



# CITY OF NEW SMYRNA BEACH

## APPEAL OF INTERPRETATION APPLICATION

City of New Smyrna Beach  
Office: 3650 North Dixie Freeway  
Mail: 210 Sams Avenue  
New Smyrna Beach, FL 32168  
Phone: 386.410.2800

Munis Application # \_\_\_\_\_

### PROPERTY LOCATION

Address: \_\_\_\_\_

Parcel ID Number: \_\_\_\_\_

### PLANNING APPLICATION REQUEST (OFFICE USE ONLY)

Request Type: \_\_\_\_\_

Case No.: \_\_\_\_\_ Date Submitted: \_\_\_\_\_ Date Closed: \_\_\_\_\_ Accepted By: \_\_\_\_\_

Project Name: \_\_\_\_\_

### APPLICANT INFORMATION

Applicant Name: \_\_\_\_\_ <<<<<<<<<<<<<<< **MUST BE A PERSON**

Mailing Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### OWNER INFORMATION (IF NOT SAME AS APPLICANT)

Owner Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-Mail: \_\_\_\_\_

### REQUEST

Zoning District: \_\_\_\_\_ Property Acreage: \_\_\_\_\_

Subject Property Location: \_\_\_\_\_

Notes: \_\_\_\_\_

### FEES

Request Type Fee: \_\_\_\_\_

Concurrency Review Fee: \_\_\_\_\_

**Total Fee:** \_\_\_\_\_

Exempt from Fee

### REQUIRED ATTACHMENTS

- 1. Complete Application Form
- 2. \$300.00 Application Fee
- 3. Letter outlining basis of appeal

### PAYMENTS

No.	Date	Amount	Type	Ck #
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Balance Due: \_\_\_\_\_

### SIGNATURES

INFORMATION AND DOCUMENTS SUBMITTED ARE COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

\_\_\_\_\_  
Signature of Property Owner and/or Applicant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Above Name

**Note: Application and all required support documents must be submitted by 12:00pm on the submission deadline in order for application to be considered complete.**

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**ORDINANCE NO. 50-10**

**AN ORDINANCE AMENDING NEW SMYRNA BEACH ORDINANCE 1-91, NEW SMYRNA BEACH LAND DEVELOPMENT REGULATIONS, ARTICLE III, ADMINISTRATION AND ENFORCEMENT, SECTION 301.00, ADMINISTRATIVE OFFICIALS AND DEPARTMENTS, SUBSECTION 301.05, CITY MANAGER, ESTABLISHING TIMEFRAMES FOR APPEALS; PROVIDING FOR CODIFICATION; PROVIDING FOR PUBLIC HEARING; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

*WHEREAS*, the City of New Smyrna Beach, has requested an administrative amendment to the City's Land Development Regulations, Article III, Administration and Enforcement, Section 301.00, Administrative Officials and Departments, SubSection 301.05, City Manager, to establish timeframes for appeals; and

*WHEREAS*, the Planning and Zoning Board, at its meeting on Monday, October 4, 2010, by a vote of 6-0 (Kenneth Bohannon was absent), recommended to the City Commission that the aforescribed amendment be **approved**; and

*WHEREAS*, the City Commission deems it is in the best interests of the citizens of the City of New Smyrna Beach to amend the Land Development Regulations as more particularly set forth hereinafter.

***NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF NEW SMYRNA BEACH, FLORIDA:***

**SECTION 1: Amendment.** That New Smyrna Beach Ordinance 1-91, New Smyrna Beach Land Development Regulations, Article III, Administration and Enforcement, Section 301.00, Administrative Officials and Departments, Subsection 301.05, City Manager, is hereby amended as follows: (Note: Omissions from text are indicated by [...], deletions from text are indicated by ~~strikeout~~, and additions to text are indicated by underline.)

**ARTICLE III.**  
**ADMINISTRATION AND ENFORCEMENT**

301.00 Administrative Officials and Departments.

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301.01. Administration - City Manager/City Planner/Planning and Zoning Department.

A. City manager. In accordance with Chapter 4, Section 31 of the Municipal Charter, the city manager is responsible to the city commission for the proper enforcement of all laws and ordinances. As such, the city manager is the chief Administrative official of the city. Therefore, in accordance with [sub)section 301.05 of this LDR, interpretations rendered by city staff may be reviewed by appeal of interpretation.

B. City planner. The city planner is the responsible administrative official for administering and interpreting the provisions of this LDR, unless specifically indicated otherwise. He/she shall be provided with the assistance of the building official, city engineer, fire marshal and any other city official designated by the city commission and/or city manager to assist the city planner in administering this LDR.

C. Planning and zoning department. The planning and zoning department shall consist of the city planner and a staff assigned to assist the city planner in administering this LDR.

...

301.05. City manager. Any person may choose to appeal any interpretation made by the City Planner at any time. The city manager may, at his/her discretion, affirm, reverse, or modify, any final decision of the city planner relating to the city planner's interpretation of this land development regulation. The applicant requesting an appeal of the city planner's interpretation to the city manager must submit in writing his/her question/request to the city planner at which time the applicant will be provided a copy of this regulation outlining the timeframes for the appeal to interpretation process. The city planner must then create a corresponding memorandum outlining the pertinent regulations and

72 staff's interpretation. The applicant's letter and staff's  
73 memorandum shall then be presented to the city manager for review  
74 within ten (10) business days of receipt of the applicant's letter.  
75 The city manager shall respond in writing to the applicant's appeal  
76 of interpretation within thirty (30) business days of receipt of  
77 the applicant's letter and staff's memorandum. The decision of the  
78 city manager to affirm, reverse, or modify, shall be made in  
79 accordance with any and all applicable city ordinances, state  
80 statutes, and federal laws. Should any city resident applicant not  
81 agree with the city manager's final decision, the city resident  
82 applicant may ask the issue to be put before the city commission  
83 for a final interpretation decision by the city commission within  
84 60 days of the date of the city manager's final decision. Failure  
85 of the applicant to submit an application to appeal the city  
86 manager's interpretation to the city commission will result in the  
87 applicant relinquishing his or her right to appeal to the city  
88 commission the city manager's interpretation. The request to put  
89 the issue before the city commission is subject to the filing fees  
90 adopted by the city commission and to the submittal deadlines  
91 established by the city clerk for the city commission meeting  
92 agendas. The applicant may not submit another application to  
93 appeal the interpretation made by the city commission within 12  
94 calendar months from the date the original application was  
95 submitted to appeal the city planner's interpretation.

96 **SECTION 2:** *Codification.* Following adoption of this ordinance,  
97 the City Attorney shall transmit a copy of this ordinance to  
98 Municipal Code Corporation of Tallahassee, Florida, to be codified  
99 into the City's Code of Ordinances. Municipal Code Corporation's  
100 usual and customary fee for said codification service is hereby  
101 approved.


102 **SECTION 3:** *Public Hearing.* That a public hearing considering  
103 the adoption of this ordinance held November 30, 2010, in the City  
104 Commission Chambers at City Hall, 210 Sams Avenue (south entrance  
105 on Julia Street), New Smyrna Beach, Florida, after notice  
106 published, is found to comply with §166.041(3)(a), F.S.

107 **SECTION 4: Conflicting Ordinances.** That any ordinances that  
108 are in conflict with this ordinance are hereby rescinded and  
109 repealed.

110 **SECTION 5: Severability.** That if any section, sentence, clause  
111 or phrase of this ordinance is held invalid or unconstitutional by  
112 any court of competent jurisdiction, then said holding shall in no  
113 way affect the validity of the remaining portions of this  
114 ordinance.

115 **SECTION 6: Effective Date.** That this ordinance shall take  
116 effect immediately upon its final adoption.

117 **APPROVED AS TO FORM AND CORRECTNESS:**

118   
119 **FRANK B. GUMMEY, III**  
120 **City Attorney**

121 **DATE:** 12/1/10 

Ordinance No. 50-10 of the City of New Smyrna Beach, Florida, was introduced before the City Commission at its Regular Meeting November 9, 2010, and read by title only. Motion was made by Commissioner Grasty, to approve the Ordinance on first reading, and seconded by Commissioner Reiker, the vote thereon being as follows:

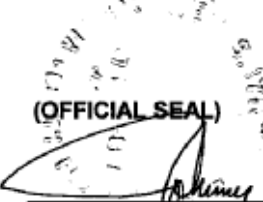
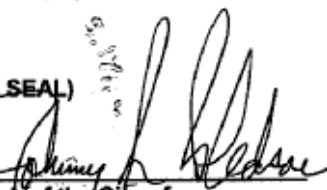
MAYOR ADAM BARRINGER	Yes
VICE MAYOR JAMES W. HATHAWAY	Yes
COMMISSIONER JUDY REIKER	Yes
COMMISSIONER J. S. GRASTY	Yes
COMMISSIONER LYNNE PLASKETT	Absent

Ordinance No. 50-10 was read by title only at the Regular Meeting held by the City Commission on November 30, 2010, Motion was made by Vice Mayor Hathaway, and seconded by Commissioner Grasty, that Ordinance No. 50-10 be adopted on second and final reading, the vote thereon being as follows:

MAYOR ADAM BARRINGER	Yes
VICE MAYOR JAMES W. HATHAWAY	Yes
COMMISSIONER JUDY REIKER	Yes
COMMISSIONER J. S. GRASTY	Yes
COMMISSIONER LYNNE PLASKETT	Yes

The City Clerk noted the passage of Ordinance No. 50-10 in the minutes of this meeting by its title only and recorded the same in full in the Ordinance Records of the City.

The Mayor of the City of New Smyrna Beach has hereunto set his official signature, duly attested by the City Clerk, and has caused the Official Seal of said City to be hereunto affixed for the purpose of authenticity as required by law.

(OFFICIAL SEAL)  
  
  
As City Clerk of the City of  
New Smyrna Beach, Florida

  
As Mayor of the City of New Smyrna  
Beach, Florida

ORDINANCE NO. 50-10

**CITY OF NEW SMYRNA BEACH  
CITY COMMISSION  
2017 MEETING SCHEDULE**

**MEETING DATES**

2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month at 6:30 p.m., unless otherwise indicated. The City Commission does not conduct regular meetings in July. Only one regular meeting is conducted in December.

In order to allow time to review requests and prepare necessary reports for the City Commission, the submittal deadlines and meeting dates shown below may not coincide with the City Clerk's submittal deadlines.

**MEETING LOCATION**

City Commission Chambers, 210 Sams Avenue, New Smyrna Beach

<b>SUBMITTAL DEADLINE</b>	<b>CITY COMMISSION MEETING DATE</b>
December 9, 2016	January 10, 2017
December 23, 2016	January 24, 2017
January 6, 2017	February 14, 2017
January 20, 2017	February 28, 2017
February 3, 2017	March 14, 2017
February 17, 2017	March 28, 2017
March 3, 2017	April 11, 2017
March 17, 2017	April 25, 2017
March 31, 2017	May 9, 2017
April 14, 2017	May 23, 2017
May 5, 2017	June 13, 2017
May 19, 2017	June 27, 2017
<b>NO MEETINGS SCHEDULED FOR JULY</b>	
June 30, 2017	August 8, 2017
July 14, 2017	August 22, 2017
August 4, 2017	September 12, 2017
August 18, 2017	September 26, 2017
September 1, 2017	October 10, 2017
September 15, 2017	October 24, 2017
September 29, 2017	November 14, 2017
October 13, 2017	November 28, 2017
November 3, 2016	December 12, 2017
<b>NO SECOND MEETING SCHEDULED FOR DECEMBER</b>	

**ONLY COMPLETE APPLICATION PACKAGES WILL BE ACCEPTED AND MUST BE RECEIVED BY 12:00PM DAY OF THE SUBMITTAL DEADLINE. INCOMPLETE APPLICATIONS WILL BE RETURNED TO THE APPLICANT.**