

ORDINANCE NO. 2015-12

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE CITY OF PORT ORANGE LAND DEVELOPMENT CODE; AMENDING CHAPTER 3, ARTICLE I, SECTION 7 AND CHAPTER 19, SECTION 1, RELATING TO PROCEDURES FOR ADOPTING THE DEVELOPMENT REVIEW AND PUBLIC HEARING CALENDARS; AMENDING CHAPTER 6, SECTION 5, RELATING TO REVIEW AND APPROVAL OF SITE AND SUBDIVISION IMPROVEMENT AGREEMENTS; AMENDING CHAPTER 15, SECTION 2; RELATING TO NON-STRUCTURAL AND NON-ELECTRICAL IMPROVEMENTS TO EXISTING MONUMENT SIGNS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Planning Commission has recommended amendments to the Land Development Code; and

WHEREAS, City Council finds it necessary to coordinate the development review and public hearing calendars with the annual city council meeting schedule in order to avoid potential conflicts; and

WHEREAS, City Council has determined a need to efficiently process the Site Improvement Agreements and Subdivision Improvement Agreements through administrative delegation; and

WHEREAS, City Council recognizes the need for an exception to the building permit process for minor sign alterations that are non-structural and non-electrical in nature; and

WHEREAS, the proposed amendments are intended to improve the content of the existing code as part of an on-going maintenance effort; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1: The City Council of the City of Port Orange hereby amends Chapter 3, Article I, Section 7 of the Land Development Code, to read as follows:

Chapter 3 – ADMINISTRATION

ARTICLE I: - CODE ADMINISTRATION

Section 7: - Amendments.

Application to amend the text within this code or the comprehensive plan may be initiated by any person, board or agency. Application to change the future land use under the comprehensive plan or rezone land under this code may be initiated by the landowner(s), department, planning commission, or city council. The requirements of this section are in addition to the requirements of applicable state law and county ordinances.

- (a) *Application.* Application for development code or comprehensive plan amendments shall be made on the appropriate forms provided by the department for that purpose, and shall be accompanied by the appropriate review fee.
 - (1) Application deadlines for development code amendments and rezonings shall be as specified in the ~~critical dates~~ development review and public hearing calendars, which shall be established annually by the city council no later than ~~October 1~~ December 31 of each year.
 - (2) Applications for comprehensive plan amendments may be made at any time, but large-scale amendments shall only be considered twice per year. Deadlines shall be as specified in the adopted critical dates calendar.
 - (3) Applications for rezonings and future land use plan amendments shall include a legal description of the property, sketch or survey of the property, proof of ownership, and authorization of the owner if represented by an agent or contract purchaser.
- (b) – (e) [*Remain Unchanged*]

SECTION 2: The City Council of the City of Port Orange hereby amends Chapter 19, Section 1 of the Land Development Code, to read as follows:

Chapter 19 – VARIANCES

Section 1: - Variances.

- (a) – (c) [*Remain Unchanged*]
- (d) *Application for all other variances.* Application for variance shall be made on the appropriate forms provided by the department for that purpose, and shall be accompanied by the appropriate review fee. Except where modified by the specialized procedures above, variances shall be considered as follows:

- (1) Applications for variance shall be submitted in accordance with the adopted public hearing ~~critical dates~~ calendar and scheduled for the corresponding planning commission meeting date.
- (2) Applications for variance shall include a legal description of the property, sketch or survey of the property (no greater than 11 by 17 inches), proof of ownership, and authorization of the owner if represented by an agent or contract purchaser.
- (3) In addition, the applicant shall provide a written statement which explains the conditions and circumstances of the alleged hardship, the proposed action by the applicant should the variance be granted, and the necessity of the action. The written statement shall clearly justify the granting of relief from [the] requirements of the development code, and satisfactorily address the review criteria of this chapter.

(e) – (i) [*Remain Unchanged*]

SECTION 3: The City Council hereby amends Chapter 5, Section 5 of the Land Development Code, to read as follows:

Chapter 5 – SUBDIVISIONS

Section 5: - Subdivision plat and development plans review.

Approval of subdivision plats and development plans is outlined in chapter 3, article I, section 3 of this code. Approval of the final plat and development plans results in the issuance of a development order.

- (a) *Subdivision plat and development plan exhibits.* The following information and documentation shall be shown on or enclosed with the subdivision plat and development plans submitted for review. The subdivision plat and development plans shall be drawn at a scale of no smaller than one inch equal to 100 feet.
 - (1) – (5) [*Remain Unchanged*]
 - (6) Any and all proposed deed covenants, ~~and draft of the SIA~~ and restrictions.
 - (7) – (8) [*Remain Unchanged*]
- (b) *Final document submittal for city council approval.* The following documents shall be submitted within one week of a planning commission recommendation regarding subdivision plat and plans, in order to be heard ~~by the city council at the regularly scheduled city council meeting to consider such recommendations reviewed and approved by the city manager.~~
 - (1) ~~Three copies of executed deed covenants and restrictions.~~
 - (2) Three copies of an executed subdivision improvement agreement (SIA) approved by staff. An improvement guarantee shall be required if the plat

is recorded prior to the completion of improvements. All agreements and guarantees shall be on forms furnished or currently approved by the city. The guarantee shall be in the amount of 110 percent of ~~the~~ an engineer's signed and sealed estimated construction costs or of the sum of the actual construction contracts. The agreement shall provide for a one-year warranty on all required infrastructure public improvements from the time of city acceptance, and shall be submitted prior to acceptance in the amount of ten percent of the actual construction cost.

SECTION 4: The City Council hereby amends Chapter 6, Section 5 of the Land Development Code, to read as follows:

Chapter 6 – SITE DEVELOPMENT

Section 5: - Site development plans.

The review process for site development plans is outlined in section 3, development plan review process, in chapter 3 of this code. Approval of the final site development plans results in the issuance of a development order.

- (a) *Site development plan exhibits.* The following information and documentation shall be shown on or enclosed with the plans submitted for approval. The plans shall be drawn at the largest scale feasible, based on the size of the project, however in no case shall the scale be smaller than one inch equal to 60 feet.
- (b) *Site improvement agreements.* If improvements are to be constructed on public property, or within a public right-of-way or easement, a site improvement agreement (SIA) between the property owner/developer and the city is required to guarantee completion. ~~Copies of an executed SIA approved by staff shall be submitted to be heard and approved by the city council at a regularly scheduled city council meeting. All agreements and guarantees shall be on forms furnished or currently approved by the city.~~ The agreement shall be approved by staff and on a form furnished or currently approved by the city, and shall be executed by the mayor and attested by the city clerk prior to issuance of a development order. The guarantee, in a form acceptable to the city, shall be in the amount of 110 percent of ~~the~~ an engineer's signed and sealed estimated construction costs or of the sum of the actual construction contracts. The agreement shall provide for a one-year warranty on all improvements from the time of city acceptance, to be submitted prior to acceptance, in the amount of ten percent of the actual construction cost.
- (c) *Unity-of-title agreement.* A unity-of-title agreement shall be required for developments on properties consisting of multiple parcels or lots, where the improvements required by this code are spread among the multiple parcels or lots and no one parcel or lot can meet the requirements of this code standing on

its own. The agreement shall be approved by staff and on a form furnished or currently approved by the city, and shall be executed by the mayor and city manager prior to issuance of a development order.

SECTION 5: The City Council hereby amends Chapter 18, Section 4 of the Land Development Code, to read as follows:

Chapter 15 - SIGNS

Section 2: - Sign permits.

- (a) *Permit required.* It shall be unlawful for any person to erect, construct, alter or relocate any sign within the city without having first obtained a permit therefor, except as provided for in this chapter.
- (b) *Work to be performed by owner, lessee or licensed contractor.* The work necessary to construct, install, erect, illuminate, paint or modify signage within the city shall comply with the following requirements:
 - (1) Work which may be performed by a property owner or lessee:
 - (a) Painting the face of any freestanding or wall sign; or
 - (b) Erection of any temporary sign permitted under section 5 of this chapter.
 - (c) Non-structural and non-electrical work on a freestanding or wall sign, i.e. vinyl letter replacement. Plans of the proposed work shall be submitted on a form furnished by the city for review and approval.
 - (2) Work which shall be performed by a sign contractor, general contractor or building contractor licensed with the city to perform such work:
 - (a) Construction, installation, erection or electrical connection of any sign which is internally illuminated;
 - (b) Construction, installation or erection of any freestanding sign requiring wind load calculations, over the height of six feet;
 - (c) Construction, installation or erection of any sign which is located above a pedestrian walkway or on the front fascia of a canopy over a pedestrian walkway;
 - (d) Construction, installation or erection of any projecting sign permitted under section 6 of this chapter; or
 - (e) Construction installation or erection of any sign not described in section 2(b)(1) above.
- (c) – (h) [*Remain Unchanged*]

SECTION 6: CONFLICTING ORDINANCES.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 7: CODIFICATION.

The provisions of this Ordinance shall become and be made a part of the Land Development Code of the City of Port Orange and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 8: SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 9: EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption.

MAYOR ALLEN GREEN

ATTEST:

Robin L. Fenwick, CMC, City Clerk

Passed on first reading on the _____ day of _____

Passed and adopted on second and final reading on the _____ day of _____

Reviewed and Approved: _____
Assistant City Attorney