

granting of easements or rights-of-way to the city, whether voluntary or through the exercise of eminent domain, is exempt from the requirements of this chapter. Upon request, the community development director may grant an exemption to or partial waiver of the requirements of this chapter for the subdivision of land resulting solely from the conveyance of land or granting of easement or rights-of-way to other governmental entities to be used for public purposes.

(Ord. No. 19-32, § 3, 6-27-19)

Secs. 110-9—110-35. Reserved.

**ARTICLE II. CONDOMINIUM
SUBDIVISIONS**

Sec. 110-36. Applicability.

In addition to all other requirements relating to new subdivisions and all of the requirements relating to planned developments, the requirements of this article shall apply to each condominium subdivision. No condominium subdivision shall be approved, recorded or developed in any way and no units shall be sold without compliance with this article. This article will apply to any subdivision or part of a subdivision intended to be developed by the construction of multiple-family buildings or a multiple-family building, or by the sale of units in the condominium property and the sale of the building or condominium property by selling individual condominium units rather than by selling the building or condominium property to a person who will act as landlord and rent the dwelling units to individual tenants. No condominium subdivision shall be permitted for mobile homes, travel trailers, motor homes, recreational vehicles or manufactured homes.

(Code 1988, § 19-24)

Sec. 110-37. Review fee.

Each applicant for approval of a condominium subdivision shall pay a review fee to help defray the cost to the city of reviewing the plans and making a determination as to whether or not the proposed condominium subdivision complies with

all applicable ordinances. This review fee will not be refundable, whether or not the condominium subdivision is approved.

(Code 1988, § 19-25)

Sec. 110-38. Information required with application.

Each application for approval of a condominium subdivision shall contain, in addition to the information required by the city relating to planned developments and new subdivisions, the following additional information:

- (1) Plans and specifications or blueprints indicating where each condominium unit is to be and indicating what public areas are to be owned by the association of condominium owners.
- (2) Proposed articles of incorporation and bylaws for the association of condominium owners which will manage the common areas.
- (3) A detailed description of proposed financing to be available to purchasers of the condominium units.
- (4) Information indicating financial responsibility and financial ability of the builders or developers to complete the project as proposed.
- (5) A copy of all proposed covenants relating to the real estate.
- (6) An agreement by the builder or developer specifying the improvements to be completed by the builder or developer, including recreational facilities, bicycle trails and other common areas.
- (7) If the construction is to be financed in whole or in part by escrow funds put up by purchasers, or if escrow funds of any kind are required from purchasers, the following information will be provided:
 - a. A description of the escrow arrangements.
 - b. A copy of all escrow documents.
 - c. Provisions for the return of funds to purchasers if the matter is not completed by the date specified.

- d. The name and address of the institution to hold the escrow.
- (8) Title information insuring all liens, easements, and interests of record including all ownership concerning the real estate. All mortgages and mechanics' liens and other financial liens of any kind shall be listed.
- (9) In connection with the common areas and recreational areas, a proposed management agreement and proposed rules will be furnished.
- (10) The forms to be used for agreements, promissory notes, deeds, and other documents of title and documents related to the sale of the condominium units will be furnished.
- (11) The applicant will furnish a bond with a corporate surety licensed to do business in this state, guaranteeing that all common areas and facilities and all common recreational facilities will be completed.

(Code 1988, § 19-26)

Sec. 110-39. Association of owners.

There shall be provision for an association of the owners of the condominium units. This association shall conform to standards set by the city relating to associations for owners of land in a subdivision having common areas, common recreational facilities or other common facilities. The subdivider or builder of each condominium subdivision shall provide the services, bond and other matters required by ordinance to be furnished by the association.

(Code 1988, § 19-27)

Sec. 110-40. Condominium conversion restrictions.

No person shall convert any property or structure on any property into a condominium without complying with each of the requirements of this article, in addition to all other applicable laws and ordinances.

(Code 1988, § 19-28)

Secs. 110-41—110-54. Reserved.

ARTICLE III. PROCEDURES*

DIVISION 1. GENERALLY

Sec. 110-55. Purpose.

In order to achieve the orderly, efficient and environmentally sound subdivision of land, the city must be provided with appropriate guidelines and development management mechanisms. This article, in conjunction with other land use control regulations adopted or which may hereafter be adopted by the city, provides those guidelines and mechanisms. It is the intent and stated purpose of this article, *inter alia*, to:

- (1) Provide for the orderly, efficient and economical development and platting of residential, commercial and industrial land uses, community facilities and other related elements or services; and
- (2) Guide and phase land development to maximize the utilization of existing and proposed public improvements; and
- (3) Guide and regulate the financial impact of land development on municipal facilities, services and capabilities and to protect the character and social and economic stability of the area of land development; and
- (4) Ensure that the comprehensive and coordinated plans affected by the various land use controls, including the comprehensive plan, of the city are not negated by disorganized, unplanned and uncoordinated development which would create an undue burden and hardship on the community; and

***Editor's note**—Ordinance No. 04-19, § 2(Exh. A), adopted June 10, 2004, amended article III to read as herein set out. Formerly, such article pertained to similar provisions and derived from § 19-46—1950, 19-67, 19-84, 19-85, 19-101 of the 1988 Code; Ord. No. 99-20, § 1, 2-11-99; Ord. No. 00-21, § 2, 4-13-00; Ord. No. 03-26, § 2, 7-24-03.

- (5) Enhance the community aesthetically and preserve and improve the quality of life within the community; and
- (6) Ensure the establishment and maintenance of the adequate provision of roadways, access, utilities, and other facilities to land development; and
- (7) Provide the establishment of standards of subdivision design which will encourage the development of sound and stable areas; and
- (8) Provide an efficient relationship between development and the circulation of traffic; and
- (9) Furnish the developer with guidance and assistance in the expedient preparation and approval of a subdivision plat; and
- (10) Provide for the installation of prescribed standards by the land developer of those required improvements, and maintenance thereof, which ought not become a charge on the citizens and taxpayers of already existing areas; and
- (11) Promote the health, safety, morals and general welfare of the people, and the safe, orderly and healthful development of the community.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Community subdivision infrastructure or "*community subdivision infrastructure improvements*" means all structures and real property improvements to be ultimately owned or maintained by the subdivision HOA, including without limitation, all stormwater management systems, sod and landscaping within stormwater retention and detention areas, roadways, gates, walls, streetlights, street and traffic signs, sidewalks, docks, pools, clubhouses and other structures or real property improvements on common areas (or common property), but exclud-

ing playground equipment and sod and landscaping not within stormwater detention or retention areas.

Declaration means a document or documents, which govern lots, tracts and/or parcels within a subdivision and imposes and sets forth requirements, covenants, obligations, restrictions, rights and other matters (which run with the land) pertaining to said lots, tracts and/or parcels and the subdivision.

Developer means: (i) the owners of record executing the dedication required by F.S. § 177.081, and applying for approval of a plat of a subdivision pursuant to this chapter; (ii) the person or entity that is the declarant which records the declaration, or amendment thereto, for a proposed residential subdivision to be developed or an existing residential subdivision to be converted and maintained as a gated community; (iii) the person or entity that succeeds to the rights and liabilities of the person or entity which is the original declarant; (iv) the subdivider of land; or (v) in the absence of a written assignment of the original declarant's rights recorded in the public records of Orange County, Florida, the person or entity that materially or substantially exercises the rights and liabilities of the original declarant including, but not limited to, the person or entity operating or controlling the board of directors of the HOA.

Homeowners' association or *HOA* means a mandatory community association as contemplated by F.S. ch. 720, in which the owners of all lots, blocks, and tracts within the subdivision are required by the terms of the declaration to be members, with the ability and duty to impose and collect on assessments. This definition includes homeowners' associations and property owners' associations formed pursuant to F.S. ch. 720, governing residential, commercial or mixed-use subdivisions.

Project means all real property that is or will be subject to the declaration and will be ultimately operated or controlled by the HOA.

Turn over of control of the HOA (also referred to as turnover) means that point in time when members of the HOA (other than the developer,

builders, contractors, or others who purchase property within the subdivision for the purpose of constructing improvements thereon for resale) are entitled to elect at least a majority of the board of directors of the HOA, and such election has occurred. Notwithstanding the foregoing, turnover may occur no sooner than the point in time at which certificates of occupancy have issued for at least 70 percent of the platted lots within the project, and must occur no later than the point in time at which certificates of occupancy have been issued for 90 percent of the platted lots within the project. Further, if a project contains individually platted subdivisions, each with its own HOA and declaration (which may also be a part of a master association under a master declaration), different turnover dates consistent with the foregoing as to the individually platted subdivisions may be established.
(Ord. No. 04-19, § 2(Exh. A), 6-10-04; Ord. No. 14-29, § 2, 7-24-14)

Sec. 110-57. Applicability.

The standards and regulations set forth in this article, in addition to existing land development regulations provided for in the code as such may be amended from time to time, shall be the minimum standards and regulations for parcels or tracts within the city which are subdivided. Except as may otherwise be provided in this article, a final subdivision plat shall be required for the division of any parcel of land into two or more lots or parcels, or to create from said tract one or more lots of record, for the purpose of transfer of ownership or building development; or, if a new street is involved, any division of a parcel of land; or, as may otherwise be required by state law. Notwithstanding the foregoing, a final subdivision plat shall not be required for the division of land for agricultural purposes into lots or parcels of five acres or more provided said division does not involve a new street and each resulting lot or parcel has access and no public improvement is being dedicated, including, but not limited to, any right-of-way, easement, or physical improvement of any kind intended for public use.
(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-58. Street signage standards and traffic signage standards.

All street signage and property address identification signage shall conform at all times to city standards for such signage. Traffic signage shall, at a minimum, comply with the State of Florida Department of Transportation requirements for road signage as pertinent to the streets and roads within gated and non-gated communities.

Street names shall not be used which will duplicate or be confused with the names of existing streets. New streets which are an extension of or in alignment with existing streets shall bear the same name as that borne by such existing streets. All courts and circles should have one name only. All street names shall be approved by Orange County and the manager of the 911 system.
(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-59. Innovative designs.

In pursuit of the purposes of these regulations as provided in this chapter, the city may modify their application in the case of a proposed subdivision of innovative or unconventional design. For purposes of this section, an innovative subdivision may include a subdivision designed for townhomes, multiple-family residential projects, or other building groups such as a shopping center, office park, industrial park, or a development of regional impact.
(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-60. Model homes.

Except as otherwise provided for in this section, no building permit shall be issued until such time as a certificate of completion has been issued by the city engineer and final plat approval has been obtained. A subdivider may be allowed to obtain one building permit for a model home for each 20 lots located within a proposed subdivision prior to the issuance of a certificate of completion by the city engineer and final plat approval, provided the subdivider executes a hold harmless agreement to the city's satisfaction and provides the performance guarantee required by subsection 110-152(7). Notwithstand-

ing the permitted rate for model homes, the maximum number of building permits for model homes to be allowed in any one subdivision shall not exceed ten. In addition, the following shall apply for lots where model homes are allowed:

- (1) The lots upon which the model homes are constructed shall be located within 300 feet of an active and approved fire hydrant and Florida Department of Environmental Protection has approved the clearance for the water system; and
- (2) Main sewer and water lines for said lots shall be installed by the developer and be subject to review and approval by the city and approved for clearance by the Florida Department of Environmental Protection;
- (3) The lots shall have a minimum of 20-foot wide emergency access road extending from a paved public street to within 50 feet of the proposed structure, as approved by the city engineer; and
- (4) A certificate of occupancy will not be issued on any model home permitted by this section until the city engineer has issued a certificate of completion pursuant to subsection 110-152(2)a.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04; Ord. No. 06-08, § 6, 3-9-06)

Sec. 110-61. Classes of violations and penalties.

Violations of this article shall be classified as class 3 violations under division 3, article II, chapter 2, part II of this Code.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-62. Non-exclusivity.

Nothing contained in this article shall prevent or restrict the city from taking such other lawful action as permitted by the Code or in any court of competent jurisdiction as is necessary to prevent or remedy any violation or situation of noncompliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for

damages. All remedies and penalties provided for in this article shall be cumulative and independently available.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-63. Suit to collect lien.

If the city brings suit to collect liens, expenses, costs or assessments or to restrain, enjoin or otherwise prevent or remedy any violation of this article the city is entitled to recover reasonable attorneys' fees and court costs from the named defendant in such action.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-64. Variances.

All variance requests pertaining to this article shall be submitted, reviewed, advertised, granted, denied or granted with conditions pursuant to division 4, article II, chapter 118 of the Code. Appeals of the decision of the planning and zoning board shall be pursuant to division 5, article II, chapter 118 of the Code.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-65. Conflicts and severability.

Unless otherwise expressly provided for in this article, in the event of a conflict between this article, or any portion thereof, and any provision of the code, the city's resolutions, ordinances, rules, regulations or policies, including but not limited to, any building, fire safety, or health ordinance, the underlying zoning classification or land development regulations, the provision which establishes the higher and/or more restrictive standard shall control. The provisions of this article are declared to be severable and if any section, sentence, clause or phrase of this article shall, for any reason, be held invalid, unlawful or unconstitutional, such decision shall not be held to impair the validity, force or effect of the remaining sections, sentences, clauses or phrases or part thereof of this article. It being the legislative intent that this article shall stand notwithstanding the invalidity of any part.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Sec. 110-66. Maintenance.

Unless otherwise expressly authorized by the city in writing and by specific action of the city commission, nothing in this article shall be construed as meaning that the city shall assume or take over for maintenance of any roadways, street lights, drainage systems (which includes, without limitation, stormwater detention/retention areas and underdrains), sidewalks, and other subdivision infrastructure, improvements or private amenities.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04)

Secs. 110-67—110-95. Reserved.**DIVISION 2. SUMMARY PROCEDURE****Sec. 110-96. Proposed subdivision of existing lot.**

(a) Whenever a proposed subdivision is a proposal for the division of a single existing lot into two lots, in lieu of platting or replatting, the subdivider may conform to the procedural requirements set out in this section or the subdivider may comply with the procedure for platting or replatting contained in this chapter at the applicant's option, except as otherwise determined pursuant to subsection (f). This procedure shall not apply to a subdivision into more than two lots or additional lot splits on contiguous land or within the same existing subdivision. The intention being that this procedure may only be used once as it pertains to all or any portion of the lands involved in or previously utilizing or subject to this procedure.

(b) A subdivider shall apply to the city on an application form, promulgated by the community development director, for the subdivision of a single existing lot into two lots, stating the subdivider's plans for development with the following minimum submittal requirements:

- (1) A sketch showing the lot size, location of proposed buildings, location of easements, names of bordering streets, building setbacks, names and locations of all bodies of water, marshlands, drain fields, and all other waterways and watercourses

abutting or encroaching upon subject property. This sketch must also show existing buildings and lot dimensions.

- (2) A brief description of all utilities and city services, including sewers, potable water facilities, and fire hydrants electric and telephone poles, streetlights, storm drains and any other utilities or services relevant to the maintenance of subject properties.
- (3) A listing of the names and addresses of the record owners abutting subject property.
- (4) A boundary survey of the lands subject to this procedure, as existing (i.e., prior to the proposed lot split) and as proposed (i.e., after the proposed lot split), performed and prepared under the responsible direction and supervision of a professional surveyor and mapper shall be certified to and submitted to the city. Said surveys shall include the depiction of existing improvements and easements thereon.
- (5) Proposed legal instruments creating and granting proposed easements, conditions and restrictions upon the proposed lots.
- (6) A title opinion from a licensed attorney or title certificate from a title company certified to the city showing the ownership, easement, mortgage, and other lien and encumbrance information for the existing lot.
- (7) Executed joinder and consent to the proposed lot split from all owners of the property and mortgage holders, if applicable.
- (c) Lot split procedure. Once the application is determined to be complete, the development review committee shall review the request for compliance with the code and providing necessary easements and access for public services and utilities (e.g. compliance with lot dimensions requirements, setbacks for existing buildings, easements, legal access, etc.). The city may condition the lot split upon the recording in the Orange County public records legal instrument(s), in a form acceptable to the city, showing

the new boundaries of the lots created by the lot split and creating any easements, conditions and restrictions upon the lots necessary for the orderly and proper development of the lots. Upon review by the development review committee, with or without conditions or restrictions, the application, together with the recommendations, conditions and restrictions, shall be presented to the planning and zoning board at its next available regular meeting or session, following action by the development review committee, for approval or disapproval. The planning and zoning board may take the following actions:

- (1) Approve the application as recommended by the development review committee.
- (2) Approve the application, deleting or supplementing the conditions and restrictions of the development review committee.
- (3) Approve the application, adding conditions and restrictions as determined by the planning and zoning board.
- (4) Disapprove the application.

The planning and zoning board shall have the option to take such action as it deems necessary and proper upon one hearing.

(d) Appeals shall be governed by sections 118-162 through 118-164. Appeal may be taken only upon final action by the planning and zoning board.

(e) If the community development director or the planning and zoning board determines that an easement or right-of-way is necessary for the subdivision of the subject property, the applicant must provide a proper and satisfactory executed deed of easement or right-of-way prior to any final approval by the authority determining this necessity and prior to approval by any subsequent authorities determining the application.

(f) The community development director may require an applicant to follow the standard subdivision procedure contained in this chapter if the community development director determines that the summary procedure is being utilized by an applicant in order to defeat the objectives of subdivision requirements or the summary

procedure would be inadequate to address matters presented by the application that could be more adequately addressed through the platting or replatting procedure.

(g) A lot shall not be created by this process if a lot does not have legal access to a public right-of-way, or a lot is not conforming to applicable land development regulations governing lot dimensions or densities within the applicable zoning district.

(Ord. No. 04-19, § 2(Exh. A), 6-10-04; Ord. No. 19-32, § 4, 6-27-19)

Sec. 110-97. Lot combination.

(a) The purpose of this section is to create a summary procedure for the combination of two or more contiguous lots or parcels of land that share the same future land use map and zoning designations. Lot combinations are distinguished from boundary line adjustments or lot adjustments which retain portions of the original lots or parcels as separate lots or parcels, lot splits, subdivisions or replats and result in the creation of more than one parcel, lot or tract.

(b) A property owner shall apply to the city for a lot combination on an application form, promulgated by the community development director, stating their plans for development of the combined lot and providing the following minimum submittal requirements:

- (1) A sketch showing the lot size, location of proposed buildings, location of easements, names of bordering streets, building setbacks, names and locations of all bodies of water, marshlands, drain fields, and all other waterways and watercourses abutting or encroaching upon subject property. This sketch must also show existing buildings and lot dimensions.
- (2) A brief description of all utilities and city services, including sewers, potable water facilities, and fire hydrants electric and telephone poles, streetlights, storm drains and any other utilities or services relevant to the maintenance of subject properties.

- (3) A listing of the names and addresses of the record owners abutting subject property.
- (4) A boundary survey of the lands subject to this procedure, as existing (i.e., prior to the proposed lot combination) and as proposed (i.e., after the proposed lot combination), performed and prepared under the responsible direction and supervision of a professional surveyor and mapper shall be certified to and submitted to the city. Said surveys shall include the depiction of existing improvements and easements thereon.
- (5) Proposed legal instruments creating and granting proposed easements, conditions and restrictions upon the proposed combined lots, if applicable.
- (6) A title opinion from a licensed attorney or title certificate from a title company certified to the city showing the ownership, easement, mortgage, and other lien and encumbrance information for the existing lots or parcels.
- (7) Proposed binding lot combination agreement with attached legal sketches and descriptions to be recorded in the public records requiring the combined lots or parcels to be retained in single ownership, and shall remain as a single, integral lot, and shall not be subdivided, severed, sold, leased, encumbered, or otherwise disposed of in lesser constituent lots or parcels. Along with an executed joinder and consent to the proposed binding lot combination agreement from all owners of the property and mortgage holders, if applicable.

(c) Lot combination procedure. Once the application is determined to be complete, the development review committee shall review the request for compliance with the code and providing necessary easements and access for public services and utilities (e.g. compliance with lot dimensions requirements, setbacks for existing buildings, easements, legal access, etc.). The city may condition the lot combination upon the recording in the Orange County public records

legal instrument(s), in a form acceptable to the city, showing the new boundaries of the lots created by the lot combination and creating any easements, conditions and restrictions upon the lots necessary for the orderly and proper development of the lots. Upon review by the development review committee, with or without conditions or restrictions, the application, together with the recommendations, conditions and restrictions, shall be presented to the community development director, for approval, approval with conditions or disapproval.

(d) If the community development director determines that an easement or right-of-way is necessary for the subject property, the applicant must provide a proper and satisfactory executed deed of easement or right-of-way as a condition of the effectiveness of any lot combination approval.

(e) The community development director may require an applicant to follow the standard subdivision procedure contained in this chapter if the community development director determines that the summary procedure is being utilized by an applicant in order to defeat the objectives of subdivision requirements or the summary procedure would be inadequate to address matters presented by the application that could be more adequately addressed through the platting or replatting procedure.

(Ord. No. 19-32, § 4, 6-27-19)

Sec. 110-98. Minor lot adjustment.

(a) The purpose of this section is to create a summary procedure for the minor adjustment of boundaries between two contiguous lots or parcels of land that share the same future land use map and zoning designations and where no additional lots will be created. The proposed lot adjustment shall be approximately parallel with existing boundaries, shall not significantly change the shape or size of the lots, and shall not result in the creation of nonconforming lots or structures. For the purpose of determining whether the lot adjustment represents a significant change in the size of the lots, the portion of land subtracted from a lot should not be more than ten percent of