

**SEMINOLE COUNTY GOVERNMENT  
LAND PLANNING AGENCY/PLANNING AND ZONING COMMISSION  
AGENDA MEMORANDUM**

**SUBJECT:** Ordinance amending the Seminole County Code of Ordinances and Land Development Code to clarify separation requirements.

**DEPARTMENT:** Planning and Development **DIVISION:** Planning

**AUTHORIZED BY:** Matthew West **CONTACT:** Tony Matthews **EXT.** 7373

<b>Agenda Date</b> <u>9/4/02</u> <b>Regular</b> <input type="checkbox"/> <b>Consent</b> <input type="checkbox"/> <b>Work Session</b> <input type="checkbox"/> <b>Briefing</b> <input type="checkbox"/> <b>Public Hearing – 1:30</b> <input type="checkbox"/> <b>Public Hearing – 7:00</b> <input checked="" type="checkbox"/>
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**MOTION/RECOMMENDATION:**

1. Recommend enactment of the attached ordinance amending the Seminole County Code of Ordinances and Land Development Code to clarify separation requirements with staff findings and recommendation; or
2. Recommend denial of the attached ordinance amending the Seminole County Code of Ordinances and Land Development Code to clarify separation requirements; or
3. Continue this item to a date certain.

(Countywide)

(Tony Matthews, Principal Planner)

**BACKGROUND:**

The Land Development Code of Seminole County (LDC) provides for various separation requirements between uses, such as between outdoor advertising signs, adult entertainment establishments, alcoholic beverage establishments, telecommunication towers, and other uses. Separation requirements may include from like establishments, places of worship, schools or residential areas.

The County has consistently interpreted such requirements as to disregard adjacent municipal and county boundaries when determining separation requirements. In a recent decision by the Board of County Commissioners (Board), the Board upheld a decision of the Planning Manager regarding an appeal of the

Reviewed by:	<u>[Signature]</u>
Co Atty:	<u>[Signature]</u>
DFS:	_____
Other:	_____
DCM:	_____
CM:	_____
File No.	_____

**Attachment:** Proposed Ordinance.

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Planning Manager's interpretation that the term "any" applies to all sign separation requirements, regardless of jurisdiction. This decision was later quashed by the Circuit Court of the Eighteenth Judicial Circuit.

To avoid any possible misinterpretation of the County's intent in the future and to confirm the County's interpretation and practice, the Board has determined that adoption of this ordinance is necessary.

**STAFF RECOMMENDATION:**

Recommend approval of the proposed ordinance with findings that:

1. The subject ordinance will clarify that wherever in the Seminole County Code of Ordinances or Land Development Code there is a requirement for a minimum distance or other type of separation specified regarding uses of land or structures, type of facilities or otherwise, unless specifically stated to the contrary it is to be presumed that the location of municipal and county boundaries is not to be taken into account; and
2. The subject ordinance is consistent with the Seminole County Comprehensive Plan (Vision 2020 Plan).

ORDINANCE

AN ORDINANCE AMENDING THE SEMINOLE COUNTY CODE OF ORDINANCES AND LAND DEVELOPMENT CODE TO CLARIFY LEGISLATIVE INTENT REGARDING SEPARATION REQUIREMENTS; PROVIDING LEGISLATIVE FINDINGS; CLARIFYING LEGISLATIVE INTENT IN THE SEMINOLE COUNTY CODE OF ORDINANCES AND LAND DEVELOPMENT CODE REGARDING SEPARATION REQUIREMENTS; REPEALING EMERGENCY ORDINANCE 2002-28; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners (BCC) hereby waives the Home Rule Charter requirement for an Economic Impact Statement regarding this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Legislative Findings. Throughout the Seminole County Code of Ordinances and Land Development Code there are various provisions dealing with separation requirements. In virtually all of those instances there is no mention made of municipal or county boundaries. The County has consistently interpreted such requirements so as to disregard municipal and county boundaries when determining whether separation requirements have been met. Both the Board of Adjustment (BOA) and the BCC followed this interpretation with respect to outdoor advertising signs and determined that Oxford Outdoor Advertising (Oxford) could not place outdoor advertising signs in the unincorporated areas of the county because those outdoor advertising signs would have been too close to existing outdoor advertising signs or point-of-sale signs that happened to be located within municipal

boundaries. In case number 01-CA-576-16-G, Oxford sought judicial review of that determination and, by opinion filed on July 9, 2002, the Circuit Court of the Eighteenth Judicial Circuit in and for Seminole County quashed the BCC's decision. The BCC has, by ordinance 2001-22, placed a limit upon the number of outdoor advertising signs in the unincorporated areas of the county and, accordingly, the relationship of municipal and county boundaries and separation of outdoor advertising signs is moot. However, should the Court's decision in the Oxford case be applied to other areas, such as the separation requirements relating to adult entertainment establishments, bars, schools, churches and other such uses, then the public health, safety and welfare will be adversely affected and the separation requirements rendered meaningless. The BCC believes that the Court erred in the Oxford case and that the interpretation adopted by the BOA and the BCC in that instance properly reflected the County's intent as illustrated by its past practice and interpretation. In order to avoid any possible misinterpretation of the County's intent in the future and to confirm the County's interpretation and practice, the BCC has determined that adoption of this ordinance is necessary.

**Section 2. Clarification of Intent Regarding Separation Requirements.** Wherever in the Seminole County Code of Ordinances or Land Development Code there is a requirement for a minimum distance or other type of separation specified regarding uses of land or structures, types of facilities or otherwise, unless

specifically stated to the contrary it is to be presumed that the location of municipal and County boundaries is not to be taken into account. In other words, the fact that one structure, use or facility is located in a municipality or another County and the other in unincorporated Seminole County is irrelevant in determining whether a separation requirement has been met.

**Section 3. Repeal of Emergency Ordinance 2002-28.** Effective upon the provisions of this ordinance becoming law, Emergency Ordinance 2002-28 shall stand repealed.

**Section 4. Codification.** It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become, and be made a part of the Seminole County Code of Ordinances and Land Development Code. The word "Ordinance" may be changed to section, article, or other appropriate word or phrase and the sections of this Ordinance may be assigned new numbering or lettering to accomplish such intention; providing, however, that Sections 3, 4, 5 and 6 shall not be codified. In the discretion of the codifier, the provisions of Section 1 may be included as a footnote or otherwise in order to reflect the Board's intent in adopting this ordinance.

**Section 5. Severability.** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**Section 6. Effective Date.** This Ordinance shall become effective upon receipt of official acknowledgment by the Clerk of the Board of County Commissioners from the Department of the State that this Ordinance has been filed with the Department of State.

**ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

BOARD OF COUNTY COMMISSIONERS  
OF SEMINOLE COUNTY, FLORIDA

By: \_\_\_\_\_  
DARYL G. MCLAIN, Chairman

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