

CHAPTER 1. GENERAL PROVISIONS AND ADMINISTRATION

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2 **Article 1.1 General Provisions**

3 **1.1.1 Title**

4 This code shall be known and may be cited as the Unified Land Development Code of Charlotte
5 County, Florida, and may be referred to as "this Code".

6 **1.1.2 Authority**

7 The Board of County Commissioners of Charlotte County (BCC), in order to promote the
8 health, safety, and general welfare, is authorized to adopt zoning regulations, to regulate the
9 platting of lands, to regulate land development, to reserve streets for future public acquisition,
10 and to implement the Comprehensive Plan for the future growth and development of Charlotte
11 County.

12 **1.1.3 Jurisdiction**

13 This Code shall govern all development within the boundary of Charlotte County, Florida, as
14 now or hereafter established, except that this Code shall not apply to any land lying within the
15 corporate boundary of any municipality unless otherwise stated.

16 **1.1.4 Purpose**

17 For the purpose of accomplishing the coordinated and harmonious development of Charlotte
18 County so as to provide for existing and anticipated future needs, implement the
19 Comprehensive Plan, and promote the health, safety, and general welfare of the County, the
20 BCC has adopted this Unified Land Development Code. The BCC shall divide the County into
21 zoning areas or districts of such number, shape, and size as may be deemed best suited to
22 effect the purposes of this Code, and the BCC shall provide for regulations in each district,
23 which shall:

- 24 **A.** Provide for the use of land and water.
25 **B.** Provide for regulation of form, location, development, and use of buildings and other
26 structures.
27 **C.** Provide for size of yards and other open spaces.
28 **D.** Provide for the percentage of any lot that may be occupied by buildings or other
29 structures.
30 **E.** Prevent the overcrowding of land and water.
31 **F.** Provide reasonable schedules for the amortization of nonconforming uses and structures.
32 **G.** Provide for other regulations within the public interest that shall promote the health,
33 safety, and general welfare.

34 **1.1.5 Transitional Provisions**

35 Zoning regulations and all other official acts taken by the BCC pursuant to the provisions of all
36 previous versions of any duly-adopted land development regulations are ratified and approved
37 and shall remain in full force and effect insofar as the same shall not be repealed or revoked
38 by the provisions of this Code.

1
2 **Article 1.2 Review Bodies**

3 **1.2.1 Board of County Commissioners**

4 **A. Authority**

5 The Board of County Commissioners (BCC) is established and composed pursuant to the
6 Preamble of the County Code of Laws and Ordinances, powers and duties of County
7 Commissioners, Chapter 125.001, F.S., as amended.

8 **B. Powers and Duties**

9 The BCC shall have the following powers and duties:

10 **1. Final Authority**

- 11 a. Comprehensive Plan Amendments.
- 12 b. Unified Land Development Code Amendments.
- 13 c. Final Plats.
- 14 d. Modifications.
- 15 e. Transfers of Density Units.
- 16 f. Developments of Regional Impact.
- 17 g. Community Development Districts.
- 18 h. Community Redevelopment Areas.
- 19 i. ~~Read-Street~~ Name Change.
- 20 j. Historic Districts and Special Certifications of Appropriateness.
- 21 k. All others as established in Florida Statutes.

22 **2. Appointments**

- 23 a. Planning and Zoning Board.
- 24 b. Board of Zoning Appeals.
- 25 c. Code Enforcement Board.
- 26 d. Advisory Committees.
- 27 e. Such other reviewing bodies as authorized by the BCC and this Code.

28 **C. Appeals**

29 Any person or persons, corporation, or other entity aggrieved by any decision of the BCC
30 related to this Code may appeal to the Circuit Court of the County for appropriate relief
31 within 30 days after such decision shall have become final, but not thereafter.

32 **1.2.2 Planning and Zoning Board**

33 **A. Authority**

34 The Planning and Zoning Board (P&Z) is designated as the local planning agency for the
35 unincorporated area of the county in conformity with the provisions of Chapter
36 163.3174, F.S., as amended.

37 **B. Powers and Duties**

38 P&Z shall review and make a recommendation on the following applications:

- 39 a. Comprehensive Plan -Amendments.
- 40 b. Unified Land Development Code Amendments.
- 41 c. Modifications.

~~C. Purpose, Composition, and Administration~~

- ~~1. The purpose of P&Z is to advise and inform BCC and the general public in all matters relating to planning and zoning.~~
- ~~2. One member of P&Z shall be a nonvoting member nominated by the Charlotte County School Board whose duties shall be to attend any of those meetings of P&Z when it hears an application for a comprehensive plan or Code amendment which, if approved, would increase residential density on the subject property.~~

1.2.3 Board of Zoning Appeals

A. Authority

The Board of Zoning Appeals (BZA) is designated by the BCC to hear and decide appeals to the dimension and use standards of this Code.

B. Powers and Duties

The BZA shall have final authority on the following applications:

- a. Special Exception.
- b. Variance.
- c. Administrative Appeal.

~~C. Purpose, Composition, and Administration~~

- ~~1. The purpose of the BZA is to consider petitions for Special Exceptions and Variances, and consider appeals from decisions of the Zoning Official, in accordance with Chapter 63-1209, Laws of Florida.~~
- ~~2. All decisions of the BZA shall be quasi-judicial in nature, and all meetings shall be open to the public.~~
- ~~3. The BZA shall keep minutes of its meetings, showing the vote of each member on each question, and indicating the absence of any members. The results of all of the official actions shall become a public record in the office of the Zoning Official. Further, any decision of this BZA which grants approval of a variance or special exception shall be recorded in the office of the Clerk of the Circuit Court and made a part of the official records for that property. The Zoning Official shall bear the responsibility for the recording.~~

~~D.C. Appeals to Circuit Court~~

Any person or persons, corporation or other entity aggrieved by any decision of the BZA may appeal to the Circuit Court of the County for appropriate relief within 30 days after such decision shall have become final, but not thereafter. ~~There shall be no right to appeal to the Circuit Court unless there shall first have been an appeal to the BZA.~~

1.2.4 Code Enforcement Board

A. Authority

The Code Enforcement Board (CEB) is designated by the BCC to hear and decide cases involving alleged violations of this Code.

B. Powers and Duties

The CEB shall have ~~the powers to:~~

~~Hold hearings final authority~~ on violations of this Code.

- ~~1. Subpoena alleged violators and witnesses to its hearings, which may be served by the County Sheriff.~~
- ~~2. Subpoena evidence.~~
- ~~3. Take testimony under oath.~~
- ~~4. Issue orders following a hearing, which orders shall have the force of law and shall set forth the steps necessary to bring a violation into compliance with this Code.~~

~~5. Assess administrative fines and impose liens on real and personal property pursuant to Chapter 125 and Chapter 162, F.S.~~

~~C. Purpose, Composition, and Administration~~

~~1. The purpose of the CEB is to consider petitions for Special Exceptions and Variances, and consider appeals from decisions of the Zoning Official, in accordance with Chapter 63-1209, Laws of Florida.~~

~~2. All decisions of the CEB shall be quasi-judicial in nature, and all meetings shall be open to the public.~~

~~3. The CEB shall keep minutes of its meetings, showing the vote of each member on each question, and indicating the absence of any members. The results of all of the official actions shall become a public record in the office of the Zoning Official.~~

~~C. Appeals~~

~~Any person or persons, corporation or other entity aggrieved by any decision of the CEB may appeal to the Circuit Court of the County for appropriate relief within 30 days after such decision shall have become final, but not thereafter.~~

~~D.~~

1.2.5 Zoning Official

A. Authority

The Zoning Official is designated by the BCC to administer and enforce this Code.

B. Powers and Duties

The Zoning Official shall have the following powers and duties:

1. Final Authority

- a. Special Exception (Minor Modification only).
- b. Administrative Variance.
- c. Preliminary Plat.
- ~~d. Workforce Housing Incentives~~
- ~~e.d. Vegetation Management and Tree Removal Permit.~~
- f.e. Temporary Use Permit.
- g.f. Sign Permit.
- ~~h. Landscape Plans~~
- i.g. Site Plan Review.

2. Review Authority

- a. Unified Land Development Code Text Amendment.
- b. Final Plat.
- c. Special Exception.
- d. Variance.
- e. Building Permit (Certify to Building Official).
- f. Certificate of Occupancy (Certify to Building Official).

3. Authority to Revoke Development Permits

The Zoning Official may revoke any permit issued under this Code where there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit was based or any permit issued in contravention of law.

1 **C. Appeals**

2 Any person or persons, corporation, or other entity aggrieved by any decision of the
3 Zoning Official may appeal to the BZA for appropriate relief within 30 days after such
4 decision shall have become final, but not thereafter.

5
6 **1.2.6 County Engineer**

7 **A. Authority**

8 The County Engineer is designated by the BCC to administer the construction and
9 maintenance of the County's street network and other infrastructure within the public
10 right-of-way, including sidewalks, multi-use trails, canals, and drainage and stormwater
11 maintenance facilities.

12 **B. Powers and Duties**

13 The County Engineer shall have the following powers and duties:

14 **1. Final Authority**

- 15 a. Construction Plans.
16 b. Uses and structures within the public right-of-way.
17 c. Traffic devices and street illumination on County streets.

18 **2. Review Authority**

- 19 a. Acceptance of certain infrastructure within the public right-of-way.

20 **C. Appeals**

21 Any person or persons, corporation, or other entity aggrieved by any decision of the
22 County Engineer related to this Code may appeal to the County Administrator for
23 appropriate relief within 30 days after such decision shall have become final, but not
24 thereafter.

25 ~~1.2.6~~ **1.2.7 Building Official**

26 **A. Authority**

27 The Building Official is designated by the BCC to administer and enforce the Florida
28 Building Code and any local amendments to it.

29 **B. Powers and Duties**

30 The Building Official shall have final authority on the following ~~powers and~~
31 ~~duties~~applications:

32 ~~1. General Authority~~

33 ~~Administer and implement the Flood Damage Prevention portions of this Code as~~
34 ~~the Flood Management Administrator.~~

35 ~~2. Final Authority~~

36 ~~The Building Official shall review and take final action on the following applications:~~

37 ~~1. Building Permit.~~

38 ~~2. Certificate of Occupancy.~~

39 ~~3. Review Authority~~

40 ~~The Building Official shall review and make recommendations on the following~~
41 ~~applications:~~

42
43 **C. Appeals**

44 Any person or persons, corporation, or other entity aggrieved by any decision of the
45 Building Official related to this Code may appeal to the Construction Board of Adjustment

1 and Appeals for appropriate relief within 30 days after such decision shall have become
2 final, but not thereafter.

3 **1.2.8 Floodplain Administrator**

4 **A. Authority**

5 The Floodplain Administrator is designated by the BCC to administer and enforce the
6 Floodplain Management provisions of this Code.

7 **B. Powers and Duties**

8 The Floodplain Administrator shall have the following powers and duties
9 on the following applications:

10 **1. Final Authority**

11 — Floodplain Development Permits.

12 a. Determination of Location in the Special Flood Hazard Area.

13 b. Interpretation of Special Flood Hazard Area Boundaries.

14 **2. Review Authority**

15 a. Development located within the Special Flood Hazard Area.

16 **C. Appeals**

17 Any person or persons, corporation, or other entity aggrieved by any decision of the
18 Floodplain Administrator may appeal to the Construction Board of Adjustment and
19 Appeals for appropriate relief within 30 days after such decision shall have become final,
20 but not thereafter.

21 ~~1.2.7~~ **1.2.9 Earthmoving Administrator**

22 **A. Authority**

23 The Earthmoving Administrator is designated as the [give this to Inga to define] by the
24 BCC to administer and enforce the Earthmoving Provisions of this Code.

25 **B. Powers and Duties**

26 The Earthmoving Administrator shall have final authority on the following
27 powers and duties applications:

28 1. Earthmoving Exemptions.

29 2. Specific Earthmoving Permits.

30 3. Specific Earthmoving Permit Modifications.

31 **C. Appeals**

32 Any person or persons, corporation, or other entity aggrieved by any decision of the
33 Earthmoving Administrator may appeal to the Hearing Examiner for appropriate relief
34 within 30 days after such decision shall have become final, but not thereafter.

35 1. Final Authority

36 The Earthmoving Administrator shall review and take final action on the following
37 applications:

38 2. Review Authority

39 The Earthmoving Administrator shall review and make recommendations on the
40 following applications:

41 ~~1.2.8~~ **1.2.10 Hearing Examiner**

42 **A. Authority**

43 The Hearing Examiner is designated as the [give this to Inga to define] by the BCC to
44 hear appeals of decisions of the Earthmoving Administrator.
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B. Powers and Duties

~~The Hearing Examiner shall have final authority on appeals to decisions of the Earthmoving Administrator.~~

C. Appeals

~~Any person or persons, corporation, or other entity aggrieved by any decision of the BCC Hearing Examiner related to this Code may appeal to the Circuit Court of the County for appropriate relief within 30 days after such decision shall have become final, but not thereafter.~~

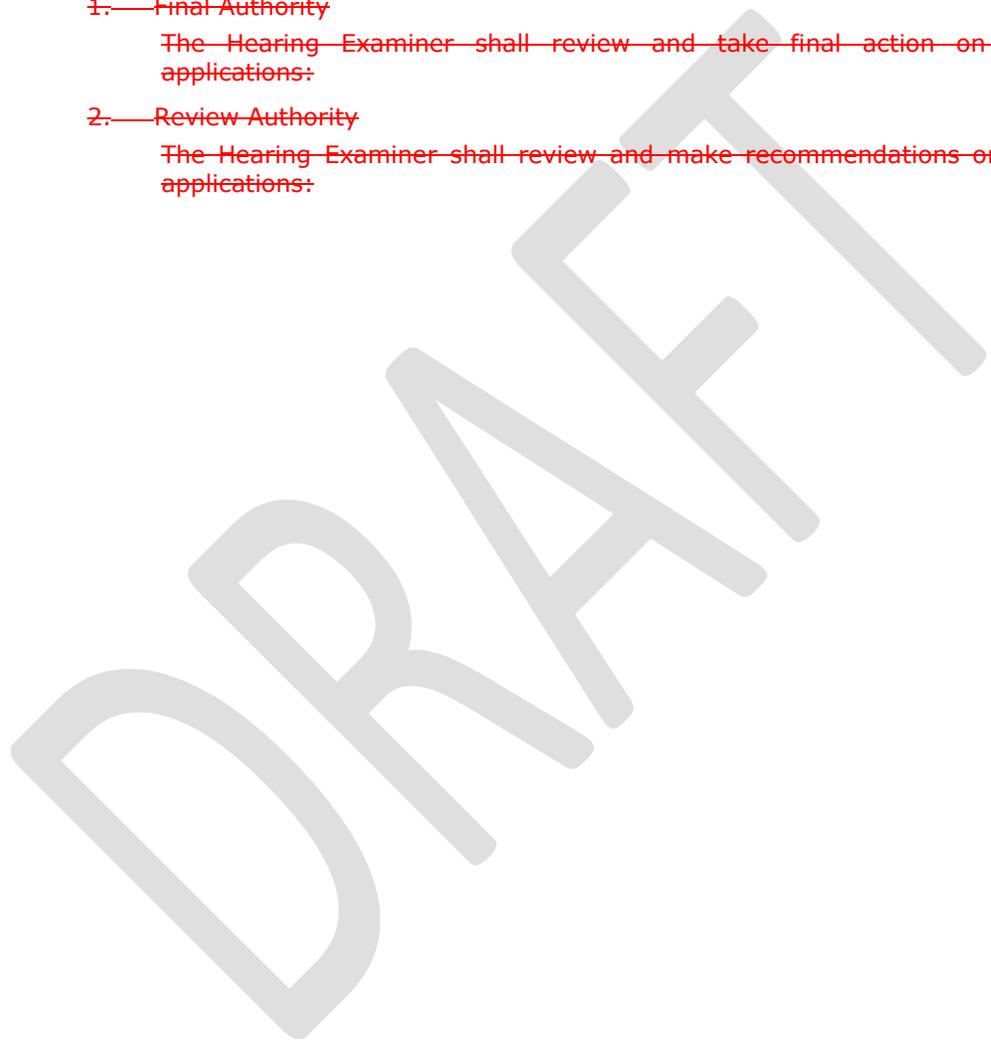
~~The Hearing Examiner shall have the following powers and duties:~~

~~1. Final Authority~~

~~The Hearing Examiner shall review and take final action on the following applications:~~

~~2. Review Authority~~

~~The Hearing Examiner shall review and make recommendations on the following applications:~~



1 | **Article 1.3 Procedures**

2 | **1.3.1 Standard Approval Criteria**

3 | All applications shall be consistent with the Comprehensive Plan, this Code, the Charlotte
4 | County Code of Laws and Ordinances, and any applicable State and Federal regulations.
5 | Before any final development order may be issued, proof shall be presented that the
6 | development site is not delinquent on the payment of any property taxes.

7 | **1.3.2 Standard Review Procedures**

8 | **A. Pre-Application Conference**

9 | 1. **Purpose**

10 | The purpose of the pre-application conference is to discuss with the planning staff,
11 | early and informally, the purpose and intent of an application and the criteria and
12 | standards which may apply. It will also familiarize the applicant with the
13 | appropriate objectives and policies of the comprehensive plan. The applicant shall
14 | be advised of existing plans and policies to be considered in the preparation of the
15 | application, as well as any other relevant information.

16 | 2. **Procedure**

17 | A pre-application conference must take place no less than five working days prior
18 | to formally submitting an application. The applicant shall provide staff with the
19 | information listed in Requirements, below, at least three days prior to the pre-
20 | application meeting.

21 | 3. A pre-application conference shall be mandatory for the following applications:

- 22 | a. Code Amendment
- 23 | b. Comprehensive Plan Amendment
- 24 | c. Planned Development
- 25 | d. Site Plan Review
- 26 | e. Plat
- 27 | f. Special Exception
- 28 | g. Variance
- 29 | h. Plat or Street Vacation
- 30 | i. Certification of a Sending Zone
- 31 | j. Minor and Major Excavations
- 32 | k. Determination of Vested Rights
- 33 | l. Development of Regional Impact

34 | 4. The applicant shall be advised at the pre-application conference of existing plans
35 | and policies to be considered in the preparation of subsequent plans, and any other
36 | information relevant to the proposed development.

37 | **B. Application Requirements**

38 | 1. **Forms**

39 | Applications required under this Chapter shall be submitted on forms and in such
40 | numbers as required.

41 | 2. **Fees**

- 42 | a. All applications and associated fees shall be filed with the Department
43 | responsible for land development services.

- 1 b. The Board of County Commissioners shall, by resolution, fix reasonable fees,
2 which shall be reviewed on an annual basis.
- 3 c. An applicant who has paid the appropriate fee pursuant to the submission of
4 an application, but who chooses to withdraw such application prior to its
5 distribution for review, shall be entitled to a refund of the total amount paid,
6 less ten percent for administrative costs, upon written request to the
7 department. Once review has begun, no refund shall be available.

8 3. **Authority to File Application**

9 The applicant shall be required to present evidence of legal authority to submit the
10 application.

11 4. **Applications Sufficient For Processing**

12 a. All applications shall be sufficient for processing before the County is required
13 to review the application content. An application shall be sufficient for
14 processing when it contains all of the information necessary to decide whether
15 or not the development as proposed will comply with all of the requirements
16 of this Code.

17 b. The presumption shall be that all of the information required in the application
18 is necessary to satisfy the requirements of this Code. However, it is
19 recognized that each application is unique, and therefore more or less
20 information may be required according to the needs of the particular case.
21 The applicant may rely on the recommendations of County staff as to whether
22 more or less information should be submitted.

23 5. **Simultaneous Applications**

24 a. Applications for development approvals may be filed and reviewed
25 concurrently. Any application that also requires a variance shall not be eligible
26 for final approval until the variance has been granted.

27 b. Applications submitted concurrently are subject to approval of all other
28 related applications. Denial or disapproval of any concurrently-submitted
29 application shall stop consideration of any related applications until the denied
30 or disapproved application is resolved.

31 C. **Public Notice Requirements**

32 1. **Summary of Notice Required**

33 Notice shall be required for applications for approval as shown in the table below.
34 Unless required by Florida Statute, failure to provide such notice shall not invalidate
35 the decision.

Procedure	Published	Mailed	Posted
Comprehensive Plan Map Amendment	▪	▪	▪
Comprehensive Plan Text Amendment	▪		
Unified Land Development Code Text Amendment	▪		
Zoning Map-Atlas Amendment	▪	▪	▪
Planned Development	▪	▪	▪
Final Plat	▪		
Plat and Street Vacation	▪	▪	▪
Special Exception	▪	▪	▪
Variance	▪	▪	▪
<u>Modification</u>	▪	▪	▪
<u>Read-Street</u> Name Change		▪	
Appeal of Administrative Decision	▪		
Transfer of Density Units or TDU Appeal	▪		
Code Compliance Notification	▪	▪	▪
Administrative Variance	▪	▪	
Determination of Vested Rights	▪		▪
Major Excavation	▪	▪	▪
Major Solid Waste Facility	▪	▪	▪
Developments of Regional Impact	See Chapter 380.06, F.S., as amended		

2. **Published Notice**

Public notice shall be given at least 15 calendar days prior to the date of any public hearing by publication in a newspaper of general circulation in the County. The notice shall contain a description of the request, a brief description of the property involved (subject property), and the time, date and place of the hearing, or the times, dates, and places of the hearings, whichever is applicable, and shall invite all interested persons to appear and be heard.

3. **Mailed Notice**

- a. The County shall notify by first-class mail (at the last addresses listed for such owners in the County tax records) all property owners within 200 feet of the subject property.
- b. The notice shall be mailed at least ten days prior to the date of the public hearing.
- c. Mailed notice under this section shall not be required if a rezoning directly affects more than 50 properties owned by a total of at least 50 different property owners, and the County elects to publish notice of the hearing as provided for in this Code.

4. **Posted Notice**

The County shall post notice at the subject property not less than ten days prior to the public hearing at which the application shall be reviewed. The notice shall be posted on the subject property or at a point visible from the nearest public street.

5. **Content of Notice**

The notice listed above shall contain the following:

a. **Published and Mailed Notice**

A published or mailed notice shall provide at least the following:

- 1) The address of the subject property (if available).
- 2) The general location of the land that is the subject of the application, which may include a location map.

- 1 3) A description of the action requested.
- 2 4) Where a rezoning or Future Land Use Map amendment is proposed, the
- 3 current and proposed districts.
- 4 5) The time, date, and location of the public hearing.
- 5 6) A phone number to contact the County.
- 6 7) A statement that interested parties may appear at the public hearing.

b. Posted Notice

Required posted notices shall indicate the following:

- 9 1) A petition or case number.
- 10 2) The type of action or violation and Code section reference.
- 11 3) A phone number to contact the County.

c. Constructive Notice

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements.

D. Public Hearings Requirements

A public hearing shall be required for development review as shown in the table below.

Procedure	Board of Zoning Appeals	Planning and Zoning Board	Board of County Commissioners		Hearing Examiner
			Public Hearing	Consent Agenda	
Comprehensive Plan Map Amendment		▪	▪		
Comprehensive Plan Text Amendment		▪	▪		
Unified Land Development Code Text Amendment		▪	▪		
Zoning Atlas Amendment		▪	▪		
Planned Development		▪	▪		
Final Site Plan Approval for Planned Development				▪	
Special Exception	▪				
Variance	▪				
Modification		▪	▪		
Appeal of Administrative Decision	▪				
Transfer of Density Units, Certification of Sending Zone				▪	
TDU Appeal			▪		
Final Plat				▪	
Plat or Street Vacation		▪	▪		
Road-Street Name Change				▪	
Specific Major Earthmoving					▪
Earthmoving Appeal or Variance					▪
Major Solid Waste Facility					▪
Proportionate Fair-Share Agreement			▪		
Developments of Regional Impact	See Florida Statute 380.06, as amended				

E. Decisions

Unless specifically provided elsewhere, all decisions shall require an affirmative vote of the majority of Board members present. Tie votes shall be considered denials.

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F. Notice of Decision

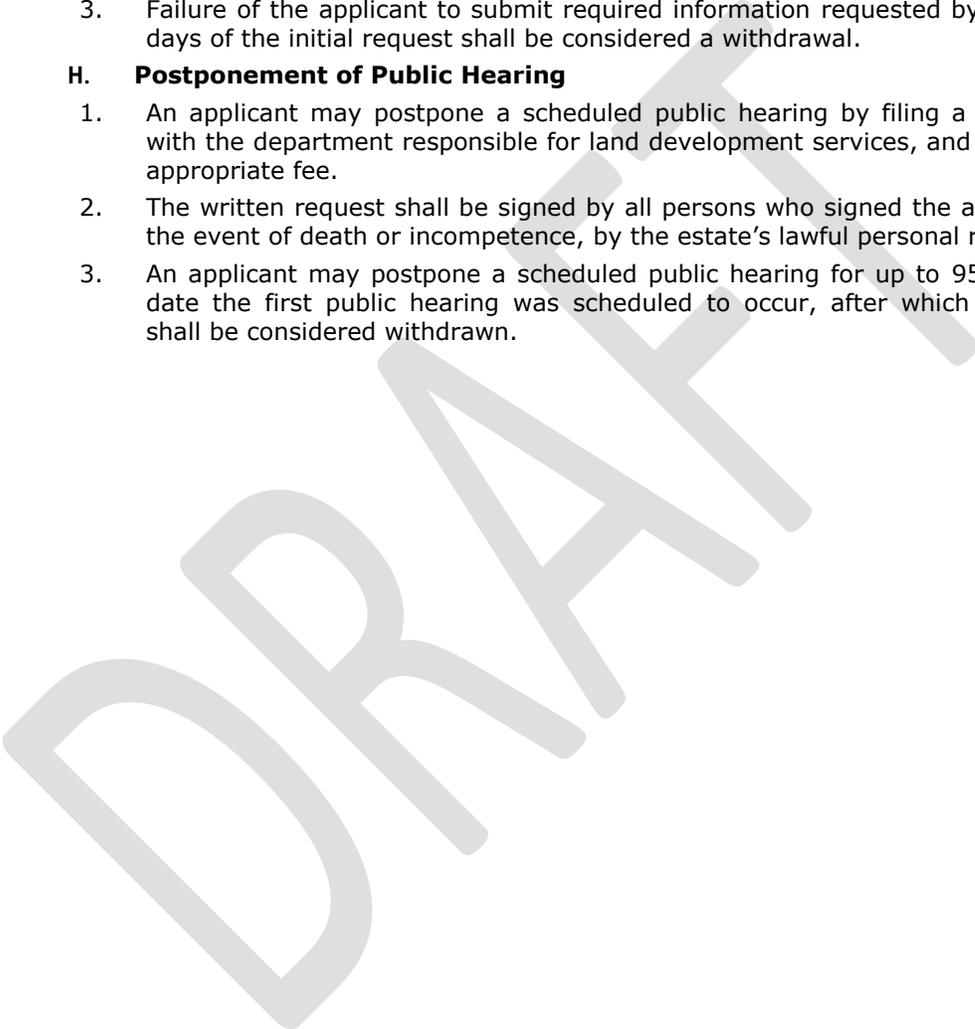
Within ten working days after a decision is made, a written notice of the decision shall be sent to the applicant and a copy kept on file with the County, where it shall be available for public inspection during regular office hours.

G. Withdrawal of Application

- 1. An applicant may withdraw an application at any time, by filing a statement of withdrawal with the department responsible for land development services.
- 2. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate’s lawful personal representative.
- 3. Failure of the applicant to submit required information requested by staff within 90 days of the initial request shall be considered a withdrawal.

H. Postponement of Public Hearing

- 1. An applicant may postpone a scheduled public hearing by filing a written request with the department responsible for land development services, and payment of the appropriate fee.
- 2. The written request shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate’s lawful personal representative.
- 3. An applicant may postpone a scheduled public hearing for up to 95 days after the date the first public hearing was scheduled to occur, after which the application shall be considered withdrawn.



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1.3.3 Comprehensive Plan Amendment

A. Applicability

The following procedure shall be used to apply for an amendment to the comprehensive plan.

B. Initiation

1. Map Amendment

An application to amend any map within the Comprehensive Plan may be initiated by the County or owner of the subject property.

2. Text Amendment

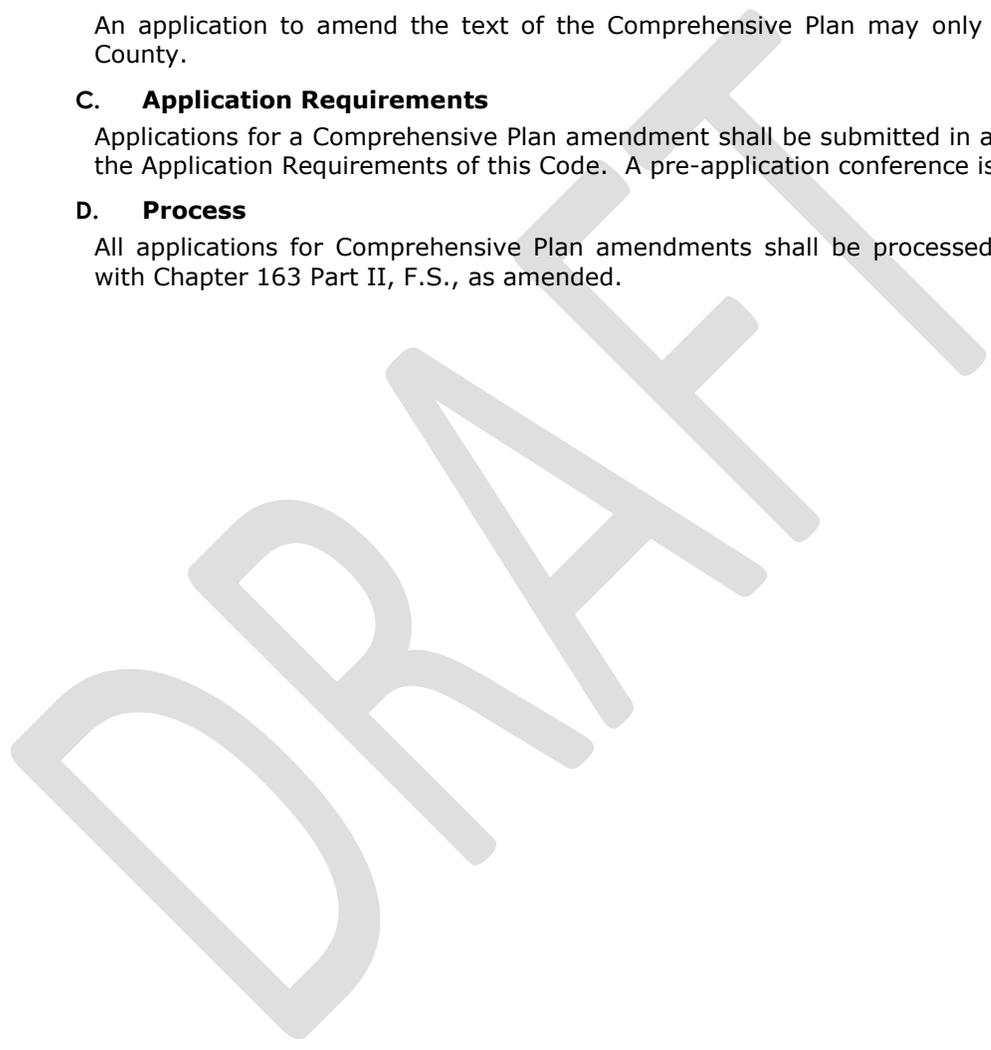
An application to amend the text of the Comprehensive Plan may only be initiated by County.

C. Application Requirements

Applications for a Comprehensive Plan amendment shall be submitted in accordance with the Application Requirements of this Code. A pre-application conference is mandatory.

D. Process

All applications for Comprehensive Plan amendments shall be processed in accordance with Chapter 163 Part II, F.S., as amended.



1.3.4 Unified Land Development Code Amendment

A. Applicability

The following procedure shall be used to apply for an amendment to this Code.

B. Initiation

1. Zoning Atlas Amendment

An application to amend the Zoning Atlas may be initiated by the County or owner of the subject property.

2. Text Amendment

An application to amend the text of this Code may only be initiated by the County.

C. Application Requirements

An application to amend this Code shall be submitted in accordance with the Application Requirements of this Code. A pre-application conference is mandatory.

D. Notice and Public Hearings

The County shall hold all required public hearings and provide public notice in accordance with the Public Notice Requirements and Public Hearings Requirements provisions of this Code.

E. Action by County Staff

County staff shall review the application for consistency with the Comprehensive Plan and this Code.

F. Action by Planning and Zoning Board

The ~~Planning and Zoning Board~~P&Z shall hold a public hearing on the proposed amendment and submit its recommendation to the Board of County Commissioners.

G. Action by Board of County Commissioners

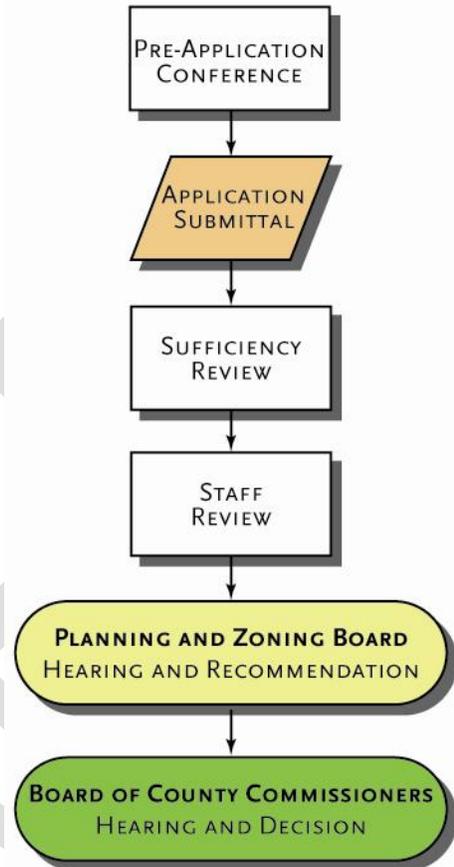
The ~~Board of County Commissioners~~BCC shall hold public hearings, as required, on the proposed amendment and make a final decision to approve, approve with modifications, or deny the proposed amendment. Where the Board of County Commissioners denies the application, the reasons for denial shall be stated for the record.

H. Additional Approval Criteria

In addition to the Standard Approval Criteria of this Code, an amendment to this Code shall be recommended by the Planning and Zoning Board and approved or denied by the ~~Board of County Commissioners~~BCC only if after giving due consideration to all of the following additional approval criteria are satisfied, depending on the type of amendment:

1. Zoning Atlas Amendment

- a. The suitability of the subject property for uses permitted by the current versus the proposed zoning.
- b. The capacity of public facilities and services, including but not limited to schools, roads, recreation, wastewater treatment, water supply, and stormwater drainage facilities.
- c. Whether changed conditions make the passage of the proposed amendment appropriate.



- 1 d. Whether the proposed change will adversely influence living conditions or
- 2 property values in adjacent areas.
- 3 e. Whether the proposed change will affect public safety.
- 4 f. Whether there are substantial reasons why the property cannot be used in
- 5 accordance with existing zoning.

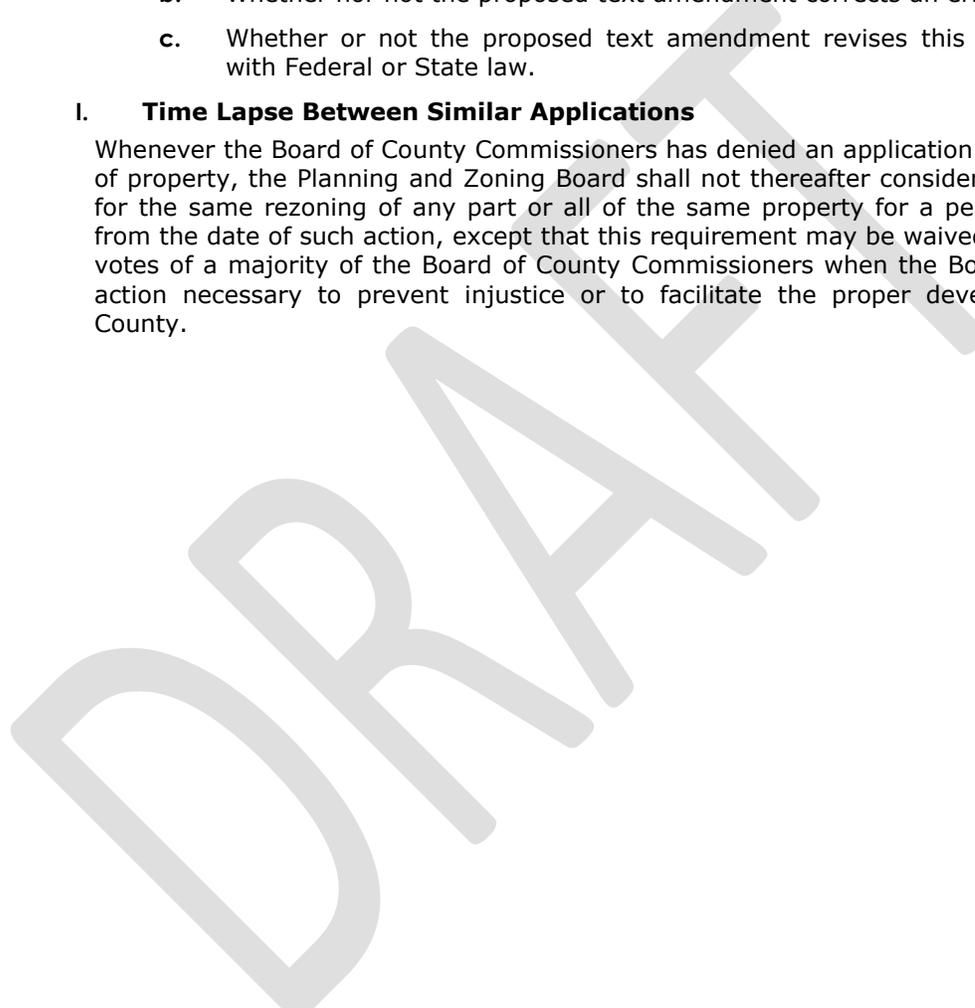
6 2. **Text Amendment**

- 7 a. The extent to which the proposed text amendment represents a new idea not
- 8 considered in the existing text, or represents a revision necessitated by
- 9 changing circumstances over time.
- 10 b. Whether or not the proposed text amendment corrects an error in this Code.
- 11 c. Whether or not the proposed text amendment revises this Code to comply
- 12 with Federal or State law.

13 I. **Time Lapse Between Similar Applications**

14 Whenever the Board of County Commissioners has denied an application for the rezoning
15 of property, the Planning and Zoning Board shall not thereafter consider any application
16 for the same rezoning of any part or all of the same property for a period of one year
17 from the date of such action, except that this requirement may be waived by the positive
18 votes of a majority of the Board of County Commissioners when the Board deems such
19 action necessary to prevent injustice or to facilitate the proper development of the
20 County.

21



1 **1.3.5 Planned Development**

2 **A. Applicability**

3 The following procedure shall be used to apply for a Planned Development.

4 **B. Initiation**

5 An application for a Planned Development may only be initiated by the owner of the
6 subject property.

7 **C. Application Requirements**

8 An application for a Planned Development shall be submitted in accordance with the
9 Application Requirements of this Code. A pre-application conference is mandatory.

10 **D. Notice and Public Hearings**

11 The County shall hold public hearings and provide public notice in accordance with the
12 Public Notice Requirements and Public Hearings Requirements of this Code.

13 **E. Rezoning Approval Process**

14 1. **Pre-application Conference**

15 a. **Procedure**

16 The pre-application conference is required to take place prior to the applicant
17 submitting an application for review of the preliminary concept plan to Site
18 Plan Review. The applicant shall meet with planning staff at least 5 days prior
19 to formally submitting the Site Plan Review application. The applicant may also
20 request a pre-application conference to be held at least 5 days prior to
21 formally submitting an application to amend the official zoning map to PD.
22 When contacted, the Director, or designee, shall schedule the pre-application
23 conference(s) to be held within 15 working days of the applicant's request for
24 such conference. The applicant is required to provide staff with the
25 information listed in Requirements, below, at least 3 days prior to the pre-
26 application meeting.

27 b. **Requirements**

28 The applicant shall prepare a draft preliminary concept plan for the proposed
29 development which shall illustrate the location of roads, parcels and buildings.
30 Included on the plan or as supplemental data, information regarding proposed
31 land uses, intensity of uses, residential density, lot coverage, Floor Area Ratio,
32 project amenities, natural resources, stormwater retention and disposal,
33 sewage treatment, and potable water supply shall also be brought to the pre-
34 application meeting.

35 2. **Rezoning Approval, including Preliminary Concept Plan approval**

36 Approval of the preliminary concept plan shall be incorporated into and made a part
37 of the approval to rezone the official zoning map to "PD". The granting of the
38 rezoning and preliminary concept plan approval shall not authorize any
39 development activity to take place on the newly designated PD site.

40 The purpose of preliminary concept plan approval is to approve the site layout,
41 density, and intensity of land use prior to proceeding to final site plan review. All
42 PD projects must receive approval of the entire PD preliminary concept plan project
43 prior to any phase receiving final approval. Preliminary concept plan approval is an
44 agreement in principle between the developer and the Board of County
45 Commissioners indicating general acceptance of the proposed uses, layout, size,
46 type, and intensity of the PD.

47 a. **Site Plan Review**

1 Site Plan Review of the preliminary concept plan must take place prior to an
2 applicant applying to rezone the property to PD. Review of the plan will be
3 completed based on technical compliance with this Code and the Charlotte
4 County Code of Ordinances. County staff may attach appropriate conditions
5 and safeguards as deemed necessary. A copy of the Site Plan Review
6 recommendation and conditions must be included with the PD rezoning
7 application. Site Plan Review of the preliminary concept plan must be
8 completed prior to submitting for the rezoning.

9 **b. Rezoning Application Submission**

10 When a Site Plan Review decision on the preliminary concept plan has been
11 rendered, the rezoning application may be submitted to the Building and
12 Growth Management Department for the purposes of securing a public hearing
13 date before the Planning and Zoning Board and Board of County
14 Commissioners to amend the official zoning map to "PD" and for approval of
15 the preliminary concept plan. Applications for rezoning shall include an
16 application, supportive materials, and preliminary concept plan. Review of
17 the rezoning application shall then follow the Unified Land Development Code
18 Amendment procedures.

19 **c. Action by Planning and Zoning Board**

20 The Planning and Zoning Board review will take place at its regularly scheduled
21 meeting. The Planning and Zoning Board shall review the application for
22 compliance with laws and regulations and the rezoning standards of approval.
23 Also, in their review of the preliminary concept plan, the Planning and Zoning
24 Board may attach any conditions of approval it deems appropriate, and its
25 recommendations will be forwarded to the Board of County Commissioners.

26 The Planning and Zoning Board shall recommend approval of the proposed
27 preliminary concept plan to the Board of County Commissioners upon a finding
28 in the affirmative of the following:

- 29 1) The concept plan is consistent with the intent and purpose of the PD
30 designation
- 31 2) The benefits, combination of various land uses (if applicable), physical
32 design, and the interrelationship with the land uses in the surrounding
33 area justify the PD designation
- 34 3) The proposed project is consistent with the comprehensive plan
- 35 4) The proposed project is compatible with adjacent land uses

36 **d. Action by the Board of County Commissioners**

37 Upon receipt of the Planning and Zoning Board's recommendation, the Board
38 of County Commissioners shall conduct a public hearing with due public notice.
39 The Board of County Commissioners shall then grant approval or disapproval
40 based upon the criteria listed within this Code, staff's report, and public input,
41 as applicable. The Board of County Commissioners may establish reasonable
42 conditions of development upon the proposed plan and may require
43 modifications of the plan as deemed necessary to protect the public health,
44 safety, or general welfare or to meet requirements of the Code. Conditions of
45 development shall be binding upon the owners or any successors in interest. If
46 disapproved, the Board of County Commissioners shall state the reasons for
47 denial. In approving the rezoning, the Board also approves the preliminary
48 concept plan and conditions of development.

49 **e. Time Limitation**

50 Board approval of the preliminary concept plan shall be valid for a period not
51 to exceed 5 years calculated from the Board of County Commissioners
52 approval date of the rezoning. Failure to submit an application for final site

1 plan approval for the entire site or a phase of the concept within 5 years shall
2 cause the preliminary concept plan approval to expire. After the preliminary
3 concept plan approval has expired, the property owner must initiate a rezoning
4 in order to develop said properties.

5 **F. Final Concept Plan Approval**

6 Final concept plan approval authorizes construction of the project. The applicant may
7 apply for and be granted final approval for the entire PD or any phase of the project.

8 1. **Platting**

9 If platting is required, the preliminary plat may be reviewed simultaneously with
10 review of the final concept plan. Plats shall meet all requirements of Code and the
11 rezoning conditions of development. In the event of conflict, the rezoning
12 conditions of development shall prevail unless it is a matter of providing for the
13 health, safety and welfare of the citizens of the County.

14 2. **Site Plan Review**

15 The final concept plan shall proceed through Site Plan Review for review and then
16 on to the Board of County Commissioners for approval. Final concept plan review
17 will be completed on the application for technical compliance with this Code and the
18 Charlotte County Code, consistency with the approved preliminary concept plan and
19 any conditions of development attached during the rezoning. The Site Plan Review
20 recommendation will be forwarded in writing to the Board of County Commissioners
21 for their review and approval. The Zoning Administrator shall forward to the Board
22 of County Commissioners the appropriate materials in a timely fashion. The
23 decision of the Board of County Commissioners shall be by resolution granting final
24 approval, and shall state all of the terms and conditions for approval, including the
25 projected period of development. Following the effective date of approval, the
26 arrangement and use of all buildings, structures and other improvements within the
27 PD shall be in accordance with the approved final concept plan.

28 3. **Time Limitation**

29 The approval of the final concept plan shall not expire; however, should
30 development not be commenced within one year of approval, the development shall
31 be subject to the requirements of any updates to this Code that would affect the
32 development of the property and which are not contradictory to approved
33 conditions of development.

34 4. **Building Permits and Certificates of Occupancy**

35 No building permit or certificate of occupancy shall be issued for a PD except in
36 conformity with all provisions of the approved final concept plan, as amended.

37 5. **Certificates of Occupancy**

38 All buildings and improvements in a particular phase need not be complete before
39 the issuance of a certificate of occupancy for a completed building in that phase
40 unless otherwise required by the conditions of development of final concept plan
41 approval.

42 **G. Modification**

43 1. **General**

44 Final concept plans submitted for approval shall not vary from the approved
45 preliminary concept plan except where required to comply with a rezoning condition
46 of approval. An applicant proposing changes from the Board approved preliminary
47 concept plan shall request a review of the change from the Director of Building and
48 Growth Management for a determination on whether the proposed change is a
49 minor or major modification. The request for review shall be in writing and shall
50 include an explanation of the proposed change(s), reasons why the change is
51 necessary, a revised concept plan, as applicable, and any other information

1 required by the Director in order to make a determination on the status of the
2 proposed change.

3 An applicant may also propose changes to an approved final concept plan. Such
4 changes shall also be reviewed by the Director of Building and Growth Management
5 to determine if the proposed change is a minor or major modification.

6 No modifications shall be allowed that reduces uses or development conditions
7 below any minimum requirement.

8 **2. Major Modification**

9 Major modifications shall be processed in accordance with the procedures required
10 of a new submission for rezoning to PD.

11 **a.** The following changes are considered major modifications:

- 12 **1)** An expansion, reduction or alteration of the area of the PD
- 13 **2)** An increase in intensity of use of more than five percent of usable floor
14 area or an increase in the number of dwelling units or an increase of
15 more than five percent of outside land area devoted to sales, displays, or
16 demonstrations.
- 17 **3)** Modification of approved rezoning conditions of development
- 18 **4)** A reduction in the amount of originally dedicated Open/Public space of
19 more than five percent or a change to any area set aside as
20 environmentally sensitive preserved land
- 21 **5)** Any change in land use, such as from residential to commercial or
22 industrial and vice versa

23 **b.** The following changes may be considered major modifications, subject to
24 review by the Director of Building and Growth Management:

- 25 **1)** Changes in structure or dimension significantly affecting the basic size
26 and form of the building(s) as shown on the approved plan
- 27 **2)** A substantial change in the location or characteristics of Open/Public
28 space uses
- 29 **3)** Substantial changes in location or type of pedestrian or vehicular
30 accesses or circulation
- 31 **4)** A change in land use form, such as from single-family to multi-family
32 residential or from a designated commercial use to another

33 Once a determination has been made that a proposed modification constitutes a
34 major modification, the applicant shall follow the same procedure as a new PD
35 rezoning. Applications for a major modification of PD plans shall require a narrative
36 description of the modification and reasons such a change is necessary, an
37 updated, revised preliminary concept plan indicating the effect of the proposed
38 change in addition to the normal requirements of Site Plan Review and rezoning
39 applications.

40 **3. Minor Modification**

41 Any modification to an approved PD concept plan which is not deemed to constitute
42 a major modification shall be considered a minor modification. Upon determination
43 that the proposed modification is a minor modification, the Zoning Administrator
44 shall render a decision, in writing, to the applicant within 15 working days.

45 The appeal of a decision by the Zoning Administrator to deny a minor modification
46 shall be filed by the aggrieved applicant within 30 days of such written
47 determination. The appeal would be forwarded to the Board of Zoning Appeals in
48 accordance with the procedures established in this Code.

1 **1.3.6 Platting of Lands**

2 **A. Applicability**

3 The following procedure shall be used to apply for the creation of lots or the subdivision
4 of land. All plats shall comply with Chapter 177, F.S., as amended.

5 **B. Initiation**

6 An application for plat review may only be initiated by the owner of the subject property.

7 **C. Application Requirements**

8 An application for plat review shall be submitted in accordance with the Application
9 Requirements of this Code. A pre-application conference is mandatory.

10 **D. Notice and Public Hearings**

11 The County shall hold all required public hearings and provide public notice in accordance
12 with the Public Notice Requirements and Public Hearings Requirements provisions of this
13 Code.

14 **E. Amendments and Changes to Land Development Regulations**

15 All changes and amendments or additions to this Code shall apply to any plat application
16 that has:

- 17 1. Not been granted preliminary approval.
18 2. Been denied.
19 3. Expired.

20 **F. Preliminary Plat and Site Plan Procedure**

21 1. **Action by County Staff**

22 County staff shall review the preliminary plat and site plan for consistency with the
23 Comprehensive Plan, the Code of Ordinances, and this Code. Any conditions must
24 be set at preliminary review.

25 2. **Action by Zoning Official**

26 The Zoning Official shall make a final decision to approve, approve with conditions,
27 or deny the application. Where the Zoning Official denies the application, the
28 reasons for denial shall be stated in writing. When conditions of approval are
29 added, such conditions shall ensure consistency with the Comprehensive Plan by
30 being based upon the requirements of this Code and to enforce any applicable
31 special acts or laws.

32 3. **Authority Granted by Preliminary Plat and Site Plan Approval**

33 Approval of the preliminary plat and site plan shall only be construed as authority
34 for submitting a final site plan. Approval of the preliminary plat and site plan shall
35 not be construed as authority for applying for building permits, the recording of a
36 plat with the Clerk of the Circuit Court, or the conveyance of any portion of the plat
37 less than the whole.

38 4. **Period of Validity**

39 The preliminary plat and site plan approval shall be valid for a period of two years.
40 A single one-year extension may be granted upon good cause. A request for an
41 extension must be made in writing to the Zoning Official and accompanied by
42 payment of the appropriate fee.

43 **G. Final Site Plan Procedure for Platting**

44 1. **Action by County Staff**

45 County staff shall review the final site plan for completeness and consistency with
46 the Comprehensive Plan, the Code of Ordinances, and this Code, including any
47 conditions required by the approved preliminary plat and site plan.

- 1 2. **Additional Approval Criteria**
- 2 In addition to the Standard Approval Criteria provisions of this Code, a final site
- 3 plan shall be approved only if all of the following additional approval criteria are
- 4 satisfied:
- 5 a. It is consistent with any conditions required by the approved preliminary plat
- 6 and site plan.
- 7 b. A surety bond in a form acceptable to the County Attorney has been posted
- 8 by the applicant in the amount of not less than 110 percent of the estimated
- 9 cost of improvements prepared by the engineer of record and approved by
- 10 the County Engineer, The bond shall be conditioned on full and satisfactory
- 11 completion of the improvements to County specifications.
- 12 3. **Action by Zoning Official**
- 13 After considering staff comments, the Zoning Official shall review the final site plan
- 14 for consistency with the approved preliminary plat and site plan, and this Code. The
- 15 Zoning Official shall make a final decision to approve or deny. Where the
- 16 application is denied, the reasons for denial shall be stated in writing.
- 17 4. **Authority Granted by Final Site Plan Approval**
- 18 Approval of the final site plan shall be construed as authority for submitting a final
- 19 plat and applying for permits to construct infrastructure. Approval of the final site
- 20 plan shall not be construed as authority for applying for building permits, the
- 21 recording of a plat with the Clerk of the Circuit Court, or the conveyance of any
- 22 portion of the plat less than the whole.
- 23 5. **Period of Validity**
- 24 The final site plan shall be valid for a period of one year from the date of approval.
- 25 No extensions will be granted.
- 26 H. **Final Plat Procedure**
- 27 1. **Action by County Staff**
- 28 County staff shall review the final plat for completeness and consistency with the
- 29 Comprehensive Plan, the Code of Ordinances, and this Code, including any
- 30 conditions required by the approved preliminary plat and site plan.
- 31 2. **Additional Approval Criteria**
- 32 In addition to the Standard Approval Criteria provisions of this Code, all final plats
- 33 shall be consistent with any conditions required by the approved preliminary plat
- 34 and site plan.
- 35 3. **Action by County Staff**
- 36 County staff shall make a final decision to bring the application forward to the BCC
- 37 for final approval.
- 38 4. **Signatures**
- 39 Upon approval of the final plat, the plat shall be signed by the following:
- 40 a. County Engineer.
- 41 b. County Attorney.
- 42 c. County Surveyor.
- 43 d. Director of the department responsible for land development services.
- 44 e. Director, Environmental Health Unit, Health Department
- 45 5. **Final Approval by the Board of County Commissioners**
- 46 After staff approval of the final plat, it shall be the ministerial duty of the Board of
- 47 County Commissioners to grant final approval to the plat. This shall be completed
- 48 with the Chair signing the plat.

1 6. **Recording the Final Plat**
2 County staff shall submit the approved plat to the Clerk of the Circuit Court for
3 recording along with the appropriate fee. No plat of lands in the County subject to
4 this Code shall be recorded as an independent instrument, or by attachment to
5 another instrument entitled to be recorded, unless and until such plat has been
6 approved by the Board of County Commissioners.

7 7. **Authority Granted by Final Plat Approval and Recording**
8 Approval and recording of the final plat shall be construed as authority for applying
9 for building permits or any other authorizations that may be required. Approval
10 shall also be authority for conveying any lots located within the plat boundary.

11 ~~I. Acceptance of Public Infrastructure~~

12 [talk to Joanne about this]

13
14 ~~J.I. **Warranty Bond for Public Infrastructure**~~

- 15 1. Upon construction of required improvements intended to be dedicated to the County
16 and their acceptance by the County, a surety in a form acceptable to the County
17 Attorney shall be posted by the developer in the amount of ten percent of the
18 construction cost of all required improvements to be owned and maintained by the
19 County. The surety shall guarantee repair, replacement or improvements where
20 such repair or replacement is required due to defective materials or faulty
21 workmanship.
22 2. This surety will be released no less than one year following acceptance of the
23 dedicated infrastructure and a final inspection by County staff.

24 ~~K.J. **Minor Plat**~~

25 A Minor Plat does not need to undergo Site Plan Review and may apply for simultaneous
26 Preliminary Plat Review and Final Plat Review. The review process shall follow the Final
27 Plat Review process of this Article.

28

1 **1.3.7 Plat or Street Vacation**

2 **A. Applicability**

3 The following procedure shall be used to apply for the vacation of any previously-
4 adopted platting of land. All plat or street vacations shall comply with Chapter 177, F.S.,
5 as amended.

6 **B. Initiation**

7 1. **Plat Vacation**

8 An application for a plat vacation may only be initiated by the owner or owners of all the
9 property included in the proposed plat vacation.

10 2. **Street Vacation**

11 An application for street vacation may be initiated by any the County or any owner of
12 property located immediately adjacent to the segment proposed to be vacated. All
13 owners of property adjacent to the segment proposed to be vacated shall be parties to
14 the application.

15 **C. Application Requirements**

16 An application for plat vacation shall be submitted in accordance with the Application
17 Requirements of this Code. A pre-application conference is mandatory.

18 **D. Notice and Public Hearings**

19 The County shall hold all required public hearings and provide public notice in accordance
20 with the Public Notice Requirements and Public Hearings Requirements provisions of this
21 Code.

22 **E. Action by County Staff**

23 County staff shall review the application for consistency with the Comprehensive Plan
24 and this Code and submit a recommendation to the Planning and Zoning Board and the
25 Board of County Commissioners.

26 **F. Action by Planning and Zoning Board**

27 The Planning and Zoning Board shall hold a public hearing on the proposed plat or street
28 vacation and submit its recommendation to the Board of County Commissioners.

29 **G. Action by the Board of County Commissioners**

30 The Board of County Commissioners shall hold public hearings on the proposed plat or
31 street vacation and shall take final action to approve or deny.

32 **H. Additional Approval Criteria**

33 In addition to the Standard Approval Criteria of this Code, a plat or street vacation shall
34 be recommended by the Planning and Zoning Board and approved by the Board of
35 County Commissioners only if all of the following additional approval criteria are
36 satisfied:

- 37 1. Whether the proposed change will adversely influence living conditions in adjacent
38 areas.
39 2. Whether the proposed change will affect the public health, safety, or welfare.

40 **I. Notice of Adoption**

41 Following approval of a plat or street vacation by the Board of County Commissioners,
42 and prior to its recording, a Notice of Adoption shall be published in the local newspaper
43 of record.

44 **J. Recording**

45 The County shall submit the approved plat or street vacation to the Clerk of the Circuit
46 Court for recording along with the appropriate fee. No plat or street vacation shall be
47 recorded as an independent instrument, or by attachment to another instrument entitled
48 to be recorded, unless and until such plat or street vacation has been approved by the
49 Board of County Commissioners.

1 |

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1.3.8 Acceptance of Public Infrastructure

1.3.8 Acceptance of Public Infrastructure**A. Applicability**

The following procedure shall be used to apply for the acceptance by the County of certain infrastructure constructed within the public right-of-way to serve an approved development, including sidewalks, multi-use trails, canals, and drainage and stormwater maintenance facilities.

B. Initiation

An application for acceptance of public infrastructure may only be initiated by the owner of the approved development which the infrastructure is intended to serve.

C. Application Requirements

An application for acceptance of public infrastructure shall be submitted in accordance with the Application Requirements of this Code. A pre-application conference is mandatory.

D. Notice and Public Hearings

The County shall hold all required public hearings and provide public notice in accordance with the Public Notice Requirements and Public Hearings Requirements provisions of this Code.

E. Action by County Staff

County Staff shall review the application for consistency with the Comprehensive Plan, Code of Ordinances, and this Code. Upon final construction, Staff shall inspect the infrastructure to ensure that it has been built in accordance with the Engineering and Construction Standards of this Code.

F. Action by County Engineer

Upon final inspection by County Staff, the County Engineer shall make a final decision to recommend the infrastructure to the Board of County Commissioners for acceptance.

G. Action by the Board of County Commissioners

The Board of County Commissioners shall make a final decision to approve or deny the infrastructure presented for acceptance.

H. Additional Approval Criteria

In addition to the Standard Approval Criteria of this Code, the acceptance of public infrastructure shall be approved by the Board of County Commissioners only if all of the following additional approval criteria are satisfied:

1. A funding source for the public infrastructure has been identified and put into place prior to acceptance.
2. Notification from all other owners of infrastructure that they have accepted their infrastructure.

1 |
2 |

~~1.3.8~~ Engineering Review

DRAFT

1 | **1.3.9 ~~Road-Street~~ Name Change**

2 | **A. Applicability**

3 | The following procedure shall be used to change to the existing name of any dedicated
4 | ~~roadstreet~~, public or private.

5 | **B. Initiation**

6 | An application for a ~~road-street~~ name change may only be initiated by the County.

7 | **C. Notice and Public Hearings**

8 | The County shall hold all required public hearings and provide public notice in accordance
9 | with the Public Notice Requirements and Public Hearings Requirements provisions of this
10 | Code.

11 | **D. Action by County Staff**

12 | County staff shall review the application for consistency with the Comprehensive Plan
13 | and this Code.

14 | **E. Action by Board of County Commissioners**

15 | The Board of County Commissioners shall make a final decision to approve or deny the
16 | proposed name change.

17 | **F. Additional Approval Criteria**

18 | In addition to the Standard Approval Criteria of this Code, a ~~road-street~~ name change
19 | shall be approved only if all of the following additional approval criteria are satisfied:

- 20 | 1. The proposed name change meets the ~~Road-Street~~ Naming Standards of this Code.
- 21 | 2. More than half of the property owners along the ~~road-street~~ assent to the proposed
22 | change, although for private ~~roads-streets~~ all property owners along the ~~road-street~~
23 | must assent to the proposed change. ~~A street name changed initiated by the~~
24 | ~~County without citizen petition in the interest of public safety does not require a~~
25 | ~~citizen petition or the assent of the property owners along that street.~~
- 26 | 3. The proposed name change will not affect the public health, safety, or welfare.
- 27 |

1.3.10 Site Plan Review

A. Applicability

The following procedure shall be used to apply for Site Plan Review for all non-residential, mixed use, and multifamily development, and for the development of all single-family and two-family dwellings subject to the Level 2 regulations of the Shell and Prairie Creek Overlay District.

A.B. Initiation

An application for site plan review may only be initiated by the owner of the subject property.

B.C. Application Requirements

An application for site plan review shall be submitted in accordance with the Application Requirements of this Code. A pre-application conference shall be required.

C.D. Notice and Public Hearings

The County shall hold a public hearing and provide public notice in accordance with the Public Notice Requirements and Public Hearings Requirements provisions of this Code.

D.E. Amendments and Changes to Land Development Regulations

All changes and amendments or additions to this Code shall apply to any site plan application that has:

1. Not been granted preliminary approval.
2. Been denied.
3. Expired.

E.F. Preliminary Site Plan Review

1. Action by County Staff

County staff shall review the preliminary site plan for consistency with the Comprehensive Plan, the Code of Ordinances and this Code. Any conditions must be set at preliminary review.

2. Action by Zoning Official

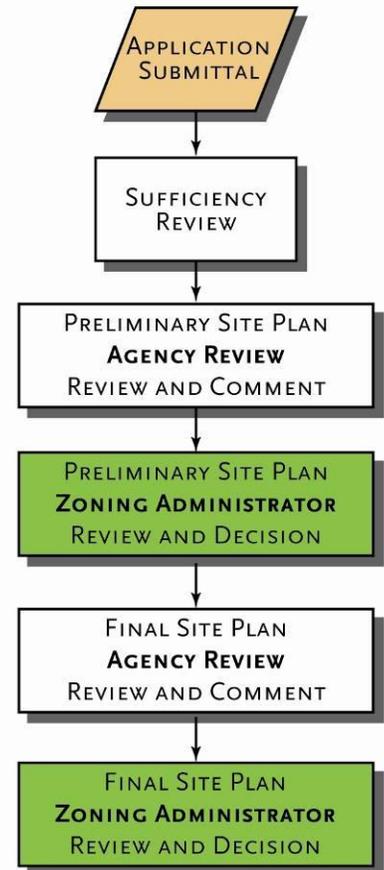
The Zoning Official shall make a final decision to approve, approve with conditions, or deny the preliminary site plan application. Where the Zoning Official denies the application, the reasons for denial shall be stated in writing. When conditions of approval are added, such conditions shall ensure consistency with the Comprehensive Plan by being based upon the requirements of this Code and to enforce any applicable special acts or laws.

3. Authority Granted by Preliminary Site Plan Approval

Approval of the preliminary site plan shall be construed as authority for submitting a final site plan. Approval of the preliminary site plan shall not be construed as authority for obtaining building permits.

4. Period of Validity

The preliminary site plan approval shall be valid for a period of one year after approval, within which application for final site plan approval must be filed. A single extension of one year may be granted upon good cause. Such extension must be requested in writing and with payment of the appropriate fee.



1 | **F.G. Final Site Plan Review**

2 | 1. **Action by County Staff**

3 | County staff shall review the final site plan for consistency with the Comprehensive
4 | Plan, Code of Ordinances, and this Code.

5 | 2. **Additional Approval Criteria**

6 | In addition to the Standard Approval Criteria provisions of this Code, all final site
7 | plans shall be consistent with any conditions required by the approved preliminary
8 | site plan.

9 | 3. **Action by Zoning Official**

10 | The Zoning Official shall make a final decision to approve or deny the site plan
11 | application. Where the Zoning Official denies the application, the reasons for denial
12 | shall be stated in writing.

13 | 4. **Authority Granted by Final Site Plan Approval**

14 | Approval of the final site plan indicates an acceptance of the site plan and
15 | authorizes issuance of a building permit upon the applicant attending a pre-
16 | construction meeting held at the site. The decision shall be final and only
17 | appealable by the applicant within 30 days of the written notice of decision. By
18 | obtaining a building permit, the applicant waives the right to appeal.

19 | 5. **Period of Validity**

20 | The final site plan shall be valid for a period of ~~two~~three years from the date of
21 | approval. No extensions will be granted.

22 | **G.H. Conformity to Plan**

23 | All development and construction activity shall conform to the approved final site plan.
24 | Prior to granting a certificate of occupancy, the property owner shall submit as-built
25 | plans of the entire development, prepared by the engineer or architect of record, or
26 | both, as appropriate.

27 | **H.I. Modification of Approved Final Site Plans**

28 | Any proposed change to an approved final site plan must be reviewed by the Zoning
29 | Official to determine whether the proposed change constitutes a minor or major
30 | modification. Such a request must be filed in writing, and a written determination will be
31 | rendered within ten working days of such request as to the type of modification. The
32 | applicant may appeal the decision of the Zoning Official within 30 days of the written
33 | determination, to the Board of Zoning Appeals.

- 34 | 1. Minor modifications are slight variations or alterations to the site plan which cannot
35 | reasonably be expected to cause a change in the internal functioning of the site or
36 | its off-site impacts. Such a request must be filed stating the nature of the request
37 | and justification for such, as well as an updated site plan illustrating the proposed
38 | change. Regardless of whether the minor modification is approved prior to or after a
39 | building permit has been issued, the applicant may proceed with the requested
40 | change upon a favorable decision.

41 | Minor modifications must meet the following standards:

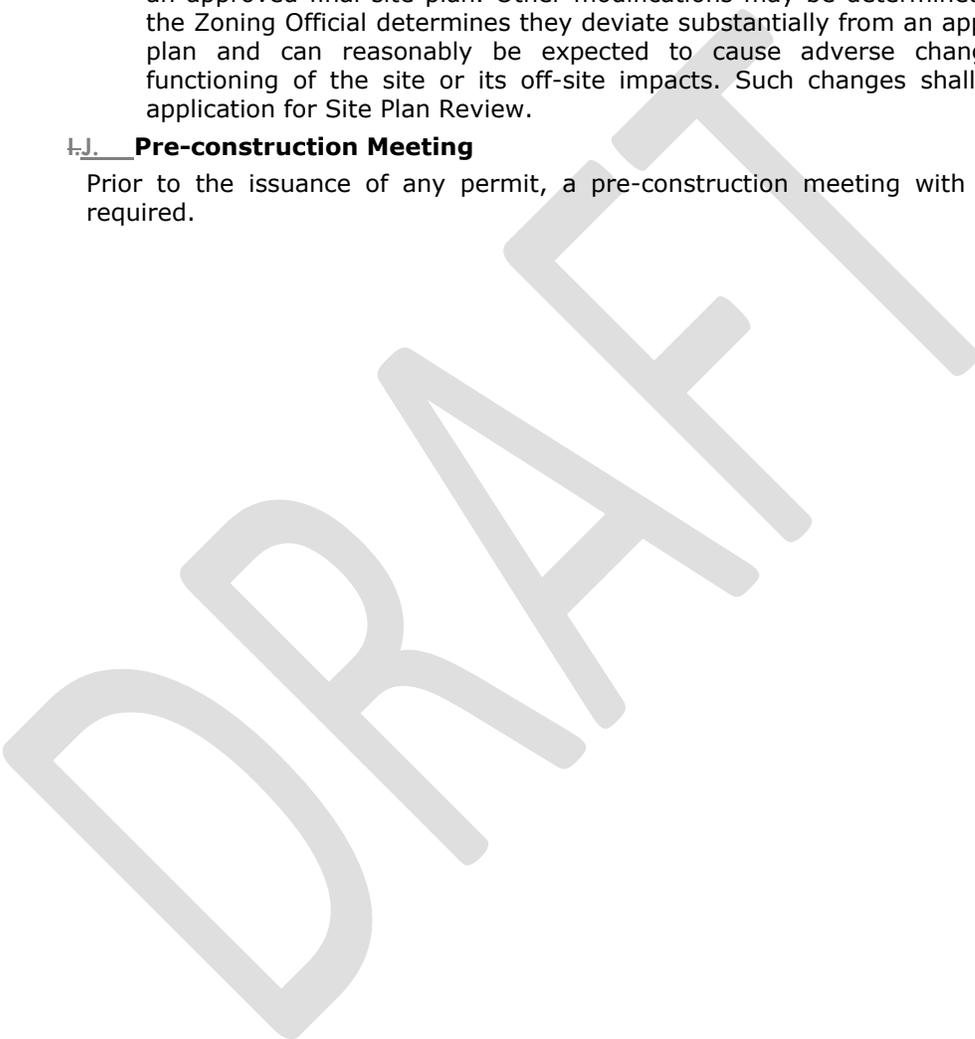
- 42 | a. Does not substantially alter the location of any points of access to the site.†
- 43 | b. Does not change the use of the site.†
- 44 | c. Does not increase the density or intensity of the development to occur on the
45 | property.†
- 46 | d. Does not result in a reduction of previously approved open space, setback,
47 | building location, or landscaping counts.†
- 48 | e. Is consistent with the general intent and purpose of this Code.†

- 1 f. Does not result in a material modification or the cancellation of any condition
- 2 placed upon the site plan as originally approved.
- 3 g. Does not add additional property to the site.
- 4 h. Does not substantially change the internal or external traffic pattern.
- 5 i. Does not increase the height of the building(s) including approved rooftop
- 6 appurtenances.
- 7 j. Does not increase the floor area by more than 500 square feet.

8 2. Major modifications are changes in the use, density, and location of structures on
9 an approved final site plan. Other modifications may be determined to be major if
10 the Zoning Official determines they deviate substantially from an approved final site
11 plan and can reasonably be expected to cause adverse changes in internal
12 functioning of the site or its off-site impacts. Such changes shall require a new
13 application for Site Plan Review.

14 **1.3.11 Pre-construction Meeting**

15 Prior to the issuance of any permit, a pre-construction meeting with County staff is
16 required.



1.3.11 Special Exception

A. Applicability

The following procedure shall be used to apply for a special exception. The Zoning Official may require that site plans associated with special exceptions be reviewed and comments provided during the special exception process, although no site plan approval shall be implied by this review.

B. Initiation

An application for a special exception may only be initiated by the owner of the subject property.

C. Application Requirements

An Application for a special exception shall be submitted in accordance with the Application Requirements of this Code. A pre-application conference shall be required.

D. Notice and Public Hearings

The County shall hold a public hearing and provide public notice in accordance with the Public Notice Requirements and Public Hearings Requirements provisions of this Code.

E. Action by County Staff

County Staff shall review the application for consistency with the Comprehensive Plan, Code of Ordinances, and this Code. Staff shall investigate the conditions pertaining to a particular request and submit a report to the Board of Zoning Appeals detailing the facts involved.

The Zoning Official may require that site plans associated with special exceptions be reviewed and comments provided during the special exception process, although no site plan approval shall be implied by this review.

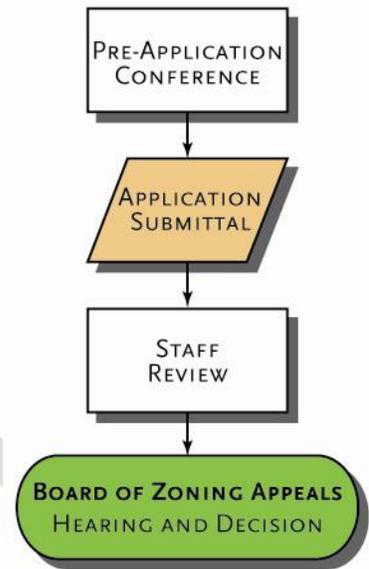
F. Action by Board of Zoning Appeals

1. At the public hearing, the Board of Zoning Appeals may approve, approve with conditions, or deny the special exception.
2. If the Board of Zoning Appeals denies the application, the reasons for denial shall be stated for the record. Such reasons shall take into account the standards for approval stated in this Section as they may be applicable to the denial.
3. If the Board of Zoning Appeals approves the application, it may impose reasonable conditions in order to protect the interest of the public health, safety, and general welfare appropriate to be in accordance with this Code and the Comprehensive Plan. No variances or modifications to these conditions shall be permitted.

G. Additional Approval Criteria

In addition to the Standard Approval Criteria of this Code, a special exception shall be approved by the Board of Zoning Appeals only if all of the following additional approval criteria are satisfied:

1. The proposed special exception is either explicitly permitted by the regulations in the zoning district for which it is requested, or is permitted by reasonable implication within that district, as determined by the Zoning Official.
2. The establishment of the proposed special exception will not impede the normal and orderly development of the surrounding property.
3. The proposed special exception is compatible with existing and planned uses surrounding immediately adjacent and contiguous to the land on which the proposed special exception would exist.



4. The proposed special exception will comply with the Comprehensive Plan, the Code of Ordinances, and this Code.
5. The establishment, maintenance, or operation of the proposed special exception shall not be detrimental to or endanger the public health, safety or general welfare.

H. Effect of Special Exception Approval

1. Approval of a special exception, with or without conditions, shall be considered permanent to the extent that it may only be revoked following the procedure for a new special exception unless a time limit or ownership condition is provided in the approval of the use, in which case the approval shall become void and the use shall be terminated at the end of the time specified in the approval.
2. Any violation of the conditions and safeguards that may be imposed on any special exception by the Board of Zoning Appeals, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this Code.
3. Any special exception granted shall expire ~~two~~three years after the date of approval unless the use allowed by the special exception is in existence and actively occurring on the subject property prior to the date of expiration.
4. Any such special exception which ceases to exist and actively occur on the subject property shall expire one year after the date the activity permitted by the special exception ceased.
5. Prior to expiration, the applicant or property owner may request a single, one-year extension from the Board of Zoning Appeals. Such extension may be granted to the applicant or owner upon showing of good cause.

I. Time Lapse Between Similar Applications

Whenever the Board of Zoning Appeals has denied an application for a special exception, the Board of Zoning Appeals shall not thereafter consider an identical application for a special exception concerning all or any part of the same property for a period of one year from the date of such action, except that this requirement may be waived upon approval by the Board of Zoning Appeals. This Section does not apply to applications for a modification of a previously approved special exception.

J. Modifications

Minor expansion, alteration, or modification of any special exception shall be approved by the Zoning Official. Major modifications must be approved by the Board of Zoning Appeals. It shall be the duty of the Zoning Official to determine which modifications are classified as major or minor.

K. Historical Structures

Owners of structures designated on the local or National Historic Register may petition the Board of Zoning Appeals for a special exception for any type of use which would encourage the adaptive re-use of the historic structure, regardless of whether such use is permitted by special exception in the zoning district in which the historic structure is located.

~~L. Appeals from Board of Zoning Appeals~~

~~Appeals from the Board of Zoning Appeals shall be consistent with the procedures established in Chapter 63-1209, Section 16, Laws of Florida.~~

1 **1.3.12 Variance**

2 **A. Applicability**

3 The following procedure shall be used to apply for
4 a variance from the dimensional standards of this
5 Code. The Zoning Official may require that site
6 plans associated with variances be reviewed and
7 comments provided during the variance process,
8 although no site plan approval shall be implied by
9 this review.

10 **B. Initiation**

11 An application for a variance may only be initiated
12 by the owner of the subject property.

13 **C. Application Requirements**

14 An application for a variance shall be submitted in
15 accordance with the Application Requirements of
16 this Code. A pre-application conference shall be
17 required.

18 **D. Notice and Public Hearings**

19 The County shall hold all required public hearings
20 and provide public notice in accordance with the
21 Public Notice Requirements and Public Hearings Requirements provisions of this Code.

22 **E. Action by County Staff**

23 County Staff shall review the application for consistency with the Comprehensive Plan,
24 Code of Ordinances, and this Code. Staff shall investigate the conditions pertaining to a
25 particular request and submit a report to the Board of Zoning Appeals detailing the facts
26 involved.

27 The Zoning Official may require that site plans associated with variances be reviewed
28 and comments provided during the variance process, although no site plan approval shall
29 be implied by this review.

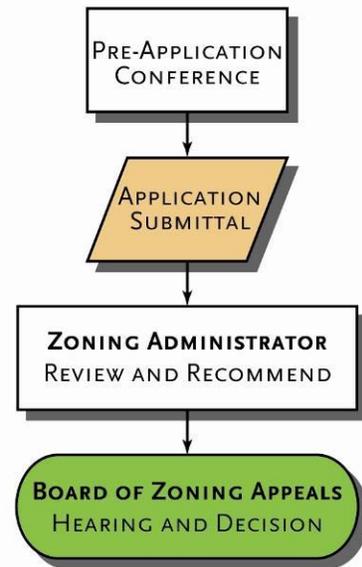
30 **F. Action by Board of Zoning Appeals**

- 31 1. At the public hearing, the Board of Zoning Appeals may approve, approve with
32 conditions, or deny the variance.
- 33 2. If the Board of Zoning Appeals should deny an application, it shall state fully in its
34 record the reasons for so doing. Such reasons shall take into account the approval
35 criteria below as they may be applicable to the denial.
- 36 3. If the Board of Zoning Appeals approves the application, it may impose reasonable
37 conditions in order to protect the interest of the public health, safety, and general
38 welfare appropriate to be in accordance with this Code and the Comprehensive Plan.

39 **G. Additional Approval Criteria**

40 In addition to the Standard Approval Criteria of this Code, a variance shall be approved
41 by the Board of Zoning Appeals only if all of the following additional approval criteria are
42 satisfied:

- 43 1. That special conditions and circumstances exist which are peculiar to the land or
44 structure and which are not applicable to other lands or structures in the same
45 district.
- 46 2. That strict and literal enforcement of the provisions of the section of this Code from
47 which the variance is requested would create an undue hardship as distinguished
48 from a mere inconvenience under the terms of this Code. Financial hardship shall
49 not be considered.
- 50 3. That the special conditions and circumstances are not the result of the actions of
51 any person presently having an interest in the property.



- 1 4. That strict and literal enforcement of the provisions of this Code would not deprive
- 2 the applicant of rights commonly enjoyed by other properties in the same district
- 3 under the terms of this Code.
- 4 5. That granting of a variance would not be injurious to or incompatible with
- 5 contiguous uses, the surrounding neighborhood, or otherwise detrimental to the
- 6 public welfare.
- 7 6. The requested variance is the minimum modification of the regulation at issue that
- 8 will afford relief

9 **H. Effect of Variance Approval**

- 10 1. Approval of a variance, with or without conditions, shall be considered permanent to
- 11 the extent that it may only be revoked following the procedure for a new variance.
- 12 2. Any violation of the conditions and safeguards that may be imposed on any variance
- 13 by the Board of Zoning Appeals, when made a part of the terms under which the
- 14 variance is granted, shall be deemed a violation of this Code.
- 15 3. Any variance granted shall expire ~~two~~three years after the date of approval unless
- 16 a structure exists or a required permit based upon and incorporating the variance is
- 17 issued prior to expiration.
- 18 4. Prior to expiration, the applicant or property owner may request a single, one-year
- 19 extension from the Board of Zoning Appeals. Such extension may be granted to the
- 20 applicant or owner upon showing of good cause.

21 **I. Time Lapse Between Similar Applications**

22 Whenever the Board of Zoning Appeals has denied an application for a variance, the
23 Board of Zoning Appeals shall not thereafter consider an identical application for a
24 variance concerning all or any part of the same property for a period of one year from
25 the date of such action, except that this requirement may be waived by the positive
26 votes of a majority of the members of the Board of Zoning Appeals when such action is
27 deemed necessary. Should the variance application be modified, the one-year waiting
28 period shall not apply.

29 ~~J. Appeals from Board of Zoning Appeals~~

30 ~~Appeals from the Board of Zoning Appeals shall be consistent with the procedures~~
31 ~~established in Chapter 63-1209, Section 16, Laws of Florida.~~

32 **K.J. Administrative Variance**

33 If the proposed variance is for no more than one foot or 10% of the dimensional
34 standards, whichever is greater, the applicant may request that the Zoning Official grant
35 an Administrative variance. If the variance is not found to be harmful to adjoining land
36 uses or adverse to the public interest, the Zoning Official may grant the Administrative
37 variance. No administrative variance shall be granted for relaxation of building height
38 or minimum lot size.

39

1 **1.3.13 Modification**

2 **A. Applicability**

3 The following procedure shall be used to apply for a modification to the site
4 development, engineering and construction, or platting standards of this Code. Site
5 plans associated with modifications must be reviewed and comments provided during the
6 modification process, although no site plan approval shall be implied by this review.

7 **B. Initiation**

8 An application for a modification may only be initiated by the owner of the subject
9 property.

10 **C. Application Requirements**

11 An application for a modification shall be submitted in accordance with the Application
12 Requirements of this Code. A pre-application conference shall be required.

13 **D. Notice and Public Hearings**

14 The County shall hold all required public hearings and provide public notice in accordance
15 with the Public Notice Requirements and Public Hearings Requirements provisions of this
16 Code.

17 **E. Action by County Staff**

18 County Staff shall review the application for consistency with the Comprehensive Plan,
19 Code of Ordinances, and this Code. Site plans associated with modifications must be
20 reviewed and comments provided during the modification process, although no site plan
21 approval shall be implied by this review.

22 **F. Action by Zoning Official**

23 The Zoning Official shall make a final decision to approve or deny the site plan
24 application. All final decisions shall be stated in writing.

25 **G. Additional Approval Criteria**

26 In addition to the Standard Approval Criteria of this Code, a modification shall be
27 recommended by the Planning and Zoning Board and approved by the Board of County
28 Commissioners only if either of the following additional approval criteria are satisfied:

- 29 1. The proposed modification achieves the intent of the standards from which the
30 alternative is sought.
- 31 2. The proposed modification achieves the intent of the standards from which the
32 alternative is sought to the maximum extent practicable and is necessary because
33 of one of the following:
- 34 a. Physical characteristics unique to the subject site make strict compliance with
35 the subject standard impracticable or unreasonable.
- 36 b. Physical design characteristics unique to the proposed use or type of use
37 make strict compliance with the subject standard impracticable or
38 unreasonable.

39 **H. Authority Granted by Modification Approval**

- 40 1. Approval of a modification, with or without conditions, shall be considered
41 permanent to the extent that it may only be revoked following the procedure for a
42 new modification.
- 43 2. An approved modification shall apply only to the specific site for which it is
44 requested, shall not be considered a general waiver of all applicable building and
45 land development standards, and shall not establish a precedent for approval of
46 other requests.
- 47 3. Written approval of a modification does not authorize any development activity, but
48 rather authorizes the applicant to prepare a Final Site Plan Review application that
49 incorporates the approved modification, and authorizes the Final Site Plan to be
50 reviewed for compliance with the approved modification, in addition to all other

1 applicable requirements. The Final Site Plan Review application shall include a copy
2 of the approved modification.

3 **I. Period of Validity**

4 | The modification approval shall be valid for a period of ~~two~~three years after the date of
5 approval, within which application for final site plan approval must be filed. A single
6 extension of one year may be granted upon good cause. Such extension must be
7 requested in writing and with payment of the appropriate fee.

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1.3.14 Appeal of Administrative Decision

A. Applicability

The following procedure shall be used to apply for an appeal of an administrative decision.

B. Initiation

An application to appeal an administrative decision may only be initiated by an aggrieved party. No application to appeal an administrative decision may be made until all other established procedures for relief have been exhausted.



C. Application Requirements

An application for appeal of an administrative decision shall be submitted in accordance with the Application Requirements of this Code. An application for appeal of an administrative decision must be filed within 30 calendar days after the date on the letter notifying the applicant of the decision.

D. Appellate Bodies

1. Board of County Commissioners

The Board of County Commissioners shall hear appeals of administrative decisions made regarding the transfer of density units.

2. Board of Zoning Appeals

The Board of Zoning Appeals shall hear appeals of administrative decisions made by the Zoning Official.

3. Construction Board of Adjustment and Appeals

The Construction Board of Adjustment and Appeals shall hear appeals of administrative decisions made by the Building Official and the Floodplain Administrator.

3-4. Earthmoving Hearing Examiner

The Earthmoving Hearing Examiner shall hear appeals of administrative decisions made by the Earthmoving Administrator.

E. Stay of Proceedings and Work

When an application for appeal of an administrative decision has been determined to be sufficient, all proceedings and all work on the premises concerning which the decision was made shall be stayed unless the official from whom the appeal was taken shall certify that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the Circuit Court.

F. Notice and Public Hearings

The County shall hold all required public hearings and provide public notice in accordance with the Public Notice Requirements and Public Hearings Requirements provisions of this Code.

G. Action by County Staff

Staff shall review the application for completeness and transmit it and all papers or other records upon which the appealed decision is based to the appropriate appellate body.

H. Action by Appellate Body

The Appellate Body shall hold a public hearing on the appeal, and may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made, and may make such order, requirement, decision, or determination as shall be proper in the circumstances, and for such purpose shall have all the powers of the officer from

1 whom the appeal was taken. At the hearing, any substantially interested person may
2 appear and be heard either in person or by his or her representative. Where the
3 Appellate Body denies the appeal, the reasons for denial shall be stated for the record.

4 **I. Additional Approval Criteria**

5 In reaching its decision, the Appellate Body shall consider the following criteria as well as
6 any other issues which are pertinent and reasonable:

- 7 1. The intent of the regulation in question.
- 8 2. The effect the ruling will have when applied generally to these regulations.
- 9 3. Staff recommendations, the testimony of the appellant, and testimony of
10 substantially interested parties.

11



1 **1.3.15 Transfer of Density Units**

2 **A. Applicability**

3 The following procedures shall be used to apply for an approval of a Use Amendment which
4 results in increased density on the subject property, a Certification of a Sending Zone
5 (CSZ), a Transfer of Density Units (TDU), or a TDU Appeal.

6 **B. Initiation**

7 An application for Certification of a Sending Zone, TDU, or TDU Appeal may only be
8 initiated by the owner of the subject property.

9 **C. Application Requirements**

10 An application for a Certificate of Sending Zone (CSZ), Transfer of Density Units, or TDU
11 Appeal shall be submitted in accordance with the Application Requirements of this Code.
12 A pre-application conference shall be required.

13 **D. Notice and Public Hearings**

14 The County shall hold all required public hearings and provide public notice in accordance
15 with the Public Notice Requirements and Public Hearings Requirements provisions of this
16 Code.

17 **E. Action by County Staff**

18 County Staff shall review the application for consistency with the Comprehensive Plan
19 and this Code. Staff shall investigate the conditions pertaining to a particular request and
20 submit a report to the BCC detailing the facts involved. Upon a determination that an
21 application does not meet the Transfer of Density Units provisions of this Code, staff
22 shall inform the applicant of the manner in which it is deficient.

23 **F. Use Amendments**

- 24 1. A Use Amendment is comprised of Plan Amendments, Rezonings, changes to the
25 County Code, Development of Regional Impact approvals or amendments, Plat or
26 Street Vacations, Variances, Special Exceptions, or any other official action by the
27 County having the effect of permitting the development of land. Those Use
28 Amendments that result in an increase in density units on property subject to the
29 proposed change, except for property involved in petitions initiated by Charlotte
30 County to correct inconsistencies between the Future Land Use Map and Zoning
31 Atlas that were in existence prior August 28, 2001, shall comply with the Transfer of
32 Density Units Articles.
- 33 2. A Use Amendment requiring a TDU shall include notice of the TDU in all public
34 notice for the Use Amendment provided in accordance with the Public Notice
35 Requirements and Public Hearings Requirements provisions of this Code.
- 36 3. Discussion of the TDU requirements for the Use Amendment shall be included in the
37 staff report and decision for that Use Amendment.
- 38 4. One of the following processes shall be followed when a Use Amendment that is
39 subject to this Section does not involve a Planned Development rezoning. The
40 documents indicated below shall be placed on the same agenda as, and subsequent
41 to, the hearing of the Use Amendment.
- 42 a. The applicant shall submit a TDU petition utilizing certified Density Units,
43 requiring submittal of an original Certificate of Transferable Density Credits,
44 with the Use Amendment.
- 45 b. The applicant shall submit a CSZ petition to sever density from an identified
46 Receiving Zone (RZ) and a TDU petition with the Use Amendment.
- 47 c. The applicant shall submit a TDU petition and an Agreement to Purchase
48 Density Credits with the Use Amendment. The use of an Agreement to
49 Purchase Density Credits allows the applicant the opportunity to gain approval

1 of the Use Amendment prior to purchasing density and would state the
2 applicant's intention of securing certified Density Units subsequent to the
3 approval of the Use Amendment and TDU. The transfer of ownership related
4 to the density referred to in the Agreement and submittal of that density to
5 the County must occur within 10 working days of the approval of the TDU
6 petition or both the Use Amendment and the TDU petition shall be deemed
7 invalid.

- 8 5. When a Use Amendment that is subject to this Section involves a Planned
9 Development, an applicant may delay the submittal of a TDU petition. In such
10 cases, the TDU must be approved by the Board prior to submittal for any permit,
11 other than the rezoning to Planned Development. A project proposing phased
12 development may submit individual TDU petitions to transfer density equivalent to
13 that necessary for development of that phase.
- 14 6. When a Use Amendment that is subject to this Section involves a street or plat
15 vacation, the applicant may choose to submit a restrictive covenant, granted to the
16 County, instead of utilizing one of processes listed above. The covenant would limit
17 the Base Density of the property to that in existence at the time of application.
- 18 7. Use Amendments in compliance with and in furtherance of a Revitalization Plan shall
19 follow the requirements outlined in the Revitalization Plan and adopted into the
20 Comprehensive Plan as to applicability and need. Any owner of property in a
21 Revitalizing Neighborhood that has an adopted Revitalization Plan will be granted
22 RAPID density by the County to use for increases in density, as long as the increase
23 is in accordance with the Revitalization Plan and such RAPID density is available.

24 **G. Certification of a Sending Zone**

- 25 1. A CSZ petition, if approved, will serve to sever Density Units from an approved SZ.
26 Once Density Units are severed, or, as otherwise termed, certified, the units may be
27 sold to other parties or used by the CSZ applicant for transference to a Receiving
28 Zone.

29 A Transfer of Certified Density Units form and the original Certificate of
30 Transferable Density Credits must be submitted to the County in order for the
31 ownership of density to be officially transferred. A new Certificate of Transferable
32 Density Credits will be issued by the County to the new owner(s).

- 33 2. Any owner of real property may request a determination of Staff on whether such
34 property meets the criteria of an SZ at a pre-application conference. If the
35 determination is positive that the property meets the criteria of an SZ, the owner
36 may petition the Board to have their property approved as an SZ and Density Units
37 certified.
- 38 3. A Conservation Easement shall be required for any SZ. If encumbrances exist that,
39 in the judgment of the County Attorney, would impair or otherwise adversely affect
40 the recorded easement, the County Attorney may require that the applicant take
41 such steps to ensure that the enforcement of the encumbrances will not impair or
42 otherwise adversely affect the easement.
- 43 4. If the proposed SZ is platted, the applicant may be required to submit a plat
44 vacation along with the CSZ application, as established at the pre-application
45 conference. [MSOffice1]
- 46 5. A CSZ shall be as approved by resolution of the BCC. The BCC shall not grant a CSZ
47 unless it finds that:
- 48 a. The CSZ meets the intent, purpose and provisions of this Code and the
49 Comprehensive Plan, and that the property meets the criteria of an SZ as
50 established in this Code.
- 51 b. The applicant has submitted a signed and notarized Conservation Easement,
52 as applicable.

1 c. The applicant has submitted a Plat Vacation, if necessary.

- 2 6. Once a CSZ is approved and effective, Density Units shall not be restored to an SZ
3 unless the area in which the SZ is located becomes designated as a Revitalizing
4 Neighborhood. In such situations, the property may become an RZ if it meets all
5 other requirements for an RZ in this Code and the property has not been used for
6 mitigation purposes.

7 **H. Transfer of Density**

- 8 1. A TDU application, if approved, will serve to transfer Density Units from a certified
9 SZ to an approved RZ. The increase in density units on the RZ shall be approved
10 through a Use Amendment and the TDU is the BCC's acknowledgement that the
11 density has been shifted from an SZ to an RZ and that, wholly or in portion, the
12 approved density increase is now able to be developed.
- 13 2. Density Units shall only be transferred in whole units.
- 14 3. A TDU shall be approved by resolution of the BCC. The BCC shall not grant a TDU
15 unless it finds that:
- 16 a. The TDU meets the intent, purpose and provisions of this Code and the
17 Comprehensive Plan.
- 18 b. The applicant has submitted an original Certificate of Transferable Density
19 Credits.
- 20 c. The property to which the density is being transferred is an approved RZ.

21 **I. Effective Date of a CSZ or TDU**

- 22 1. A CSZ shall become effective when the Conservation Easement, and management
23 plan, as applicable, has been recorded with the Clerk of the Circuit Court. The
24 applicant shall be responsible for recording.
- 25 Upon the CSZ becoming effective, Staff shall issue a Certificate of Transferable
26 Density Credits to the owner(s) of the SZ property. The issuance of the Certificate
27 shall establish the quantity of Density Units for the property at the time the
28 Certificate is issued and shall be considered a final determination. Once a Certificate
29 has been issued, the property owner shall maintain the property in accordance with
30 the requirements of the Conservation Easement. Density Units certified pursuant
31 to this Code may be transferred to an eligible RZ.
- 32 2. A TDU shall become effective upon approval by the BCC unless an applicant has
33 simultaneously submitted an Agreement to Purchase Density Credits with the TDU
34 application. In such a case, the TDU shall become effective if the purchase of
35 Density Credits has occurred and the Certificate of Transferable Density Credits has
36 been surrendered to the County within ten working days of the TDU approval by the
37 BCC.

38 **J. TDU Appeal**

- 39 1. Upon a determination that an application does not meet the Transfer of Density
40 Units provisions of this Code, the applicant may appeal to the BCC to seek limited
41 relief from those requirements. Such appeal shall be made no more than 30 days
42 following the receipt of such determination. Additionally, the applicant must
43 establish the following prerequisites to the satisfaction of the BCC:
- 44 a. That strict and literal enforcement of the provisions that have prohibited the
45 approval of a CSZ, TDU, or Use Amendment would create an undue hardship
46 as distinguished from a mere inconvenience for the owner of the affected real
47 property. Financial hardship shall not be considered.
- 48 b. That the special conditions and circumstances are not the result of the actions
49 of any person presently having an interest in the property.

- 1 c. That strict and literal enforcement of the provisions of this Code would not
2 deprive the applicant of rights commonly enjoyed by other properties in the
3 same district under the terms of this Code.
- 4 d. That granting of an appeal would not be injurious to or incompatible with
5 contiguous uses, the surrounding neighborhood, or otherwise detrimental to
6 the public welfare.
- 7 e. The requested appeal is the minimum modification of the regulation at issue
8 that will afford relief.
- 9 f. The requested appeal is consistent with the Comprehensive Plan.
- 10 g. Owing to the specific circumstances which gave rise to the prohibition or
11 hardship, the spirit and intent of the standards of this Code would be
12 preserved by granting the appeal.
- 13 2. An application for TDU Appeal shall be submitted in writing and shall contain, at a
14 minimum, the following information:
 - 15 a. The sections of this Code from which relief is sought.
 - 16 b. The nature of the relief.
 - 17 c. A narrative and supporting evidence that describes how the appeal meets the
18 approval criteria.
- 19 3. The BCC shall not grant any CSZ, TDU, or Use Amendment which would require the
20 granting of a TDU Appeal at the same hearing at which the granting of the TDU
21 Appeal is made.
- 22 4. A denial of any TDU Appeal request which would not permit the applicant to proceed
23 with a CSZ, TDU, or a Use Amendment under this article shall constitute a final
24 decision.

25 **K. Waiver Prohibition**

26 There shall be no waiver from the requirement of complying with these Transfer of Density
27 Units Articles except through the adoption of a Comprehensive Plan text amendment to FLU
28 Policy 1.2.14 and accompanying map amendment to FLUM Series Map #21.

29

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1.3.16 Earthmoving

Procedure being prepared

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1 **1.3.17 Construction and Demolition Permits**

2 **A. Applicability**

3 The following procedure shall be used to apply for a
4 permit to construct, alter, move, add onto, remove, or
5 demolish any building, structure, or Primary Sign.→

6 **B. Initiation**

7 An application for a construction or demolition permit
8 may only be initiated by the owner of the subject
9 property.

10 **C. Application Requirements**

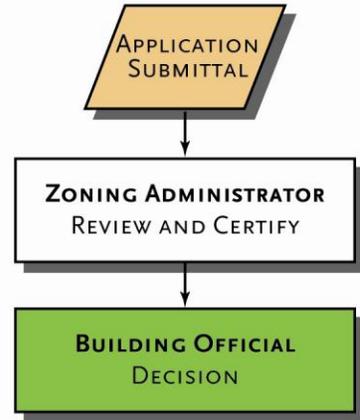
11 An application for a construction or demolition permit
12 shall be submitted in accordance with the Application
13 Requirements of this Code.

14 **D. Action by County Staff**

15 County staff shall review the permit application for
16 completeness and consistency with this Code, the
17 County Code of Ordinances, and the Comprehensive Plan. No construction or demolition
18 permit shall be issued until the Zoning Official finds that the proposed work will be in
19 compliance with this Code, the County Code of Ordinances, and the Comprehensive Plan,
20 and certifies such to the Building Official. If the application is not in compliance, it shall
21 be rejected, and the reasons stated in a notice delivered to the applicant.

22 **E. Final Inspection and Certificate of Occupancy**

23 Following the completion of all work on a development site, the applicant shall request a
24 final inspection by County staff. This inspection shall determine whether final
25 construction has occurred in compliance with this Code, the County Code of Ordinances,
26 and the Comprehensive Plan. A Certificate of Occupancy or Certificate of Completion
27 shall be issued subsequent to passing the final inspection.



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1.3.18 Vegetation Management and Tree Removal

A. Applicability

The following procedure shall be used to apply for a permit to remove any vegetation. Nothing in this Section shall be construed to require the removal of any non-invasive vegetation by the applicant.

B. Initiation

An application for a vegetation management and tree removal permit may only be initiated by the owner of the subject property.

C. Application Requirements

An application for a vegetation management and tree removal permit shall be submitted in accordance with the Application Requirements of this Code.

D. Action by County Staff

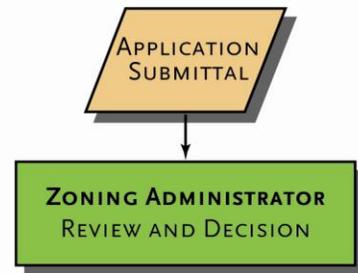
County Staff shall review the application for consistency with the Comprehensive Plan, Code of Ordinances, and this Code. A permit shall only be granted after the applicant has demonstrated an effort to design or locate proposed improvements so as to minimize the removal of vegetation.

E. Effect of Approval

1. Authorization to remove vegetation shall be confined to the area specifically identified in the approved permit.
2. Authorization to remove a tree shall be confined to the tree specifically identified in the approved permit.

F. Period of Validity

1. For development requiring Site Plan Review approval, permits are valid for six months from the date of issuance. Permitted activity may only be performed following final Site Plan Approval.
2. For development that does not require Site Plan Review approval, permits are valid for six months from the date of issuance.



1 **1.3.19 Stormwater Management Systems**

2 **A. Applicability**

3 The following procedure shall be used to apply for a permit to construct a stormwater
4 management system.

5 **B. Initiation**

6 An application for a stormwater management system permit may only be initiated by the
7 owner of the subject property.

8 **C. Application Requirements**

9 An application for a vegetation management and tree removal permit shall be submitted
10 in accordance with the Application Requirements of this Code.

11 **D. Action by County Staff**

12 County Staff shall review the application for consistency with the Comprehensive Plan,
13 Code of Ordinances, and this Code. A permit shall only be granted after the applicant
14 has demonstrated an effort to design or locate proposed improvements so as to minimize
15 the removal of vegetation.

16 **E. Effect of Approval**

17 Approval of a stormwater management system permit authorizes the holder only to
18 construct the stormwater management system outlined in the permit. Other additional
19 permits, including right of way permits and vegetation management and tree removal
20 permits may be required.

21 **F. Period of Validity**

22 Permits are valid for one year from the date of issuance. A single extension of one
23 year may be granted upon good cause. Such extension must be requested in writing
24 and with payment of the appropriate fee.

25 2:—
26

~~1.3.19~~ **1.3.20 Zoning Permits**

A. Applicability

The following procedure shall be used to apply for any Additional Signage Allowance, Fence, Temporary Use, Portable Canopy, Sidewalk Seating, or Change of Occupancy permit.

B. Initiation

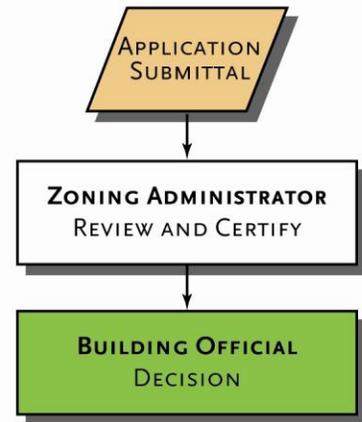
An application for a zoning permit may only be initiated by the owner of the subject property.

C. Application Requirements

An application for a zoning permit shall be submitted in accordance with the Application Requirements of this Code. An application for a temporary use permit shall be submitted a minimum of ten working days prior to the proposed use.

D. Action by County Staff

County Staff shall review the application for consistency with the Comprehensive Plan, Code of Ordinances, and this Code. No zoning permit shall be issued until the Zoning Official finds that the proposed work will be in compliance with this Code, the County Code of Ordinances, and the Comprehensive Plan. If the application is not in compliance, it shall be rejected, and the reasons stated in a notice delivered to the applicant.



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1 | ~~1.3.20~~**1.3.21 Archaeological and Historical Resource Review**

2 | **A. Applicability**

3 | The following procedure shall be used to review any application for development ~~for~~
4 | to identify potential archaeological and historical resources.

5 | **B. Initiation**

6 | Archaeological and historical resource review may only be initiated by the County.

7 | **C. Action by County Staff**

- 8 | 1. County staff shall review the application to determine whether the subject site is
9 | listed on the National Register of Historic Places, the Florida Master Site File List,
10 | any Local Historic Register, or is designated as having a High or Medium probability
11 | of containing archaeological resources according to the County's Archaeological
12 | Predictive Model.

- 13 | 2. If the site is determined to contain or potentially contain archaeological or historical
14 | resources, County staff shall require the applicant to prepare and submit an
15 | archaeological or historical resources preservation report prepared in accordance
16 | with Chapter 1A-46, F.A.C., as may be amended.

17 | **D. Historic Preservation Report**

18 | Upon the completion of historic preservation review, a report shall be issued
19 | detailing the findings and conclusions of the review, and making recommendations
20 | for preserving the affected historic resources. Such report shall not be binding.

21 | **E. Period of Validity**

22 | A historic preservation report shall be valid for the life of the final development
23 | order, including any extensions that may be granted. Upon expiration of the final
24 | development order, a historic preservation report shall also expire. A re-application
25 | for development approval shall require a new historic preservation review.

26 |
27 |

~~1.3.21~~ **1.3.22 Concurrency Mitigation**

A. Applicability

The following procedure shall be used for any development in unincorporated Charlotte County that has failed concurrency review and has proposed to mitigate the deficiency in public infrastructure.

B. Initiation

A request for a concurrency mitigation may only be initiated by the owner of the subject property.

C. Application Requirements

An application for concurrency mitigation shall be submitted in accordance with the Application Requirements of this Code. A pre-application meeting is required.

D. Notice and Public Hearings

The County shall hold all required public hearings and provide public notice in accordance with the Public Notice Requirements of this Code.

E. Action by Staff

County Staff shall review the application for completeness and consistency with the Comprehensive Plan and this Code.

F. Action by Board of County Commissioners

The Board of County Commissioners shall hold public hearings, as required, on the proposed concurrency mitigation. Where the Board of County Commissioners denies the application, the reasons for denial shall be stated for the record.

G. Additional Approval Criteria

In addition to the Standard Approval Criteria of this Code, concurrency mitigation shall be approved by the BCC only if all of the following requirements are met:

1. In the case of a proportionate fair-share contribution to mitigate the deficiencies, the County has calculated the fair-share of costs required to provide public infrastructure facilities adequate to serve the proposed development according to the methodology established in the Proportionate Fair_Share provisions of this Code.
2. In the case of other forms of mitigation, the mitigation is deemed appropriate by the department, agency, or organization responsible for operating and maintaining the affected public infrastructure.
3. Any capital projects required to mitigate the deficiencies are included in the next update to the Capital Improvements element of the County's comprehensive plan.
4. The burdens and benefits of a concurrency mitigation agreement are binding upon all parties to the agreement and to their successors, in interest and assigns.

H. Authority Granted by Approval

Approval of a concurrency mitigation agreement shall authorize the actions outlined in the agreement.

1 | ~~1.3.22~~ **1.3.23 Impact Fee Payment**

2 | **A. Applicability**

3 | The following procedure shall be used for the payment of impact fees assessed on any
4 | development that requires a building permit.

5 | **B. Initiation**

6 | The payment of impact fees may be initiated by the owner of the subject property.

7 | **C. Application Requirements**

8 | An application for the payment of impact fees shall be submitted in accordance with the
9 | Application Requirements of this Code.

10 | **D. Payment of Fees**

11 | Unless deferred through the Impact Fees provisions of this Code, all impact fees shall be
12 | paid to the County prior to the final building inspection and issuance of the Certificate of
13 | Occupancy. Any impact fee credits received as part of concurrency mitigation shall be
14 | credited against the impact fees owed. No final building inspection shall be made, nor
15 | any Certificate of Occupancy issued, until all applicable impact fees have been paid. The
16 | obligation to pay impact fees shall run with the land.

17 | **E. Incorporated Municipalities**

18 | Impact fees shall be collected by the County for development located within any
19 | incorporated municipality within the County. The County may enter into an interlocal
20 | agreement with any municipality for the collection of impact fees within that
21 | municipality.

22 | **F. Appeals**

23 | When any applicant is aggrieved by any County order, administrative rule, policy, or
24 | interpretation regarding impact fees, the applicant may file a written appeal to the Board
25 | of County Commissioners after ten days' notice to the County Administrator. The appeal
26 | shall, in a brief, plain statement, contain at least the following:

- 27 | 1. The County action, order, policy, or interpretation claimed to be in error.
28 | 2. The nature of the error or the reasons why the County action results in error.
29 | 3. If the complained County action is in writing, a copy thereof.
30 | 4. The order of the Board of County Commissioners or the relief requested by the
31 | appellant.
32 | 5. A certified signed statement that the appellant has provided a copy of the appeal to
33 | the County Administrator.

1 | ~~1.3.23~~ **1.3.24 Determination of Vested Rights**

2 | **A. Applicability**

3 | The following procedure shall used to apply for a determination of vested rights.

4 | **B. Initiation**

5 | A request for a determination of vested rights may only be initiated by the owner of the
6 | subject property.

7 | **C. Application Requirements**

8 | An application for a determination of vested rights shall be submitted in accordance with
9 | the Application Requirements of this Code.

10 | **D. Notice and Public Hearings**

11 | The County shall hold all required public hearings and provide public notice in accordance
12 | with the Public Notice Requirements and Public Hearings Requirements provisions of this
13 | Code. The procedures for notices and hearings in this Article are adopted pursuant to Ch.
14 | 163.3215(4), F.S. The provisions of this article shall be construed in a manner so as to
15 | conform to the requirements of Ch. 163.3215(4), F.S. A party shall bring all actions for
16 | relief in connection with a decision issued pursuant to this article under the procedures
17 | set forth in this Article. The sole method by which a party may challenge any decision
18 | under this Article shall be as provided in Ch. 163.3215(4), F.S.

19 | **E. Action by County Staff**

- 20 | 1. Any person claiming vested rights pursuant to F.S. section 163.3167(8) shall submit
21 | an application asserting such claim to the Community Development Department,
22 | together with the specific legal justification and factual data to support such claim.
23 | Such data may include, but is not limited to, copies of documents which evidence
24 | previous plat or zoning approvals and such other county approvals and actions, and
25 | actions, investments, and other acts in reliance of the claimant or its
26 | predecessor(s)-in-title which the claimant asserts is the basis for a vesting decision.
27 | The applicant shall also list with particularity the provisions of the comprehensive
28 | plan and land development regulations from which the applicant asserts his or her
29 | development is vested. The application shall be accompanied by a non-refundable
30 | fee as established by resolution of the board of county commissioners. The
31 | department shall make a determination whether or not a claim of vested rights has
32 | been established pursuant to this article. If the department determines that a claim
33 | of vested rights has been established, it shall issue a preliminary decision which
34 | describes the vested rights of the development and which reflects the basis for the
35 | vesting decision, the nature and extent of such vested rights and any restrictions or
36 | conditions thereon which are required to recognize and maintain such vested rights
37 | status. If the department determines that a claim of vested rights has not been
38 | established, it shall issue a preliminary decision which reflects the basis for this
39 | determination.
- 40 | 2. Any person may apply for a decision that a proposed change to a development
41 | which has been determined to have vested rights will not divest such vested rights,
42 | upon a determination by the department that such change will not create additional
43 | impacts on public facilities and cultural and natural resources and is:
- 44 | a. In a community redevelopment area created pursuant to F.S. Chapter 163,
45 | and the proposed change is consistent with the community redevelopment
46 | area plan and is otherwise consistent with the comprehensive plan and the
47 | land development regulations; or
- 48 | b. In an infill area within the urban service area overlay district and the
49 | proposed change is otherwise consistent with the comprehensive plan and the
50 | land development regulations and proposes a development plan which
51 | furthers the goals and objectives of the comprehensive plan regarding
52 | redevelopment.

1.3.24 Determination of Vested Rights

- 1 3. The applicant shall submit an analysis which measures the impacts of the proposed
2 change and such additional data as may be required by the department to support
3 the application. The application shall be accompanied by a non-refundable fee as
4 established by resolution of the board of county commissioners.
- 5 4. The department shall make a determination whether or not a change to a vested
6 development will divest vested rights for which a final decision has been made
7 pursuant to this article. If the department determines that the proposed change will
8 not divest such vested rights, it shall issue a preliminary decision which reflects the
9 basis for the determination that the change to the vested development will not
10 divest such vested rights, the nature and extent of the vested rights and any
11 restrictions or conditions thereon which are required to recognize and maintain such
12 vested rights status. If the department determines that the proposed change will
13 divest such vested rights, it shall issue a preliminary decision which reflects the
14 basis for this determination.
- 15 5. The department shall prepare forms which shall be used in the preparation of claims
16 of vested rights, applications for a change to a development for which vested rights
17 have been recognized in a final decision issued pursuant to this article and requests
18 to challenge or support a vested rights decision filed pursuant to this article.
- 19 6. The department shall issue, no sooner than fifteen (15) days and no later than
20 thirty (30) days after a complete and sufficient application for a vested rights
21 decision or a change to a vested development pursuant to subsections (a) or (b),
22 above, respectively, is filed, a preliminary decision which reflects its determination
23 in response to such application, provided that if the department determines that an
24 application is incomplete or insufficient, it shall issue a letter indicating the points of
25 incompleteness or insufficiency within the same thirty-day period.
- 26 7. Requirements for notice of an application for a vested rights decision:
 - 27 a. Within ten (10) days after the filing of an application pursuant to subsections
28 (a) or (b), above, the County shall provide notice of such application by
29 publication consistent with the provisions of F.S. section 125.66(4)(b)2. The
30 county shall also post notice prominently at the site that is the subject of the
31 application.
 - 32 b. The notice (advertisement and posting) shall also provide:
 - 33 1) An aggrieved or adversely affected party has the right to request a
34 quasi-judicial hearing before the county
 - 35 2) Within fifteen (15) calendar days of issuance of a preliminary decision
36 pursuant to subsections (a) or (b) above, any aggrieved or adversely
37 affected party who wishes to challenge or support such decision shall
38 request a quasi-judicial hearing.
 - 39 3) The sole method for appeal of a vested rights decision ultimately
40 rendered by the county pursuant to this article upon exhaustion of the
41 hearings which are available under this article, is by an appeal filed by a
42 petition for writ of certiorari filed in circuit court no later than thirty (30)
43 days following rendition of the final decision pursuant to F.S. section
44 163.3215(4);
 - 45 4) The written procedures describing the hearing process, including how to
46 initiate the process, the timeframes for initiating the process, the location
47 of the hearings and a statement which sets forth the prohibitions on ex
48 parte communications, together with a copy of this ordinance and the
49 forms promulgated under subsection (c), may be obtained at the office of
50 the department; and
 - 51 5) Copies of the preliminary decision may be obtained at the department.
- 52 8. The board of county commissioners shall, by resolution, fix reasonable fees to be
53 charged by the county for all applications and requests for hearings made pursuant
54 to this article.

F. Appeal of Staff Decision

1. Within fifteen (15) calendar days of issuance of a preliminary decision pursuant to subsection 3-5-563(a) or (b), above, any aggrieved or adversely affected party who wishes to challenge or support such decision shall request a quasi-judicial hearing to challenge or support the preliminary decision on the basis that it is not consistent with the comprehensive plan, the land development regulations or both. Such request shall be filed with the department on forms prepared pursuant to subsection 3-5-563(c) and shall be accompanied by a non-refundable fee as established by resolution of the board of county commissioners. For purposes of this article, the term "party" or "parties" shall mean an "aggrieved or adversely affected party", as such term is defined in F.S. section 163.3215(2). The county shall not be bound by the preliminary decision. If no hearing is requested, the preliminary decision shall become final.
2. A party shall not be required to be represented by an attorney in order to participate in the hearings.
3. Within forty-five (45) calendar days after a request to challenge or support the preliminary decision is submitted pursuant to subsection (a), above, a quasi-judicial hearing shall be held before an impartial special master to determine whether the preliminary decision is consistent with the comprehensive plan, the land development regulations or both. If multiple parties have requested a quasi-judicial hearing pursuant to subsection (a), above, to challenge or support the same preliminary decision, the county shall consolidate all such requests and shall hold a single hearing before the special master. If a party needs additional time to prepare and present a case for the hearing, the department may grant up to an additional thirty (30) days to do so, upon a determination that such additional time is necessary.
4. Not less than fifteen (15) days prior to the hearing before the special master, the county shall provide notice of such hearing by publication consistent with the provisions of F.S. section 125.66(4)(b)2. The county shall also post notice prominently at the site that is the subject of the application. The clerk of the board shall also give notice of the set date and time of the hearing by certified mail to the parties. Such notice shall be mailed at least ten (10) calendar days prior to the date set.
5. All parties shall have the opportunity to prepare and present a case for the hearing, to require the disclosure of witnesses and exhibits and to take depositions of witnesses.
6. The special master shall be an attorney who has at least five (5) years' experience. The special master shall have the power to rule on procedural matters, swear witnesses and take their testimony under oath, to issue subpoenas and other orders regarding the conduct of the proceedings, and to compel entry upon the land. The special master shall allow relevant testimony and evidence regarding standing and objections thereto, which shall be a part of the record of the proceedings, but shall not exclude any person from participating in the hearing.
7. Any person who presents testimony or evidence at the hearing shall sign an attendance sheet providing his or her name and mailing address. All testimony shall be under oath.
8. To the maximum extent practicable, the hearing shall be informal. Questioning shall be confined as closely as possible to the scope of direct testimony. The special master may call and question witnesses as he or she deems necessary and appropriate. The special master shall decide all questions of procedure.
9. Ex parte communications relating to the merits of the matter under review shall not be made by any person to the special master.
10. At the hearing before the special master, all parties shall have the opportunity to respond, to present evidence and argument on all issues involved which are related to the preliminary decision and to conduct cross-examination and submit rebuttal evidence. Public testimony shall be allowed.

- 1 11. At the hearing before the special master, staff of the department shall present the
2 department's preliminary decision, explain the reasoning for its findings and
3 preliminary decision and answer any questions of the special master.
- 4 12. The special master shall recommend written findings of fact and conclusions of law.
5 The standard of review applied by the special master in determining whether a
6 preliminary decision is consistent with the comprehensive plan, the land
7 development regulations or both, shall be strict scrutiny in accordance with Florida
8 law.
- 9 13. The special master shall file his or her written recommendation within seven (7)
10 working days of the close of the hearing, with a copy being provided to the clerk of
11 the board. The clerk of the board shall, on the same calendar day or the next
12 working day, mail by certified mail, or otherwise deliver, a copy of the
13 recommendation to the parties and to any person who participated at the hearing
14 and signed the attendance sheet at the hearing before the special master.

15 **G. Appeal of Special Master Decision**

- 16 1. Within thirty (30) days following the issuance of the written recommendation of the
17 special master, a duly-noticed quasi-judicial hearing shall be held before the board
18 of county commissioners.
- 19 2. No less than fifteen (15) days prior to the hearing before the board, the county shall
20 provide notice of such hearing by publication consistent with the provisions of F.S.
21 section 125.66(4)(b)2. The county shall also post notice prominently at the site that
22 is the subject of the application. The clerk of the board shall also give notice of the
23 set date and time of the hearing by certified mail to the parties and to any person
24 who participated at the hearing and who signed an attendance sheet at the hearing
25 before the special master. Such notice shall be mailed at least fifteen (15) calendar
26 days prior to the date set for the hearing.
- 27 3. The board shall be bound by the special master's findings of fact, unless the findings
28 of fact are not supported by competent substantial evidence. The board may modify
29 the conclusions of law if it finds that the special master's application or
30 interpretation of law is erroneous. The board may make reasonable legal
31 interpretations of its comprehensive plan and land development regulations without
32 regard to whether the special master's interpretation is labeled as a finding of fact
33 or a conclusion of law. The board may question witnesses and parties.
- 34 4. Any person who presents evidence or testimony at the hearing shall sign in on an
35 attendance sheet. All testimony shall be under oath.
- 36 5. At the hearing before the board, all parties shall have the opportunity to respond, to
37 present evidence and argument on all issues which are related to the special
38 master's recommendations on the preliminary decision and to other matters
39 properly presented to the special master and to conduct cross-examination and
40 submit rebuttal evidence. Public testimony shall be allowed.
- 41 6. At the hearing before the board, staff of the department shall present the
42 department's preliminary decision, explain the reasoning for its findings and
43 preliminary decision and answer any questions of the board.
- 44 7. Any ex parte communication relating to the merits of the matter under review may
45 not be made to members of the board after the written recommendation of the
46 special master has been received and officially date stamped by the county clerk.
- 47 8. The final decision of the board shall be provided in writing within fifteen (15) days of
48 the close of the hearing and shall include findings of fact and conclusions of law,
49 with a copy being provided to the clerk of the board. The clerk of the board shall, on
50 the same calendar day or the next working day, mail by certified mail, or otherwise
51 deliver a copy of the recommendation to the parties and to any person who
52 participated at the hearing and who signed an attendance sheet at the hearing
53 before the board. The final decision of the board is not considered rendered or final
54 until officially date-stamped by the county clerk.

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H. Vested Rights

Notwithstanding any other provision in the Comprehensive Plan and this Code, a development which is determined to have vested rights pursuant to this Article shall be vested from the requirements of the comprehensive plan and this Code, but only to the extent expressly stated in the vested rights decision rendered pursuant to this Article.

I. Bridgeless Barrier Islands

1. All parcels one acre or greater in size (as of January 1, 1990) shall be limited to a density of one unit per gross acre, except where vested rights relating to allowable densities are determined to exist under the vested rights provisions of Chapter 3-10 of the Charlotte County Code of Laws and Ordinances. It is not the intent of this provision to exempt these areas from any applicable concurrency requirements.
2. All legally created parcels (as of January 1, 1990) less than one acre in size shall have an allowable density of one unit per subdivision lot, except where vested rights relating to allowable densities are determined to exist under the vested rights provisions of Chapter 3-10 of the Charlotte County Code of Laws and Ordinances. It is not the intent of this provision to exempt these areas from any applicable concurrency requirements.

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1 | **Article 1.4 Fees**

2 | **1.4.1 Establishment of Fees**

- 3 | A. Fees shall be established by adoption of a Fee Resolution by the Board of County
4 | Commissioners.
5 | B. The fee schedule shall be reviewed from time to time and adjusted as appropriate.

6 | **1.4.2 After the Fact Fees**

7 | Failure to obtain development approval prior to work or use commencing will result in
8 | an after-the-fact fee of quadruple the established standard fee.
9 |

1
2 **Article 1.5 Enforcement and Violations and Enforcement**

3 **1.5.1 Control of Development**

4 It shall be unlawful for any person to violate, or to fail to comply with, the provisions of this
5 Code.

6 **1.5.2 Inspections**

- 7 **A. On-site inspections to determined compliance with the requirements of this Code**
8 **and any any-approved plans shall be conducted by County staff prior to the issuance**
9 **of a Certificate of Occupancy or a Change of Occupancy Permit.**
- 10 **B. The BCC shall establish, by Resolution, appropriate inspection fees, including re-**
11 **inspection fees, to defray the cost of enforcing the provisions of this Code.**
- 12 **C. If any provisions of this Code are not met at the time of inspection, additional**
13 **inspections shall occur until all provisions of this Code are met.**
- 14 **D. On-site inspection for continued maintenance and conformance with the provisions of**
15 **this Code may be conducted by County staff at any time to determine if a property is**
16 **in compliance with this Code.**

17 ~~1.5.2~~ **1.5.3 Penalties**

- 18 **A.** Any person who violates the provisions of this Code may be prosecuted through
19 criminal proceedings as provided in Chapter 125.69, F.S., and may be punished by
20 the maximum fine, or imprisonment, or both. Each day such violation continues shall
21 be considered a separate offense.
- 22 **B.** The owner or tenant of any structure or site, or any part thereof, and any architect,
23 building contractor, surveyor, agent, or any other person who commits, participates
24 in, assists in, or maintains such violation may each be found guilty of a separate
25 offense and suffer the penalties provided. All fines collected under this Article shall
26 be deposited into a Code Enforcement account to augment code enforcement
27 services.
- 28 **C.** Any person who opposes, obstructs, or resists any Code Enforcement Officer or any
29 person authorized by the Code Enforcement Officer in the discharge of his or her
30 duties as provided by this Code shall be in violation of these regulations and
31 prosecuted in the same manner as misdemeanors are prosecuted, punishable by a
32 fine, or by imprisonment not to exceed 60 days, or both.
- 33 **D.** The County is expressly authorized to take such other lawful action, or combination
34 of actions, against any owner or other person as is necessary to prevent or remedy
35 any violation of this Code, including, but not limited to, resort to equitable action for
36 injunctive relief, and enforcement pursuant to Chapter 162, F.S., and this Code.
37 Fines for offenses prosecuted as citations under this Code shall be established by
38 resolution of the Board of County Commissioners.
- 39 **E.** The County shall have full discretion to select among appropriate remedies based on
40 which would be the most effective in a particular situation.
- 41 **F.** All remedies provided by this Code shall be cumulative. To the extent that Florida
42 law may limit the availability of a particular remedy for a certain violation or a part
43 thereof, such remedy shall remain available for other violations or other parts of the
44 same violation.

45 ~~1.5.3~~ **1.5.4 Repeat Violations**

- 46 **A.** If an owner or occupant or other person repeats the same violation, whether or not
47 such violation is at the same location, within a five-year period from the date of the
48 initial violation, it shall be considered to be a repeat of the initial violation and shall
49 be subject to additional penalties and remedies.
- 50 **B.** Any action considered a violation of any previous version of the regulations contained
51 in this Code may be considered a repeat violation of this Code where the prior

1 provisions have been replaced with provisions in this Code, even where the location
2 of the applicable provisions within this Code has changed, provided such action
3 continues to be considered unlawful.

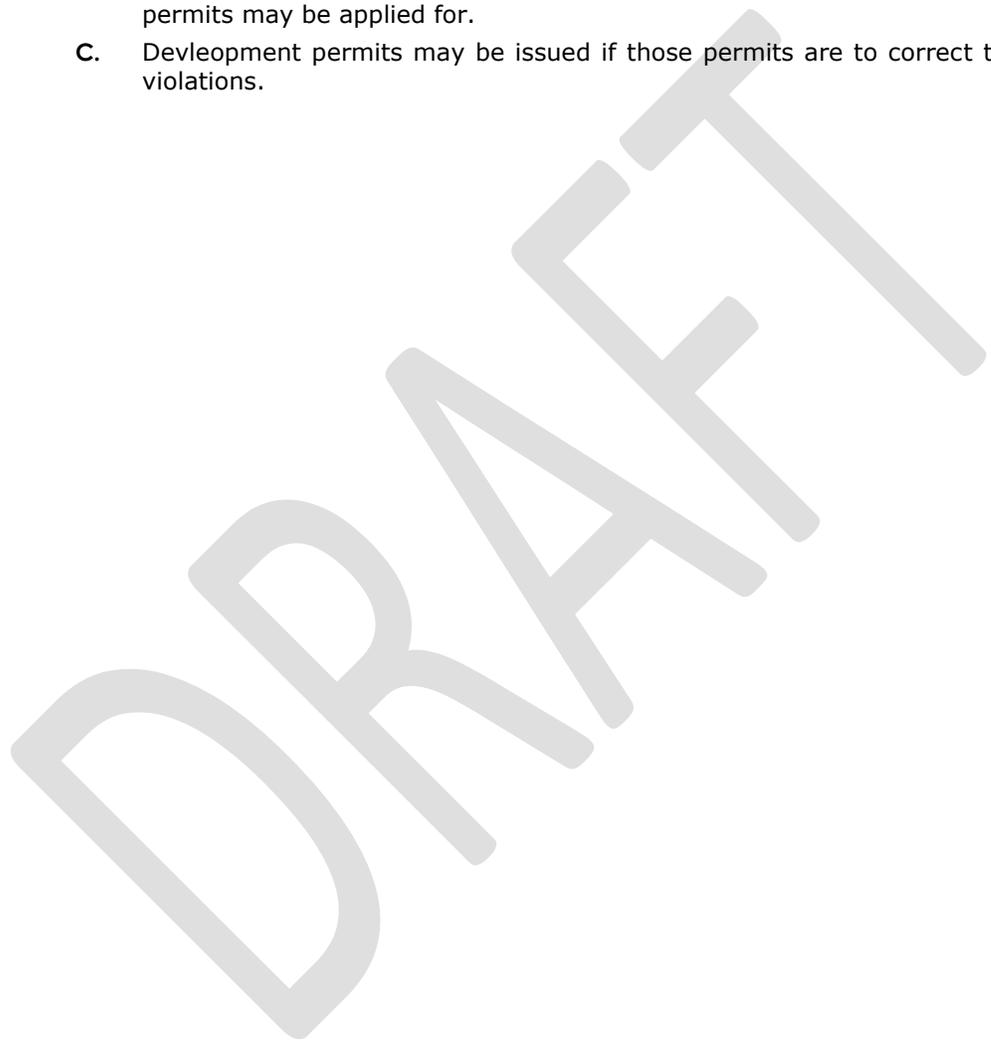
4 C. For the purposes of a repeat violation, payment of a fine shall be considered
5 admission of a violation.

6 ~~1.5.4~~**1.5.5** **Bad Actors**

7 A. No development permit shall be issued on behalf of any property owner where such
8 property owner has been found to be in violation of this Code or the Florida Building
9 Code or the adopted Charlotte County Building Code.

10 B. Once a violation has been brought into compliance or dismissed, development
11 permits may be applied for.

12 C. Development permits may be issued if those permits are to correct the outstanding
13 violations.
14



1 | **Article 1.6 Legal Nonconformities**

2 | **1.6.1 General**

3 | A lot, use, structure, or sign lawfully in existence which is made nonconforming by an
4 | amendment to this Code may be continued except as otherwise provided by this Article.
5 | However, no nonconforming lot, use, structure, or sign shall be enlarged, expanded,
6 | intensified, or extended, nor shall they be used as a basis for the establishment of other
7 | structures or uses otherwise prohibited in the same district.

8 | **1.6.2 Nonconforming Lots**

9 | ~~1.6.3~~ Nonconforming lots may be developed provided:

- 10 | A. The lot legally existed prior to February 1, 1992. The burden of proof to establish
- 11 | that the lot is legally nonconforming and legally existing shall be with the owner.
- 12 | B. The proposed development meets all the requirements of this Code, except that
- 13 | residential lots which are nonconforming because of width may reduce the required
- 14 | side yard to ten percent of the lot width. No required side yard shall be less than
- 15 | five feet.

16 | ~~1.6.4~~ **1.6.3 Nonconforming Uses**

- 17 | A. No nonconforming use shall be moved to any other portion of the lot.
- 18 | B. If any nonconforming use ceases for a period to exceed one year for any reason,
- 19 | except when governmental action impedes use, any subsequent use shall conform to
- 20 | the applicable district regulations

21 | ~~1.6.5~~ **1.6.4 Nonconforming Structures**

- 22 | A. Nonconforming structures may not be enlarged or moved until brought into
- 23 | compliance with this Code, such as through the approval of a Variance or physical
- 24 | modification of the structure.
- 25 | B. Ordinary repairs and maintenance, including repair or replacement of roof covering,
- 26 | walls, fixtures, wiring or plumbing, shall be permitted.

27 | ~~1.6.6~~ **1.6.5 Nonconforming Signs**

- 28 | A. Nonconforming signs shall be required to comply with the Sign provisions of this
- 29 | Code upon the occurrence of any of the following:
- 30 | 1. The sign is relocated.
- 31 | 2. The sign permit has expired before the sign has been constructed.
- 32 | 3. The sign has deteriorated or been damaged to an extent which reduces its value to
- 33 | less than 50 percent of its structural replacement value.
- 34 | B. For nonresidential nonconforming signs, the sign area of any existing nonconforming
- 35 | sign shall reduce the Unit’s Sign Allocation by a factor of one and a half square feet
- 36 | per square foot of the nonconforming sign.
- 37 | C. Except for prohibited signs, any sign which existed and was maintained on February
- 38 | 22, 2005 may remain although such sign does not conform to all of the provisions of
- 39 | this Article; provided that all such signs, structural and electrical components shall
- 40 | be completely removed from the premises or brought into conformance with this
- 41 | Article not later than February 22, 2015.

42 | **1.6.6 Disaster Recovery on the Bridgeless Barrier Islands**

43 | Following a natural disaster, as determined by the BCC, a use or structure located on
44 | any of the bridgeless barrier islands that was legally non-conforming at the time of the
45 | disaster may be replaced or restored on the original footprint. There shall be no increase
46 | in square footage or residential density beyond what originally existed. All construction
47 | shall be in compliance with applicable County, State, and Federal standards.

48 | **C.**