

# CHAPTER 1. GENERAL PROVISIONS AND ADMINISTRATION

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1.1.1 Title

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**Article 1.1 General Provisions**

**1.1.1 Title**

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

**1.1.2 Authority**

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

**1.1.3 Jurisdiction**

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

**1.1.4 Purpose**

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

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

**1.1.5 Transitional Provisions**

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regulations are ratified and approved and shall remain in full force and effect insofar as the same shall not be repealed or revoked by the provisions of this Code.

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## **Article 1.2 Review Bodies**

### **1.2.1 Board of County Commissioners**

#### **A. Authority**

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

#### **B. Powers and Duties**

The BCC shall have the following powers and duties:

##### **1. Final Authority**

- a. Comprehensive Plan Amendments.
- b. Unified Land Development Code Amendments.
- c. Final Plats.
- d. Modifications.
- e. Transfers of Density Units.
- f. Developments of Regional Impact.
- g. Community Development Districts.
- h. Community Redevelopment Areas.
- i. Street Name Change.
- j. Historic Districts and Special Certifications of Appropriateness.
- k. All others as established in Florida Statutes.

##### **2. Appointments**

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

#### **C. Appeals**

Any person or persons, corporation, or other entity aggrieved by any decision of the BCC 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.

### **1.2.2 Planning and Zoning Board**

#### **A. Authority**

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

#### **B. Powers and Duties**

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

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

1                   **1.2.3 Board of Zoning Appeals**

2                   **A. Authority**

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

5                   **B. Powers and Duties**

6                   The BZA shall have final authority on the following applications:

- 7                   a. Special Exception.
- 8                   b. Variance.
- 9                   c. Administrative Appeal.

10                  **C. Appeals**

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

14                  **1.2.4 Code Enforcement Board**

15                  **A. Authority**

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

18                  **B. Powers and Duties**

19                  The CEB shall have final authority on violations of this Code.

20                  **C. Appeals**

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

24                  **1.2.5 Zoning Official**

25                  **A. Authority**

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

27                  **B. Powers and Duties**

28                  The Zoning Official shall have the following powers and duties:

29                  1. **Final Authority**

- 30                  a. Special Exception (Minor Modification only).
- 31                  b. Administrative Variance.
- 32                  c. Preliminary Plat.
- 33                  d. Vegetation Management and Tree Removal Permit.
- 34                  e. Temporary Use Permit.
- 35                  f. Sign Permit.
- 36                  g. Site Plan Review.

37                  2. **Review Authority**

- 38                  a. Unified Land Development Code Text Amendment.
- 39                  b. Final Plat.
- 40                  c. Special Exception.
- 41                  d. Variance.
- 42                  e. Building Permit (Certify to Building Official).

1 f. Certificate of Occupancy (Certify to Building Official).

2 3. **Authority to Revoke Development Permits**

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

7 **C. Appeals**

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

11 **1.2.6 County Engineer**

12 **A. Authority**

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

17 **B. Powers and Duties**

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

19 1. **Final Authority**

- 20 a. Construction Plans.  
21 b. Uses and structures within the public right-of-way.  
22 c. Traffic devices and street illumination on County streets.

23 2. **Review Authority**

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

25 **C. Appeals**

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

30 **1.2.7 Building Official**

31 **A. Authority**

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

34 **B. Powers and Duties**

35 The Building Official shall have final authority on the following applications:

- 36 1. Building Permit.  
37 2. Certificate of Occupancy.

38 **C. Appeals**

39 Any person or persons, corporation, or other entity aggrieved by any decision of the  
40 Building Official related to this Code may appeal to the Construction Board of Adjustment  
41 and Appeals for appropriate relief within 30 days after such decision shall have become  
42 final, but not thereafter.

43 **1.2.8 Floodplain Administrator**

44 **A. Authority**

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

1           **B. Powers and Duties**

2           The Floodplain Administrator shall have the following powers and duties:

3           1. **Final Authority**

- 4           a. Determination of Location in the Special Flood Hazard Area.  
5           b. Interpretation of Special Flood Hazard Area Boundaries.

6           2. **Review Authority**

- 7           a. Development located within the Special Flood Hazard Area.

8           **C. Appeals**

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

13           **1.2.9 Earthmoving Administrator**

14           **A. Authority**

15           The Earthmoving Administrator is designated by the BCC to administer and enforce the  
16           Earthmoving Provisions of this Code.

17           **B. Powers and Duties**

18           The Earthmoving Administrator shall have final authority on the following applications:

- 19           1. Earthmoving Exemptions.  
20           2. Specific Earthmoving Permits.  
21           3. Specific Earthmoving Permit Modifications.

22           **C. Appeals**

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

26           **1.2.10 Hearing Examiner**

27           **A. Authority**

28           The Hearing Examiner is designated by the BCC to hear appeals of decisions of the  
29           Earthmoving Administrator.

30           **B. Powers and Duties**

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

33           **C. Appeals**

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

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## 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 Atlas Amendment	▪	▪	▪
Planned Development	▪	▪	▪
Final Plat	▪		
Plat and Street Vacation	▪	▪	▪
Special Exception	▪	▪	▪
Variance	▪	▪	▪
Modification	▪	▪	▪
Street 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		

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**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.
- 3) A description of the action requested.

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

**b. Posted Notice**

Required posted notices shall indicate the following:

- 8                           1) A petition or case number.
- 9                           2) The type of action or violation and Code section reference.
- 10                          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		▪	▪		
Street Name Change				▪	
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**

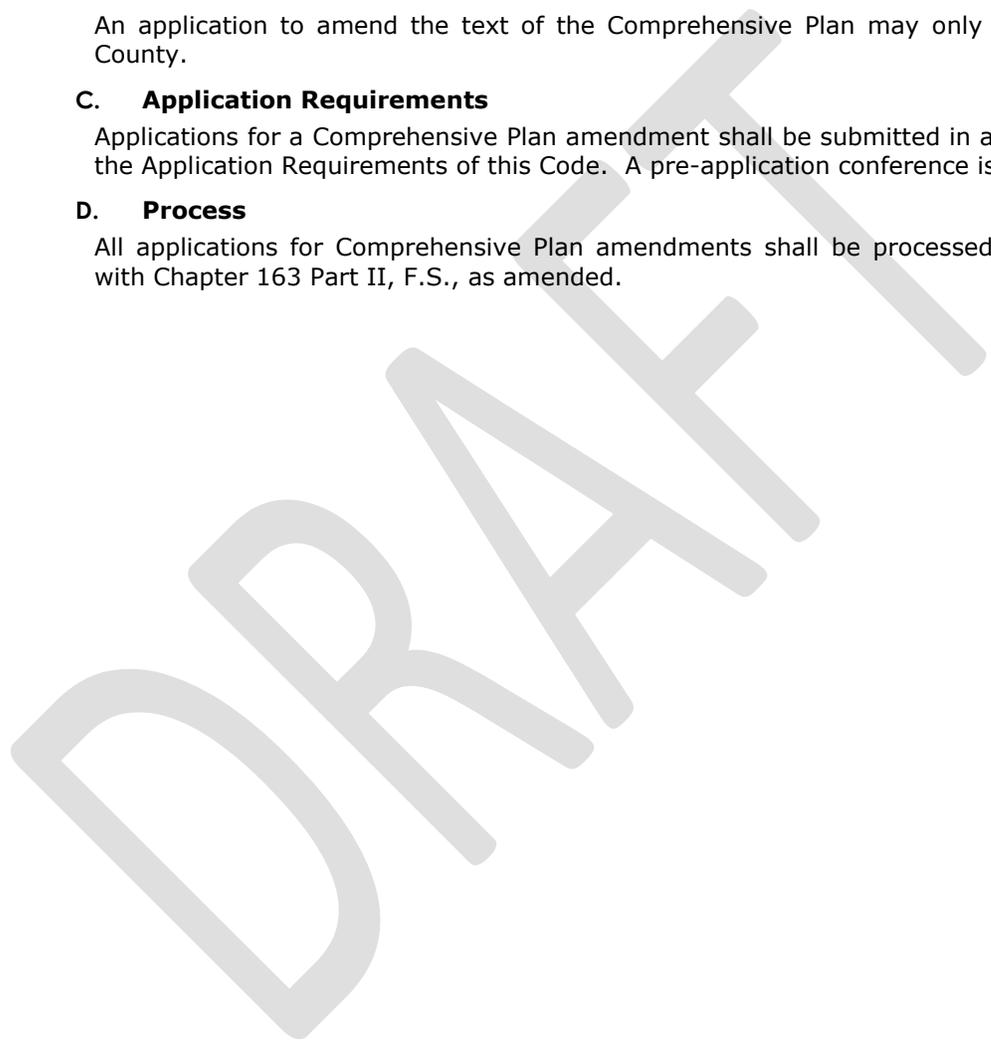
An application to amend the text of the Comprehensive Plan may only be initiated by County.

**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                   **1.3.4 Unified Land Development Code Amendment**

2                   **A. Applicability**

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

4                   **B. Initiation**

5                   1.   **Zoning Atlas Amendment**

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

8                   2.   **Text Amendment**

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

10                  **C. Application Requirements**

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

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.

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

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

23                  **G. Action by Board of County Commissioners**

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

28                  **H. Additional Approval Criteria**

29                  In addition to the Standard Approval Criteria of this Code, an amendment to this Code  
30                  shall be recommended by the Planning and Zoning Board and approved or denied by the  
31                  BCC after giving due consideration to all of the following additional approval criteria:

32                  1.   **Zoning Atlas Amendment**

- 33                   a.   The suitability of the subject property for uses permitted by the current  
34                   versus the proposed zoning.
- 35                   b.   The capacity of public facilities and services, including but not limited to  
36                   schools, roads, recreation, wastewater treatment, water supply, and  
37                   stormwater drainage facilities.
- 38                   c.   Whether changed conditions make the passage of the proposed amendment  
39                   appropriate.
- 40                   d.   Whether the proposed change will adversely influence living conditions or  
41                   property values in adjacent areas.
- 42                   e.   Whether the proposed change will affect public safety.
- 43                   f.   Whether there are substantial reasons why the property cannot be used in  
44                   accordance with existing zoning.

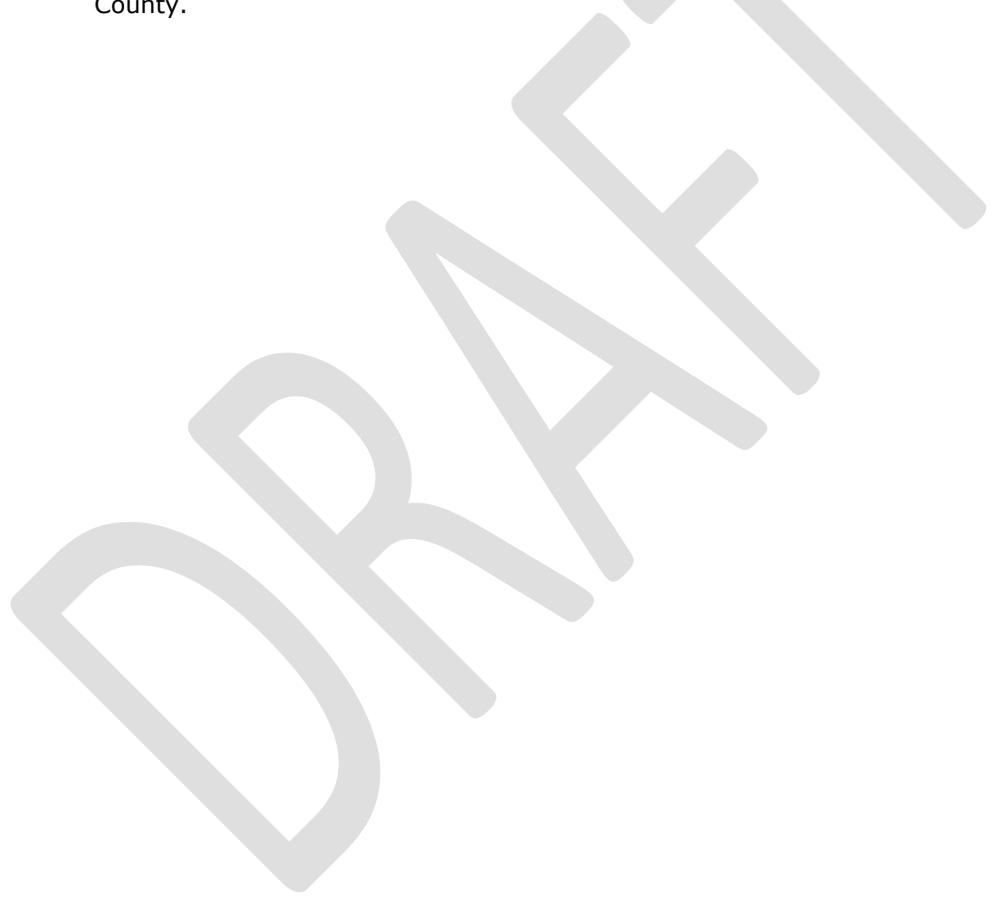
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2. **Text Amendment**

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

I. **Time Lapse Between Similar Applications**

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



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.

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2. **Additional Approval Criteria**

In addition to the Standard Approval Criteria provisions of this Code, a final site plan shall be approved only if all of the following additional approval criteria are satisfied:

    - a. It is consistent with any conditions required by the approved preliminary plat and site plan.
    - b. A surety bond in a form acceptable to the County Attorney has been posted by the applicant in the amount of not less than 110 percent of the estimated cost of improvements prepared by the engineer of record and approved by the County Engineer, The bond shall be conditioned on full and satisfactory completion of the improvements to County specifications.
  3. **Action by Zoning Official**

After considering staff comments, the Zoning Official shall review the final site plan for consistency with the approved preliminary plat and site plan, and this Code. The Zoning Official shall make a final decision to approve or deny. Where the application is denied, the reasons for denial shall be stated in writing.
  4. **Authority Granted by Final Site Plan Approval**

Approval of the final site plan shall be construed as authority for submitting a final plat and applying for permits to construct infrastructure. Approval of the final site plan shall not be construed as authority for applying for building permits, the recording of a plat with the Clerk of the Circuit Court, or the conveyance of any portion of the plat less than the whole.
  5. **Period of Validity**

The final site plan shall be valid for a period of one year from the date of approval. No extensions will be granted.
  - H. **Final Plat Procedure**
    1. **Action by County Staff**

County staff shall review the final plat for completeness and consistency with the Comprehensive Plan, the Code of Ordinances, and this Code, including any conditions required by the approved preliminary plat and site plan.
    2. **Additional Approval Criteria**

In addition to the Standard Approval Criteria provisions of this Code, all final plats shall be consistent with any conditions required by the approved preliminary plat and site plan.
    3. **Action by County Staff**

County staff shall make a final decision to bring the application forward to the BCC for final approval.
    4. **Signatures**

Upon approval of the final plat, the plat shall be signed by the following:

      - a. County Engineer.
      - b. County Attorney.
      - c. County Surveyor.
      - d. Director of the department responsible for land development services.
      - e. Director, Environmental Health Unit, Health Department
    5. **Final Approval by the Board of County Commissioners**

After staff approval of the final plat, it shall be the ministerial duty of the Board of County Commissioners to grant final approval to the plat. This shall be completed 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  
12                  **I.    Warranty Bond for Public Infrastructure**

13                  1.    Upon construction of required improvements intended to be dedicated to the County  
14                  and their acceptance by the County, a surety in a form acceptable to the County  
15                  Attorney shall be posted by the developer in the amount of ten percent of the  
16                  construction cost of all required improvements to be owned and maintained by the  
17                  County. The surety shall guarantee repair, replacement or improvements where  
18                  such repair or replacement is required due to defective materials or faulty  
19                  workmanship.

20                  2.    This surety will be released no less than one year following acceptance of the  
21                  dedicated infrastructure and a final inspection by County staff.

22                  **J.    Minor Plat**

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

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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                   **1.3.8 Acceptance of Public Infrastructure**

2                   **A. Applicability**

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

7                   **B. Initiation**

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

10                  **C. Application Requirements**

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

14                  **D. Notice and Public Hearings**

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

18                  **E. Action by County Staff**

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

23                  **F. Action by County Engineer**

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

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

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

29                  **H. Additional Approval Criteria**

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

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

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**1.3.9 Street Name Change**

**A. Applicability**

The following procedure shall be used to change to the existing name of any dedicated street, public or private.

**B. Initiation**

An application for a street name change may only be initiated by the County.

**C. 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.

**D. Action by County Staff**

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

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

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

**F. Additional Approval Criteria**

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

1. The proposed name change meets the Street Naming Standards of this Code.
2. More than half of the property owners along the street assent to the proposed change, although for private streets all property owners along the street must assent to the proposed change. A street name change initiated by the County in the interest of public safety does not require a citizen petition or the assent of the property owners along that street.
3. The proposed name change will not affect the public health, safety, or welfare.

1                   **1.3.10 Site Plan Review**

2                   **A. Applicability**

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

7                   **B. Initiation**

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

10                  **C. Application Requirements**

11                  An application for site plan review 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 a public hearing and provide public notice in accordance with the  
15                  Public Notice Requirements and Public Hearings Requirements provisions of this Code.

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

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

- 19                   1. Not been granted preliminary approval.  
20                   2. Been denied.  
21                   3. Expired.

22                  **F. Preliminary Site Plan Review**

23                   1. **Action by County Staff**

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

27                   2. **Action by Zoning Official**

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

34                   3. **Authority Granted by Preliminary Site Plan Approval**

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

38                   4. **Period of Validity**

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

43                  **G. Final Site Plan Review**

44                   1. **Action by County Staff**

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

1                   2.    **Additional Approval Criteria**

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

5                   3.    **Action by Zoning Official**

6                   The Zoning Official shall make a final decision to approve or deny the site plan  
7                   application. Where the Zoning Official denies the application, the reasons for denial  
8                   shall be stated in writing.

9                   4.    **Authority Granted by Final Site Plan Approval**

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

15                  5.    **Period of Validity**

16                  The final site plan shall be valid for a period of three years from the date of  
17                  approval. No extensions will be granted.

18                  **H. Conformity to Plan**

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

23                  **I. Modification of Approved Final Site Plans**

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

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

37                  Minor modifications must meet the following standards:

- 38                  a.    Does not substantially alter the location of any points of access to the site.  
39                  b.    Does not change the use of the site.  
40                  c.    Does not increase the density or intensity of the development to occur on the  
41                  property.  
42                  d.    Does not result in a reduction of previously approved open space, setback,  
43                  building location, or landscaping counts.  
44                  e.    Is consistent with the general intent and purpose of this Code.  
45                  f.    Does not result in a material modification or the cancellation of any condition  
46                  placed upon the site plan as originally approved.  
47                  g.    Does not add additional property to the site.  
48                  h.    Does not substantially change the internal or external traffic pattern.

- 1                   i.     Does not increase the height of the building(s) including approved rooftop  
2                   appurtenances.
- 3                   j.     Does not increase the floor area by more than 500 square feet.
- 4                   2.     Major modifications are changes in the use, density, and location of structures on  
5                   an approved final site plan. Other modifications may be determined to be major if  
6                   the Zoning Official determines they deviate substantially from an approved final site  
7                   plan and can reasonably be expected to cause adverse changes in internal  
8                   functioning of the site or its off-site impacts. Such changes shall require a new  
9                   application for Site Plan Review.
- 10                  **J.     Pre-construction Meeting**
- 11                  Prior to the issuance of any permit, a pre-construction meeting with County staff is  
12                  required.

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1                   **1.3.11 Special Exception**

2                   **A. Applicability**

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

7                   **B. Initiation**

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

10                  **C. Application Requirements**

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

13                  **D. Notice and Public Hearings**

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

16                  **E. Action by County Staff**

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

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

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

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

34                  **G. Additional Approval Criteria**

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

- 38                  1. The proposed special exception is either explicitly permitted by the regulations in  
39                  the zoning district for which it is requested, or is permitted by reasonable  
40                  implication within that district, as determined by the Zoning Official.
- 41                  2. The establishment of the proposed special exception will not impede the normal and  
42                  orderly development of the surrounding property.
- 43                  3. The proposed special exception is compatible with existing and planned uses  
44                  surrounding immediately adjacent and contiguous to the land on which the  
45                  proposed special exception would exist.
- 46                  4. The proposed special exception will comply with the Comprehensive Plan, the Code  
47                  of Ordinances, and this Code.
- 48                  5. The establishment, maintenance, or operation of the proposed special exception  
49                  shall not be detrimental to or endanger the public health, safety or general welfare.

1                   **H. Effect of Special Exception Approval**

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

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

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

26                   **J. Modifications**

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

31                   **K. Historical Structures**

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

1                   **1.3.12 Variance**

2                   **A. Applicability**

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

7                   **B. Initiation**

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

9                   **C. Application Requirements**

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

12                  **D. Notice and Public Hearings**

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

16                  **E. Action by County Staff**

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

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

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

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

33                  **G. Additional Approval Criteria**

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

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

- 1           5. That granting of a variance would not be injurious to or incompatible with  
2           contiguous uses, the surrounding neighborhood, or otherwise detrimental to the  
3           public welfare.  
4           6. The requested variance is the minimum modification of the regulation at issue that  
5           will afford relief

6           **H. Effect of Variance Approval**

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

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

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

26           **J. Administrative Variance**

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

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 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.

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

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**I. Additional Approval Criteria**

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

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

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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.
- 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.

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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 permit to construct, alter, move, add  
4                   onto, remove, or demolish any building, structure, or Primary Sign.

5                   **B.    Initiation**

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

8                   **C.    Application Requirements**

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

11                  **D.    Action by County Staff**

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

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

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

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## 1.3.18 Vegetation Management and Tree Removal

1 **1.3.18 Vegetation Management and Tree Removal**2 **A. Applicability**

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

6 **B. Initiation**

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

9 **C. Application Requirements**

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

12 **D. Action by County Staff**

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

17 **E. Effect of Approval**

- 18 1. Authorization to remove vegetation shall be confined to the area specifically  
19 identified in the approved permit.
- 20 2. Authorization to remove a tree shall be confined to the tree specifically identified in  
21 the approved permit.

22 **F. Period of Validity**

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

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**1.3.19 Stormwater Management Systems**

**A. Applicability**

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

**B. Initiation**

An application for a stormwater management system 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**

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

**F. Period of Validity**

Permits are valid for one year from the date of issuance. 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.

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**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**

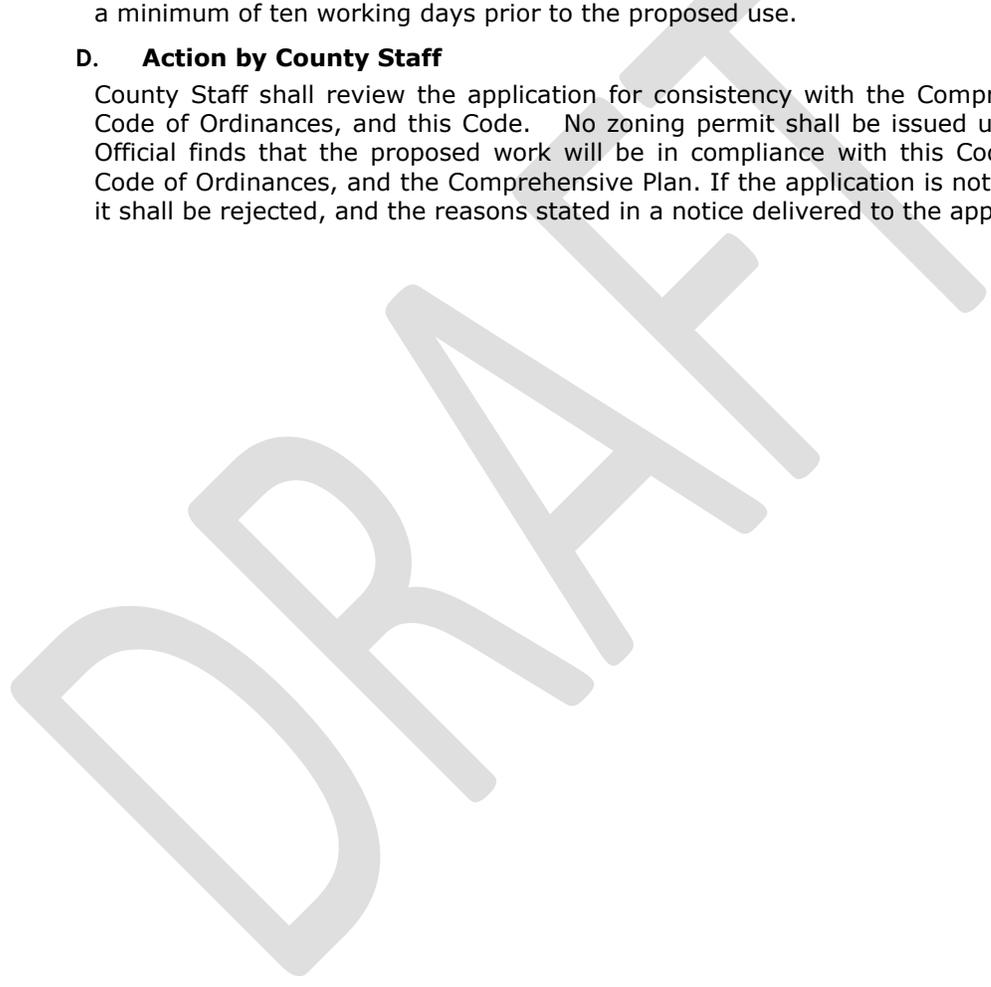
An application for a zoning permit may only be initiated by the owner of the subject property.

**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.



- 1                   **1.3.21 Archaeological and Historical Resource Review**
- 2                   **A. Applicability**
- 3                   The following procedure shall be used to review any application for development to
- 4                   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.
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1                   **1.3.22 Concurrency Mitigation**

2                   **A. Applicability**

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

6                   **B. Initiation**

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

9                   **C. Application Requirements**

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

12                  **D. Notice and Public Hearings**

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

15                  **E. Action by Staff**

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

18                  **F. Action by Board of County Commissioners**

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

22                  **G. Additional Approval Criteria**

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

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

37                  **H. Authority Granted by Approval**

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

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1                   **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.
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1                   **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                          further 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.

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2 **Article 1.5 Enforcement and Violations**

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 determine compliance with the requirements of this Code and  
8 any approved plans shall be conducted by County staff prior to the issuance of a  
9 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 **1.5.3 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 **1.5.4 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.

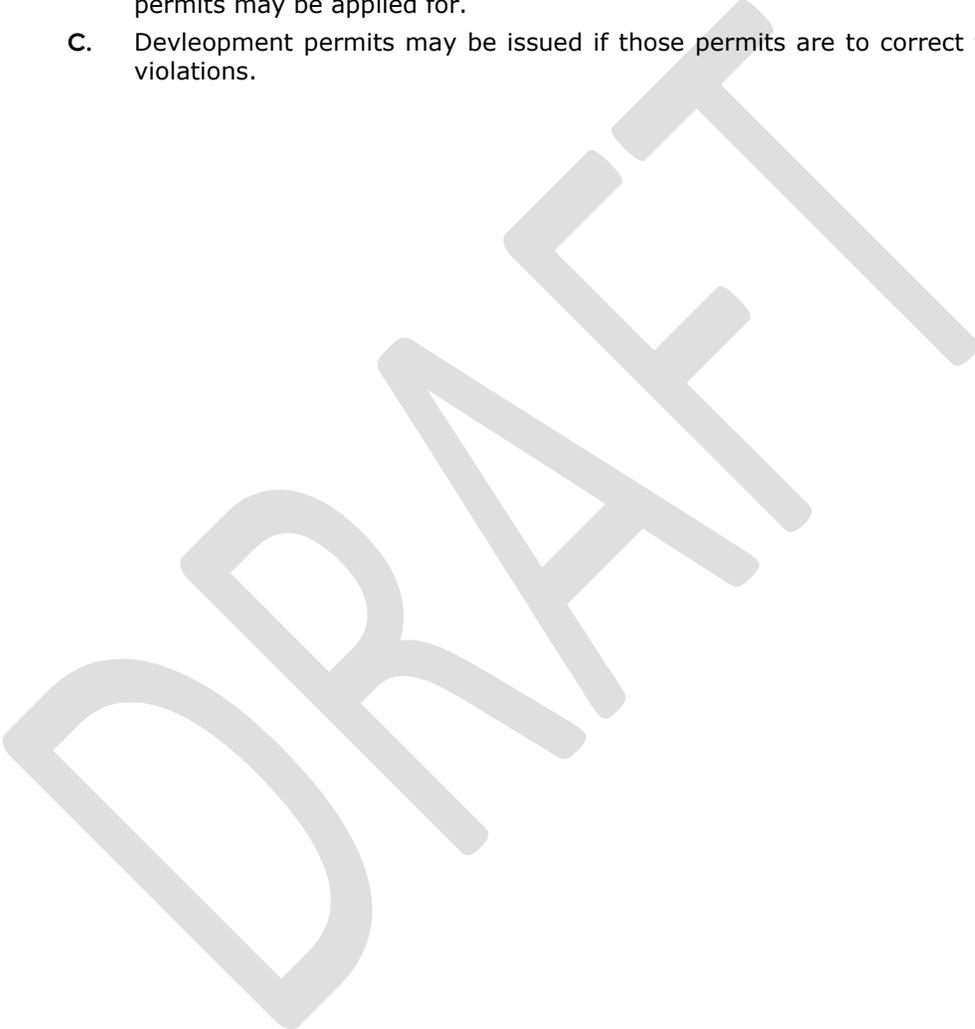
4 C. For the purposes of a repeat violation, payment of a fine shall be considered  
5 admission of a violation.

6 **1.5.5 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 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 **1.6.3 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 **1.6.4 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 **1.6.5 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 any  
44 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.