



City of North Port

ORDINANCE NO. 2015-22

(Adoption of Amendments to the City of North Port, Florida Unified Land Development Code)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING SECTION 22 OF CHAPTER 53 OF THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE (ULDC), ANNEXATIONS; PROVIDING FOR FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statutes Chapter 171, Part I regulates municipal annexations; and

WHEREAS, section 22 of chapter 53 of the City of North Port Unified Land Development Code also regulates municipal annexations; and

WHEREAS, the two regulations are different and inconsistent; and

WHEREAS, section 1.02 of the City Charter of the City of North Port provides:

*The City of North Port, having been duly created as specified in Section 1.01, shall have all governmental, corporate and proprietary powers of the Home Rule Powers Act to enable it to conduct municipal government, perform municipal functions and render municipal services, and shall exercise any and all powers for municipal purposes within its corporate limits, **except as otherwise provided by the Constitution, General or Special laws of the State of Florida**, or County Charter, and as such shall have perpetual succession and seal. (emphasis added)*

WHEREAS, In Phantom of Brevard, Inc. v. Brevard County, 3 So.3d 309, 314 (2008), the Florida Supreme Court explained that ordinances are unenforceable when the county: (1) legislates in a subject area that has been preempted by the State; or (2) enacts an ordinance that directly conflicts with a statute:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1. FINDINGS.

The City Commission hereby makes the following findings:

1.01 Preamble of Section 53-22:

Annexation shall be ~~voluntary~~ and by non-emergency ordinance and shall meet the requirements of the provisions of State Law, §171. Any change in City boundaries through annexation shall revise the official boundaries of the City and shall be shown on the Official Zoning Map.

1.02 Paragraph A. of section 53-22 – Annexations is stricken in its entirety:

A. ~~Pre-annexation agreement. Prior to any application for annexation, the applicant shall enter into a pre-annexation agreement with the City. Upon approval, the pre-annexation agreement shall be filed with the City Clerk, and shall address major concerns of the City as established by the State and the City Commission, and shall include the following, but is not limited to:~~

- ~~(1) Concurrency management.~~
- ~~(2) Assessments.~~
- ~~(3) Fiscal impact.~~
- ~~(4) Traffic impact.~~
- ~~(5) Utilities management.~~
- ~~(6) Fire and emergency medical services.~~
- ~~(7) Law enforcement services.~~
- ~~(8) Property maintenance.~~
- ~~(9) Design standards.~~
- ~~(10) City's obligation.~~
- ~~(11) Developer's obligation.~~

1.03 Paragraph E.(2) of section 53-22 – Annexations is stricken in its entirety:

~~(2) The City Manager may negotiate with the property owner prior to entering into a municipal services and pre-annexation agreement as to the City's concerns pertaining to various aspects of the development of the particular parcel.~~

1.04 Paragraph E.(3) of section 53-22 – Annexations is stricken in its entirety:

~~(3) The City may supply water, sewer, or such other utilities which may be required for the property prior to annexation occurring only if a municipal services and pre-annexation agreement has been executed by the property owner. Said agreement shall provide that the monthly payments for such utility services shall include:~~

- ~~(a) Charges pursuant to City ordinance and any developer agreement for subject property; and~~
- ~~(b) A sum equal to one twelfth (1/12) of the current ad valorem tax millage applied to the current assessed valuation of the property, as well as all personal property located thereon, as such assessment may be made by the County tax assessor.~~

1.05 Paragraph E.(5) of section 53-22 – Annexations is amended as revised as follows:

(5) Annexation of property also requires a separate rezoning application and comprehensive plan amendment application.

All annexed property will be developed in accordance with City Codes and that the adopted level of service for facilities and infrastructure will be maintained; this could require from the owner, action such as installation of fire hydrants, dedication of street rights-of-way, provision of recreation or open space etc.

~~(5) Review by the Administrative Staff. Upon receipt of a written petition for annexation, the Administrative Staff shall meet with the applicant to discuss all details of the annexation and negotiate an annexation agreement. The Administrative Staff shall forward all information to the Planning and Zoning Advisory Board and City Commission for review.~~

~~(a) The annexation agreement shall designate one (1) of the following zoning designations or a combination thereof and the amount of land to be assigned to each zoning designation for the annexed property with any conditions attached to the zoning designation which the City deems appropriate:~~

- ~~(i) Agricultural District.~~
- ~~(ii) Conservation District.~~
- ~~(iii) Commercial General.~~
- ~~(iv) Commercial/Recreation.~~
- ~~(v) Government Use.~~
- ~~(vi) Industrial.~~
- ~~(vii) Light Industrial and Warehousing.~~
- ~~(viii) Office, Professional, Institutional.~~
- ~~(ix) Planned Community Development.~~
- ~~(x) Residential.~~
- ~~(xi) Recreation/Open Space.~~
- ~~(xii) Village.~~

1.06 Paragraph F of section 53-22 – Annexations is stricken in its entirety:

~~F. Annexation agreement. The property being annexed shall be regulated by the annexation agreement, all State, Federal and City codes and this Unified Land Development Code. The annexation agreement shall address all matters of concurrency and any matter that may create adverse effects to the City, and shall be completed prior to the final annexation approval.~~

1.07 Paragraph I of section 53-22 – Annexations is amended and revised as follows:

I. Public Hearing. Public Hearings on the ~~resolution for the granting of ordinance for~~ an annexation shall be held by both the Planning and Zoning Advisory Board and the City Commission.

SECTION 2. SEVERABILITY.

2.01 If any section, subsection or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 3. CONFLICTS.

3.01 In the event of any conflicts between the provisions of this Ordinance and any other Ordinance, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 4. EFFECTIVE DATE.

4.01 This Ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY in public session this _____ day of _____, 2015.

PASSED and ADOPTED on second and final reading in public session this _____ day of _____, 2015.

CITY OF NORTH PORT, FLORIDA

RHONDA Y. DIFRANCO
Mayor

ATTEST:

HELEN RAIMBEAU, MMC
City Clerk

Approved as to form and correctness:

MARK MORIARTY
City Attorney