

**TOWN OF OCEAN RIDGE, FLORIDA  
PLANNING & ZONING COMMISSION MEETING  
AGENDA**

**APRIL 17, 2017**

**8:30 A.M.**

**TOWN HALL \* MEETING CHAMBERS**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. APPROVAL OF MARCH 6, 2017 MINUTES**
- IV. ORDINANCE REVIEW**
  - 1. Ordinance No. 619: Site Plan Review Procedures
  - 2. Ordinance No. 622: Sign Code
- V. ADJOURNMENT**

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING & ZONING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. PERSONS WHO NEED AN ACCOMODATION IN ORDER TO ATTEND OR PARTICIPATE IN THIS MEETING SHOULD CONTACT TOWN HALL AT 561-732-2635 AT LEAST 5 DAYS PRIOR TO THE MEETING IN ORDER TO REQUEST SUCH ASSISTANCE.

PLANNING & ZONING MEETING MINUTES  
MARCH 6, 2017

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, March 6, 2017 in the Town Hall Meeting Chambers.

I. CALL TO ORDER

The meeting was called to order at 8:30 AM by Chairman Gerald Goray.

II. ROLL CALL

Town Clerk Stevens led the roll call which was answered by the following:

Richard Bajakian  
Penny Kosinski  
Mauro Walker

Gerald Goray  
Mark Marsh

Staff present: Town Attorney Brian Shutt, Town Manager Jamie Titcomb, Town Engineer Lisa Tropepe, Building Official Don McIntosh, Zoning Official Manny Palacios, and Town Clerk Tracey Stevens.

III. APPROVAL OF THE MARCH 14, 2016 MINUTES

**Member Marsh moved to adopt the March 14, 2016 minutes; seconded by Member Walker. Motion carried 5-0.**

IV. ORDINANCE REVIEW

1. Ordinance No. 619: Site Plan Review Procedures

Attorney Shutt advised that the Board may take public comment on each ordinance and since this meeting is quasi-judicial, no testimony needs to take place. Chair Goray stated the Board will take public comment on each item. Attorney Shutt noted that the proposed ordinances are a starting point for discussion, and staff is here to listen to the Board's input on proposed changes.

Attorney Shutt mentioned that the Site Plan Review Procedures Ordinance is intended to give the Zoning Official some extra input on single-family and two-family homes regarding compatibility issues with the Town, having the Planning & Zoning Commission look at building plans before the Zoning Official approves them. The Commission would look at whether the plans accomplish a balance of the streetscape, are compatible with other buildings in the Town, etc. The building would have to meet our code as well, but this would give an extra review with the developer/builder, and a recommendation would go to the Zoning Official. The Zoning Official would then take into account the Commission's comments before approving the plans. Attorney Shutt noted that the Commission would be making a recommendation, not a final decision on the plans.

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Chair Goray stated that for the past 25 years, the Town has been looking at whether or not we would like an architectural review board. He reiterated that the Commission's recommendation would not be binding, and Attorney Shutt confirmed.

Attorney Shutt stated that all plans for new construction or renovations 50% over the current value of the structure would come in front of the Commission.

Attorney Shutt stated that we can develop a procedures list so that within so many days that staff receives a set of plans, the Commission would meet to review them so we are not holding up developers.

Chair Goray asked if the Commission could have a sub-committee, and Attorney Shutt advised that we would want the entire Commission to make a decision, and there would be no time savings because the meeting still needs to be noticed either way.

Member Marsh gave some background on why this is coming in front of the Commission. He stated that plans come in to the Town and the Zoning Official is asked to review the final building plans and make a judgment call on compatibility. He stated that we have had issues that could impact the community as a whole. He noted that Ocean Ridge is only one of a few committees on the coast that does not have an architectural review board, and for the sake of character of the town, we need to have some review. He stated that in some instances, the applicants go through a lot of expense and then the town finds issues or problems with the design, and it is only fair that if there is an issue, they are alerted early enough. He stated that the phrase "consistent with the established neighborhood character" in the ordinance leaves things wide open; however, we need to be conscious of using that term when reviewing plans. He mentioned that this would take that burden off the Building Department. He stated we also need to address the issue of flat roofs, where our ordinance states as long as you have a 4 and 12 pitch you can have a flat roof. He noted that we do not want to dictate house colors and such; this ordinance is intended more to preserve the fabric of the town.

Member Walker asked about the underlined section: "Prior to the Administrative Official making a determination on the application, if the application involves the construction of a single or two-family structure under separate ownership". Attorney Shutt responded that we are trying to maintain compliance with the minor and major development section of the code so we don't change the entire fabric of how things are looked at. He noted that the 50% threshold is common whether it is a nonconforming use or a tipping point, and if greater than 50% you may need to apply more codes.

Member Bajakian noted that Member Marsh is the only Architect on the Commission. He stated he knows how to look at building plans, but does not know what the basis would be for the Commission to reject an application. He stated he does not want to open up the town to a lawsuit if the Commission's recommendation is that they can't build something that complies with the code. Member Marsh responded that the Commission's review will be purely aesthetic, and the Building Department will be taking care of land issues, etc. He noted that the Commission's review will be done in the very early stage

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of the building process. He mentioned that we should have a minimal standard of what will be submitted so it is clear enough for everyone to understand, and not so technical so the Commission does not get lost with it. He suggested a short form submission requirement for material to be reviewed by the Commission.

Member Walker asked how a decision is made on what comes to the Commission, and Attorney Shutt responded that under this ordinance, all new construction or renovations 50% over the current value of the structure would come in front of the Commission, and the Commission would make a recommendation to the Zoning Official. The Zoning Official would then make a determination on whether the plans are in compliance with the Town Code.

Chair Goray asked what this would entail based on the current volume of building permits submitted to the Town, and Town Manager Titcomb stated that every set of plans that meets the threshold would come to the Commission and the Commission would be meeting on a much more regular basis to review the plans. He noted that we are currently around 200% above our projection on building permit revenue for the year. Town Clerk Stevens noted that we had around seven new home building permits this past year. Town Manager Titcomb stated that the Commission would meet at least monthly to review applications.

Town Manager Titcomb asked the Attorney what the recourse would be for an applicant if the applicant does not agree with the decision of the Commission. He also noted that we need to work out the procedural elements.

Chair Goray asked if other communities have adopted this kind of advisory procedure as opposed to a mandatory Architectural Review Board, and Attorney Shutt stated he is not aware of any. He stated the way the ordinance reads now, the Commission would make a recommendation which would not be binding, and the Zoning Official could still approve an application if it meets all Zoning codes.

Member Marsh asked if the Town Commission would have a role as far as appeals, and Attorney Shutt responded that if the Zoning Official denies an application, his decision could be appealed to the Town Commission.

Chair Goray asked if this would work as a practical matter. Member Marsh responded that the ordinance does not have teeth. He stated it is a great start, but we may need to enact more detailed criteria for submission and review. He stated this would make the Commission redundant if we make a decision that cannot be enforced.

Member Walker stated he would like more information about how other towns have done this in detail, along with stats on how many times the P&Z may need to meet.

Public comment: Terry Brown, Harbour Drive South, stated his comments should not be taken as in opposition to the ordinance. He stated homes have been built in his neighborhood that have not been in character with the town. He stated it will be nice to

be able to attend a meeting to state his opinion, however, there is no real enforcement mechanism and no defined criteria. He stated we would be looking for a lawsuit if the Commission rejects an application. He also noted that Commission members could be influenced politically, as it is opinion based criteria and very subjective. He would like to see criteria defined in the code and have some actual enforcement.

Don McIntosh, Building Official, stated that he strongly suggested we setup an Architectural Review Board (ARB). We need criteria on how you want your streets to look, and without an Architectural Review Board, you won't be able to accomplish what you want.

David Hutchins, Harbour Drive North, Alternate Member on the Board, stated that the language "buildings should conform with the neighborhood character" is too vague. He stated it would be a good idea to come to a consensus on what neighborhood character is.

Member Kosinski asked what historically has been the opposition to an ARB, and Member Marsh responded that Ocean Ridge is a self-preserving town and people respect other people, but we are a popular destination now and with that comes some aggravation. He stated that based on the comments, we may want staff to go back and develop some guidelines.

Attorney Shutt stated that with the current version, if the developer does not agree with the Commission's recommendation, there is no appeal process. They would just go to the Building Department for approval.

Chair Goray stated that we need to come up with a more definitive ordinance that provides more formal review standards and a process for ultimate approval at some point. He stated that the alternative is to have a formal ARB.

Attorney Shutt stated that it is his understanding that it is the consensus of the Commission for staff to re-work the ordinance so it has a little bit more teeth to it, and give the Commission better direction as to what is compatible or not. If the applicant cannot obtain the P&Z's recommendation for approval, then it would be appealed to the Town Commission. If the P&Z recommends approval, the application would go to the Zoning Official for review.

**There was consensus of the Commission for staff to go back and work on the ordinance based on the discussion.**

2. Ordinance No. 620: Deck Setbacks

Attorney Shutt stated we have had some issues recently because there is no pool setback or any other type of impervious surface from adjacent right of way lines, and in his conversations with the Town Engineer, a three foot setback seemed to be a common number that could be used to stay away from some of those issues.

Lisa Tropepe, Town Engineer, stated that many years ago, people would build pools and decks with no issues. Today, houses are being built in a complex way. People are now putting pools in front of the house, on the side of the house, and if you have nothing in the code in regards to setbacks, some pool decks are falling on the property line, or sometimes a couple inches off the property line, sometimes on someone else's property or in the public right of way. She stated that the code for a pool deck states that the water needs to sheet flow away from the pool itself, so you have stormwater flowing off your pool deck. The code also states that you should not impact adjacent properties. If you put a pool deck up to the property line, and it is sheet flowing away from the pool to meet your pool code, you're in violation of your other codes, so there is a conflict. She stated that other municipalities have five foot setbacks, and feels that three feet gives you the ability to deal with the drainage, sheet flow off the deck, and gives property owners the ability to landscape in the three foot area, as privacy has been an issue as well. She stated that a lot of the challenges staff has had in the past few years are projects that meet the code, but become a problem for the adjacent property owners, or are built into the right of way where the Town Manager then has to make a decision as to whether we will give the property owner a permit to encroach into the right of way. We are proposing the three feet today to address stormwater, privacy issues, and right of way issues.

Chair Goray asked if the Town Engineer is recommending that we advise the Town Commission to approve this ordinance as written, and Ms. Tropepe answered "yes, sir".

Member Marsh noted that FEMA is raising their elevations which will wreak havoc with drainage control. Ms. Tropepe agreed.

**Member Kosinski moved to approve the ordinance as written; seconded by Member Bajakian. Motion carried 5-0.**

3. Ordinance No. 621: Construction Site Management

Attorney Shutt reviewed the highlights of the Construction Site Management ordinance for the Commission. He stated that the ordinance prohibits construction parking in the right of way all together unless the Building Official allows it due to a plan submitted to the Town. He also noted that we added a section for temporary construction fences around the entire site. He stated that some communities have it all around the site, and some have it just adjacent to the public right of way. He stated that the ordinance references noise and times for construction. The ordinance also has a section for silt fences as per NPDES requirements. There would need to be an approved site plan for construction/storage trailers. The ordinance also adopts a construction site management handbook which the contractor will need to sign off on each time a building permit is pulled so there is no question as to what the requirements are ahead of time. Attorney Shutt stated that a lot of these things were already in the code, but now we are placing them in one code section to make it more user friendly.

Member Bajakian stated there may be a contradiction between Section 64-49 Temporary Structures and Section 67-9 regarding storage trailers not to be used as a dwelling or

lodging unit. Attorney Shutt responded that a trailer can be occupied as an office during the day, and Member Bajakian stated this needs to be specified.

Member Walker asked if we are enforcing our rules now, especially in reference to parking in the right of way, and he referenced landscapers. Attorney Shutt responded that there is an exception for non-construction work for service vehicles etc. to park in the right-of-way now. He stated that this is meant to address construction vehicles that may be on the site for six to eight months at a time and parked there constantly.

Member Marsh stated that temporary fencing is a concern. He's not sure if all projects can accommodate that, however, it's a huge liability issue if there are hazardous conditions. He stated that the right of way is a fair limit of protection, but dust and dirt should not be migrating out. He stated he is not sure about having a fence by the water though because it is unsightly, and we may be imposing on the smaller projects.

Member Kosinski referenced Section 67-1(h) and asked if the Town Commission is the appropriate body for appeals, as she does not feel someone should need to wait for 30 days for an appeal. Attorney Shutt responded that we will take suggestions from the Commission on that. Member Marsh stated it works in this case, and it is a housekeeping issue that the Town Manager could handle. It was the consensus of the Commission to change this to the Town Manager.

Member Kosinski asked about Section 67-9 (5), second sentence "if land development or construction activities do not commence within the required time period..." She would like to add in the words "they must remove the construction trailer, and if not, the Building Official will commence code enforcement." She feels it should be up to the Contractor to comply.

Chair Goray stated he did some research on other towns and the idea of a construction handbook appears to be very practical and effective.

Public Comment: Terry Brown, Harbour Drive South, stated he is concerned with parking for construction in the right of way, especially on the A1A state road right of way. He stated there is only one sidewalk on A1A, and we do have construction workers parking on the sidewalk. He stated a special designated zone for no parking at all would be worth considering to address safety of pedestrians. He also asked if there is criteria to address the issue of the length of time that someone needs to finish a construction project. Attorney Shutt responded that according to the building code, a person can pull a permit every six months. He stated there is no drop dead date, as it really isn't viable.

Don McIntosh, Building Official noted the following issues:

1. Section 67-9 (5) "land development or construction activities must commence within 1 year" is in violation of the Florida Building Code and the Florida statutes, as you have 180 days after a permit is issued to begin work.

2. Item #4, “Certificate of Occupancy shall be issued before a trailer is occupied” is in violation of Florida Building Code and Florida statutes, as there is no certificate of occupancy for construction trailers because they are not habitable.
3. Item #3, “a construction trailer shall not be allowed for more than two years including renewal periods”, depending on the size of construction, a single family dwelling could extend up to 10 years. A contractor can call for an inspection within 180 days and the permit is then continued. We do urge contractors and homeowners to complete construction prior to that point and strive to assist them, but according to Florida Building Code, we cannot mandate that.

Chair Goray asked about Mr. McIntosh’s comment about cooking on site, and Mr. McIntosh explained that a habitable building is defined as a structure where you can prepare a meal, bathe, and sleep, and a construction trailer has none of those, as it is simply for the architect, engineer or project manager to have their approved plans on site and control how the work is being accomplished. Member Kosinski asked if there is another document other than the certificate of occupancy that is issued for a construction trailer, and Mr. McIntosh responded that a certificate of occupancy is only for a habitable structure, and a Certificate of Completion is for remodels that do not hit the 50% improvement threshold, and is meant for the property owner to show to the insurance company. Mr. McIntosh stated that we issue a building permit for construction trailers, but no certificate of occupancy, as it would be in violation of the Florida Building Code and statutes.

Mr. McIntosh stated he wrote a memo on fencing around two years ago. He stated that right now, we require fencing on a case by case basis. He stated we try to make sure any project on A1A is fenced completely because we have a lot of people who like to look at the construction going on instead of keeping their eyes on the road. He noted that silt fencing is a requirement on every construction site, but we do not currently require fencing. He stated if there is a permit for concrete restoration on a two-story building, we may require some type of shroud so concrete does not fall and injure someone. We do not require fencing for a roofing permit. He stated that with a CCCL permit, we work closely with DEP on frangible areas and turtle lighting. He stated the Town does not have an ordinance on that, but we are required under the Palm Beach County codes which are taken under consideration.

Mr. McIntosh stated that we may want to strike the last line in the construction management handbook under Item 4 “prior to issuance of a certificate of occupancy, all such facilities shall be removed from the site.” He stated the Town Engineer already inspects for final drainage, the Building Official completes final building inspections, and we get a final survey and elevation certificate before a permit is finalized. Mr. McIntosh also noted that sea grapes and sea oats along the coast cannot be disturbed.

The Commission developed the following conditions to the ordinance:

1. Construction fencing: “fencing shall be required as described herein adjacent to all public right of way areas excluding the ocean and intracoastal waterway, and along the adjacent side unless there is an adjoining fence, hedge or wall.”



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2. Section 67-1 (h) change from Town Commission to Town Manager.
3. Section 67-9 (3) leave wording as-is.
4. Section 67-9 (4) Certificate of occupancy for trailer wording to be changed to “approval from the Building Official shall be obtained before the trailer is occupied”.
5. Section 67-9 (5) leave wording as-is.

**Member Marsh moved to recommend approval of the ordinance subject to the five stated conditions; seconded by Member Walker. Motion carried 5-0.**

V. Discussion Regarding Assignment as Infrastructure Surtax Citizen Oversight Committee

Town Manager Titcomb mentioned that the Town Commission delegated the Infrastructure Surtax Committee duties to the P&Z, including the alternate members. He stated the amount we will receive is projected to be \$108,000, and our intent is to use those monies for infrastructure improvements in the Town, and we need to spend those monies in accordance with the county ordinances. He noted that there is no business before the committee today, but he wanted to give the information to the Board at this time.

VI. Adjournment

Member Walker moved to adjourn at 10:07 a.m.; seconded by Member Kosinski.

Minutes adopted by the Planning & Zoning Commission at its meeting on April 17, 2017.

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Chairman Goray

Attest:

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Tracey L. Stevens, CMC, Town Clerk

# MEMORANDUM

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**TO:** PLANNING AND ZONING COMMISSION MEMBERS  
**FROM:** R. BRIAN SHUTT, TOWN ATTORNEY  
**RE:** PROPOSED ORDINANCE REGARDING SITE PLAN REVIEW PROCEDURES – ORDINANCE NO. 619  
**DATE:** APRIL 10, 2017

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Pursuant to Sections 63-31 and 63-72 of the Code of Ordinances of the Town of Ocean Ridge, amendments to the Land Development Code shall first be presented to the Planning and Zoning Commission for a recommendation prior to being presented to the Town Commission.

Based on the comments received at the last Planning and Zoning Commission meeting on the proposed ordinance regarding site plan review the following changes have been made:

- Single and two family home construction as well as reconstruction on single and two family structures that exceed 50% in cost or square footage increase shall be classified a major development
- The planning and zoning commission shall have approval authority over site plans submitted for single and two family structures
- Review criteria is provided regarding the review of site plans
- A concept plan review process is also provided for on a voluntary basis
- The appeal process has been amended to clarify who may appeal and the process to be followed.

Currently the Planning and Zoning Commission does not review plans for single or two family homes. The Planning and Zoning Commission shall review the plans to determine the overall balance and proportion of the proposed building as it relates to the site and with the neighborhood. A applicant must obtain approval from the planning and zoning commission before a permit may be issued. Currently the zoning official is the only person who reviews site plans for single and two family structures.

**ORDINANCE NO. 619**

**AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA, AMENDING ITS CODE OF ORDINANCES BY AMENDING CHAPTER 63, “GENERAL AND ADMINISTRATIVE PROVISIONS”, ARTICLE IV, “SITE PLAN REVIEW PROCEDURES”, TO PROVIDE FOR SITE PLAN REVIEW OF NEW CONSTRUCTION THAT MEETS A CERTAIN THRESHOLD AND TO CLARIFY THE REVIEW OF NEW CONSTRUCTION INVOLVING CERTAIN THRESHOLDS; PROVIDING FOR CODIFICATION, REPEAL OF CONFLICTING ORDINANCES, SEVERABILITY, AND AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Ocean Ridge, Florida (the “Town”) is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

**WHEREAS**, the Town Commission wishes to provide for site plan review by the planning and zoning commission, of all new construction that meets a certain threshold; and

**WHEREAS**, the Town Commission wishes to clarify the review of new construction and construction that involves a certain amount of remodeling; and

**WHEREAS**, the Town Commission has determined that the enactment of this ordinance is for a proper municipal purpose and in the best interests of the residents of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF OCEAN RIDGE, FLORIDA, AS FOLLOWS:**

**SECTION 1 – Findings of Fact:** The **WHEREAS** clauses set forth above are adopted herein as findings of fact.

**SECTION 2 – Amendment:** Chapter 63 “General and Administrative Provisions”, Article IV “Site Plan Review Procedures”, is hereby amended as follows:

**Sec. 63-51. - Types of applications.**

(a) *Generally.* In order to receive a development order, one or more of the following procedures are required depending upon the specifics of the case; all but item (1) are potentially considered development permits:

- (1) Comprehensive plan amendment.
- (2) Rezoning: map or text change.
- (3) Subdivision, plat approval or plat amendment.

- (4) Site plan approval of minor or major development application and special exception application or amendment.
- (5) Planned residential development approval or amendment.
- (6) Variance.
- (7) Modification of commission conditional approval.
- (8) Building or sign permit.

Subsections (a)(1), (6), (7) and (8) of this section, plus single-family dwellings on a lot in ownership separate from adjacent lots, may not be subject to concurrency; see article II of this chapter. The most significant review procedure for purposes of this land development code is site plan review of minor and major development applications. Procedures for subsections (a)(1), (2) and (6) are found in article V of this chapter, procedures for subsection (3) are found in article V of [chapter 64](#), and procedures for building permits are found in [chapter 67](#). The planned residential development procedure, as set out in article II of [chapter 64](#), is a specialized major development plan review process. Development permit applications shall be made upon forms provided by the administrative official with accompanying fees as may from time to time be specified by the town commission.

(b) *Minor and major developments.* If a development permit application is in conformance with the comprehensive plan, zoning district regulations and subdivision requirements, the following shall apply:

- (1) A minor development permit application shall require site plan approval by the administrative official. A minor development includes only:
  - a. ~~Single or two family structure in single and separate ownership;~~  
A modification to a previously approved site plan for a single or two family structure, under separate ownership, where such modification does not result in an increase greater than 50% of the existing square footage or the cost of renovations or remodeling exceeding 50% of the current value of the structure
  - b. A modification to a previously-approved site plan, for all structures other than single or two family structures, which adds less than five percent, cumulatively, to the approved square footage of all structures, which deviates no more than five percent, cumulatively, from the dimensions of the previously approved site plan;
  - c. Signs;
  - d. Bulkhead filling; and
  - e. Dune vegetation trimming or pruning.

(2) *Major development.* All development permit applications other than those for minor development are considered for major development and shall require a site plan to be submitted to the administrative official for approval by the town commission after recommendation by the planning and zoning commission. However, the planning and zoning commission shall be the final approval authority for all major development permit applications related to single or two family structures rather than the town commission. This includes any special exception uses as specified in article I of [chapter 64](#) shall be approved by the town commission after receiving a recommendation from the planning and zoning commission.

(c) *Site plan and special exception distinction.*

(1) *Site plan.* A major or minor development application is reviewed to make certain that all of the district, supplemental and special regulations have been met by the application, including concurrency as set out in article II of this chapter; these are largely on-site considerations.

(2) *Special exception.* In addition to the onsite considerations of the site plan review, a use requiring special exception approval shall also be reviewed for its impact on surrounding uses and facilities. See [section 63-54](#) for review criteria.

(3) *Construction documents.* Each set of construction documents furnished to the town for review shall include all mathematical calculations, survey and scaled dimensions in sufficient detail such that the reviewer can determine compliance with the dimensional requirements established by the town or other governmental agency, including but not limited to the minimum lot and floor area, minimum yard setbacks, maximum floor area ratio (FAR), maximum lot coverage and building height, drainage, first floor elevations, and landscape.

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### **Sec. 63-53. - Major development application and site plan requirements.**

The following shall be required for a major development application; the requirements set out in subsection (1) of this section shall also be required for a zoning map change:

(1) *Major development and zoning map change applications.* Every application for a major development or zoning map change shall include the following:

a. *Authority.* A statement of the petitioner's interest in the property, including a copy of the last recorded warranty deed; and:

1. If the property is under joint and several ownership, a written consent to the application by all owners of record;

2. If a contract purchase, a copy of the purchase contract and written consent of the seller/owner;

3. If the petitioner is an authorized agent, a copy of the agency agreement or written consent of the principal/owner;

4. If the petitioner is a lessee, a copy of the lease agreement and written consent of the owner;

5. If the petitioner is a corporation or other business entity, the name of the officer or person responsible for the application and written proof that the representative has the delegated authority to represent the corporation or other business entity, or, in lieu thereof, written proof that he is in fact an officer of the corporation; or

6. If the petitioner is a group of contiguous property owners, written consent by the owners of at least 75 percent of the property described in the petition.

b. *Survey.* A certified boundary survey of the parcel prepared by a surveyor registered in the state, at a scale prescribed by the town, containing the following:

1. An accurate legal description of the property to be rezoned.

2. A computation of the total acreage of the tract, to the nearest tenth of an acre.

3. A raised surveyor's seal on all survey copies accompanying the application.

c. *Area location map.* The location for the subject parcel, plotted by an engineer or surveyor registered in the state, on a copy of the official zoning map of the town or reasonable facsimile thereof.

d. *List of area property owners; courtesy notice.* A complete list of all property owners, with mailing addresses and legal descriptions, for all property within 300 feet of the subject parcel as recorded in the latest official tax rolls in the county courthouse. Such list shall be accompanied by an affidavit stating that to the best of the petitioner's knowledge the list is complete and accurate. If an application is brought by other than the owners of the subject property or their representatives, actual notice by certified mail shall be given to the owners of record of such property.

e. *Property owners' location drawing.* A property owners' location drawing showing all property owner information required in subsection d of this section and the relation to the subject parcel.

f. *Statement of use.* A statement of the special reasons or basis for the request, including the intended use of the property.

g. *Confirmation of concurrency.* Written confirmation that the provision of all adequate public facilities is in conformance with article II of this chapter.

h. *Filing fee.* Payment of the official filing fee as set by the town commission and received by the town clerk.

(2) *Major development site plan requirements.* Every application and site plan shall include the following:

a. The information required for minor development applications in [section 63-52](#) shall be included.

b. A site plan shall also include the following information, where applicable:

1. An area map, at a convenient scale prescribed by the town, which shall include existing roads, streams, street rights-of-way and street intersections, and the location of the nearest public streets on all four sides of the subject property.

2. Existing public streets, easements or other reservations of land within the proposed site.

3. The items required by subsections (3) through (11) in [section 63-52](#), pertaining to the minor development list.

4. A traffic impact analysis report or letter of projected trip generation for the development is required. (not required for development applications related to single or two family structures)

5. A statement by the petitioner of the major planning objectives of the development project, including but not limited to (not required for development applications related to single or two family structures):

i. Project population.

ii. Proposed timing and stages of development.

iii. Proposed ownership and form of organization to maintain any common and open space and facilities.

iv. Proposed density of land use for each development parcel within the project.

6. Where the applicant wishes to develop the project in incremental stages, a site plan indicating proposed ultimate development, for approval of the entire parcel. Proposed development phases shall be numbered in sequence.

7. Any other reasonable information which may be reasonably required from time to time by the town commission, which is commensurate with the intent and purpose of this land development code.

(3) Town planning and zoning commission review of site plans.

a. The planning and zoning commission is hereby delegated the responsibility of reviewing site plan applications for all major development requiring site plan review.

b. For all construction requiring site plan review, ten sets of architectural design plans prepared by a licensed architect shall be submitted.

c. The planning and zoning commission shall use the review criteria as set forth herein when reviewing site plans.

1. Relationship of building to site:

i. The site shall be planned to accomplish a desirable transition with the streetscape. The overall balance and proportion of the proposed building will be considered.

ii. The height and scale of each building shall be compatible with its site and other buildings onsite.

2. Relationship of building and site to adjoining area(s):

i. Buildings shall be designed to enhance the surrounding neighborhood.

ii. Harmony in architectural style, form, texture, mass and lines, as well as materials, colors, and use of architectural elements shall be provided in the design of all buildings.

iii. Buildings shall be consistent with the established neighborhood character.

3. Building design:

i. Evaluation of a project shall be based on quality of its design and relationship to surroundings.

ii. Components such as roofs, windows, doors, eaves, and parapets shall have balanced proportions in relationship to one another.

iii. Colors shall be harmonious and representative of the architectural style of the building and the character of the neighborhood.

iv. Design attention shall be given to mechanical equipment or other utility hardware on roofs, buildings and at grade so as to screen them from view.

v. Buildings shall be of a size as to be in harmony with permanent neighboring development.

vi. Use of any/all of the above preferred design elements in conjunction with the renovation or addition to existing homes is encouraged, along with the removal of any

existing elements that are not preferred.

d. The planning and zoning commission may approve, or recommend approval of, proposed site plans with conditions; may deny, or recommend denial of, the proposed plan; or may approve, or recommend approval of, the proposed plan without modification or conditions.

(4) Concept plan review.

This Section sets forth an optional preliminary review process for potential development. The purpose of this process is to provide a potential developer with an informal, non-binding review and commentary by the planning and zoning commission on his/her proposal without the necessity of meeting normal submission and procedural requirements.

A potential developer may request an audience before the planning and zoning commission for an informal, non-binding, concept plan review of a potential development proposal. The request must be in writing and received at least twenty days prior to a regularly scheduled meeting of the commission.

The request shall contain, at a minimum, the following:

- i. A letter stating the developer's interest in the property proposed for development and the proposed character of development.
- ii. A general location map and a survey or other representation of the property which identifies its general dimensions and character.
- iii. A graphic representation of one or more ways in which the developer wishes to develop the property.

The material provided by the potential developer shall be presented to the planning and zoning commission in the same manner and fashion as submitted. The commission shall review and comment on the development concept at a duly noticed public meeting. There shall be no action taken by the commission nor shall there be any written report resulting from discussions at the meeting which may be construed to be a preliminary approval of the development concept.

....

**Sec. 63-56. - Appeals.**

(1) An appeal is a request for a review and reversal of any action which if not appealed would be final. An appeal shall be conducted as a new evidentiary hearing via *de novo* review and shall not be limited to the record below. An appeal of a decision of a planning and zoning commission action shall be made to the town commission. All such actions are appealable unless an appeal is expressly prohibited. An appeal may be made by an aggrieved party. An aggrieved party is a person or entity that can allege an injury or harm, due to the action taken by the planning and zoning commission, that is different from the public at large, and can be the result of ownership of property within 300 feet of the proposed development.

(2) An appeal by an aggrieved party must be made in writing, directed to the town clerk, and must provide the following information including the appropriate processing fee:

- \* Identification of the action which is being appealed;



- \* Identification of who took the action and when it was made;
- \* The basis of the appeal;
- \* The relief being sought; and,
- \* The name of the appellant and the appellant's interest in the matter.

(3) The following procedures shall be adhered to in the processing of any appeal:

a. Receipt of the letter of appeal from the aggrieved party, by the town clerk, within ten (10) working days of the action being appealed. When the appeal is by the town commission, it shall be made no later than the next regular meeting of the town commission.

b. Consideration of the appeal at the next regular meeting of the town commission provided that the appeal has been received in time for proper placement on that agenda.

c. Consideration of the appeal at which time the appeal may be granted, denied, or set for further consideration.

(4) The granting of an appeal pertaining to a decision on a development application may be conditioned in the same manner as the development application may have been conditioned.

(5) The granting of an appeal pertaining to a decision on a development application must consider those items upon which a finding is required and the town commission must make findings on those items.

(6) Whenever an appeal is filed, the action being appealed shall be stayed i.e. the development application or appealed part thereof shall be considered neither approved or denied. If an appeal is filed for an action that is precedent for another action, the applicant may proceed with the submittal and processing of further development applications but only at his or her own risk.

**SECTION 3 - Codification:** The ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

**SECTION 4 - Repeal of Conflicting Ordinances:** All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

**SECTION 5 - Severability:** If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

**SECTION 6 - Effective Date:** This Ordinance shall become effective immediately upon adoption.

FIRST READING this \_\_\_\_ day of \_\_\_\_\_, 2017.

SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_, 2017.

Commissioner \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon

being put to a vote, the vote was as follows:

GEOFFREY A. PUGH, Mayor \_\_\_\_\_

JAMES A. BONFIGLIO, Vice Mayor \_\_\_\_\_

GAIL ADAMS AASKOV, Commissioner \_\_\_\_\_

STEVE COZ, Commissioner \_\_\_\_\_

DON MAGRUDER, Commissioner \_\_\_\_\_

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this \_\_\_\_ day of \_\_\_\_\_, 2017.

TOWN OF OCEAN RIDGE, FLORIDA

BY: \_\_\_\_\_  
Geoffrey A. Pugh, Mayor

ATTEST: \_\_\_\_\_  
Tracey L. Stevens, Town Clerk

# MEMORANDUM

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**TO:** PLANNING AND ZONING COMMISSION MEMBERS  
**FROM:** R. BRIAN SHUTT, TOWN ATTORNEY  
**RE:** PROPOSED ORDINANCE REGARDING CHANGES TO THE TOWN'S SIGN CODE – ORDINANCE NO. 622  
**DATE:** APRIL 10, 2017

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Pursuant to Sections 63-31 and 63-72 of the Code of Ordinances of the Town of Ocean Ridge, amendments to the Land Development Code shall first be presented to the Planning and Zoning Commission for a recommendation prior to being presented to the Town Commission.

The proposed changes are based on a recent supreme court case regarding temporary signs and how content neutrality is determined. Up until the supreme court decision, sign codes provided for regulations referring to different classes of temporary signs, such as real estate, construction, political, etc. The supreme court ruled that regulations of this type are no longer permitted. The proposed ordinance is designed to treat all temporary signs the same, regardless of whether the sign is a political, real estate, construction, etc. type of sign and also clarifies regulations regarding permanent signage.

The major changes to the code are as follows:

The current sign code is deleted in its entirety.

Certain types of signs are exempt from permitting requirements, such as flags, nameplates, certain types of directional signs, instructional signs and temporary signs.

All temporary signs shall be the same size.

Appeals from a denial by the town manager will be to the Town Commission.

The new temporary sign section provides that a maximum of 4 temporary signs shall be allowed per parcel, with a maximum sign face area of 6 square feet, max height of 5 feet and each sign must be at least 15 feet from the next sign. All temporary signs are prohibited on public property, unless placed there by a public entity for a public purpose. No temporary sign may include any fluorescent color, move or have any lighting or illumination.

## ORDINANCE NO 622

**AN ORDINANCE OF THE TOWN OF OCEAN RIDGE, FLORIDA AMENDING THE CODE OF ORDINANCES BY AMENDING CHAPTER 1 “GENERAL PROVISIONS”, SECTION 1-2 “RULES OF CONSTRUCTION”, TO MODIFY CERTAIN DEFINITIONS REGARDING SIGNS; AMENDING CHAPTER 70 “SIGNS”, TO MODIFY ITS SIGN CODE IN ORDER TO COMPLY WITH THE RECENT SUPREME COURT DECISION; PROVIDING FOR CODIFICATION, CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Town Commission of the Town of Ocean Ridge (“Town”) finds and determines that it is appropriate to ensure that its Code of Ordinances as it relates to signs is in compliance with all constitutional and other legal requirements; and

WHEREAS, the Town has endeavored to adopt regulations governing signage that will comply with the First Amendment of the U.S. Constitution as interpreted by the U.S. Supreme Court; and

WHEREAS, the Town finds and determines that it is appropriate to update and revise its Code relative to signs; and

WHEREAS, the Town recognizes that there have been decisions delivered by the U.S. Supreme Court over the past forty years that provide guidance to local governments in their regulation of signage, including *Linmark Associates, Inc. v. Township of Willingboro*, 431 U.S. 85 (1977); *Metromedia, Inc. v. San Diego*, 453 U.S. 490 (1981); *City Commission of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789 (1984); *City of Cincinnati v. Discovery Network, Inc.*, 507 U.S. 410 (1993), and, *City of Ladue v. Gilleo*, 512 U.S. 43 (1994); and

WHEREAS, the Town wishes to preserve the aesthetic beauty of the Town of Ocean Ridge, Florida; and

WHEREAS, the Town finds and determines that Article II, Section 7, of the Florida Constitution, as adopted in 1968, provides that it shall be the policy of the state to conserve and protect its scenic beauty; and

WHEREAS, the Town finds and determines that the regulation of signage for purposes of aesthetics directly serves the policy articulated in Article II, Section 7, of the Florida Constitution, by conserving and protecting its scenic beauty; and

WHEREAS, under established Supreme Court precedent, a law that is content-based is subject to strict scrutiny under the First Amendment of the U.S. Constitution, and such law must therefore satisfy a compelling governmental interest; and

WHEREAS, under established Supreme Court precedent, a compelling government interest is a higher burden than a substantial or significant governmental interest; and

WHEREAS, under established Supreme Court precedent, aesthetics is not a compelling governmental interest; and

WHEREAS, until the Supreme Court decision released in June 2015, there had not been clarity as to what constitutes a content-based law as distinguished from a content-neutral law; and

WHEREAS, in *Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015), the United States Supreme Court, in an opinion authored by Justice Thomas, and joined in by Chief Justices Roberts, Scalia, Alito, Kennedy and Sotomayer, addressed the constitutionality of a local sign ordinance that had different criteria for different types of temporary noncommercial signs; and

WHEREAS, in *Reed*, the Supreme Court held that content-based regulation is presumptively unconstitutional and requires a compelling governmental interest; and

WHEREAS, in *Reed*, the Supreme Court held that government regulation of speech is content based if a law applies to particular speech because of the topic discussed or the idea or message expressed; and

WHEREAS, in *Reed*, the Supreme Court held that if a sign regulation on its face is content-based, neither its purpose, nor function, nor justification matter, and the sign regulation is therefore subject to strict scrutiny and must serve a compelling governmental interest; and

WHEREAS, in *Reed*, Justice Alito in a concurring opinion joined in by Justices Kennedy and Sotomayer pointed out that municipalities still have the power to enact and enforce reasonable sign regulations; and

WHEREAS, Justice Alito in the concurring opinion joined in by Justices Kennedy and Sotomayer provided a list of rules that would not be content-based; and

WHEREAS, Justice Alito noted that these rules, listed below, were not anything like a comprehensive list of such rules; and

WHEREAS, Justice Alito included the following rules among those that would not be content-based (1) rules regulating the size of signs, which rules may distinguish among signs based upon any content-neutral criteria such as those listed below; (2) rules regulating the locations in which signs may be placed, which rules may distinguish between freestanding signs and those attached to buildings; (3) rules distinguishing between lighted and unlighted signs; (4) rules distinguishing between signs with fixed messages and electronic signs with messages that change; (5) rules that distinguish between the placement of signs on private and public property; (6) rules distinguishing between the placement of signs on commercial and residential property; (7) rules distinguishing between on-premises and off-premises signs; (8) rules restricting the total number of signs allowed per mile of roadway; and (9) rules imposing time restrictions on signs advertising a one-time event, where rules of this nature do not discriminate based on topic or subject and are akin to rules restricting the times within which oral speech or music is allowed; and

WHEREAS, Justice Alito further noted that in addition to regulating signs put up by private actors, government entities may also erect their own signs consistent with the principles that allow governmental speech [see *Pleasant Grove City v. Summum*, 555 U.S. 460, 467-469 (2009)], and that government entities may put up all manner of signs to promote safety, as well as directional signs and signs pointing out historic sites and scenic spots; and

WHEREAS, Justice Alito noted that the *Reed* decision, properly understood, will not prevent cities from regulating signs in a way that fully protects public safety and serves legitimate esthetic objectives, including rules that distinguish between on-premises and off-premises signs; and

WHEREAS, as a result of the *Reed* decision, it is appropriate and necessary for local governments to review and analyze their sign regulations, beginning with their temporary sign regulations, so as to make the necessary changes to conform with the holding in *Reed*; and

WHEREAS, the Town finds and determines that under Florida law, whenever a portion of a statute or ordinance is declared unconstitutional, the remainder of the act will be permitted to stand provided (1) the unconstitutional provisions can be separated from the remaining valid provisions, (2) the legislative purpose expressed in the valid provisions can be accomplished independently of those which are void, (3) the good and the bad features are not so inseparable in substance that it can be said that the legislative body would have passed the one without the other, and (4) an act complete in itself remains after the valid provisions are stricken [see, e.g., *Waldrup v. Dugger*, 562 So. 2d 687 (Fla. 1990)]; and

WHEREAS, the Town finds and determines that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause; and

WHEREAS, the Town finds and determines that the Town has consistently adopted and enacted severability provisions in connection with its ordinance code provisions, and that the Town wishes to ensure that severability provisions apply to its land development regulations, including its sign regulations; and

WHEREAS, the Town finds and determines that there be an ample record of its intention that the presence of a severability clause in connection with the Town's sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any provision is invalid or unconstitutional for any reason whatsoever; and

WHEREAS, the Town finds and determines that the amendments to its Code, as set forth herein, are consistent with all applicable policies of the Town's adopted Comprehensive Plan; and

WHEREAS, the Town finds and determines that these amendments are not in conflict with the public interest.

**NOW, THEREFORE, BE IT ORDAINED** by the Town Commission of the Town of Ocean Ridge, Florida, as follows:

**Section 1.** The foregoing Whereas clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**Section 2.** The Town Commission hereby amends Chapter 1, "General Provisions", Section 1-2 "Rules of Construction", of the Town Code of Ordinances to read as follows (additional language underlined and deleted language ~~stricken through~~):

**Sec. 1-2. - Rules of construction.**

In the construction of this Code, and of all ordinances, the following definitions and rules shall be observed, unless the content clearly indicates otherwise:

....

~~*Freestanding sign* means a detached sign, which shall include any signs supported by uprights or braces placed upon or in or supported by the ground and not attached to any building.~~

....

~~*Sign* means any device designed to inform or attract the attention of persons not on the premises on which the sign is located. A sign also includes any writing, pictorial representation, emblem, flag or any other figure of similar character which is a structure or any part thereof, or is attached, painted on or in any other manner represented on a building or other structure, and shall include any sign placed upon a vehicle used to announce, direct attention to or advertise, and which is visible from outside a building.~~

*Sign.* The term "sign" shall mean any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product designed to convey information to the public and is visible from an abutting property, from a public street, sidewalk or right-of-way, or from a body of water. The term "sign" shall include all structural members. A sign shall be construed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered a single sign. The term "sign" shall not include: artwork, holiday or seasonal decorations, cemetery markers, or machinery or equipment signs.

....

**Section 3.** The Town Commission hereby amends Chapter 70, "Signs" of the Town Code of Ordinances to read as follows (additional language underlined and deleted language ~~stricken through~~):

## Chapter 70 – SIGNS

### ~~ARTICLE I. – IN GENERAL~~

#### ~~Sec. 70-1. – Purpose and intent of article.~~

~~The purpose and intent of this article is to establish a set of standards for the fabrication, erection and use of signs, symbols, markings or advertising devices within the town. These standards are designed to protect and promote the health and safety of persons within the community and to aid and assist in the promotion of a planned residential environment by providing regulations which allow and encourage creativity, effectiveness and flexibility in the design and use of such devices, and minimize the unreasonable restraint upon the needs of the community, while avoiding an environment that encourages visual blight.~~

#### ~~Sec. 70-2. – Periodic inspection.~~

~~The administrative official shall cause to be inspected annually, or at such additional times as he deems necessary, each sign or advertising structure regulated by this chapter for the purpose of ascertaining if it is in compliance with this article. A reinspection fee of \$5.00 will be paid by the owner of the sign for any required reinspections after notification in writing by the administrative official of an alleged violation of this article.~~

#### ~~Sec. 70-3. – Dangerous signs.~~

~~Should any sign become insecure or in danger of falling or otherwise unsafe in the opinion of the administrative official, the owner thereof or the person maintaining the sign shall secure the sign in a manner approved by the administrative official in conformity with the provisions of this chapter, or immediately remove the dangerous sign. If the administrative official's order is not complied with, the sign shall be removed at the expense of the owner or lessee thereof. In the case of imminent danger, the administrative official shall cause the sign to be removed or repaired immediately and shall bill the owner or the sign lessee for the costs and expenses of removal or repair.~~

#### ~~Sec. 70-4. – Permitted signs.~~

~~The following types of signs of a stationary nature are permitted in all zoning districts:~~

##### ~~(1) – Temporary signs.~~

~~a. – Residential uses. One unilluminated, freestanding sign with white background, not exceeding 40 square inches in size to advertise the sale or rental of the premises upon which it is erected, and one additional unilluminated sign with white background, not exceeding two square feet in size, said sign to read "Open" or "Open House," may be displayed as an accessory to the advertising sign referred to~~



herein, provided that it shall be displayed only between the hours of 9:00 a.m. to 5:00 p.m. All such signs shall be removed within one week after the premises have been sold or rented.

b. ——— *Construction signs.* One unilluminated, freestanding sign with white background denoting the name and telephone number of the architect, or engineer or general contractor when placed on construction sites and not exceeding a total of 40 square inches in surface area, and provided such sign shall be removed upon the issuance of a certificate of occupancy or abandonment of work.

e. ——— *Sign setbacks.* No sign permitted by this section shall be closer than three feet from the paved surface of a road.

d. ——— *Double frontage lots.* On each of the frontage lots, one unilluminated, freestanding sign with white background, not exceeding 40 square inches in size to advertise the sale or rental of the premises upon which it is erected, and one additional unilluminated sign with white background, not exceeding two square feet in size, said sign to read "Open" or "Open House," may be displayed as an accessory to the advertising sign referred to herein, provided that it shall be displayed only between the hours of 9:00 a.m. to 5:00 p.m.; provided that all such signs shall be removed with one week after the premises have been sold or rented.

e. ——— *Sign post size and placement of signs.* Each sign permitted herein shall be erected on or suspended from a post, rod or pipe composed of metal, and not exceeding one inch diameter or one inch square and six feet long. The bottom of a temporary sign, when attached to the above post, rod or pipe shall be not lower than three feet nor higher than four feet above the surrounding grade.

(2) ——— *Identification signs.*

a. ——— One permanent identification sign not exceeding five square feet in size may be erected or maintained as a freestanding sign in the front yard of any multifamily structure or may be installed flat against the main wall of such multifamily structure, but in no case closer than 20 feet to a street right-of-way.

b. ——— One permanent identification sign containing letters not exceeding 18 inches in height and 30 feet in length may be attached flat on the wall or entrance gates at the access points of planned residential developments or multifamily structures.

e. ——— One permanent identification sign not exceeding 30 square feet in area may be erected at the principal entrance to a planned residential development.

d. ——— Identification signs may be illuminated by a floodlight.

e. ——— Freestanding signs shall be able to withstand wind pressure of not less than 50 pounds per square feet.

(3) ——— *Governmental signs.* Signs of a duly constituted governmental body shall be a special exception use in all land use districts and may be erected only upon site plan approval by the town commission, as provided in this chapter. This requirement shall not include signs erected by the town or its officials, or signs which are otherwise exempt from this article.

(4) ——— *Security signs.* Two freestanding signs evidencing the presence of a security, or alarm system not exceeding eighty square inches in size may be erected or maintained on two separate faces of any structure, but in no case farther than ten feet from the structure.

**Sec. 70-5. ~~Signs exempted.~~**

The following signs are exempt from the provisions of this article:

- ~~(1) Any duly authorized signs erected by the town or its employees or agents; or any signs of a duly constituted governmental body, which are specifically authorized or required by federal or state law, including traffic or similar regulatory devices, legal notices or warnings at water bodies and for which such authorization is preempted to the federal or state government.~~
- ~~(2) Flags or emblems of the United States, the state or other governmental agency.~~
- ~~(3) Memorial signs or tablets erected and authorized by the town.~~
- ~~(4) Directional signs displayed for the public, including signs which identify restrooms, freight entrances or the like, and small instructional signs, including those advising of private property or the like, with a total surface area not exceeding two square feet, on any lot, provided the total sign area and number of signs per lot and placement of each has written approval from the administrative official.~~
- ~~(5) Address signs indicating only the numerical address, or the numerical address and the name of the street, and restricted to not more than one sign for each separate mailing address on the premises, and one identification sign for each single family residence. Such signs shall not exceed one square foot surface area each.~~

**Sec. 70-6. ~~Prohibited signs.~~**

All signs and advertising devices not expressly permitted or exempted by this article shall be prohibited.

**Sec. 70-7. ~~Nonconforming signs amortization schedule.~~**

(a) ~~Those signs that were rendered nonconforming by the adoption of Ordinance No. 229, as amended, shall be removed in accordance with the original amortization schedule provided for in Ordinance No. 229, adopted on December 30, 1969, as follows:~~

<del>Individual Sign Replacement Cost</del>	<del>Time Limit (years)</del>
<del>Under \$100.00</del>	<del>1</del>
<del>\$100.00 to \$250.00</del>	<del>2</del>
<del>Over \$250.00</del>	<del>3</del>

~~Provided, however, that each nonconforming or grandfathered use may erect or maintain only one sign, not to exceed five square feet of surface area for each 25 feet of front yard frontage.~~

~~(b) — Nonconforming signs and structures shall not be enlarged, replaced, redesigned or structurally altered except as required by the administrative official in cases where it has been determined that there exists imminent danger to the public safety.~~

**Sec. 70-8. — Permit fees.**

Sign permit fees regulated by this chapter shall be as follows:

- ~~(1) Where the valuation does not exceed \$100.00, there shall be a \$5.00 fee.~~
- ~~(2) For a valuation over \$100.00, up to and including \$500.00, the fee shall be \$10.00.~~
- ~~(3) For a valuation over \$500.00, up to and including \$1,000.00, the fee shall be \$20.00.~~
- ~~(4) For a valuation over \$1,000.00, the fee shall be \$20.00 for the first \$1,000.00, plus \$5.00 for each additional \$1,000.00 or any fraction thereof.~~
- ~~(5) A double fee shall be paid for any sign erected without a permit if approved.~~

**Sec. 70-1. - Definitions.**

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

Area of sign means the square foot area enclosed by the perimeter of the sign structure with each face contributing to the aggregate area.

Banner means a sign applied to cloth, paper or any animated rotating and/or fluttering devices used to attract attention (including colored or plain unadorned devices, i.e., flaps).

Double-faced sign means a sign with two (2) faces, mounted back to back, attached to a support, and/or a single sign with two (2) faces.

Electrical sign means a sign or sign structure in which electrical wiring, connections and/or fixtures are used as part of the sign proper or used in an adjacent or nearby area to illuminate a sign.

Flag means a piece of cloth usually attached at one edge to a staff/pole or cord containing distinctive colors, patterns or symbols.

Freestanding sign means a detached sign, which shall include any signs supported by uprights or braces placed upon or in or supported by the ground and not attached to any building.

Intermittent lighting, animation, moving or rotating sign means a sign shall not involve intermittent lighting, animation, motion or rotation of any part of a sign structure or display; except for governmental traffic signals, traffic devices and traffic signs as required by law.

Obscene sign means a sign exhibiting thereon any lewd, lascivious, or obscene, character, or illustration.

Off-premises sign means a sign that advertises an establishment, merchandise, a service, or entertainment which is sold, produced, manufactured, or furnished at a place other than the

premises on which the sign is located, however, non-commercial messages shall never be considered off-premises.

Permanent sign means a sign used to identify or name a residence, apartment or condominium building, motel or hotel or other property.

Premises means the real property (as a unit) which is involved by the sign; includes the land or the land and the building(s).

Real estate sign means a sign advertising the premises for rent, for sale or for lease by an owner or his agent.

Roof sign means a sign erected on the roof, or above the roof line, or on the parapet.

Sign. The term "sign" shall mean any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product designed to convey information to the public and is visible from an abutting property, from a public street, sidewalk or right-of-way, or from a body of water. The term "sign" shall include all structural members. A sign shall be construed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered a single sign. The term "sign" shall not include: artwork, holiday or seasonal decorations, cemetery markers, or machinery or equipment signs.

Temporary sign. The term "temporary sign" shall mean any sign that is not a permanent sign, and shall include a sign formerly or commonly known as a temporary election sign, a temporary political sign, a temporary free expression sign, a temporary real estate sign, a temporary directional sign, a temporary construction sign, a temporary grand opening sign, or any other temporary sign unless otherwise provided herein. The term "temporary sign" shall not include any substitution of message on an existing lawful sign or sign structure.

Traffic confusion sign means a sign or other advertising matter erected at the intersection of any streets or in any street right-of-way in a manner so as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, a traffic signal, or traffic device; or which makes use of the words "stop", "look", "drive-in", "danger", or any other word, phrase, symbol, or character in a manner as to interfere with, mislead, or confuse vehicular traffic.

Vehicular sign means a sign placed on a vehicle or trailer that is parked on a street, public right-of-way or private property for the primary purpose of displaying the sign for advertising a commercial enterprise.

### **Sec. 70-2. - Purpose.**

The purpose of this chapter is to govern the number, size, location and character of all signs which may be permitted. No sign shall be erected or permitted in any location except in conformity with this chapter. This chapter is intended to prevent the random and indiscriminate erection of signs and to provide for the protection of the residential aspect of the town.

**Sec. 70-3. – Permit - Required; application; exemptions; waiver.**

(a) It shall be unlawful for any person to post, display, repair, change or erect a sign in the town without first obtaining a permit or registration, except as provided in subsection (b) of this section or in other provisions of this chapter or unless such permit is specifically waived in this chapter. When repair of an existing sign involves the expenditure of less than fifty (50) percent of its replacement value as determined by the building official, a permit may be waived. All applications for sign or sign structure permits required in this section shall be filed by the sign or sign structure owner or his agent at town hall. The application forms shall be supplied by the town. Applications will be reviewed by town staff as to conformance with this chapter.

(b) The following types of signs are exempt from permitting requirements:

- (1) Signs of a duly constituted governmental body, including traffic or similar regulatory devices, legal notices or warnings at railroad crossings.
- (2) Flags, within all zoning districts, only one flagpole may be erected containing no more than two flags. The maximum size of any flag is 24 square feet. Flags attached to an angled pole attached to a building shall not exceed 15 square feet. No flags of any commercial nature may be displayed within any residential districts.

Within all parcels containing governmental institutions, including public or private schools, up to three flagpoles may be erected per property owner containing one flag per pole only. If only one flagpole is erected, two flags may be flown. The property owner can substitute the flagpole(s) and attach no more than two flags to the property owner's building. The maximum size of any one flag shall not exceed 60 square feet. Flags attached to an angled pole attached to a building shall not exceed 15 square

These restrictions shall not affect the number of American flags displayed at any location for a period of 72 hours encompassing any legal holiday, or any other event of a patriotic, memorial or celebratory nature as determined by federal, state, county or municipal policy.
- (3) Memorial signs or tablets erected and authorized, in writing, by the town manager.
- (4) Signs required to be maintained by law, governmental rule, order or regulation.
- (5) Nonelectrical directional signs displayed for the public, including signs which identify restrooms, freight entrances, stairs, walkways, etc., with a total surface area not exceeding three square feet per sign.
- (6) Home number/nameplate signs, restricted to not more than one sign for each principal building or use on a premises and not exceeding three square feet in surface area, and shall show only the numerical address designation on the premises upon which such sign is maintained.
- (7) Nonelectrical instructional signs, with a total surface area not exceeding one square foot per sign, and not more than five signs per commercial or multifamily residential parcel.
- (8) Temporary signs as set forth in section 70-9.

**Sec. 70-4. – Permit - Issuance.**

(a) Provided the provisions of this chapter have first been complied with, and the signs or advertising structures do not violate any of the terms conditions or provisions of this chapter, or any law or ordinance, the building official, or some other person so designated by the town manager, shall issue a permit for such sign or advertising structure, retaining a copy thereof for the records. Construction of the sign or sign structure shall be completed within ninety (90) days of issuance of the permit or the permit will expire.

(b) Permits for signs shall be on a form as promulgated by the town manager and shall only be required for permanent signs. The application form and associated submission materials shall include the following:

(1) The type of sign and/or sign structure as set forth in this Code.

(2) The street address of the premises upon which the sign and/or sign structure is to be located along with identification of where on said premises the sign will be located. If there is no street address, another suitable method of identifying the location shall be provided.

(3) The area per sign face and the aggregate area of the sign and/or sign structure.

(4) The name and address of the owner or other person in control or possession of the real property upon which the sign or sign structure is to be located.

(5) Written consent of the owner, or his/her designated agent, granting permission for the construction, operation, maintenance, or displaying of the sign and/or sign structure.

(6) Two (2) copies of a blueprint, sketch, blue line print, or similar presentation, drawn to scale and dimensioned, showing elevations of the sign as proposed and its relationship to other existing or proposed signs or sign structures in the area. In the case of a free-standing sign, the representation shall include a sketch site plan showing the location of the sign.

(7) Appropriate exhibits showing the proposed location of the sign with respect to nearby structures and vegetation.

(8) A sign contractor shall provide a signed certificate stating that the sign and/or sign structure meets wind loading to withstand a pressure of fifty (50) pounds per square foot.

**Sec. 70-5. - Permitted signs.**

(a) Generally. Signs are permitted only along the road frontage unless otherwise indicated.

(b) Entrance/Exit signs.

(1) One entrance (ingress) and one exit (egress) sign is permitted for directing traffic flow into and out of multifamily premises. Each sign may be single-faced or double-faced and shall meet Department of Transportation standards, and not exceed three (3) square feet in size. Each sign may be illuminated or non-illuminated as determined by the owner and police department. A permit is required.

(c) All zoning districts.

(1) Temporary signs. Shall be as set forth in Section 70-9.

(2) Permanent identification signs for multi-family structures:

a. One permanent single-faced or double-faced freestanding sign not to exceed ten (10) square feet per face may be permitted. Such sign may be illuminated, but not with intermittent or colored lights or animation. An identification sign may also be attached to a wall or entrance feature, at access points to a residential development, provided the letters do not exceed 18 inches in height and 30 square feet in total area. The town manager shall review the sign application and if it is determined the sign meets the town's code, a permit is then required. A permit fee, as set forth in the town schedule of fees, shall be charged. Any person seeking to place a sign in the FDOT right-of-way must obtain written FDOT approval prior to permit issuance by the town.

b. Tow away signs conforming to state statutes are allowed on private property.

c. Whenever a sign requires a permit and is allowed within a setback area, easement, or right-of-way, the person erecting the sign shall be required to execute an agreement with the town.

d. Garishness: The overall effect of the lettering, configuration or color of a sign shall not be garish. "Garish" signs are those that are too bright or gaudy, showy, glaring, and/or cheaply brilliant or involving excessive ornamentation. Garish signs are not in harmony with and are not compatible with the building or adjacent surroundings.

e. Traffic safety: No sign shall be located in such a manner that it will become a hazard to automotive or pedestrian traffic nor shall any sign or lighting of a sign be so placed as to obstruct the vision of the driver of any motor vehicle where vision is necessary for safety.

f. Illumination: Signs may be illuminated directly or indirectly unless specifically prohibited elsewhere in this chapter. In residential zoning districts, all illumination shall be shielded so that the light is not directed toward adjacent residentially zoned property.

(d) Existing permanent signs. Any existing permanent sign, as of the date of the adoption of this ordinance, that was legally constructed, shall not be required to comply with these revised sign regulations provided that no changes of any type shall be allowed to the sign or its structure, other than repairing what exists and in no way may any repair result in an increase in sign area, lettering or size or change in color or content of sign. In the event the sign or its structure is damaged or demolished by accident or natural disaster, through no fault of the owner, the sign may be reconstructed, however, it must be reconstructed in such a manner to be an exact, or as close as possible, as determined by the town manager, replica of what existed. Any reconstruction must occur within 6 months of the accident or natural disaster, otherwise, any new sign must comply with these code requirements.

**Sec. 70-6. - Prohibited signs.**

All other signs not permitted in [section 70-5](#) are prohibited on public property including public rights-of-way, with the exception of signs erected by a public authority for public purposes and temporary signs as permitted by section 70-9. The placement of public purpose signs by a public authority on the grounds of town hall may be approved at the discretion of the town manager. Prohibited signs include, but are not limited to the following:

- (a) Banners.
- (b) Wind signs.
- (c) Off-premise signs.
- (d) Roof signs.
- (e) Snipe signs.
- (f) Traffic confusion signs.
- (g) Vehicular signs.
- (h) Commercial signs in public rights-of-way.
- (i) Intermittent lighting, animation, moving or rotating signs.
- (j) Noise-producing signs (a sign producing noise or sounds).
- (k) Obscene signs.
- (l) Smoke or odor-producing signs (a sign producing or emitting smoke, vapor, particles, or odor).

In addition to the foregoing, any sign not provided for, or expressly permitted by this chapter is also prohibited.

#### **Sec. 70-7. - Enforcement and penalties.**

(a) A permanent sign erected without obtaining a building permit shall be removed within five (5) working days from the date of a written notice from the building official or other person so designated by the town manager. If the sign is not removed by the end of the fifth day, or if there are any other violations of this ordinance, enforcement proceedings may be initiated pursuant to the code enforcement process of the Code of Ordinances.

(b) For those signs that are placed in the public right-of-way and do not require a permit and are temporary in nature the town finds that, in view of the inexpensive nature of these signs and the administrative burden which would be imposed by elaborate procedural prerequisites prior to removal, any procedure other than summary removal of these signs when unlawfully erected and maintained would defeat the purpose of regulating such signs. The town manager is hereby authorized to remove such signs.

#### **Sec. 70-8. - Appeals.**

If a sign permit application is denied by the town manager or if there is an appeal from a decision of the town manager, such appeal shall be made to the town commission. A request for appeal must be filed with the town clerk within thirty (30) calendar days of the date of decision.



**Sec. 70-9. – Temporary signs.**

(a) Scope. Notwithstanding anything to the contrary in the town’s code of ordinances, the provisions of this section shall govern the regulation of temporary signs, and take precedence over any other provisions that pertain to temporary signs unless specifically exempted or excepted herein.

(b) Findings of Fact. The town commission finds that the location and maintenance of temporary signs affects the public health, safety, and general welfare of the people of this community, and that in order to preserve and enhance the town as a desirable community in which to live and do business, a pleasing, visually attractive environment is of foremost importance. The town commission further finds that the regulation of temporary signs within the town is a highly contributive means by which to achieve this desired end, and that uncontrolled and unlimited temporary signs would degrade the aesthetic attractiveness of the natural and manmade attributes of the community and thereby undermine the economic value of tourism, visitation and permanent economic growth.

(c) Purpose and Intent. It is the purpose of this section to promote the public health, safety and general welfare through reasonable, consistent and non-discriminatory standards for temporary signs. The temporary sign regulations in this section are not intended to censor speech or to regulate viewpoints, but instead are intended to regulate the secondary effects of speech, and especially insofar as those secondary effects may adversely affect aesthetics and traffic and pedestrian safety. It is the intent of the town commission that the temporary sign regulations shall provide uniform sign criteria which regulate the size, height, number and placement of signs in a manner that is compatible to the residential, coastal and historic scale and character of the town, and which place the fewest possible restrictions on personal liberties, property rights, commerce, and the free exercise of constitutional rights while achieving the town’s goal of creating a healthy, safe and attractive environment that does not contain excessive clutter and visual distraction in rights-of-way and adjacent properties, the surrounding natural coastal environment, historic district and residential neighborhoods. These sign regulations have been prepared with the intent of enhancing the visual environment of the town and promoting its continued well-being, consistent with the most recent pronouncements by the United States Supreme Court regarding the regulation of temporary signage, and are further intended to:

(1) Encourage the effective use of signs as a means of communication in the town;

(2) Maintain and enhance the aesthetic environment and the town’s ability to attract sources of economic development and growth;

(3) Improve pedestrian and traffic safety;

(4) Minimize the possible adverse impact of temporary signs on nearby public and private property;

(5) Lessen the visual clutter that may otherwise be caused by the proliferation, improper placement, illumination, animation, excessive height, and excessive size (area) of temporary signs which compete for the attention of pedestrian and vehicular traffic;

(6) Allow temporary signs that are compatible with their surroundings, while precluding the placement of temporary signs that contribute to sign clutter or that conceal or obstruct adjacent land uses or signs;

(7) Encourage and allow temporary signs that are appropriate to the zoning district in which they are located;

(8) Regulate temporary signs in a manner so as to not interfere with, obstruct the vision of or distract motorists, bicyclists or pedestrians;

(9) Preserve, conserve, protect, and enhance the aesthetic quality and scenic beauty of all zoning districts of the town;

(10) Protect property values by precluding to the maximum extent possible temporary signs that create a nuisance to the occupancy or use of other properties as a result of their size, height, illumination, brightness, or movement; and

(11) Enable the fair and consistent enforcement of these temporary sign regulations.

(d) Criteria Required for Temporary Signs. The criteria for temporary signs are set forth in the table below. A temporary sign is unlawful if it does not meet the criteria established for the zoning district in which the sign is located.

Temporary Signs Design Standards and Limitations

<u>ZONING DISTRICTS</u>	<u>RSF,RSE, RMM,RHM,</u>
<u>Maximum Number of Signs Per Parcel<sup>1</sup></u>	<u>4</u>
<u>Maximum Sign Area<sup>2</sup></u>	<u>6 sf.</u>
<u>Sign Height Maximum for a Freestanding Sign<sup>3</sup></u>	<u>5 ft.</u>

<sup>1</sup> The number of temporary commercial signs per parcel shall be no more than two.

<sup>2</sup> The square footage limitation is per side for a back-to-back sign. For example, a 6 square foot limitation means that there is a limit of 6 square feet of surface area per side of a back-to-back sign, and an aggregate limit of 12 square feet is allowed if the sign is a back-to-back temporary sign.

<u>Sign Height Maximum for a Wall Sign (inclusive of a Window Sign)</u>	<u>15 ft.</u>
<u>Minimum Sign Setback for Ground Signs<sup>4</sup></u>	<u>0 ft.</u>
<u>Minimum Spacing from any Other Sign</u>	<u>15 ft.</u>
<u>Aggregate Maximum of Surface Area Allocated for All Sign Messages</u>	<u>48 sf.</u>

(e) Prohibition of Temporary Signs on Public Property. Other than government signs displaying government speech or signs advertising an event where the event is held at town hall and the entity holding the event is primarily based in the town or a number of the members of the entity are town residents, temporary signs on public property are prohibited unless otherwise allowed within the code of ordinances. The town manager shall determine the size and location of the signs as well as the length of time the signs may be placed on public property.

(f) Duration for Display of Temporary Sign. If a temporary sign pertains to an event, the temporary sign shall be removed within and by no later than three days after the event is concluded.

(g) Display of Temporary Sign Requires Permission of Real Property Owner. A temporary sign on any parcel shall not be maintained if the placement of the same does not have the permission of the owner of the real property.

(h) A Temporary Sign May Not Display Any Lighting and Must Remain Static. A temporary sign may not display any lighting or illuminations that flash, move, rotate, scintillate, blink, flicker, or vary in intensity or color.

(i) A Temporary Sign May Not Incorporate Fluorescent Color or Exhibit Fluorescence. A temporary sign may not incorporate fluorescent color or exhibit fluorescence.

(j) A Temporary Sign May Not Obstruct A Permanent Sign or The Vision Between Pedestrians and Vehicles. A temporary sign may not obstruct the view of a permanent sign as viewed from any public road, street or highway or any public sidewalk, and may not obstruct the vision between pedestrians and vehicles using the public right-of-way, including but not restricted to, those meeting intersection visibility requirements.

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<sup>3</sup> Not applicable to signs displayed on flagpoles.

<sup>4</sup> Minimum sign setbacks are measured from the edge of the property line or the edge of pavement of a roadway, whichever line is closer to the structure. Setbacks do not apply to wall signs. All temporary signs are prohibited on public property.

(l) A Temporary Sign May Display Multiple Messages. A temporary sign may display multiple independent messages on any portion of the sign surface of a temporary sign.

(m) A Temporary Sign is Not Subject to Permitting. A temporary sign does not require a permit from the Town.

**Sec. 70-10. - Non-commercial message.**

Notwithstanding anything contained in this chapter to the contrary, any sign erected pursuant to the provisions of this chapter may, at the option of the applicant, contain either a non-commercial message unrelated to the business located on the premises where the sign is erected or a commercial message related to the business and located on the business premises. The non-commercial message may occupy the entire sign face or portion thereof. The sign face may be changed from commercial to non-commercial messages as frequently as desired by the owner of the sign, provided that the size and design criteria conform to the applicable portions of this chapter, the sign is allowed by this chapter, the sign conforms to the requirements of the zoning designation and the appropriate permits are obtained. Noncommercial copy may be substituted for commercial copy wherever commercial copy appears. For the purposes of this chapter, non-commercial messages, by their very nature, shall never be deemed off-premises.

**Sec. 70-11. - Severability.**

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this chapter is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the following sections of this chapter: [section 70-5](#) and [section 70-11](#).

**Section 4 - Codification:** The ordinance shall be codified in the Code of Ordinances of the Town of Ocean Ridge, Florida.

**Section 5 - Repeal of Conflicting Ordinances:** All Ordinances, Resolutions or parts of Ordinances and Resolutions in conflict herewith are hereby repealed.

**Section 6 - Severability:** If any word, clause, sentence, paragraph, section or part thereof contained in this Ordinance is declared to be unconstitutional, unenforceable, void or inoperative by a court of competent jurisdiction, such declaration shall not affect the validity of the remainder of this Ordinance.

**Section 7 - Effective Date:** This Ordinance shall become effective immediately upon adoption.

FIRST READING this \_\_\_\_ day of \_\_\_\_\_, 2017.

SECOND AND FINAL READING this \_\_\_\_ day of \_\_\_\_\_, 2017.

Commissioner \_\_\_\_\_ offered the foregoing Ordinance, and moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

GEOFFREY A. PUGH, Mayor \_\_\_\_\_

JAMES A. BONFIGLIO, Vice Mayor \_\_\_\_\_

GAIL ADAMS AASKOV, Commissioner \_\_\_\_\_

STEVE COZ, Commissioner \_\_\_\_\_

DON MAGRUDER, Commissioner \_\_\_\_\_

The Mayor thereupon declared this Ordinance approved and adopted by the Town Commission of the Town of Ocean Ridge, Florida, on second reading, this \_\_\_\_ day of \_\_\_\_\_, 2017.

TOWN OF OCEAN RIDGE, FLORIDA

BY: \_\_\_\_\_  
Geoffrey A. Pugh, Mayor

ATTEST: \_\_\_\_\_  
Tracey L. Stevens, Town Clerk