

**ORDINANCE NO. 20-\_\_**

**ORDINANCE AMENDING ARTICLE III, CHAPTER 62, OF THE CODE OF ORDINANCES OF BREVARD COUNTY; ENTITLED “THE COMPREHENSIVE PLAN”, SETTING FORTH PLAN AMENDMENT 2020-1.1; AMENDING SECTION 62-501, ENTITLED “CONTENTS OF THE PLAN”; SPECIFICALLY AMENDING SECTION 62-501, PART XI, ENTITLED FUTURE LAND USE ELEMENT; PROVIDING FOR INTERNAL CONSISTENCY WITH THESE AMENDMENTS; PROVIDING LEGAL STATUS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.3161 et. seq., Florida Statutes (1987) established the Local Government Comprehensive Planning and Land Development Regulation Act; and

**WHEREAS**, Section 163.3167, Florida Statutes, requires each County in the State of Florida to prepare and adopt a Comprehensive Plan as scheduled by the Department of Economic Opportunity; and

**WHEREAS**, on September 8, 1988, the Board of County Commissioners of Brevard County, Florida, approved Ordinance No. 88-27, adopting the 1988 Brevard County Comprehensive Plan, hereafter referred to as the 1988 Plan; and

**WHEREAS**, Sections 163.3184 and 163.3187, and 163.3189, Florida Statutes, established the process for the amendment of comprehensive plans pursuant to which Brevard County has established procedures for amending the 1988 Plan; and

**WHEREAS**, Brevard County initiated amendments and accepted application for amendments to the Comprehensive Plan on June 30, 2020, for adoption as the Plan Amendment Cycle 2020-1; and

**WHEREAS**, the Board of County Commissioners of Brevard County, Florida, have provided for the broad dissemination of proposals and alternatives, opportunity for written comments, public hearings after due public notice, provisions for open discussion, communication programs and consideration of and response to public comments concerning the provisions contained in the 1988 Plan and amendments thereto; and

**WHEREAS**, Section 62-181, Brevard County Code designated the Brevard County Planning and Zoning Board as the Local Planning Agency for the unincorporated areas of Brevard County, Florida, and set forth the duties and responsibilities of said local planning agency; and

**WHEREAS**, on November 9, 2020, the Brevard County Local Planning Agency held a duly noticed public hearing on Plan Amendment 2020-1.1, and considered the findings and advice of the Technical Advisory Groups, and all interested parties submitting comments; and

**WHEREAS**, on December 3, 2020, the Brevard County Board of County Commissioners held a duly noticed public hearing, and considered the findings and recommendations, and all interested parties submitting written or oral comments, and the recommendations of the Local Planning Agency, and upon thorough and complete consideration and deliberation, approved for the adoption of Plan Amendment 2020-1.1; and

**WHEREAS**, Plan Amendment 2020-1.1 adopted by this Ordinance complies with the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act; and

**WHEREAS**, Plan Amendment 2020-1.1 adopted by this Ordinance is based upon findings of fact as included in the data and analysis.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, as follows:**

**Section 1. Authority.** This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulations Act, Sections 163.3184 and 163.3187, Florida Statutes.

**Section 2. Purpose and Intent.** It is hereby declared to be the purpose and intent of this Ordinance to clarify, expand, correct, update, modify and otherwise further the provisions of the 1988 Brevard County Comprehensive Plan.

**Section 3. Adoption of Comprehensive Plan Amendments.** Pursuant to Plan Amendment 2020-1.1 to the 1988 Comprehensive Plan, Article III, Chapter 62-504, Brevard County Code, the 1988 Brevard County Comprehensive Plan is hereby amended as specifically shown in Exhibit A. Exhibit A is hereby incorporated into and made part of this Ordinance.

**Section 4. Legal Status of the Plan Amendments.** After and from the effective date of this Ordinance, the plan amendment, Plan Amendment 2020-1.1, shall amend the 1988 Comprehensive Plan and become part of that plan and the plan amendment shall retain the legal status of the 1988 Brevard County Comprehensive Plan established in Chapter 62-504 of the Code of Laws and Ordinances of Brevard County, Florida, as amended.

**Section 5. Severability.** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this 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 decree shall be rendered.

**Section 6. Effective Date.** The plan amendment shall become effective once the state land planning agency issues a final order determining the adopted amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(9), or until the Administration Commission issues a final order determining the amendment to be in compliance in accordance with Florida Statutes, Section 163.3184(10). A certified copy of the ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten days of enactment.

DONE AND ADOPTED in regular session, this \_\_th day of \_\_\_\_\_, 2020.

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA**

\_\_\_\_\_  
Scott Ellis, Clerk

By: \_\_\_\_\_  
Bryan Andrew Lober, Chairman

Approved by the Board on \_\_\_\_\_, 2020.

**EXHIBIT A**

**2020-1.1 COMPREHENSIVE PLAN AMENDMENT**

## PUBLIC HEARING NOTICE

The Brevard County Local Planning Agency (LPA) will meet on **Monday, August 24, 2020, at 3:00 p.m.**, at the Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, Building C, Commission Room, to consider the following item:

1. An ordinance amending Article III, Chapter 62, of the Code of Ordinances of Brevard County, entitled "The Comprehensive Plan", setting forth the transmittal of Plan Amendment Cycle 2020-1; amending Section 62-501, entitled Contents of the Plan; specifically amending Section 62-501 as described below; and provisions which require amendments to maintain internal consistency with this amendment; providing legal status; providing a severability clause; and providing an effective date.

a. Plan Amendment 2020-1.1 – a proposal initiated by Health First, Inc. to amend Part XI, the Future Land Use Element, to amend Policy 2.8 D., to increase the allowable building square footage countywide within a PUD (Planned Unit Development), Policy 2.8 E., to permit a countywide increase FAR (Floor Area Ratio) for CC (Community Commercial) designated sites from 1.00 to 1.75 within a PUD zoning classification; and Policy 2.8 Table 2.2, to update the table to the FAR increase from 1.00 to 1.75 within a PUD zoning classification.

2. An ordinance amending Chapter 62, Land Development Regulations, Code of Ordinances of Brevard County, Florida; amending Article VI, Division 1, Section 62-1102, Definitions; specifically adding definitions for Eating and Drinking Establishments and Restaurants; Article VI, Division 5, Subdivision III, Section 62-1906, Alcoholic Beverages for On-Premises Consumption; specifically creating Subsection (1)(c) to establish a baseline of 51 percent of gross sales to be attributed to food sales in order for restaurants and snack bars to seek review under Administrative Approval of the Alcoholic Beverages for On-Premises Consumption Conditional Use Permit; amending Subsection (4) to create the Administrative process by which restaurants and snack bars must follow in order to obtain Administrative Approval of On-Premises Sale or Serving of Alcoholic Beverages; and amending Subsection (6) to address which process should be followed in the event of expansion of alcohol use and whether such use is reviewed under Administrative Approval or the filing of a new application for a conditional use; providing for conflicting provisions; providing for severability; providing for area encompassed; providing an effective date; and providing for inclusion in the Code of Ordinances of Brevard County, Florida.

All persons for or against said items can be heard at said time and place. If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, such a person will need a record of this proceeding and that, for such purposes, such person may need to ensure that a verbatim record of this proceeding is made, at his/her expense, which record includes testimony and evidence upon which any appeal is to be based. In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodations to participate in this proceeding should contact the Planning & Development Department no later than five (5) days prior to the meeting at 321-633-2069 for assistance.