



Orange City Development Services Department

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MEMORANDUM

Public Hearing: March 1, 2017 Planning Commission

Report Date: February 13, 2017

Subject: Ordinance No. 569 – Land Development Code Amendment regarding Improvement Guarantees and Commercial Truck Parking in Residential Areas.

Applicant: Development Services Department

Staff: Carol McFarlane, AICP, City Planner

SUMMARY OF REPORT

At the January 4, 2017 Planning Commission meeting, Commission members directed staff to draft an ordinance amending the Land Development Code's (LDC) regulations on Performance and Maintenance Guarantees, as well as a section regarding the parking of commercial trucks in residential areas.

As the LDC is written now, the requirements for improvement guarantees are found in three different chapters, and in some instances performance guarantees and maintenance guarantees are discussed as though they are the same thing. The proposed text amendment will place the requirements for improvements guarantees under one chapter, and will provide clarification between the two types of improvement guarantees. In addition, the required amount of maintenance guarantees is reduced from 110% of the construction cost of improvements to 15%, which is more in line with what other municipalities require.

The proposed changes to Chapter 2 and 8 provide a definition for commercial vehicles, and prohibit the parking of commercial vehicles in residentially zoned areas.

RECOMMENDATION

Staff recommends that the Planning Commission forward Ordinance 569 to the City Council with a recommendation of approval. The first reading is tentatively scheduled for the April 11, 2017, and second reading is tentatively scheduled for the April 25, 2017 City Council meeting.

ATTACHMENTS

Ordinance 569

Technical Review Committee Memorandum 11.1.16

ORDINANCE NO. 569

AN ORDINANCE OF THE CITY OF ORANGE CITY, FLORIDA, AMENDING APPENDIX A – LAND DEVELOPMENT CODE REGARDING IMPROVEMENT GUARANTEES AND VEHICLE PARKING IN RESIDENTIAL AREAS; PROVIDING FOR AMENDMENTS TO SECTION 2.2, CHAPTER 2 DEFINITIONS, AND SECTION 5.1.1, CHAPTER 5 DEVELOPMENT ORDERS, DEVELOPMENT PERMITS AND CERTIFICATES OF OCCUPANCY, AND SECTION 6.6, CHAPTER 6 SUBDIVISION REGULATIONS, AND SECTION 7.10, CHAPTER 7 SITE PLAN REVIEW, AND SECTION 8.7.11, CHAPTER 8 ZONING REGULATIONS; PROVIDING FOR CODIFICATION; CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Orange City finds and determines that the updated and revised definitions to the Land Development Code are consistent with all applicable policies of the City’s adopted Comprehensive Plan and not in conflict with the public interest; and

WHEREAS, the City of Orange City deems it in the best interest of the City to amend the Land Development Code to provide clarification on the requirements for improvement guarantees for private development within the city; and

WHEREAS, the City of Orange City finds it necessary to reduce the requirements for maintenance guarantees to stay competitive with neighboring municipalities; and

WHEREAS, the City of Orange City finds it necessary to provide a definition for commercial motor vehicle; and

WHEREAS, on March 1, 2017, the local planning agency, being the Planning Commission of the City of Orange City, reviewed the requested amendment to the Code of Ordinances and Land Development Code and recommended these changes to the City Council.

NOW, THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORANGE CITY, FLORIDA:

SECTION 1. The foregoing whereas clauses are incorporated here as legislative findings by this reference and made a part hereof for all intents and purposes.

SECTION 2. Chapter 2, 5, 6, 7, and 8 of the City’s Land Development Code is hereby amended as shown in underline, strikethrough format in Exhibit “A”, attached hereto and incorporated herein with full force and effect.

SECTION 3. CODIFICATION: It is the intention of the City Council that the provisions of this Ordinance shall become and be made part of the Code of Ordinances of the City of Orange City, Florida and the “ordinance” may be changed to “section”, “article”, or other appropriate word or phrase and the sections of the Ordinance may be renumbered or lettered to accomplish such intention.

SECTION 4. CONFLICT: All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed.

SECTION 5. SEVERABILITY: If any section, part of a section, paragraph, clause, phrase or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the City Council of the City of Orange City, Florida.

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 569):

First Reading this _____ day of _____, 2017.

Bill O’Connor _____ Anthony J. Pupello _____

Jeff Allebach _____ Evelyn Robinson _____

Jim Mahoney _____ O. William Crippen, Vice Mayor _____

Gary A. Blair, Mayor _____

ROLL CALL VOTE AS FOLLOWS (Ordinance No. 569):

Second Reading this _____ day of _____, 2017.

Bill O'Connor _____ Anthony J. Pupello _____

Jeff Allebach _____ Evelyn Robinson _____

Jim Mahoney _____ O. William Crippen, Vice Mayor _____

Gary A. Blair, Mayor _____

PASSED and ADOPTED this _____ day of _____, 2017.

ATTEST:

AUTHENTICATED:

Gloria J. Thomas, CMC, City Clerk

Gary A. Blair, Mayor

Approved as to form and legal sufficiency:

William E. Reischmann, Jr., City Attorney

ORD No. 569

Exhibit “A”

CHAPTER 2. – DEFINITIONS

Section 2.2 – Specific terms defined.

Cluster subdivision. A subdivision in which building lot sizes are reduced below the minimum lot size of the zoning district in which the subdivision is located provided that the total number of dwelling units shall not exceed the number of dwelling units permitted within the zoning district in which the subdivision is located; and further provided that the subdivision is designed and developed in accordance with the requirements of chapter 8, section 8.7.17.8 of this code.

Commercial motor vehicle. A motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle: 1) Has a gross combination weight rating of 10,001 or more pounds or 2) Is designed to transport 15 or more passengers, including the driver; or 3) Is of any size and is used in the transportation of hazardous materials.

Communication antenna. An antenna designed to transmit or receive communications as authorized by the Federal Communications Commission.

Sec. 5.1.1. - ~~Predevelopment requirements.~~ Performance and Maintenance Guarantees.

As a condition for the issuance of any development order, either in conjunction with a site plan and/or subdivision plat, the applicant shall provide the city with a guarantee of performance of the development order relating to infrastructure. ~~This guarantee may be in the form of a performance/maintenance bond, trust, deed or escrow agreement, in an amount approved by the development services director, and in a form as approved by the city attorney. Such guarantee or surety shall cover at least 110 percent of the cost of all development order requirements and/or obligations relating to infrastructure, with estimates provided by the applicant and as approved by the development services director. This guarantee shall be provided to the city prior to issuance of any development permit. This predevelopment performance guarantee shall take into consideration the applicant's obligations for performance and/or maintenance guarantees otherwise established in this land development code. Infrastructure shall include, but not be limited to, all right-of ways, roads, stormwater improvements, utilities, common elements and landscaping requirements.~~

- A. In lieu of installing required improvements prior to the approval of a final plat, or the issuance of a certificate of occupancy (or its functional equivalent), a developer may guarantee installation of improvements by providing performance bond, escrow, or irrevocable letter of credit, in an agreement form approved by the city attorney. Such surety shall cover at least 110 percent of the cost of all required improvements such as streets, utilities, drainage structures, landscaping, or others as required by the Land Development Code, with estimates provided by the developer and approved by the city engineer. The surety shall be conditioned upon faithful performance by the developer of the work required to be complete all improvements in the development, in compliance with these regulations, and shall be payable to and for the indemnification of the city. Portions of the guarantee may be released to the developer proportionate to the work completed from time to time as work progresses. The amount to be released shall be determined by the city engineer. Upon approval of all required

improvements by the city engineer, the city council shall accept any improvements to be publicly dedicated and a maintenance guarantee shall be established as set forth in this section.

- B. Following the dedication of the required improvements, the city shall provide routine maintenance. However, the developer shall continue to be responsible for the repair, reconstruction and/or replacement of all improvements due to defects in design, materials and/or workmanship for a period of one (1) year after dedication to the city. This guarantee shall be in the amount of 15% of the construction cost of the improvements as provided by the engineer of record and approved by the city engineer. Should the city engineer find defects in design, material and/or workmanship during the maintenance period as herein specified, the city engineer shall notify the developer in writing, giving the developer 15 days to take corrective action. Should the developer fail to take corrective action within 15 days, the city may correct the problem, deducting the cost from the maintenance guarantee. At the end of the maintenance guarantee period, if all requested repairs, reconstruction and/or replacement of improvements have been completed to the satisfaction of the city engineer, the city council shall release the developer and surety from any further obligation under the terms of the *maintenance guarantee*.

Section 6.6. - Installation and guarantee of improvements.

6.6.1. *Installation of required improvements.* Final plats in major subdivisions shall not be approved until the subdivider has installed the required improvements listed in section 6.6.2 of this chapter. In lieu of installing the required improvements prior to final plat approval, the subdivider shall, as part of the final plat approval, provide guarantees in accordance with section ~~6.6.5~~ 5.1.1 of this chapter that such improvements will be installed. All improvements shall be installed in conformity with the requirements and standards set forth in this chapter, and all other specifications or requirements of this Code, and as specified in the final plat as approved by the city council. All improvement plans and installed improvements shall be inspected and approved by the city engineer as conforming to this chapter and all other requirements of this Code. If the ~~subdivider~~ developer elects to install improvements after preliminary plat approval and prior to final plat approval, written authorization shall be provided that enables the city engineer or an authorized representative to enter upon the property to be subdivided and make periodic inspections at each stage of development. The engineer of record shall certify that all improvements have been installed in accordance with approved plans and specifications. The ~~subdivider~~ developer shall be responsible for the maintenance of the improvements until dedication of the improvements to the city. After the improvements are installed to the satisfaction of the city engineer, said improvements shall be dedicated to the city and maintained by the city.

6.6.2. *Required improvements.* The following improvements are required.

- A. Survey reference markers.
- B. Street grading, base preparation and surface course. The number of traffic lanes applicant is required to construct on arterials, collectors and roadways will be dependent on the contributory traffic generated by the proposed development as contained in the City of Orange City Design Standards Manual.
- C. Storm drainage system.
- D. Sidewalks installed in accordance with the requirements of the City of Orange City Design Standards Manual.
- E. Sanitary sewage disposal system (in accordance with city plans), and approved by County Health Department and the State Department of Environmental Protection if applicable.
- F. Water supply systems (in accordance with city plans), and approved by the County Health Department and the State Department of Environmental Protection if applicable.

- G. Street name markers and traffic control signs constructed of metal with reflective faces.
- H. Streetlights.
- I. Bridges.

6.6.3. *Final acceptance of improvements.* Upon completing the installation of all required improvements and prior to final plat approval, the ~~subdivider~~ developer shall submit, to the development services department, a request to inspect and have the city engineer approve and accept said improvements. Said request shall be accompanied by as-built plans of all improvements and a maintenance guarantee as set forth in section ~~6.6.4~~ 5.1.1 ~~of this chapter~~ to guarantee materials and workmanship for a period of 12 months from the time of dedication to the city. Upon the approval of all required improvements by the city engineer, the city council shall accept said improvements for dedication and maintenance subject to the submittal of a maintenance guarantee as set forth in section ~~5.1.1~~ 6.6.4 ~~of this chapter~~. ~~Following the dedication of the required improvements, the city shall provide routine preventative maintenance. However, the subdivider shall continue to be responsible for the repair, reconstruction and/or replacement of all improvements due to defects in design, materials and/or workmanship for the maintenance guarantee period as per section 6.6.4 of this chapter. The subdivider shall repair any damages or failures to the improvements upon notice to do so by the city engineer as required by section 6.6.4 of this chapter.~~

6.6.4. *Maintenance guarantee.* A maintenance guarantee shall be provided in accordance with section 5.1.1. ~~The city council shall require an escrow or some other guarantee as recommended and approved by the city attorney, to guarantee all improvements against defects in design, material and/or workmanship during the construction period and for a period of one year after dedication to the city. This guarantee shall be in the amount of 110 percent of the construction cost of the improvements as provided by the engineer of record and approved by the city engineer. Should the city engineer find defects in design, material and/or workmanship during the construction and/or maintenance period as herein specified, the city engineer shall notify the subdivider in writing, giving the subdivider 15 days to take corrective action. Should the subdivider fail to take corrective action within 15 days, the city may correct the problem, deducting the cost from the maintenance guarantee. At the end of the maintenance guarantee period, if all requested repairs, reconstruction and/or replacement of improvements have been completed to the satisfaction of the city engineer, the city council shall release the subdivider and surety from any further obligation under the terms of the maintenance guarantee.~~

6.6.5. *Guarantee of improvements.* The final plat may be recorded prior to the installation of improvements provided said installation is guaranteed, in the form of a performance bond, trust, deed or escrow agreement approved by the city attorney in accordance with section 5.1.1. ~~and the city council and is filed with the county clerk by the subdivider. Such surety shall cover at least 110 percent of the cost of all required improvements such as streets, utilities and drainage, including landfill, with estimates provided by the subdivider and approved by the city engineer. The surety shall be conditioned upon the faithful performance by the subdivider of all work required to complete all improvements in the subdivision or unit division thereof, in compliance with these regulations, and shall be payable to and for the indemnification of the city. Whenever cash or a certified or cashier's check is deposited as security for performance of the bond, the bond instrument may provide that portions of the security deposit, proportionate to the work completed, may be released to the subdivider from time to time as work progresses. The amount to be~~

~~released shall be determined by the city engineer. Upon the approval of all required improvements by the city engineer, the city council shall accept said improvements for dedication and maintenance subject to the submittal of a maintenance guarantee as set forth in section 6.6.4 of this chapter. Following the dedication of the required improvements, the city shall provide routine preventative maintenance. However, the subdivider shall continue to be responsible for the repair, reconstruction and/or replacement of all improvements due to defects in design, materials and/or workmanship for the maintenance guarantee period as per section 6.6.4 of this chapter. The subdivider shall repair any damages or failures to the improvements upon notice to do so by the city engineer as required by section 6.6.4 of this chapter.~~

- 6.6.6. *Use permit required for work within public street right-of-way.* Any person, firm or corporation desiring to construct any facility or make any improvements within any public street right-of-way shall secure a use permit from the appropriate governmental agency responsible for the public street.

Section 7.10. - Additional required submittals only where facilities are dedicated to the public.

The approval of the site plan development order shall, where facilities are dedicated to the city, be made only pursuant to certification of adequacy of the following list of required submittals by the city engineer and/or city attorney, as appropriate.

- 7.10.1. *Improvement guarantee.* The approval of any site plan development order shall be subject to the applicant guaranteeing the installation and maintenance of the required improvements, where these facilities are to be conveyed or dedicated to the city, by filing a performance guarantee in accordance with section 5.1.1. ~~bond or bonds executed by an approved surety company in the amount of 110 percent of the construction costs. Costs for construction shall be (1) estimated by the applicant's engineer, or (2) a copy of the construction contract provided. The amounts of the performance and maintenance bond must be approved as adequate by the city engineer and/or the official responsible for utility services. In lieu of performance bonding, improvements may be installed following site plan development order approval and preceding issuance of the certificate of occupancy, subject to the approval of the city engineer and/or the official responsible for utility services. In all cases where public improvements are installed prior to issuance of the development permit, a maintenance bond must be submitted to the DSD. A completed maintenance bond form shall be submitted when using a cashier's check or certified check as the form of guaranty in lieu of a surety. A certificate of occupancy cannot be issued until the maintenance bond is approved and accepted by the city attorney. Bonding requirements may be met by the following, but not limited to:~~

- ~~A. Bond executed by approved surety company.~~
- ~~B. Escrow deposit in the form of a cashier's check or certified check.~~
- ~~C. Others, as approved by the city council, which may include developer-lender-city agreement for providing public improvements, assignment of interest-bearing certificate of deposit or irrevocable letters of credit.~~

8.7.11. *Parking and storage of vehicles or watercraft.*

- A. ~~No tractor-trailer or trucks larger than one ton, commercial buses or similar vehicles~~ commercial motor vehicle shall be parked overnight in the R-1, R-2, R-3, MH-1, OT, MX-1 and RPUD zoning districts or within 100 feet of said districts. In the MX-2, CG-1, CG-2, I-

1, I-2, BPUD and IPUD zoning districts ~~no tractor-trailer or trucks larger than one ton, commercial buses or similar vehicles~~ commercial motor vehicle shall be parked overnight that are not used in conjunction with the premises where said vehicle parks overnight.

- B. Recreational vehicles, trailers, boats and the like, belonging to the occupants of the property, may be stored in the R-1, R-2 and OT zoning districts provided the following conditions are met:
1. They shall have a current license plate or validation sticker, and shall be parked or stored in full compliance with all yard requirements for accessory structures. The ground area beneath such vehicles shall be kept free from debris, including excessive weed growth.
 2. They may be temporarily parked in the driveway of the principal structure for a maximum 24-hour period for trip preparation, loading, unloading and cleanup.
 3. They shall not be parked either within a street or within that portion of the lot lying across the full width of the lot between the front lot line and the frontmost part of the principal structure.
 4. No sewage shall be permitted to escape from such vehicles onto a lot or street.
 5. They shall not be connected to water, sewer or electric lines or be used for residential purposes.
- C. Residential parking. In the R-1, R-2, R-3, MH-1 and OT zoning districts, motor vehicles shall not be parked in front yard areas except on driveways designed for off-street parking.



Technical Review Committee Memorandum

To: Technical Review Committee (TRC)
From: Carol McFarlane, AICP
 City Planner, Development Services Department
Re: Maintenance Guarantee Requirements
Meeting Date: November 1, 2016

Topic Summary: For new subdivisions, the city’s Land Development Code requires a maintenance guarantee (bond, escrow, letter of credit, etc.) in the amount of 110% of the construction cost of required improvements for a period of one year, prior to the city accepting any improvements for public dedication. After applying these requirements to real life projects, staff is concerned that the city is requiring a bond amount that can be considered excessive when compared to other local municipalities. Staff is requesting that the TRC consider this code requirement and discuss adjustments as necessary.

Staff Discussion: Section 6.6.4 reads:

“Maintenance guarantee. The city council shall require an escrow or some other guarantee as recommended and approved by the city attorney, to guarantee all improvements against defects in design, material and/or workmanship during the construction period and for a period of one year after dedication to the city. This guarantee shall be in the amount of 110 percent of the construction cost of the improvements as provided by the engineer of record and approved by the city engineer. Should the city engineer find defects in design, material and/or workmanship during the construction and/or maintenance period as herein specified, the city engineer shall notify the subdivider in writing, giving the subdivider 15 days to take corrective action. Should the subdivider fail to take corrective action within 15 days, the city may correct the problem, deducting the cost from the maintenance guarantee. At the end of the maintenance guarantee period, if all requested repairs, reconstruction and/or replacement of improvements have been completed to the satisfaction of the city engineer, the city council shall release the subdivider and surety from any further obligation under the terms of the maintenance guarantee.”

As a basis of comparison, the following chart describes the maintenance guarantee requirements of our neighboring municipalities.

Municipality	% of Construction Cost	Maintenance Period	Code Reference
Brevard County	25	2 years	62.2844
Seminole County	10	1 year	35.92
Volusia County	15	1 year	72.657
Daytona Beach	10	1 year	7.2.T
DeBary	15	1 year	4.112
DeLand	10	1 year	33.147
Deltona	15	1 year	96.77
New Smyrna Beach	10	1 year	1014.00
Ormond Beach	25	1 year	4.18
Port Orange	10	1 year	Section 7

Technical Review Committee Memorandum
Meeting Date: November 1, 2016
Maintenance Guarantees

The 110% that Orange City requires appears to be excessive when compared to other local municipalities, and may provide a disadvantage to the city as developers chose which areas to do business in.

Staff Recommendation: Staff recommends that the TRC discuss the matter and develop a course of action to resolve the issue.

In particular, staff recommends a waiver to section 6.6.4, for the Shadow Ridge Phase 2 preliminary plat application (PPLT-2-16-1187), to allow the project to proceed with a maintenance bond in an amount comparable to neighboring municipalities.