

BCC Mtg. Date: August 20, 2019

EFFECTIVE DATE: August 28, 2019

## ORDINANCE 2019-14

### **AN ORDINANCE PERTAINING TO DEDICATIONS AND CONVEYANCES OF REAL PROPERTY TO THE COUNTY; AMENDING CHAPTER 2, ARTICLE VII OF THE ORANGE COUNTY CODE BY THE ADDITION OF DIVISION 2 REGARDING ROUTINE DEDICATIONS AND CONVEYANCES; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida law recognizes that there can be no dedication of property to a governing authority for a public use without the essential elements of offer and acceptance; and

**WHEREAS**, as described in Resolution No. 86-M-44 adopted by the Board of County Commissioners of Orange County, Florida, (the “Board”) on October 20, 1986, (“Resolution 86-M-44”) Orange County (the “County”) is aware that, in some circumstances, instruments offering to dedicate or convey property to the County are recorded in the Public Records of Orange County, Florida, despite the fact that such instruments have not been accepted by the County, and, in some circumstances, where the County has no desire to accept such dedication or conveyance; and

**WHEREAS**, in response to such situation, by Resolution 86-M-44, the Board declared that “in order for the offer [to dedicate property to the County] to be accepted, the instrument of conveyance must be formally approved and accepted by the Board of County Commissioners in writing”; and

**WHEREAS**, in recognition of the need for a streamlined property acquisition process in those situations where the County is acquiring property under the threat of eminent domain, the effect of Resolution 86-M-44 was amended by Ordinance No. 92-29 enacted by the Board on October 6, 1992, currently codified at Article VII, Chapter 2 of the Orange County Code, to set parameters for those acquisitions which could be consummated at the administrative staff level; and

**WHEREAS**, the authority granted to the Real Estate Management Division by Ordinance No. 92-29 included the authority to accept and approve instruments of conveyance and other related documents to the County for all real property acquired by the County pursuant to the terms of Ordinance No. 92-29; and

**WHEREAS**, certain routine development-related dedications and conveyances to the County do not present questions requiring a policy determination by the Board; and

**WHEREAS**, Resolution 86-M-44 presently requires such routine development-related dedications and conveyances to be approved and accepted by the Board; and

**WHEREAS**, the Board has determined that the delay caused by requiring such routine development-related dedications and conveyances to be approved and accepted by the Board is

unnecessary, is detrimental to economic development, and is not in the best interest of the County or of the public; and

**WHEREAS**, in order to expedite the processing of certain development-related dedications and conveyances, the Board desires to set parameters for those development-related dedications and conveyances that may be accepted and approved at the administrative staff level.

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:**

*Section 1. Enactment of Routine Dedications and Conveyances Ordinance.* Article VII of Chapter 2 of the Orange County Code is hereby entitled “Real Estate Management” and Section 2-251 through Section 2-257 are designated as “Division 1. Real Estate Acquisition and Settlement”. A new Routine Dedications and Conveyances Ordinance, to be codified at Division 2, Article VII of Chapter 2 of the Orange County Code, Section 2-258 through Section 2-263 is enacted to read as follows:

**Division 2. Routine Dedications and Conveyances**

*Section 2-258. Purpose and Intent.*

The purpose and intent of this authorization is to promote economic development and avoid unnecessary delay by expediting the processing of certain routine development-related dedications and conveyances of real property to the County by persons and entities other than the County.

*Section 2-259. Conveyances Required by Development.*

The Real Estate Management Division (“Division”), acting through its Manager or such Manager’s designee, is hereby granted the authority to accept and approve of a dedication or conveyance to the County of an interest in real property (a “Conveyance”) where all of the following four conditions are met as to such dedication or conveyance:

- (a) such Conveyance: (i) relates, directly or indirectly, to the development, redevelopment, and/or improvement of real property by a legal person or legal entity other than the County; (ii) occurs pursuant to a petition to vacate that has been approved by the Board; or (iii) occurs pursuant to an agreement that has been

approved by the Board, including but not limited to agreements within the purview of the County's Roadway Agreement Committee, the County's Development Review Committee, or another committee or board of the County; and

(b) such Conveyance is required by, provided for by, or is being made in satisfaction of at least one of the following: (i) a contract, agreement, ordinance, resolution, or any other action that has been approved by the Board (a "Board Action"); (ii) a permit, approval, plat, or "development order" (as defined in Section 163.3164, Florida Statutes (2018)) issued, approved, and/or made by a department, division, committee, or board of the County, other than the Division, pursuant to the lawful authority of such other department, division, committee, or board; or (iii) a condition or provision of the County's comprehensive plan (as defined in Section 163.3164, Florida Statutes (2018)), any zoning approval, any preliminary subdivision plan, development plan, or equivalent, or development order (as defined above); and

(c) such Conveyance is being made to the County either: (i) solely as a donation, without consideration on the part of the County; or (ii) solely in consideration of an award or grant of impact fee credits and/or adequate public facilities (APF) credits, which award or grant has been approved by a Board Action; and

(d) the deed, easement, or other instrument of dedication or conveyance to be recorded does not require execution by the County.

***Section 2-260. Authorization to Accept and Approve Instruments.***

The Division, acting through its Manager or such Manager's designee, is hereby authorized to accept and approve instruments of dedication or conveyance to the County, and other related documents, for all interests in real property acquired by the County pursuant to the terms of this Article (collectively, "Conveyance Instruments"). The acceptance and approval of any such Conveyance Instrument shall be evidenced by the Manager of the Division (or such Manager's designee): (i) stamping such Conveyance Instrument as "Accepted and approved by the Real Estate Management Division, on behalf of Orange County, Florida, pursuant to Division 2, Article VII of Chapter 2 of the Orange County Code"; and (ii) affixing his or her signature to such Conveyance Instrument within such stamp.

***Section 2-261. Authorization to Record Instruments.***

The Division and the Official Records Department of the Orange County Comptroller's Office are hereby authorized to record Conveyance Instruments accepted and approved by the Division pursuant to the terms of this Article.

***Section 2-262. Authorization to Disburse Funds.***

The Division and the Finance and Accounting Department of the Orange County Comptroller's Office are hereby authorized to make disbursements for any Conveyances accepted and approved by the Division pursuant to the terms of this Article – including recording fees, title searches, title insurance premiums, closing costs, and other similar costs and expenses, as well as any disbursements that may be required or provided for by any Board Action governing or relating to such Conveyance – subject to the receipt of such documentation as may be reasonably necessary to verify compliance with the terms of this Article.

***Section 2-263. Optional Procedure.***

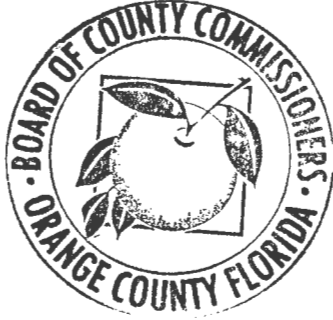
For avoidance of doubt, this Article provides an optional procedure for the acceptance and approval of certain Conveyances, as described herein. Notwithstanding anything in this Article to the contrary, the Division may, where it deems it appropriate, decline to exercise any authority granted to the Division herein and instead submit such matter to the Board for its consideration.

***Sections 2-264 -280 Reserved.***

***Section 2. Conflicts.*** All previous ordinances or resolutions of the County which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except as provided herein.

*Section 3. Effective Date.* This ordinance shall take effect pursuant to general law.

ADOPTED THIS \_\_\_ DAY OF AUG 20 2019.



**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: *Jerry L. Demings*  
*JL* Jerry L. Demings  
Orange County Mayor

ATTEST: Phil Diamond, CPA, County Comptroller  
As Clerk of the Board of County Commissioners

By: *Katie Smart*  
Deputy Clerk