preparation, establishment, and maintenance of the comprehensive plan, as well as all other public hearing required by these regulations or required by the city commission;
 - f. To consider all general plans for major landscaping proposed by the city or to be located on city property and to make recommendations with each plan;
 - g. To consider all major plats which subdivide lands and recommend acceptance, modification, or rejection of them, and to recommend regulations for the subdivision and plating of land;
 - h. To consider all questions involving the location, removal, or alteration in any works of art belonging to the city, including monuments, memorials, and statuary, that are not kept indoors or assigned hereby or by ordinance of the jurisdiction of another agency; and prior to the acceptance or rejection of any proposed gift to the city in the form of a monument or memorial, to approve or recommend modification or rejection of a sketch or plan thereof and the proposed location thereof;
 - i. To prepare in conjunction with the planning and zoning administrator, the city engineer, and the director of finance a list of capital improvements recommended for construction during the next fiscal year and the succeeding four fiscal years. This list shall show recommended order of priority, the year recommended for beginning and completing construction, and the estimated costs for each recommended improvement;
 - j. To advise and recommend on the preparation and adoption of a comprehensive plan for the city pursuant the Charter, as amended, and by F.S. § 163.3161;

- k. To provide advice and recommendations to the city commission on each application for a Class A special use permit;
 - l. To provide advice and recommendations to the city commission on each application for a change to the official zoning map;
 - m. To provide continual examination and analysis of the adequacy and sufficiency of the text of the zoning code;
 - n. To provide advice and recommendations to the city commission on each application for a zoning code text amendment;
 - o. To review and discuss all proposed abandonments within newly proposed planned development districts;
 - p. Approve, with or without conditions or deny applications for proposed developments subject to special review within a mixed-use district;
 - q. Approve, with or without conditions or deny applications for a Class B special use permits for properties located within a mixed-use district;
 - r. Approve, with or without conditions, or deny applications for variances and waivers for properties located within a mixed-use district; and
 - s. Make recommendations to the city commission on request for abandonment of city owned rights-of-way or alleys located within a mixed-use district.
4. *Review of zoning amendments by planning and zoning administrator.* No zoning change shall be authorized until the impact and extent thereof have been studied by the planning and zoning administrator, who shall make a written report recommending approval, modification, or disapproval of the amendment and the reasons for such recommendations to the planning board and the city commission.
 5. *Procedures.* The planning board shall establish rules of procedures, subject to any limitations prescribed by the Charter, these regulations, or ordinances. It shall select a chair, secretary, and other officers and shall prescribe their duties and powers. The mayor, the city administrator and the planning and zoning administrator shall be ex officio members of the planning board and may attend any of its meetings or hearings and participate in its discussions, but they shall have no vote. Four members or three members and the alternate shall constitute a quorum for the transaction of business, but a lesser number may adjourn from time to time. The planning board shall keep minutes of these proceedings, record the vote on each question, and keep records of its discussion, findings, recommendations, and other official actions. All records or other accounts of meetings shall be public record and available from the planning department.

c. *Zoning board of appeals.*

1. *Establishment, composition, and terms.*
 - a. The zoning board of appeals shall consist of five members and two alternate members to be appointed by the mayor, each for a term of three years. Members of the zoning board of appeals may be removed from office by the mayor. A vacancy shall be filled by the mayor for the remainder of the unexpired term. All members of the zoning board of appeals shall be residents of the city and shall serve without compensation.
 - b. The members of the zoning board of appeals shall continue in office until their respective terms expire and their successors are appointed and duly qualified by law. Alternate members of the zoning board of appeals may attend all meetings of the zoning board of appeals but shall act only in the absence, disability, or disqualification of a regular member.
 - c. When an alternate member acts in any meeting, the minutes of the zoning board of appeals shall reflect the name of the absent, disabled, or disqualified member in whose place the alternate is acting. The absence of a member or the alternate member, for three consecutive meetings without an excuse approved by the chair of the zoning board of appeals and noted in the minutes, shall be deemed cause for removal by the mayor. If a vacancy occurs in the membership of the zoning board of appeals, the mayor within 20 days shall fill the vacancy for the unexpired term. If the mayor appoints the alternate as a member, the resulting vacancy in the position of alternate shall be filled as provided in this section.
2. *Authority.* The zoning board of appeals shall abide by all the applicable provisions of the Charter, as amended.
3. *Functions and powers.* The functions and powers of the zoning board of appeals shall include all properties within the city limits, with the exception of the downtown overlay zone or the downtown master plan affected areas:

- a. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the zoning officer in the enforcement of this chapter;
 - b. To reverse or affirm, in whole or in part, or modify the appeal from any order, requirement, decision, or determination of the administrative officer;
 - c. To interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the zoning map and comprehensive plan;
 - d. To grant variances;
 - e. To compel the attendance of witnesses at hearings or meetings and to administer oaths;
 - f. To consider, and approve or disapprove, applications for Class B special use permits; and
 - g. To hear and decide appeals from any order, requirement, decision or determination made by the plans and plats review committee.
 - h. Approve, with or without conditions, or deny applications for demolition of existing buildings within the Coleman Park overly district, when such demolition is being requested prior to the issuance of a building permit which affects the vertical construction of a new structure in its place.
4. *Procedures.* The zoning board of appeals shall adopt rules necessary for the conduct of its affairs and in keeping with the provisions of this article. Meetings shall be held at the call of the chairman and at such other times as the zoning board of appeals may determine. All meetings shall be open to the public. The zoning board of appeals shall keep minutes of its proceedings, record the vote of each member upon each question, keep records of its examinations and other official actions. All records and minutes shall be public records and be filed in the office of the zoning officer.
- d. *Plans and plats review committee.* The plans and plats review committee shall review all site plans. The plans and plats review committee shall be composed of the planning and zoning administrator, one other member of the planning department to be designated by the planning and zoning administrator, and the director or a designated representative of each of the following departments: engineering and public works, building, fire, police, leisure services, city attorney, city administration, mayor's office and utilities. The plans and plats review committee shall be chaired by the planning and zoning administrator or the planning department's designated representative. The plans and plats review committee shall establish bylaws, including administrative rules of procedure to govern its review process. The plans and plats review committee shall review all required site plans to ensure that all proposed improvements meet adopted site plan, engineering, utility, public safety, transportation and related standard building codes, and Code of Ordinances, and that they conform to other applicable codes and regulations contained in the comprehensive plan of the city, this zoning code, and the Code of Ordinances.
- e. *Historic preservation board.*
- 1. *Establishment, composition and terms.* The West Palm Beach Historic Preservation Board shall consist of seven members and two alternate members who shall be appointed by the mayor. Members shall reside or have a principal place of business in the city. Two members of the full board shall have professional degrees in architecture, at least one of whom shall be a regular member. A minimum of two members shall be chosen from among the disciplines of architecture, history, architectural history, archaeology, landscape architecture or planning. A minimum of two additional members of the board shall be experienced in the areas of commercial development or real estate, banking or law. Three other members, including the two alternate members, shall be from any of the foregoing professions. Two members shall be citizen members at large. All members shall have demonstrated a special interest, experience or knowledge in historic preservation or related disciplines. Members of the board shall serve three-year terms. Of the initial appointments, four members shall be appointed for a term of three years and three members shall be appointed for a term of two years. Vacancies on the board, including expired terms, shall be filled within 60 days by the mayor. Members shall be deemed to continue to hold office until a successor has been appointed.
 - 2. *Procedures and quorum.*
 - a. The board shall establish rules of procedures, subject to any limitations prescribed by law. Five members shall constitute a quorum for the transaction of business.
 - b. The board shall select a chairman and other officers and shall prescribe their duties and powers. The historic preservation planner or designee shall act as secretary of the board and shall attend and keep minutes of all meetings, acting in an advisory capacity and participating fully in board discussions, but having no right to vote. A planner in the historic preservation division may serve as the historic preservation planner's designee.

- c. A city attorney shall attend all meetings, acting in an advisory capacity and participating fully in board discussions, but having no right to vote. The mayor, city administrator and the planning director shall be ex officio members of the board and may attend any of its meetings or hearings and participate in its discussions, but shall have no right to vote.
- d. The board shall keep minutes of its proceedings, record the vote on each question, and keep records of its discussions, recommendations and other official actions.

3. *Removal.* Any member of the board may be removed by the mayor pursuant to section 3.01 of the Charter.

4. *Powers and duties.* The board shall have the following powers and duties:

- a. To recommend to the city commission the following:
 - 1. Adoption, modification, or replacement of the Design Guidelines Handbook;
 - 2. Nomination of properties and districts to the National Register of Historic Places, as a required duty of being a certified local government;
 - 3. Nominations of properties and districts to the West Palm Beach Register of Historic Places.
- b. To hold public hearings and to approve or deny applications for certificates of appropriateness or certificates of economic hardship affecting proposed or designated properties or properties within districts;
- c. To advise and assist owners of properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, and on procedures for inclusion in the National Register of Historic Places;
- d. To call upon available city staff members and the preservation planners as well as other experts for assistance and/or technical advice;
- e. To testify before all boards and commissions on any matter affecting historically, culturally and architecturally significant properties;
- f. To confer recognition upon the owners of properties and districts by means of certificates, plaques or markers;
- g. To recommend amendments or changes to the historic preservation provisions of this chapter or to the historic preservation element of the city's comprehensive plan;
- h. To inform and educate the citizens of the city concerning the historic, cultural and architectural heritage of the city; and
- i. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of the historic preservation provisions of this chapter.
- j. Approve, with or without conditions, or deny applications for variances, special exceptions and class B special use permits. Any persons aggrieved by a decision of the historic preservation board for a variance, special exception or class B special use permit may appeal by common law writ of certiorari to a court of competent jurisdiction for judicial relief within 30 days after a decision by the historic preservation board. The election of remedies shall lie with the appellant.

f. *Downtown Action Committee (DAC).*

1. *Establishment, composition and terms.*

- a. *Statement of purpose.* The DAC is established to oversee the development of the area governed by the Downtown Master Plan (DMP).
- b. *Composition.* The DAC shall consist of seven members and two alternate members who shall serve without compensation and who shall be appointed by the mayor as follows:
 - 1. Five design or planning professionals, who may include registered architects, landscape architects, certified urban planners or urban designers. At least two different disciplines shall be appointed from this group at all times; only one member from this group may serve as an alternate member;
 - 2. One downtown business owner, developer, real estate agent, or builder;
 - 3. One downtown residential property owner;
 - 4. One downtown nonresidential property owner;
 - 5. A ninth member who may fit any of the requirements above or a city resident-at-large.

Alternate members shall act only in the absence, disability or abstention of a member.

- c. *Quorum.* Four members shall constitute a quorum to conduct the business of the committee. A minimum of four votes is required for the approval or denial of variances, extension of variances, class B special use permits, and administrative appeals.
 - d. *Terms of office.* The mayor shall appoint each member for a term of three years. Each member shall hold office for the term for which they are appointed and until their successor is appointed, unless such member is removed or resigns. Any member of the board may be removed by the mayor. If a vacancy occurs in the membership of the DAC, the mayor may fill the vacancy for the unexpired term.
 - e. *Officers and their duties.* The officers shall consist of a chairperson and a vice chairperson. A minimum of four votes is required to select the chairperson and vice-chairperson. The recording secretary shall be designated by the planning director. The chairperson, or the vice-chairperson in the chairperson's absence, shall conduct the meetings. In the absence of a chairperson and a vice-chairperson, the remaining members of the board may elect a temporary chairperson.
2. *Authority.* The DAC shall abide by all the applicable provisions of the Charter, as amended, the comprehensive plan, Florida Statutes and this Code.
 3. *Functions and powers.* The DAC shall have authority over the DMP area and shall be authorized to:
 - a. Approve, with or without conditions, or deny applications for proposed developments subject to special review.
 - b. Approve, with or without conditions, or deny applications for variances and class B special use permits.
 - c. Hear and decide administrative appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the planning director in the enforcement of the urban regulations, the comprehensive plan, or Florida Statutes.
 - d. Approve, with or without conditions, or deny applications for demolition of existing buildings.
 - e. Approve or deny applications for the transfer of development rights.
 - f. Make recommendations to the city commission on amendments to the DMP element of the comprehensive plan, the DMP urban regulations, and the DMP zoning atlas. Any amendments to the DMP urban regulations or the DMP zoning atlas shall be evaluated pursuant to the standards contained in subsection [94-32\(a\)](#).
 - g. Make recommendations to the city commission on any proposed improvements to public rights-of-way and urban open spaces.
 - h. Make recommendations to the city commission on requests for abandonment of city owned rights-of-way or alleys.
 - i. Compel the attendance of witnesses at hearings and administer oaths.
 - j. Waivers shall not be authorized by the board, unless expressly allowed by this article.
 4. *Conduct of business.* The DAC may adopt rules and by-laws necessary for the conduct of its affairs and in keeping with the provisions of this article. All hearings shall be open to the public and follow the public hearing requirements of section [94-39](#) of this article.

(Code 1979, § 33-11; Ord. No. 3554-02, art. II, 7-22-2002; Ord. No. 3612-02, § 2, 10-15-2002; Ord. No. 3773-04, § 2, 8-16-2004; Ord. No. 4213-09, § 4, 6-29-2009; Ord. No. 4265-10, § 5, 5-17-2010; Ord. No. [5002-22](#), § 3, 07-11-2022; Ord. No. [5008-22](#), § 3, 07-25-2022)