



RETURN TO:  
CITY OF ST. CLOUD  
DEPT. OF PLANNING & ZONING  
1300 9TH STREET  
ST. CLOUD, FL 34769

## ORDINANCE NO. 2018-39

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ST. CLOUD, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE BY AMENDING ARTICLE III, "ZONING REGULATIONS", DIVISION 4, "ESTABLISHMENT AND DUTIES OF COMMISSION AND BOARDS", SECTION 3.4.2 – BOARD OF ADJUSTMENT, AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.**

WHEREAS, Ordinance No. 2018-23 amended the Section 3.20.3 – Accessory Structures, of the Land Development Code; and

WHEREAS, avenues of relief from the requirements of section 3.20.3 are described but not established.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ST. CLOUD FLORIDA:

SECTION 1. ARTICLE III, "Zoning Regulations", Division 4, "Establishment of Duties of Commission and Boards", Section 3.4.2 – Board of Adjustment of the City of St. Cloud Land Development Code, is hereby amended as follows(underline depicts added language and strikethrough depicts removed) :

### *C. Powers and duties*

3. *Special Exceptions.* To authorize uses that are not normally permitted in a particular zoning district upon a demonstration that the application addresses criteria as set out in this section.
4. *Powers.* Board of adjustment has powers of the city manager or his designee on appeals; reversing decision of the city manager or his designee. In exercising the above mentioned powers, the board of adjustment may, so long as such action is in conformity with the terms of these zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the city manager or his designee from whom the appeal is taken.
5. *In matters of review.* The concurring votes of three members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of the city manager or his designee, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations.

**D. Procedures for public hearing before board of adjustment.**

**2. Special Exceptions.** The following shall apply to special exceptions:

- a. A special exception may be initiated by any applicant, who shall pay the application fee and make application on forms prescribed by the Planning and Zoning Department.
- b. Applicant shall submit a completed application including narrative describing the proposed use and information related to the type of operation, hours of operation, traffic impacts, impacts on adjacent uses, and measures proposed to mitigate such impacts (as applicable).
- c. Applicant shall submit a notarized Agent Authorization form (as applicable).
- d. Application must include a scaled drawing of the proposed use on the site that includes all existing and proposed features such as sidewalks, parking spaces, buffers, setbacks, building dimensions, and accessory structures (as applicable).
- e. The application shall address, at a minimum, the following factual matters below:
  - (1) Consistency with the general pattern of land development within the zoning district;
  - (2) Is the special exception use consistent with the trends of development in the area or neighborhood, as opposed to being detrimental to the area or neighborhood;
  - (3) Is the special exception use consistent with the patterns of development intensity in the area or neighborhood;
  - (4) Does the special exception use have reasonable effect on existing traffic patterns, movements and intensities without adverse impacts;
  - (5) Is the special exception use consistent with the city's comprehensive plan;
  - (6) Can the special exception use development be designed to function effectively for its intended purpose without creating negative off-site impacts for adjoining parcels.

**3. Notices.** Required legal notices shall be as included in this section of the code.

**4. Public hearing.** A public hearing shall be held by the board of adjustment, pursuant to requirements for public hearing as established under section 3.4.4 of this code. Any party may appear in person, or be represented by agent or attorney.

**5. Findings.** The board of adjustment shall make findings that the requirements of subsection 3.4.2. D.1.a. through f. have or have not been demonstrated by the applicant for variance. (Ord. No. 2000-51, 12-14-2000) The board of adjustment shall make findings that the requirements of subsection 3.4.2.D.2.a through f. have or have not been demonstrated by the applicant for a special exception. (Ord. No. 2018-39, 6-28-2018)

**6. Conditions and safeguards.** In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with these zoning regulations, including but not limited to reasonable time limits within which the action for which variance is required shall begin, or be completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these zoning

regulations and shall be grounds for revocation of the variance. Unless otherwise specified by the board of adjustment, the time limit for implementation of the variance request shall be six months.

**SECTION 2. SEVERABILITY.** It is declared to be the intent of the City Council that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 3. CONFLICT.** This action supersedes all codes and ordinances of the City or parts of, in conflict with this ordinance, to the extent of the conflict.

**SECTION 4. CODIFICATION.** Sections 1, 2 and 3 of this Ordinance shall be codified in the Land Development Code for the City of St. Cloud, Florida, separate and apart from the Code of St. Cloud. The codifier is authorized to make editorial changes not affecting the substance of this ordinance in the substitution of "article" for "ordinance", "section" for "paragraph", or otherwise take such editorial license.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be published as provided by law and shall take effect immediately upon its Second Reading and Final Passage.

First Reading on the 14<sup>th</sup> day of June, 2018

Second Reading on the 28<sup>th</sup> day of June, 2018

  
Nathan Blackwell, Mayor

ATTEST:

  
Linda P. Jaworski, City Clerk

LEGAL IN FORM AND VALID IF ADOPTED:  
DeBeaubien, Knight, Simmons, Mantzaris & Neal

  
Daniel F. Mantzaris, City Attorney  
Pursuant to Section 695.26 (3) (f), this instrument exempt from Chapter 695, F.S.



# TRANSMITTAL MEMO

TO: CITY CLERK'S OFFICE

FROM: Planning & Zoning

RE: ORIGINAL AGENDA ITEM SUBMITTED

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Council Meeting Date: 06/28/2018

- Ordinance No: 2018-39

- ☐ Exhibit
- ☐ Contract
- ☐ Agreement
- ☐ Other

- Resolution No:

- ☐ Exhibit
- ☐ Contract
- ☐ Agreement
- ☐ Other