

ORDINANCE NO. 95- 17

AN ORDINANCE OF THE CITY OF OCOEE, FLORIDA RELATING TO CHAPTER 180 OF THE CODE OF ORDINANCES OF THE CITY OF OCOEE KNOWN AS THE LAND DEVELOPMENT CODE; ENACTING A NEW SUBSECTION 4-4.1 OF ARTICLE IV OF CHAPTER 180 ESTABLISHING A SHORT FORM SUBDIVISION PLAT REVIEW PROCESS; REPEALING SUBSECTION 6-2.A(13) OF ARTICLE VI RELATED TO STREET LIGHTING; RENUMBERING SUBSECTION 6-2.A(14) OF ARTICLE VI; ENACTING A NEW SUBSECTION 6-8.D OF ARTICLE VI RELATED TO STREET LIGHTING, INCLUDING PROVISIONS WITH RESPECT TO DEVELOPER OBLIGATIONS TO PROVIDE STREET LIGHTING IN NEW SUBDIVISIONS; REPEALING SUBSECTION 6-8.C OF ARTICLE VI IN ITS ENTIRETY AND ENACTING A NEW SUBSECTION 6-8.C RELATED TO OTHER UTILITIES, INCLUDING PEDESTAL MOUNTED SERVICE OR TERMINAL BOXES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Ocoee desires to adopt new provisions and amend various other provisions of Chapter 180 of the Code of Ordinances of the City of Ocoee known as the Land Development Code; and

WHEREAS, pursuant to the provisions of Chapter 163, Florida Statutes, the Ocoee Planning and Zoning Commission, acting as the Local Planning Agency of the City, has held a public hearing on June 13, 1995 to review the relationship between this Ordinance and the Ocoee Comprehensive Plan and following such hearing found this Ordinance to be consistent with the Ocoee Comprehensive Plan, and in the best interests of the City of Ocoee and recommended that the City Commission adopt this Ordinance.

WHEREAS, pursuant to Chapter 163 and Section 166.041(3)(c), Florida Statutes, the Ocoee City Commission held public hearings on this Ordinance on June 20, 1995 and on July 5 after public notice and received public input with respect thereto; and

WHEREAS, the City Commission of the City of Ocoee finds and determines that this Ordinance is consistent with and implements the City of Ocoee Comprehensive Plan and that adoption thereof is in the best interest of the City of Ocoee.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF OCOEE, FLORIDA AS FOLLOWS:

SECTION 1. Authority. The City Commission of the City of Ocoee has the authority to adopt this Ordinance pursuant to Article VIII of the Constitution of the State of Florida and Chapters 163 and 166, Florida Statutes.

SECTION 2. Enactment of New Section 4-4.1 of Article IV of Chapter 180.
Article IV of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby amended by the addition of a new Subsection 4-4.1 to read as follows:

4-4.1 SHORT FORM SUBDIVISION PLAT REVIEW PROCESS

- (A) The Short Form Subdivision Plat Review Process set forth in this section is intended to provide for adequate public review of subdivisions having few lots and which do not require dedication of streets or public or private improvements.
- (B) When an applicant proposes to subdivide property this Short Form Subdivision Plat Review Process may be substituted for the Subdivision Review Process set forth in Section 4-4 hereof provided all of the following standards are met:
1. The subdivision consists of five (5) lots or less;
 2. No additional improvements are proposed for the property, except as may be required by the Land Development Code;
 3. Each lot has direct access to an existing paved public street, as required by Section 6-2.A(5) of this Code;
 4. The existing street layout will not be affected, except for the dedication of additional right-of-way, where required by the City;

5. All lots must be serviceable by existing water and sewer lines, unless waived by the City;
6. The initial subdivision is not part of a larger development but may be a replat of a lot or lots which are part of a larger development;
7. The lots meet all applicable Code requirements; and
8. There are no special circumstances existing which result in the Development Review Committee determining that the proposed plat should not be processed under the Short Form Subdivision Plat Review Process.

- (C) Pre-application Conference. Prior to submitting an application under this Section, the applicant shall confer with the Director of Planning at a pre-application conference. In this way the applicant may outline his/her intentions for the property and can become familiar with the procedure for the Short Form Subdivision Plat Review Process. Following the pre-application conference the Director of Planning, after consultation with affected Departments, shall advise the applicant regarding his preliminary determination as to whether the proposed subdivision meets the criteria for review under the Short Form Subdivision Plat Review Process as set forth in Section 4-4.1(B) above. The preliminary determination of the Director of Planning will be based only on the information presented at the pre-application conference and will not be binding on the City. The Director of Planning shall advise the applicant whether any additional information must be submitted with an application pursuant to this section.
- (D) If, following the pre-application conference, the applicant decides to continue, then an Application for Short Form Subdivision Plat Review shall be submitted by the Applicant to the Engineering Department along with thirteen (13) paper copies of the proposed plat (mylar to be given to City upon approval by the Development Review Committee), the applicable submittal fee, and such other information as may have been required by the Director of Planning at the pre-application conference or otherwise required on the application form. In addition, the applicant shall submit a Certification of Title and Encumbrances in conformance with the requirements of Section 177.041, Florida Statutes (i.e., an attorney's title opinion or title company certification). No application shall be deemed accepted unless it is complete and all required information has been provided.
- (E) Upon acceptance of the application by the Engineering Department, copies of the proposed plat shall be distributed to the Development Review Committee. The Development Review Committee shall review the proposed plat and determine whether there are any special circumstances which, in the opinion of the Development Review Committee, should disqualify the proposed plat from being

processed under the Short Form Subdivision Plat Review Process. The Development Review Committee members shall individually submit written comments on the proposed plat to the Engineering Department. In the event the Development Review Committee determines that the proposed plat is not eligible for review under the Short Form Subdivision Plat Review Process, then in such event, the applicant shall be required to resubmit the proposed plat in compliance with Section 4-4 hereof, including those requirements related to Preliminary Subdivision Plans and Final Subdivision Plans. Any such decision of the Development Review Committee may be appealed by the applicant to the City Commission. If the Development Review Committee determines that the proposed plat should be processed under the Short Form Subdivision Plat Review Process, then the Engineering Department shall submit all comments of the Development Review Committee in a report to the applicant who shall make the changes necessary and then submit a revised plat to the Engineering Department. This process shall continue until the proposed plat is satisfactory to the Development Review Committee. Proposed plats processed pursuant to the Short Form Subdivision Plat Review Process shall not be subject to review by the Planning and Zoning Commission.

- (F) After the Development Review Committee approves the proposed plat, the City Engineer shall submit the proposed plat, supporting data and a report from the Development Review Committee, to the City Commission; provided, however, that prior to submittal to the City Commission, the City Engineer shall have received the following information from the applicant:
- (1) Certification of payment of taxes (Receipt from Orange County Property Appraiser's office). The applicant must submit a copy of the proposed plat to the Property Appraiser's office in order for the tax assessment information to be completed;
 - (2) Statement of Prepaid Tax Deposit and Lien Settlement Requirements. (This form is also obtained and must be submitted through the Orange County Property Appraiser's office). The completed form and a receipt evidencing payment is then submitted to the Engineering Department; and
 - (3) Such other information as the City Engineer determines is necessary to meet the applicable requirements of the Land Development Code and Florida law; and
- (G) All Property owners within 300 feet of the land which is the subject of the proposed plat must be notified by mail at least seven (7) days prior to the date of

consideration of the proposed plat by the City Commission. The notice must include the date, time and place at which the City Commission will consider the proposed plat. No other public notice shall be required.

- (H) Prior to taking action on the proposed plat, the City Commission shall call for comments from the general public; however, a public hearing shall not be required. Thereafter the City Commission shall approve, approve subject to conditions, or disapprove the proposed plat. In disapproving any proposed plat, the City Commission shall provide reasons for such action.
- (I) Upon approval of the plat by the City Commission, the City Engineer shall be responsible for the recording of the signed plat. Approval shall have the same effect as if approved pursuant to Section 4-4 hereof.
- (J) A Final Certificate of Concurrency shall not be required in connection with the approval of a proposed plat pursuant to the Short Form Subdivision Plat Review Process. However, such approval of a proposed plat shall not create any exemption from compliance with the requirements of Article IX of this Code. Approval of a proposed plat pursuant to the Short Form Subdivision Plat Review Process shall not constitute a development order or permit or other authorization to commence development under this Code. Unless exempt under Section 9-4(B) of Article IX of this Code, a Final Certificate of Concurrency shall be required prior to the issuance of a development order or permit or other authorization to commence development on a lot platted pursuant to the Short Form Subdivision Plan Review Process.

SECTION 3. Repeal of Subsection 6-2.A(13) of Article VI of Chapter 180.

Subsection 6-2.A(13) of Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby repealed in its entirety.

SECTION 4. Renumbering of Subsection 6-2.A(14) of Article VI of Chapter 180. Subsection 6-2.A(14) of Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby renumbered as Subsection 6-2.A(13) of Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee.

SECTION 5. Enactment of a New Subsection 6-8.D of Article VI of Chapter

180. Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby amended by the adoption of a new Subsection 6-8.D to read as follows:

D. Street lighting.

(1) Street lighting on both public and private streets shall be installed by the developer in coordination with Florida Power Corporation and in accordance with the requirements of this Code. All such street lighting must be installed at the developer's expense contemporaneous with the construction of subdivision road improvements and prior to issuance of a Certificate of Completion. All such street lighting shall become operational no later than the date of issuance of a Certificate of Completion. All utilities shall be installed underground. The street lighting plan shall comply with all applicable Code requirements and shall be subject to the approval of the City Engineer prior to installation.

(2) **Public Streets.** The following provisions are applicable to street lighting installed on public streets:

(i) The developer shall be responsible for the installation, maintenance, repair, replacement and operational costs of street lighting installed on public streets until the end of the calendar year in which the City receives written notice from the developer that certificates of occupancy have been issued for buildings constructed on seventy-five percent (75%) of the lots in the subdivision which is the subject of the Certificate of Completion which includes such street lighting. Beginning with the calendar year following such notice, the City shall be responsible for the maintenance, repair, replacement and operational costs of such street lighting, except for specialized street lighting which is subject to a separate agreement with the City as provided in Subsection 6-8.D(5) below. The City shall assume responsibility as aforesaid only for standard street lighting costs on public streets. The written notice from the developer regarding issuance of certificates of occupancy is subject to verification by the City for accuracy.

(ii) At the time of the pre-construction conference, the developer shall (1) advise the City regarding the type of street lighting to be installed, and (2) based upon the billing estimate received by the City from Florida Power Corporation with respect to the proposed street lighting, pre-pay to the City the street lighting costs (including charges

related to specialized street lighting, if applicable) for the first year (i.e., 12 months) for all such street lighting installed on public streets and the City shall use such funds for the payment of street lighting invoices received from Florida Power Corporation. Thereafter, the City shall annually invoice the developer in advance for said street lighting costs until such time as the City receives written notice from the developer that certificates of occupancy have been issued for seventy-five percent (75%) of the lots in the subdivision as set forth above. If such invoice is not paid when due, then the City shall discontinue the issuance of further building permits for such subdivision until payment is made. The City will forward any such future invoices to a homeowner's association upon receipt of written notice from the developer that the responsibilities for the payment of such invoice (including charges related to specialized street lighting, if applicable) has been transferred to such association and satisfactory evidence, in recordable form, indicating the homeowner's association has agreed to assume such costs. Currently, the City does not receive itemized Florida Power Corporation invoices for street lighting installed on public streets and, therefore invoices to the developer or association are based on estimated costs. The developer/association shall not be entitled to a refund for prepaid street lighting costs incurred during the calendar year in which the City receives written notice from the developer that certificates of occupancy are issued for seventy-five percent (75%) of the lots in the subdivision.

(iii) If a developer has installed specialized street lighting on a public street, then in such event the developer, the applicable homeowner's association and the City shall, prior to or at the time of approval of the first plat, enter into an agreement acceptable to the City which provides that commencing at the time the City becomes responsible for the standard street lighting costs on such public street (as provided for in Section 6-8.D(2)(i) above) the developer and/or the association shall reimburse (and shall continue to reimburse) the City for the additional costs above the standard street lighting costs thereafter incurred by the City in connection therewith plus an administrative charge equal to ten percent (10%) of the additional costs. Nothing contained herein shall be construed to prevent the homeowner association from entering into such agreement during the time it is controlled by the developer.

(iv) Notwithstanding the above provisions during the time the developer is responsible for the costs of public street lighting, the City may, at its option, arrange for direct billing by Florida Power Corporation to a developer/homeowner's association for the costs of public street lighting and in such event the procedures set forth in Subsections 6-

8.D(2)(ii) above regarding payments by the developer to the City shall not be applicable.

(v) Any annual invoices for payment of public street lighting shall be due and payable thirty (30) days from the date of such invoice. Should payment not be received within said time frame, then such invoices shall bear interest at the rate of eighteen percent (18%) per annum until paid. If any such invoice remains unpaid for a period of sixty (60) days, then the City may take any action deemed necessary in order to collect such unpaid invoice, including but not limited to, the retaining of the services of a collection agency or attorney, and initiating legal proceedings for collection thereof. In such event, the City shall be entitled to receive its reasonable attorney's fees, paralegal fees and other costs and expenses, whether incurred prior to, during, or subsequent to court proceedings or on appeal.

(3) Private Streets. The developer shall be responsible for the installation, maintenance, repair, replacement and operational costs of street lighting installed on private streets. The developer shall directly contract with Florida Power Corporation regarding such street lighting. The obligations of the developer under this subsection may be transferred to and assumed by the applicable homeowner's association. The City shall have no responsibility for the installation, maintenance, repair, replacement and operational costs of street lighting installed on private streets.

SECTION 6. Repeal of Subsection 6-8.C of Article VI of Chapter 180.

Subsection 6-8.C of Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby repealed in its entirety.

SECTION 7. Enactment of a New Subsection 6-8.C of Article VI of Chapter

180. Article VI of Chapter 180 of the Code of Ordinances of the City of Ocoee is hereby amended by the adoption of a new Subsection 6-8.C to read as follows:

C. Other Utilities.

1. Utility lines of all kinds, including but not limited to those of franchised utilities, electric power, telephone and telegraph, cable television, water, wastewater, and gas, shall be constructed and installed beneath the surface of the ground in the street right-of-way and/or a front yard utility easement within new

residential subdivisions, unless it is determined by the City Engineer that soil, topographical, or any other compelling conditions make the installation of such utility lines as prescribed herein unreasonable or impracticable. This subsection shall not be construed to require the conversion of any existing above ground utility lines.

2. The underground installation of incidental appurtenances, such as transformer boxes, pedestal-mounted service or terminal lines for electricity, telephone and telegraph, cable television, or gas service, or similar service hardware necessary for the provision of electric, telephone and telegraph, cable television and gas service, shall not be required; provided, however, such incidental appurtenances may be installed underground at no cost or expense to the City.

3. If pedestal-mounted service or terminal boxes or similar hardware for electric, telephone and telegraph, cable television and gas service are installed aboveground on a residential lot which is less than seventy (70) feet in width where the lot abuts the street right-of-way line (whether public or private), then in such event the aforementioned aboveground hardware shall be located within the side yard utility easement and forward of the front building setback line a distance of no more than five (5) feet. The proposed subdivision shall include all necessary easements for the location of such incidental appurtenances in accordance with the provisions of this subsection. This subsection shall not be applicable to any residential subdivision which is developed pursuant to a Final Subdivision Plan approved prior to the effective date of this subsection. Further, this subsection is not applicable to pad mounted transformers.

4. Belowground installation shall not normally be required for bulk electric power supply lines and communication major feeder lines.

5. It shall be the developer's responsibility at the developer's expense, to make the necessary arrangements with each utility in accordance with the utility's established policies.

6. Nothing in this section shall be construed to prohibit any entity furnishing utility service within the City of Ocoee from collecting, as a condition precedent to the installation of service facilities, any fee, prepayment, or contribution to aid in the cost of construction which may be required.

SECTION 8. Conflicts. All ordinances, resolutions, parts of ordinances or parts of resolutions of the City of Ocoee in conflict herewith are hereby repealed and rescinded.

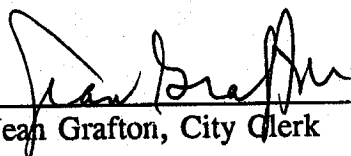
SECTION 9. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

SECTION 10. Codification. It is the intention of the City Commission of the City that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City; and that sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "chapter", "section", "article", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and the correction of typographical errors which do not affect the intent may be authorized by the City Manager, without need of public hearing, by filing a corrected or recodified copy of same with the City Clerk.

SECTION 11. Effective Date. This Ordinance shall become effective immediately upon passage and adoption.

PASSED AND ADOPTED this 5th day of July, 1995.

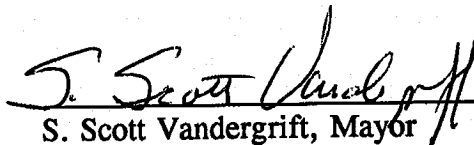
ATTEST:



Jean Grafton, City Clerk

APPROVED:

CITY OF OCOEE, FLORIDA



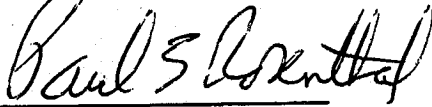
S. Scott Vandergrift, Mayor

(SEAL)

ADVERTISED June 11, 1995
AND ADVERTISED June 22, 1995
READ FIRST TIME June 20, 1995
READ SECOND TIME AND ADOPTED
July 5, 1995,
UNDER AGENDA ITEM NO. VA.

**FOR USE AND RELIANCE ONLY BY
THE CITY OF OCOEE, FLORIDA.
APPROVED AS TO FORM AND LEGALITY**
this 5 day of July, 1995.

FOLEY & LARDNER

By: 
City Attorney