

ORDINANCE NO. 10 - 2017

AN ORDINANCE OF THE CITY OF SEMINOLE, FLORIDA, AMENDING THE CITY OF SEMINOLE CODE OF ORDINANCES, PART II, SUBPART B. LAND DEVELOPMENT CODE CHAPTER 50 ADMINISTRATION: ARTICLE I. IN GENERAL; ARTICLE II. BOARDS, COMMITTEES, COMMISSIONS; ARTICLE III. DEVELOPMENT REVIEW; ARTICLE IV. AMENDMENTS; ARTICLE V. NONCONFORMANCES; ARTICLE VI. VARIANCES; ARTICLE VII. DEVELOPMENT AGREEMENTS; AND ARTICLE VIII. AFFORDABLE HOUSING; FINDING THE AMENDMENTS CONSISTENT WITH THE COMPREHENSIVE PLAN; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR RENAMING OR RENUMBERING; PROVIDING FOR NON-SUBSTANTIVE MODIFICATIONS THAT MAY ARISE AT PUBLIC HEARING; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there was a major update to the Land Development Code, Chapter 50, on October 28, 2014; and,

WHEREAS, in implementing the updated Chapter 50 by staff, staff desires to further amend Chapter 50; and,

WHEREAS, the City of Seminole Developmental Review Board (DRB), acting as the Local Planning Agency and Land Development Regulation Commission, after due notice held a public hearing on February 20, 2017, to consider the proposed amendments to Chapter 50; and

WHEREAS, subsequent to the public hearing, the DRB found the proposed amendments to be consistent with the Comprehensive Plan and transmitted said proposed amendments to the City Council for their consideration and action; and

WHEREAS, on February 28, 2017, the City of Seminole City Council conducted a workshop on the proposed amendments; and

WHEREAS, on March 14, 2017, the City of Seminole City Council adopted on first reading the proposed amendments; and

WHEREAS, after due notice pursuant to Florida Statutes, Chapter 166.041, published on March 17, 2017, the City of Seminole City Council acting as the Local Governing Body held an advertised public hearing and adopted on second and final reading the amendments; and

WHEREAS, the City of Seminole City Council declares that said adopted amendments are consistent with its Comprehensive Plan and the Countywide Rules.

NOW, THEREFORE, BE IT ORDAINED, by the City of Seminole, Florida, as follows:

- Section 1.** This ordinance is adopted in compliance with, and pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, et. seq., Florida Statutes.
- Section 2.** The City of Seminole Land Development Code, Chapter 50 is hereby amended in as attached in Exhibit A, where strikethrough text is to be deleted and underlined text is new text to be added.
- Section 3.** It is the intention of the City Council of the City of Seminole that each new or modified article and section within Chapter 50 hereof be numbered in proper order and sequence, and that any out of order or misnumbered article or section contained in this ordinance shall not affect the validity of any other provisions of this ordinance, the City of Seminole Comprehensive Plan, or the City of Seminole Land Development Code, but shall instead be automatically renumbered and ordered accordingly.
- Section 4.** It is the intention of the City Council of the City of Seminole that each provision hereof be considered severable, and that the invalidity of any provision of this ordinance shall not affect the validity of any other provisions of this ordinance, the City of Seminole Comprehensive Plan, or the City of Seminole Land Development Code.
- Section 5.** This ordinance shall become effective immediately upon its adoption at second reading.

APPROVED ON FIRST READING: March 14, 2017

PUBLISHED: March 17, 2017

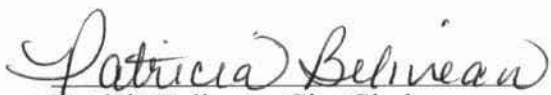
PASSED AND ADOPTED ON

SECOND AND FINAL READING: March 28, 2017


LESLIE WATERS, MAYOR

I, Patricia Beliveau, City Clerk of the City of Seminole, Florida, County of Pinellas, State of Florida, a municipal corporation do hereby certify the foregoing and hereto attached is a true and correct copy of Ordinance No. 10-2017 which is on file in the City Clerk's Office:

IN WITNESS WHEREOF, I hereunto set my hand and affixed the seal of the City of Seminole, Pinellas County, Florida, this 3 day of April, 2017.


Patricia Beliveau, City Clerk

ARTICLE II, BOARDS, COMMITTEES, COMMISSIONS

DIVISION 2. DEVELOPMENTAL REVIEW BOARD

Sec. 50-51. Created.

There is hereby created a board to be called the developmental review board (DRB). The board shall consist of five members with a quorum of three members and one alternate member, none of whom shall be an employee or an elected official of the city. The alternate member shall be permitted to attend board meetings and serve and vote on the developmental review board only when a regular member is not present required to provide a quorum. The community development director of the city shall act in an advisory capacity to the developmental review board without vote on matters before the board.

Sec. 50-54. Local planning agency.

Pursuant to and in accordance with F.S. § 163.3174, the developmental review board is designated and established as the local planning agency for the city for making recommendations to the city council for the adoption of the comprehensive plan, amendments to that plan, and the evaluation and appraisal of that plan, and for those site specific applications in which the City Council considers comprehensive plan and comprehensive plan future land use map amendments. Re-zonings that would, if approved, increase residential density, a school board representative is hereby designated as a non-voting member of the Local Planning Agency. The local planning agency may perform any other functions, duties, and responsibilities assigned to it by the city council or by general or special law.

ARTICLE III. DEVELOPMENT REVIEW

Subdivision III. Development Order and Development Permit

Sec. 50-165. On-going Development Maintenance

After a development order or permit has been issued and the development has received a Certificate of Occupancy, on-going maintenance of the development (building and site) is required. Building maintenance is pursuant to Chapter 6, landscaping is pursuant to Chapter 58 and signage is pursuant to Chapter 66. Other site improvements as shown on the approved development plans or as may be required for building permit issuance, include but are not limited to, all paved areas, all curbing, walls/fences, dumpster enclosures, parking space and directional striping and signage, wheel stops, traffic directional striping and signage, and building and site lighting and stormwater/retention ponds/swales shall be maintained in good condition as determined by the City Manager or designee. Where provided for in the Land Development Code or where published maintenance standards for site improvements are available, such standards shall be utilized in the determination of proper maintenance. Failure to comply with maintenance requirements shall initiate code enforcement action.

Sec 50-166. Abandonment of Development

(a) Abandonment of a development.

A condition of permit issuance shall require on-going compliance with the development order and maintenance of the property pursuant to City Codes. In the event of abandonment of the development (buildings and site), the development order or any previously approved site plan becomes null and void. For the purposes of this section, abandonment is defined as one or more of the following occurrences: the vacating of a premises and/or building(s), or discontinuance of any utility service, or non-operative status (such as "closed for business" or expired Business Tax receipt), for more than 12 consecutive months. The City shall provide written notice to the property owner that abandonment has occurred. Upon abandonment, the property owner is required to install fencing, to be approved by the City Manager or designee, along the entire perimeter of the development parcel/lot or that portion of the development that is abandoned, within 60 calendar days from the date abandonment has occurred. Further, the property owner is required to maintain the building and site in general and all landscaping on the development parcel/lot pursuant to Chapters 6, 18 and 58. Failure to comply with these requirements shall initiate code enforcement action pursuant to Chapters 6, 18, 58 and 70.

(b) Reuse of Abandoned development site.

Any reuse of a development site that has been abandoned shall require site plan review pursuant to this Chapter.

Secs. 50-1657--50-195. Reserved.

**ARTICLE IV. COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE
AMENDMENTS**

Sec. 50-198. Amending land development code and/or comprehensive plan

The developmental review board, the city council, the city manager, or city manager designee ~~or private individual~~ may initiate an application to change the land development code or comprehensive plan (except as noted in Sec. 50-197). The community development director shall refer applications to amend this land development code or comprehensive plan to the developmental review board for comment and recommendation.

ARTICLE V. NONCONFORMANCES

Sec. 50-260. Abandoned or discontinued nonconforming use.

When a nonconforming use of land or nonconforming use of a building or structure has been abandoned, including but not limited to, vacating of a premises or building, discontinuance of utility service, or non-operative status (such as "closed for business" or expired Business Tax Receipt), for more than 180 consecutive days, its future use shall conform to the uses permitted in the district in which the land is located. The land shall not thereafter be occupied by any nonconforming use that would violate the land development code and/or comprehensive plan. Any reuse of a development site that has been abandoned shall require site plan review pursuant to this Chapter.

Sec 50-261. Abandoned conforming use with nonconforming site characteristics.

For the purposes of this section, abandonment is defined as one or more of the following occurrences: vacating of a premises and/or building(s), or discontinuance of any utility service, or non-operative status (such as "closed for business" or expired Business Tax receipt), for more than 12 consecutive months. Site characteristics, include but are not limited to, setbacks, signs, parking, landscaping and stormwater requirements. The City shall provide written notice to the property owner that abandonment has occurred. Upon abandonment, the property owner is required to install fencing, to be approved by the City Manager or designee, along the entire perimeter of the development parcel/lot or that portion of the development that is abandoned, within 60 calendar days from the date abandonment has occurred. Further, the property owner is required to maintain the building and site in general and all landscaping on the development parcel/lot pursuant to Chapters 6, 18 and 58. Failure to comply with these requirements shall initiate code enforcement action pursuant to Chapters 6, 18, 58 and 70. Any reuse of a development site that has been abandoned shall require site plan review pursuant to Chapter 50.

Re number from 262-265 as follows:

Sec. 50-262. Conversions to conforming use.

Sec. 50-263. Nonconforming Lots or parcels

Sec. 50-264. Nonconforming lots and /or buildings created by eminent domain proceedings.

Sec. 50-265. Grandfathering of certain nonconforming uses.

Secs. 50-266--50-290. Reserved.

ARTICLE VI. VARIANCES

Sec. 50-291. Developmental review board and administrative authority.

- (a). The developmental review board shall have the power and may grant a variance from the strict application of any provision of this land development code, except provisions in: chapter 70 pertaining to enumerated land uses within zoning districts; and chapter 54 pertaining to consistency and concurrency; chapter 59 pertaining to the commercial corridor architectural standards; and, chapter 66 pertaining to the setbacks, if the procedures in this article are followed and findings made.
- (b) The developmental review board shall have the power and may recommend approval of a special exception to the city council in accordance with this article pursuant to the public hearing notice requirements in section 50-199. In recommending a special exception, the board shall base its recommendation on the review criteria pursuant to Chapter 70, section 70-191 et seq.
- (c) The developmental review board shall have the authority to adopt rules of procedure, including a procedure to approve, modify or revoke a previously granted variance or special exception use.
- (d) *Administrative variance authority.* Pursuant to this chapter, certain administrative variances may be granted by the city manager or authorized designee to the code (with or without notice to abutting property owners) in order to protect environmentally sensitive lands, existing protected trees and address minor waivers to code requirements due to city staff conditions of development approval

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and/or site development constraints. Administrative variances may be granted in consideration of required findings pursuant to Sec. 50-294 with or without conditions for the following:

- (1) Front and rear yard setback encroachment up to five feet.
- (2) Side yard setback encroachments up to two feet.
- (3) Decrease landscape buffer width requirements up to two feet.
- (4) ~~Decrease Variance to the~~ parking requirement up to ten percent.
- (5) Decrease parking lot dimensional requirements up to two feet.
- (6) Increase wall/fence height up to two feet.
- (7) Variances to accommodate ADA requirements.
- (8) Decrease planter island width and/or length by up to two feet and planter island square footage by up to ten (10) percent.
- (9) Permit an alternative wall material, other than masonry, such as decorative PVC, where a wall is required.

An appeal of an administrative denial of a variance shall be by the applicant submitting a variance application to the developmental review board.

Sec. 50-295. Imposition of conditions, prohibitions and limitations for variances.

(a) Establishing conditions or safeguards. In granting any variance, the board may prescribe appropriate conditions and safeguards to ensure proper compliance with the general spirit, purpose and intent of this land development code, including addressing any site, landscaping and sign nonconformities. Noncompliance with such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this land development code and shall void the variance approval.

ARTICLE VII. DEVELOPMENT AGREEMENTS

Sec 50-302. Development agreement requirements.

(15) Provisions for addressing abandonment of the development project and/or site.

Sec 50-305. Development Agreement Procedures.

(b) *Negotiation of development agreements.*

(1) The city manager, or ~~his~~ authorized designees, shall review the developer's application package and negotiate such further terms and conditions as the city manager shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare, and in furtherance of the comprehensive plan, and/or city council goals and policy direction.

(2) A Development Agreement may address, but is not limited to the following:

- a. Mixed dwelling types and/or housing densities so as provide for the safe, efficient, convenient, harmonious groupings of structures, uses, and facilities;
- b. Provide for the appropriate relationships of space, inside and outside of buildings;

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- c. Preservation of desirable natural features, minimum disturbance of natural topography, landscaping both on-site and off-site, and the provision of recreation/open space (on-site and/or through mitigation);
- d. Provide for sidewalks both on-site and off-site, roadway improvements both on and off-site;
- e. Provide for Drainage, and on-site retention;
- f. Establish design criteria for multifamily, commercial or office uses, including but not limited to transitions in density and intensity, screening and buffering, architectural theme and building finish, consistent roof lines, controlled access, building orientation, building mass, building scale, building height, building setbacks, parking requirements, street design, and other site planning techniques;
- g. ~~Approval of density bonus for residential developments up to 33.3 percent beyond the limits in the comprehensive plan and/or land development code, where the increased density portion of the overall development density is proposed to provide housing which could reasonably be considered directly supportive of affordable housing;~~ Provide for public art on the project site or for a contribution in lieu where not practical for on-site placement.
- h. Approval of special exception uses, waivers, variances or alternative standards to specific land development code requirements as they relate to: drainage, parking, landscaping, access management, visibility, site/lot/parcel coverage, impervious surface ratio, floor area ratio, density, commercial corridor architectural standards, signage, setbacks, or height, subject only to consistency with the Comprehensive Plan and consistency with the Countywide Rules; and
- i. Establish enforcement procedures and requirements which may be in addition to the code enforcement provisions of the land development code, and which may include the recording of restrictive covenants in favor of the city.

ARTICLE VIII. AFFORDABLE HOUSING

Sec. 50-311. Permitting procedure for the construction of affordable housing.

(a) *Purpose and intent.* The purpose and intent of this section is to provide a permitting procedure for the construction of affordable housing, including "senior only" affordable housing, in keeping with the applicable provisions of the most recent housing incentive plan adopted by the board of county commissioners pursuant to the state housing initiatives partnership (SHIP) program pursuant state law, as amended. This section will describe procedures and criteria for the certification of affordable housing developments (AHD's), describe the package of incentives which may be made available to developers of AHD's and provide a review process for the approval of AHD's. This section may also provide reference to other city or county ordinances and regulations effecting the development of AHD's.

(b) *Definition.* Affordable housing development is defined as an owner-occupied housing development in which a designated portion of the units are offered as affordable to households at or below 80 percent of area median income ("AMI"), or a rental housing development in which a designated portion of the units are offered as affordable to households at or below 60 percent of AMI. Affordable housing also

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includes "senior only" housing for persons 60 years of age or older. Income limits are updated periodically and are available from the Pinellas County Community Development Department upon request.

(c) *Incentives.* The following incentives may be made available to encourage the provision of affordable housing:

(1) *Expedited permit processing.* The city manager, or his designee, shall provide a review process that gives AHD's priority in the permit review process. A two-week turnaround time shall be the desired goal for the processing of a site plan for such development. To assist in achieving this goal a pre-application meeting will be required between the applicant and city staff. The general services director will serve as an ombudsman to assist the applicant in achieving an expeditious review.

(2) *Impact and other review fees may be waived.* The city manager is authorized, at his/her sole discretion, to waive ~~all site plan application and site development review fees and the City's share of the transportation impact (mobility) fee~~ for affordable housing units, except where "bond covenants" (i.e. on water, sewer connection fees) or other legal constraints prevent such waiving. Subsidies for payment of fees may be provided in the form of deferred payment. The general services department shall administer any program to assist the applicant in this regard.

(3) *Density increase or regulatory relief.* In support of affordable housing, and at the sole discretion of the City Council, approve either an amendment to the Comprehensive Plan Future Land Use Map and official Zoning Map to increase density consistent with the Comprehensive Plan Table of Future Land Use Map Categories and applicable zoning district or approve a development agreement to grant specific relief from the Land Development Code. Density bonus. ~~A density bonus of up to 33 percent above the normal density permitted under the comprehensive plan or zoning district, whichever is greater may be provided as part of an approved development agreement pursuant to chapter 50, article VII of this chapter.~~

(4) *Public funding sources.* ~~Using state or federal housing funds, the county housing finance authority may also make deferred payment or low interest loans to both nonprofits and for profits for the purchase of property when the use meets the requirements of the funding source for affordable housing developments to be located within the city.~~

(5) *Identifying qualified buyers or renters.* ~~Existing sources will be identified and made available to AHD's to provide assistance in locating a qualified pool of homebuyers and renters for the affordable units. The Pinellas County Department of Community Development shall be the source for this information and the city shall coordinate with Pinellas County in this regard.~~

~~(d) Any proposed affordable housing development that proposes a density bonus for a property shall require a development agreement, which development agreement shall include and address the enumerated Countywide Rules criteria regulating affordable housing density bonuses. A development agreement for an affordable housing density bonus shall have the status of, and serve as, a land development regulation governing said property.~~

(d) *Implementation.* Notwithstanding any other provision of the Land Development Code (LDC), where a proposed affordable housing development increases the project density pursuant to Sec. 50.311 (c) (3) for affordable housing, said project shall without exception meet all the applicable requirements of Chapter 70, Chapter 58, Chapter 62 and Chapter 66 the LDC. Further, notwithstanding any other

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provision of the Land Development Code (LDC), where a proposed affordable housing development is granted regulatory relief from the LDC through the utilization of a development agreement approved by the City Council, said project shall without exception be required to develop at the density permitted under the future land use plan category as shown on the Future Land Use Map at the time the development agreement is approved by the City Council.