

ORDINANCE NO. 03-16

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING CHAPTER 3, ARTICLE III, DIVISION 4 AND CHAPTER 4, ARTICLE II, DIVISIONS 1 AND 2 OF THE CITY OF DEBARY LAND DEVELOPMENT CODE CONCERNING DEVELOPMENT PROCEDURES AND REQUIREMENTS AND SUBDIVISION REGULATIONS; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, F.S. 163.3194 mandates that all land development regulations enacted or amended shall be consistent with the adopted City of DeBary Comprehensive Plan; and

WHEREAS, the intent of F.S. 163.3201 is that the adopted Comprehensive Plan shall be implemented in part, by the adoption and enforcement of appropriate local regulations on the development of lands and waters within the City of DeBary.

WHEREAS, on September 5, 2007, the City of DeBary enacted the Land Development Code for the City of DeBary pursuant to Ordinance No. 21-07 to codify all adopted amendments, as well as revise the original reference documents to refer to the City and its organization, and since adoption such Land Development Code has been amended from time to time; and

WHEREAS, the City Council desires to amend the Land Development Code as set forth in this Ordinance in order to make the development review process more efficient and less burdensome; and

WHEREAS, the City Council hereby determines that the amendments to the Land Development Code as set forth in this Ordinance are consistent with the City of DeBary Comprehensive Plan and are in the best interest of the health, safety and welfare of the citizens of DeBary; and

WHEREAS, this Ordinance has been advertised as required by Chapters 163 & 166, Florida Statutes, and the required public meetings have been held by the City Council and the City's Local Planning Agency.

IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Authority/Findings. The City of DeBary has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida, the City of DeBary Charter, and Chapters 163 and 166, Florida Statutes. The "Whereas" clauses set forth above shall constitute the legislative findings of the City Council of the City of DeBary.

SECTION 2. Adoption of Land Development Code Amendment. Chapter 4, Article II, Divisions 1 and 3 of the City of DeBary Land Development Code are hereby amended in accordance with the amendments set forth in **Exhibit "A"** attached hereto and incorporated

herein by this reference (words that are ~~stricken out~~ are deletions; words that are underlined are additions; provisions not referenced are not being modified).

SECTION 3. Conflicts. This Ordinance shall control over any ordinances or parts of ordinances in conflict herewith.

SECTION 4. Severability. The provisions of this Ordinance are declared to be separable and if any section, paragraph, sentence or word of this Ordinance or the application thereto any person or circumstance is held invalid, that invalidity shall not affect other sections or words or applications of this Ordinance. If any part of this Ordinance is found to be preempted or otherwise superseded, the remainder shall nevertheless be given full force and effect to the extent permitted by the severance of such preempted or superseded part.

SECTION 5. Codification. It is the intention of the City Council of the City of DeBary, Florida, and it is hereby ordained that Section 2 of this Ordinance shall become and be made a part of the Land Development Code of the City of DeBary, Florida, and the City staff is directed to cause the codification of the amendments set forth in this Ordinance. That the provisions of this Ordinance may be renumbered or relettered to accomplish such intention; the word "*Ordinance*" may be changed to "*Section*", "*Article*", or other appropriate word. The City Clerk is given liberal authority to correct scriveners' errors, such as incorrect code cross references, grammatical, typographical and similar or like errors when codifying this Ordinance.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon its adoption.

First reading and public hearing was held on the ___ day of _____, 2016

Second reading, public hearing and adoption was held on the ___ day of _____, 2016

CITY OF DEBARY
CITY COUNCIL

Clint Johnson, Mayor

ATTEST:

Dan Parrott, Acting City Clerk

EXHIBIT “A”

Chapter 4 - LAND DEVELOPMENT STANDARDS

ARTICLE II. - LAND DEVELOPMENT

Division 1. – Development procedures and requirements.

Sec. 4-23. - Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.

(a) *Purpose.* The purpose of this section is to:

- (1) Provide for the applicability, approval and issuance of development orders and development permits to ensure that all of the provisions of this Code are complied with, to ensure the installation of required improvements;
- (2) Provide for public services and facilities agreements; and
- (3) Provide an appeal process.

(b) *Applicability.* No person shall undertake the development of land in the City except pursuant to a valid development order or development permit issued under this Code unless specifically exempted as provided by this Code. All development shall meet the requirements of this Code prior to the approval and issuance of any development order or development permit, unless specifically exempted from the requirements of this Code by provisions set forth herein, or one or more such requirements are waived in accordance with provisions set forth herein.

(c) *Approving authority.* The Development Review Committee shall make a recommendation to City Council for approval, approval with conditions or denial of all development order applications for which the City Council makes a final decision, including those for large site plans. The Development Review Committee shall have authority to approve, approve with conditions or deny a development order for ~~small final site plan, sketch plan, overall development plan, preliminary plat and construction plans~~ meeting the definition of this code except as otherwise provided herein. All development order approvals and approvals with conditions for final site plans, sketch plans, overall development plans, preliminary plats and construction plans by the Development Review Committee must have a final signature of approval by the City Manager or the City Manager’s designated LDM before such are deemed issued. ~~Small site Final site plans, sketch plans, overall development plans, preliminary plat and construction plans shall not require City Council approval if a development order on such is issued after approval or approval with conditions by the Development Review Committee unless an appeal of a Development Review Committee decision is brought in accordance with subsection (g).~~ The Development Review Committee, on their own motion and for cause, may continue consideration of an application to a subsequent meeting.

(d) *Issuance of development orders and development permits.* A preliminary development order, upon issuance, shall authorize continuation to the next step in a development review process. A final development order, upon issuance, shall authorize issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. No development or construction shall commence unless a valid final development order or development permit has been issued as provided by this Code. All development or construction commenced pursuant to a valid development order or development permit shall be completed in a manner which is consistent with the approved development order or development permit.

(e) *Installation of improvements.* All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a development order shall be installed and completed or guaranteed as specified in [section 4-111\(a\)\(1\)](#).

(f) *Public services and facilities agreements.* In order to further the purposes of this Code regarding the provision of public services and facilities to a proposed development, the City ~~Council~~ may enter into an agreement with the developer of the proposed development which will provide a means to:

- (1) Ensure the certainty of providing public services and facilities for the proposed project;
- (2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;
- (3) Allocate the costs of providing public services and facilities;
- (4) Allocate the capacities of the public services and facilities;
- (5) Determine the responsibilities for construction and maintenance of the public services and facilities.

(g) *Appeals.* ~~Any person claiming to be~~ Any applicant or owner of property subject to the action being appealed, and/or the City Council acting as a body, aggrieved by a decision of the Development Review Committee, may file a written appeal with the City Manager within ~~30~~ 10 days after the date said decision is rendered in writing in order to have the decision reviewed by the City Manager. The City Manager shall then review the appeal for sufficiency and determine if the petition meets the appeals process pursuant to this section of the Code. The appeal shall state fully the specific grounds for the appeal and all of the facts relied upon by the petitioner. ~~The City Manager Council may then hear the appeal de novo and may consider those items specified in the petition and any related new evidence. The City Manager Council may, upon appeal, reverse, affirm or modify any recommendation decision of the Development Review Committee.~~

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Sec. 4-25. - Development review procedures.

All applications and supporting information required by this Code shall be filed with the LDD. All required application fees, as set by resolution of the City Council, shall be paid prior to acceptance of the application. The number of copies of the supporting information needed for distribution to all concerned reviewing agencies, as determined by the LDM, shall be submitted with the application prior to acceptance. Except as otherwise provided in this Code, the following procedures shall govern the review of such applications:

- (1) *Completeness of application.* The LDM shall review the application to determine its completeness. Within three working days after receipt, he shall either accept the application if it is complete and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying the data missing from the application received.
 - a. If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for purposes of beginning the time limits of this division on the fourth working day after the filing of the application.
 - b. If a notice of incompleteness is sent, the applicant shall resubmit the application with the additional data required. Upon receipt, the LDM shall review the resubmittal application in the manner provided in this subsection for the original application.
- (2) *Distribution of accepted application.* Following acceptance of an application, the LDM shall forward a copy of the application to all review agencies and to any state or federal agency deemed by the LDM to be a concerned agency for the review process.
- (3) *Review responsibilities.* Each member of the City review agency shall prepare a report which sets out, in writing, their comments specifying the exact references to the Code or other regulation being commented on and recommendations regarding the application and shall forward such report to the LDM at or before the meeting of the Development Review Committee held in accordance with this division. The LDM may waive one or more agency reviews, in whole or in part, under this section upon his determination that such a review has already been made regarding the same land and no change in standards or circumstances has occurred which necessitates further review.

- (4) *Review.* Applications shall be reviewed by the Development Review Committee and shall be discussed at a meeting held in accordance with the requirements of the Development Review Committee.
- (5) *Application revision.* An application may be revised by the applicant after it has been reviewed by the Development Review Committee. Any application so revised must include a revision date on the plans. If any portion of the review process must be repeated to accommodate the revised application, the time limits prescribed in this division shall be extended but not to exceed 20 working days from the date that the revision has been received.
- (6) *Development order review and ~~City Council~~ final action.*
 - a. Within ~~20~~ 60 working days from the acceptance of an application or revised application, the Development Review Committee shall make one of the following determinations:
 1. That the application or revised application is in compliance with the requirements of this Code, and shall approve, or recommend approval of the application;
 2. That the application or revised application is not fully in compliance with the requirements of this Code, stating those conditions which they find are necessary to ensure compliance with this Code, and shall approve, or recommend approval of the application subject to those conditions being met; or
 3. That the application or revised application is not in compliance with the requirements of this Code, and shall deny, or recommend denial of the application, stating the basis for such denial, or may continue consideration of and final action on the application pending submittal of a revised application.
 - b. ~~If a large scale site plan application is recommended for approval by the Development Review Committee; or if the City Manager determines that all of the Development Review Committee's conditions have been resolved, or that any remaining conditions should be resolved by the City Council, the LDM shall transmit the application to the City Council for consideration for final action at the next available City Council meeting.~~
 - c. ~~Small site Site plans recommended for approval~~ approved by the Development Review Committee shall not require City Council approval pursuant to section 4-23.
 - d. ~~No application recommended for denial by the Development Review Committee shall be transmitted to the City Council for final action except that the~~ An applicant may appeal the Development Review Committee's denial pursuant to section 4-23(g) and request to have the site plan considered by City Council.

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)

Division 2. – SUBDIVISION REGULATIONS.

Sec. 4-41. - Purpose.

- (a) *Generally.* The purpose of this division is to establish procedures for the subdivision of land in the City.
- (b) *Prohibitions on transfer of lots and issuance of development or building permits for lots not in compliance with this Code.* It shall be a violation of this Code for anyone who is the owner, or agent of the owner, of any land to transfer, sell, agree to sell, or negotiate to sell such land by reference to, exhibition of, or other use of a plat of a subdivision of such land without having the plat approved as required by this Code. In addition, no development permit or building permit shall be issued on any lot unless that lot is in compliance with this Code.
- (c) *Exemptions.*
 - (1) Acquisition for public use.
 - (2) Condominiums.

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~~(3) Lot splits/adjustments, meeting the following criteria.~~

~~a. Parcels that are made up of combined platted lots may be subdivided once back into their original lot configuration as platted provided that: The City Manager or his/her designee, may waive the requirement for preliminary plat and final subdivision plat approval when a lot split or lot adjustment results in the creation of two lots either from the division of one existing lot or by the adjustment of two existing adjacent lots and the following conditions are satisfied:~~

~~i. Each parcel meets the zoning standards of the property's zoning classification without the necessity of a variance.~~

~~ii. Each parcel has a net buildable acreage equal to the minimum lot size requirement of the applicable zoning classification and located above the 100 year flood plain.~~

~~iii. Parcels have frontage on a public road.~~

~~iv. The addition of impervious area will not impact the stormwater system of the area.~~

~~v. Where property abuts an existing standard street and no new improvements for water, sewer or drainage improvements are required.~~

~~vi. Legal access to and from the lots and a public right-of-way is provided.~~

~~vii. Easements and access for public services and utilities are provided, if necessary.~~

~~viii. Executed joinder and consent to the proposed lot split or adjustment from all owners of the property and mortgage holders, if applicable.~~

(Ord. No. 02-12, § 2(Exh. A), 9-5-2012)