



NEIGHBORHOOD DEVELOPMENT SERVICES DEPARTMENT

Planning Division

STAFF REPORT

Earthmoving Regulations Ordinance 2016-20 (TXT-16-088)

Earthmoving Regulations.

To: Jonathan R. Lewis, ICMA-CM, City Manager

Thru: Scott Williams, Neighborhood Development Services Director

Thru: Michele Norton, AICP, Planning Manager

From: Nicole Galehouse, Project Planner

Date: July 26, 2016

I. GENERAL INFORMATION

Project: Petition No. TXT-16-088, Ordinance No. 2016-20, Amending Chapter 14, Earthmoving, Dredge and Fill Regulations, Sections 14-1 through 14-21 of the City of North Port Unified Land Development Code and Amending Chapter 61, Definitions, Section 61-3 Definitions and Word Usage

Request: Approval of Ordinance No. 2016-20

Applicant: City of North Port

Owner(s): N/A

Location: Citywide Ordinance

Property Size: N/A

II. BACKGROUND

When a development begins construction, it will typically relocate dirt on-site from different sources, such as retention, for use throughout the site, for example building pads. Occasionally, developments will require that additional dirt be brought in or have excess dirt that needs to be removed when the project is complete. Current zoning regulations require these activities to be approved through a Special Exception permit. This process is arduous and causes undue hardship for a development that is already governed by a development order under a valid subdivision plan, infrastructure plan, minor site development plan, or major site development plan. Staff received direction to amend the Unified Land Development Code to allow for earthmoving activities, as described above, to take place through the staff review

process. Large-scale earthmoving activities, such as borrow pits and excavation, which have a greater impact on the neighboring areas and on City infrastructure, will still be required to go through the special exception process.

Staff has received input from developers working with these types of activities. The concern that was raised regarding Sec. 14-18(B), which requires that exempt earthmoving activities be governed by an associated development order for both the excavation site and the excavated material recipient site. It was thought that this may raise unnecessary difficulties for the developer working on the excavation site, and indirectly cause them to be responsible for the excavated material recipient site. Staff disagrees with this analysis, however, in that the goal of this amendment is to create an exemption for earthmoving activities associated with approved developments to not have to go through the special exception process. The language in Sec. 14-18(B) is consistent with that goal. If an applicant needs to amend the excavated material recipient site during the process, they would be able to do so. Likewise, if the applicant wishes to have more flexibility with the location(s) of the excavated material recipient site, they may still apply for a special exception.

The Planning and Zoning Advisory Board (PZAB) at their regularly scheduled meeting of July 7, 2016 recommended the City Commission approve Petition No. TXT-16-088 with a unanimous 4-0 vote, providing direction to staff to modify the language regarding the environmental study to ensure that a current study is available at the time earthmoving is set to commence. The PZAB had the following questions/concerns regarding this ordinance:

Question #1: Has this change to the Unified Land Development Code (ULDC) been reviewed by the University of Florida (UF) in relation to the ULDC rewrite?

At this time, UF has not reviewed the changes to this ordinance. Due to the scale of and rate at which development is occurring, the need for this ordinance change required it to be completed ahead of the total rewrite of the ULDC. When this chapter is set to be reviewed by the university, minimal changes, if any, will be required.

Question #2: Will large-scale developers still need to obtain a special exception under this new ordinance?

Chapter 14 has been rewritten to allow earthmoving to occur from any approved development, regardless of size, to another approved development without the need for a special exception. However, earthmoving outside this scope, such as borrow pits and excavation, will still require a special exception.

Question #3: It is important to have a current environmental study at the time the earthmoving is set to commence, but without causing an undue burden on developers to repeat the environmental study multiple times.

The initial draft of changes to Chapter 14 required that an environmental study be performed within one year from the date of the application. Concern was demonstrated that the time

from application to commencement of earthmoving, which is sometimes several years, protected species could move onto the construction site. For this reason, staff is proposing a change to Sec. 14-18(A)(5) and Sec. 14-19(H), requesting that an updated wildlife survey at the time earthmoving is set to commence if the original survey on file is older than one year.

III. STAFF RECOMMENDATION

Staff recommends approval of the amendments to Chapter 14, Earthmoving, Dredge and Fill Regulations, Sections 14-1 through 14-21 and Chapter 61 – Definitions, Section 61-3 Definitions and Word Usage.

IV. SITE INFORMATION

Land Use

Adopted Future Land Use Map Designation: City-wide

Adopted Zoning Map Designation: City-wide

Existing Land Use(s): City-wide

Surrounding Land Uses: City-wide

Services and Facilities

Potable Water or Well: N/A

Sanitary Sewer or Septic: N/A

Transportation: N/A

Environmental

Conservation: N/A

Flood Zone: N/A

Fiscal Impact

☐ Not Applicable

☒ No Impact

☐ Fiscal Impact Confirmed

V. STAFF ANALYSIS

The proposed amendments to Chapter 14 of the Unified Land Development Code would meet the following goals, objectives and policies:

Future Land Use Goals, Objectives, and Policies:

GOAL 1: Ensure that the character and location of land uses maximize the potential for economic benefit and the enjoyment of natural and man-made resources by citizens while minimizing the threat to health, safety and welfare posed by hazards, nuisances, incompatible land uses, and environmental degradation.

Objective 5: Future growth and development will be managed through the preparation, adoption, implementation, and enforcement of land development regulations.

Policy 5.1: Amend the land development regulations, consistent with F.S. 163.3202 (1), that shall contain specific and detailed provisions required to implement the adopted Comprehensive Plan, and which as a minimum:

- a. Regulate the subdivision of land;
- b. Regulate the use of land and water consistent with this Element and ensure the compatibility of adjacent land uses and provide for open space;
- c. Protect the Conservation lands designated on the Future Land Use Map and in the Conservation Element;
- d. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;
- e. Protect potable water supplies and aquifer recharge areas;
- f. Regulate signage;
- g. Ensure safe and convenient onsite traffic flow and vehicle parking needs; and
- h. Provide that development orders and permits shall not be issued which result in a reduction of the level of services for the affected public facilities below the level of service standards adopted in this Comprehensive Plan.
- i. Promote “green” building practices in public and private developments, or redevelopments.

Objective 9: Revised land development regulations, consistent with F.S. 163.3202 (1), shall be adopted to ensure that development activities provide for the protection of natural, historic, and archeological resources.

Policy 9.5: The City land development regulations, consistent with F.S. Chapter 163.3202(1), shall address and regulate activities having the potential to degrade water quality, or impact future and existing wellfields.

Policy 9.6: Extraction of natural resources shall be permitted as a conditional use only where compatible with existing and proposed land uses.

Strategic Plan

Top Priority: Unified Land Development Code

Goals: Financially Responsible City Providing Quality Municipal Services

VI. REVIEW PROCESS

Staff reviewed this petition for a Text Amendment and found this petition is consistent with the City's Comprehensive Plan. The City Attorney reviewed and approved Ordinance 2016-20 as to form and correctness. The following City Department were involved in this review and issued the following results:

- ☒ Neighborhood Development Services, Arborist – No Response
- ☒ Neighborhood Development Services, Zoning – No Comments
- ☒ Neighborhood Development Services, Planning – Meets Requirements
- ☒ Fire Rescue District, Fire Prevention & Life Safety – No Response
- ☒ North Port Utilities, Potable Water & Sanitary Sewer – No comments
- ☒ Public Works, Engineering, Stormwater & Environmental – Meets Requirements with Conditions **Comments were provided to add clarity to original draft, which were incorporated into final version.*
- ☒ Public Works, Engineering, Infrastructure – Meets Requirements with Conditions **Comments were provided to add clarity to original draft, which were incorporated into final version.*
- ☒ I & T – No Comments
- ☒ Public Works/Solid Waste Review – No Response

VII. PUBLIC NOTICE

The petition was advertised in a newspaper of general circulation within the City of North Port on June 14, 2016 pursuant to the provisions of Section 166.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1 Article II, Section 1-12 of the City's Unified Land Development Code (ULDC) as amended (**Exhibit A**).

VIII. PUBLIC HEARING SCHEDULE

**Planning and Zoning Advisory Board
Public Hearing**

July 7, 2016
9:00 AM or as soon thereafter

**City Commission 1st Reading
Public Hearing**

July 26, 2016
10:00 AM or as soon thereafter

**City Commission 2nd Reading
Public Hearing**

September 13, 2016
10:00 AM or soon thereafter

EXHIBIT A

**PUBLIC NOTICE - CITY OF NORTH PORT
NOTICE OF INTENT TO AMEND THE CITY OF
NORTH PORT UNIFIED LAND DEVELOPMENT CODE
PROPOSED ORDINANCE NO. 2016-20**

NOTICE IS HEREBY GIVEN, pursuant to the provisions of Section 168.041(3)(a), Florida Statutes and Section 9.01(b) of the Charter of the City of North Port, and Chapter 1, Article II, Section 1-12 of the City's Unified Land Development Code (ULDC), that the City of North Port proposes to adopt Ordinance No. 2016-20, Amendment to the City of North Port, Florida Unified Land Development Code (ULDC).

A Public Hearing will be held before the Planning and Zoning Advisory Board designated as the Local Planning Agency (LPA) on Thursday, July 7, 2016 at 9:00 a.m., or as soon thereafter as the matter will be heard, in the City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida 34286.

A Public Hearing for the first reading of Ordinance 2016-20 will be held before the North Port City Commission in Commission Chambers on Tuesday, July 26, 2016 at 10:00 a.m., or as soon thereafter as the matter may be heard. The second and final reading will be held before the North Port City Commission in Commission Chambers on Tuesday, September 13, 2016 at 10:00 a.m., to consider enactment of Ordinance No. 2016-20.

These Public Hearings will be held in the North Port City Hall Commission Chambers, 4970 City Hall Boulevard, North Port, Florida, 34286.

ORDINANCE NO. 2016-20

(Amendments to the City of North Port Unified Land Development Code, Chapter 14, Article I - General and Article II - Earthmoving and Chapter 61 - Definitions)

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, AMENDING THE CITY OF NORTH PORT UNIFIED LAND DEVELOPMENT CODE, CHAPTER 14 EARTHMOVING, DREDGE AND FILL REGULATIONS, SECTIONS 14-1 THROUGH 14-21; AMENDING CHAPTER 61 DEFINITIONS, SECTION 61-3 DEFINITIONS AND WORD USAGE; PROVIDING FOR FINDINGS; PROVIDING FOR ADOPTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODING OF AMENDMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

City of North Port

Petition Number TXT-16-088
Ordinance No. 2016-20

Note: This map covers all of the incorporated areas of the City of North Port, Florida. The proposed Ordinance 2016-20, (Adoption of Amendments to the City of North Port Unified Land Development Code) applies to the entire City of North Port as depicted on this map.

All interested parties are invited to appear and be heard in respect to this Ordinance at the public hearings in the City Hall Commission Chambers. Written comments filed with the Planning and Zoning Advisory Board and the City Commission will be heard and considered and will be made a matter of public record at these meetings. These public hearings may be continued from time to time as announced at the hearings, as may be found necessary. The file pertinent to Ordinance 2016-20, TXT-16-088, may be inspected by the public at the Neighborhood Development Services Department, Planning Division, and in the City of North Port City Clerk's Office, 4970 City Hall Boulevard, North Port, Florida 34286, during regular business hours.

NO STENOGRAPHIC RECORD BY A CERTIFIED COURT REPORTER IS MADE OF THESE MEETINGS. ACCORDINGLY, ANY PERSON WHO MAY SEEK TO APPEAL A DECISION INVOLVING THE MATTERS NOTICED HEREIN WILL BE RESPONSIBLE FOR MAKING A VERBATIM RECORD OF THE TESTIMONY AND EVIDENCE AT THESE MEETINGS UPON WHICH ANY APPEAL IS TO BE BASED (SEE F.S.S. 286.0105).

NOTE: PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK'S OFFICE 48 HOURS IN ADVANCE OF THE MEETING (SEE F.S.S. 286.26).

NONDISCRIMINATION: The City of North Port does not discriminate on the basis of race, color, national origin, sex, age, disability, family or religious status in administration of its programs, activities or services.

AMERICAN WITH DISABILITIES ACT OF 1990 - The North Port City Hall is wheelchair accessible. Special parking is available on the west side of City Hall and the building may be accessed from the parking area. Persons with hearing difficulties should contact the City Clerk to obtain a hearing device for use during meetings.

Helen M. Raimbeau, MMC
City Clerk

Publish on Tuesday, June 14, 2016.