

CHAPTER 1. GENERAL PROVISIONS AND ADMINISTRATION

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1 **Article 1.1 General Provisions**

2 **1.1.1 Title**

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

5 **1.1.2 Authority**

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

11 **1.1.3 Jurisdiction**

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

15 **1.1.4 Purpose**

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

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

34 **1.1.5 Transitional Provisions**

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

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1 **Article 1.2 Review Bodies**

2 **1.2.1 Board of County Commissioners**

3 **A. Authority**

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

7 **B. Powers and Duties**

8 The BCC shall have the following powers and duties:

9 **1. Final Authority**

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

21 **2. Appointments**

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

28 **1.2.2 Planning and Zoning Board**

29 **A. Authority**

30 The Planning and Zoning Board (P&Z) is designated as the local planning agency for
31 the unincorporated area of the county in conformity with the provisions of Chapter
32 163.3174, F.S., as amended

33 **B. Powers and Duties**

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

- 35 **a.** Comprehensive Plan Amendments
- 36 **b.** Unified Land Development Code Amendments
- 37 **c.** Modifications

38 **C. Purpose, Composition, and Administration**

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

46 **1.2.3 Board of Zoning Appeals**

47 **A. Authority**

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

3 **B. Powers and Duties**

4 The BZA shall have final authority the following applications:

- 5 a. Special Exception
- 6 b. Variance
- 7 c. Administrative Appeal

8 **C. Purpose, Composition, and Administration**

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

22 **D. Appeal to Circuit Court**

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

27 **1.2.4 Code Enforcement Board**

28 **A. Authority**

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

31 **B. Powers and Duties**

32 The CEB shall have the powers to:

- 33 1. Hold hearings on violations of this Code.
- 34 2. Subpoena alleged violators and witnesses to its hearings, which may be
35 served by the County Sheriff.
- 36 3. Subpoena evidence.
- 37 4. Take testimony under oath.
- 38 5. Issue orders following a hearing, which orders shall have the force of law
39 and shall set forth the steps necessary to bring a violation into
40 compliance with this Code.
- 41 6. Assess administrative fines and impose liens on real and personal
42 property pursuant to Chapter 125 and Chapter 162, F.S.

43 **C. Purpose, Composition, and Administration**

- 44 1. The purpose of the CEB is to consider petitions for Special Exceptions
45 and Variances, and consider appeals from decisions of the Zoning
46 Official, in accordance with Chapter 63-1209, Laws of Florida.
- 47 2. All decisions of the CEB shall be quasi-judicial in nature, and all meetings
48 shall be open to the public.
- 49 3. The CEB shall keep minutes of its meetings, showing the vote of each
50 member on each question, and indicating the absence of any members.

1 The results of all of the official actions shall become a public record in
2 the office of the Zoning Official.

3 **D. Appeal**

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5 **1.2.5 Zoning Official**

6 **A. Authority**

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

8 **B. Powers and Duties**

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

10 **1. Final Authority**

- 11 a. Special Exception (Minor Modification only)
- 12 b. Administrative Variance
- 13 c. Preliminary Plat
- 14 d. Workforce Housing Incentives
- 15 e. Tree Permit
- 16 f. Temporary Use Permit
- 17 g. Sign Permit
- 18 h. Landscape Plans
- 19 i. Site Plan Review

20 **2. Review Authority**

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

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

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

32 **1.2.6 Building Official**

33 **A. Authority**

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

36 **B. Powers and Duties**

37 The Building Official shall have the following powers and duties:

38 **1. General Authority**

39 Administer and implement the Flood Damage Prevention portions of this Code
40 as the Flood Management Administrator.

41 **2. Final Authority**

42 The Building Official shall review and take final action on the following
43 applications:

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45 **3. Review Authority**

46 The Building Official shall review and make recommendations on the following
47 applications:

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1.2.7 Earthmoving Administrator

A. Authority

The Earthmoving Administrator is designated as

B. Powers and Duties

The Earthmoving Administrator shall have the following powers and duties:

1. Final Authority

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

2. Review Authority

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

1.2.8 Hearing Examiner

A. Authority

The Hearing Examiner is designated as

B. Powers and Duties

The Hearing Examiner shall have the following powers and duties:

1. Final Authority

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

2. Review Authority

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

1 **Article 1.3 Procedures**

2 **1.3.1 Standard Approval Criteria**

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

7 **1.3.2 Standard Review Procedures**

8 **A. Pre-Application Conference**

9 **1. Purpose**

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

17 **2. Procedure**

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

22 **3. When Required**

23 A pre-application conference shall be mandatory for the following applications:

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

36 **B. Application Requirements**

37 **1. Forms**

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

40 **2. Fees**

- 41 **a.** All applications and associated fees shall be filed with the
42 Department responsible for land development services.
- 43 **b.** The Board of County Commissioners shall, by resolution, fix
44 reasonable fees, which shall be reviewed on an annual basis.
- 45 **c.** An applicant who has paid the appropriate fee pursuant to the
46 submission of an application, but who chooses to withdraw such
47 application prior to its distribution for review, shall be entitled to
48 a refund of the total amount paid, less ten percent for

1 administrative costs, upon written request to the department.
2 Once review has begun, no refund shall be available.

3 **3. Authority to File Application**

4 The applicant shall be required to present evidence of legal authority to submit
5 the application.

6 **4. Applications Sufficient For Processing**

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

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

20 **5. Simultaneous Applications**

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

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

30 **C. Public Notice Requirements**

31 **1. Summary of Notice Required**

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

Procedure	Published	Mailed	Posted
Comprehensive Plan Map Amendment	▪	▪	▪
Comprehensive Plan Text Amendment	▪		
Unified Land Development Code Text Amendment	▪		
Zoning Map Amendment	▪	▪	▪
Planned Development	▪	▪	▪
Final Plat	▪		
Plat and Street Vacation	▪	▪	▪
Special Exception	▪	▪	▪
Variance	▪	▪	▪
Road 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.

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

b. Posted Notice

Required posted notices shall indicate the following:

- 1) A petition or case number.
- 2) The type of action or violation and Code section reference.
- 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 Amendment		▪	▪		
Unified Land Development Code Amendment		▪	▪		
Planned Development		▪	▪		
Final Site Plan Approval for Planned Development				▪	
Special Exception	▪				
Variance	▪				
Appeal of Administrative Decision	▪				
Transfer of Density Units, Certification of Sending Zone				▪	
TDU Appeal			▪		
Final Plat				▪	
Plat or Street Vacation		▪	▪		
Road Name Change				▪	
Specific Major Earthmoving					▪
Earthmoving Appeal					▪
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.

F. Notice of Decision

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

G. Withdrawal of Application

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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**
2 **Amendment**

3 **A. Applicability**

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

6 **B. Initiation**

7 **1. Zoning Atlas Amendment**

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

11 **2. Text Amendment**

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

15 **C. Application Requirements**

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

20 **D. Notice and Public Hearings**

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

26 **E. Action by County Staff**

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

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

31 The Planning and Zoning Board shall hold a public hearing on the proposed
32 amendment and submit its recommendation to the Board of County Commissioners.

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

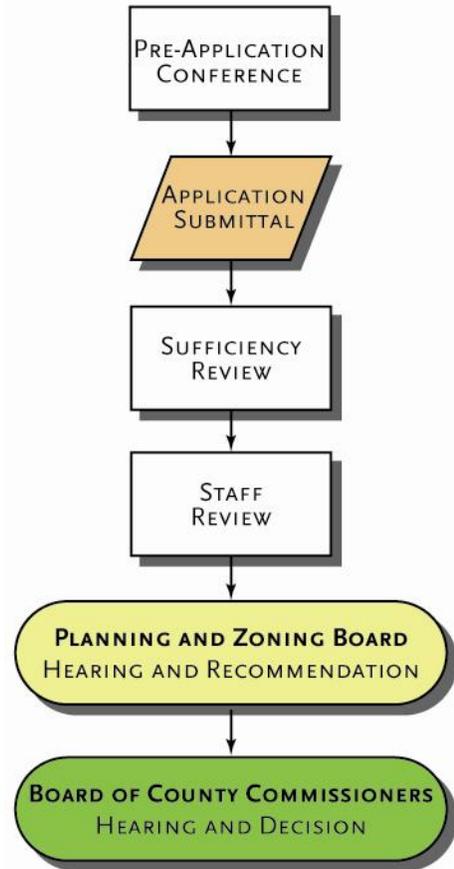
34 The Board of County Commissioners shall hold public hearings, as required, on the
35 proposed amendment and make a final decision to approve, approve with
36 modifications, or deny the proposed amendment. Where the Board of County
37 Commissioners denies the application, the reasons for denial shall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

39 **H. Additional Approval Criteria**

40 In addition to the Standard Approval Criteria of this Code, an amendment to this Code
41 shall be recommended by the Planning and Zoning Board and approved by the Board
42 of County Commissioners only if all of the following additional approval criteria are
43 satisfied, depending on the type of amendment:

44 **1. Zoning Atlas Amendment**

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



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

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

28 **b. Requirements**

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

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

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

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

49 **a. Site Plan Review**

50 Site Plan Review of the preliminary concept plan must take place prior
51 to an applicant applying to rezone the property to PD. Review of the
52 plan will be completed based on technical compliance with this Code
53 and the Charlotte County Code of Ordinances. County staff may

1 attach appropriate conditions and safeguards as deemed necessary. A
2 copy of the Site Plan Review recommendation and conditions must be
3 included with the PD rezoning application. Site Plan Review of the
4 preliminary concept plan must be completed prior to submitting for the
5 rezoning.

6 **b. Rezoning Application Submission**

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

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

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

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

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

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

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

52 **e. Time Limitation**

53 Board approval of the preliminary concept plan shall be valid for a
54 period not to exceed 5 years calculated from the Board of County
55 Commissioners approval date of the rezoning. Failure to submit an

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

6 **F. Final Concept Plan Approval**

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

9 **1. Platting**

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

15 **2. Site Plan Review**

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

30 **3. Time Limitation**

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

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

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

39 **5. Certificates of Occupancy**

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

44 **G. Modification**

45 **1. General**

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

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

- 3 **b.** An applicant may also propose changes to an approved final
4 concept plan. Such changes shall also be reviewed by the
5 Director of Building and Growth Management to determine if the
6 proposed change is a minor or major modification.
- 7 **c.** No modifications shall be allowed that reduces uses or
8 development conditions below any minimum requirement.

9 **2. Major Modification**

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

- 12 **a.** The following changes are considered major modifications:

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

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

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

- 41 **c.** Once a determination has been made that a proposed
42 modification constitutes a major modification, the applicant shall
43 follow the same procedure as a new PD rezoning. Applications for
44 a major modification of PD plans shall require a narrative
45 description of the modification and reasons such a change is
46 necessary, an updated, revised preliminary concept plan
47 indicating the effect of the proposed change in addition to the
48 normal requirements of Site Plan Review and rezoning
49 applications.

50 **3. Minor Modification**

51 Any modification to an approved PD concept plan which is not deemed to
52 constitute a major modification shall be considered a minor modification. Upon
53 determination that the proposed modification is a minor modification, the

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Zoning Administrator shall render a decision, in writing, to the applicant within 15 working days.

The appeal of a decision by the Zoning Administrator to deny a minor modification shall be filed by the aggrieved applicant within 30 days of such written determination. The appeal would be forwarded to the Board of Zoning Appeals in 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
4 subdivision 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
7 property.

8 **C. Application Requirements**

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

11 **D. Notice and Public Hearings**

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

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

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

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

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

22 **1. Action by County Staff**

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

26 **2. Action by Zoning Official**

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

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

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

39 **4. Period of Validity**

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

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

45 **1. Action by County Staff**

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

1 **2. Additional Approval Criteria**

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

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

13 **3. Action by Zoning Official**

14 After considering staff comments, the Zoning Official shall review the final site
15 plan for consistency with the approved preliminary plat and site plan, and this
16 Code. The Zoning Official shall make a final decision to approve or deny.
17 Where the application is denied, the reasons for denial shall be stated in
18 writing.

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

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

25 **5. Period of Validity**

26 The final site plan shall be valid for a period of one year from the date of
27 approval. No extensions will be granted.

28 **H. Final Plat Procedure**

29 **1. Action by County Staff**

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

33 **2. Additional Approval Criteria**

34 In addition to the Standard Approval Criteria provisions of this Code, all final
35 plats shall be consistent with any conditions required by the approved
36 preliminary plat and site plan.

37 **3. Action by County Staff**

38 County staff shall make a final decision to bring the application forward to the
39 BCC for final approval.

40 **4. Signatures**

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

- 42 **a.** County Engineer.
43 **b.** County Attorney.
44 **c.** County Surveyor.
45 **d.** Director of the department responsible for land development
46 services.
47 **e.** Director, Environmental Health Unit, Health Department

48 **5. Final Approval by the Board of County Commissioners**

49 After staff approval of the final plat, it shall be the ministerial duty of the
50 Board of County Commissioners to grant final approval to the plat. This shall
51 be completed with the Chair signing the plat.

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6. Recording the Final Plat

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

7. Authority Granted by Final Plat Approval and Recording

Approval and recording of the final plat shall be construed as authority for applying for building permits or any other authorizations that may be required. Approval shall also be authority for conveying any lots located within the plat boundary.

I. Acceptance of Public Infrastructure

J. Warranty Bond for Public Infrastructure

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

K. Minor Plat

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

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,
5 F.S., 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
9 the 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
20 accordance with the Public Notice Requirements and Public Hearings Requirements
21 provisions of this 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
25 the 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
28 street vacation and submit its recommendation to the Board of County
29 Commissioners.

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

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

33 **H. Additional Approval Criteria**

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

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

42 **I. Notice of Adoption**

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

46 **J. Recording**

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

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1.3.8 Engineering Review

Process being developed

1 **1.3.9 Road Name Change**

2 **A. Applicability**

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

5 **B. Initiation**

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

7 **C. Notice and Public Hearings**

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

11 **D. Action by County Staff**

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

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

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

17 **F. Additional Approval Criteria**

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

- 20 **1.** The proposed name change meets the Road Naming Standards of this
21 Code.
- 22 **2.** More than half of the property owners along the road assent to the
23 proposed change, although for private roads all property owners along
24 the road must assent to the proposed change.
- 25 **3.** The proposed name change will not affect the public health, safety, or
26 welfare.
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1 **1.3.10 Site Plan Review**

2 **A. Initiation**

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

5 **B. Application Requirements**

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

9 **C. Notice and Public Hearings**

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

13 **D. Amendments and Changes to Land Development
14 Regulations**

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

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

20 **E. Preliminary Site Plan Review**

21 **1. Action by County Staff**

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

26 **2. Action by Zoning Official**

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

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

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

39 **4. Period of Validity**

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

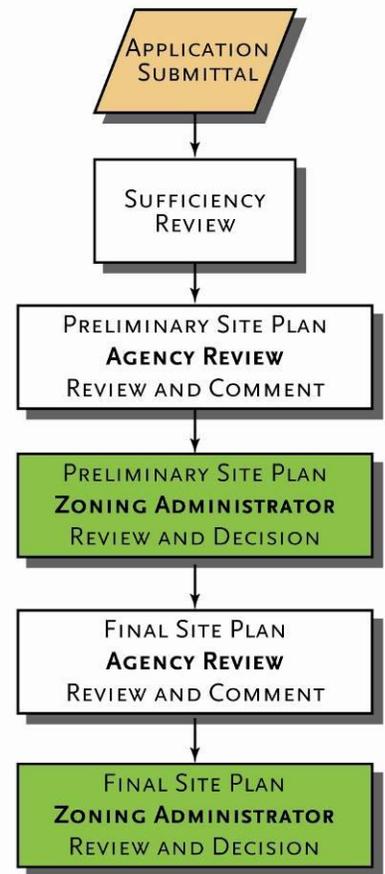
45 **F. Final Site Plan Review**

46 **1. Action by County Staff**

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

49 **2. Additional Approval Criteria**

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



1 **3. Action by Zoning Official**

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

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

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

11 **5. Period of Validity**

12 The final site plan shall be valid for a period of two years from the date of
13 approval. No extensions will be granted.

14 **G. Conformity to Plan**

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

19 **H. Modification of Approved Final Site Plans**

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

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

- 35 **a.** It does not substantially alter the location of any points of access
36 to the site.
- 37 **b.** It does not change the use of the site.
- 38 **c.** It does not increase the density or intensity of the development
39 to occur on the property.
- 40 **d.** It does not result in a reduction of previously approved open
41 space, setback, building location, or landscaping counts.
- 42 **e.** It is consistent with the general intent and purpose of this Code.
- 43 **f.** It does not result in a material modification or the cancellation of
44 any condition placed upon the site plan as originally approved.
- 45 **g.** It does not add additional property to the site.
- 46 **h.** It does not substantially change the internal or external traffic
47 pattern.
- 48 **i.** It does not increase the height of any buildings, including
49 approved rooftop appurtenances.
- 50 **j.** It does not increase the floor area by more than 500 square feet.

51 **2.** Major modifications are changes in the use, density, and location of
52 structures on an approved final site plan. Other modifications may be
53 determined to be major if the Zoning Official determines they deviate

1 substantially from an approved final site plan and can reasonably be
2 expected to cause adverse changes in internal functioning of the site or
3 its off-site impacts. Such changes shall require a new application for Site
4 Plan Review.

5 **I. Pre-construction Meeting**

6 Prior to the issuance of any permit, a pre-construction meeting with County staff is
7 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
4 special exception. The Zoning Official may require
5 that site plans associated with special exceptions be
6 reviewed and comments provided during the special
7 exception process, although no site plan approval
8 shall be implied by this review.

9 **B. Initiation**

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

12 **C. Application Requirements**

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

17 **D. Notice and Public Hearings**

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

22 **E. Action by County Staff**

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

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

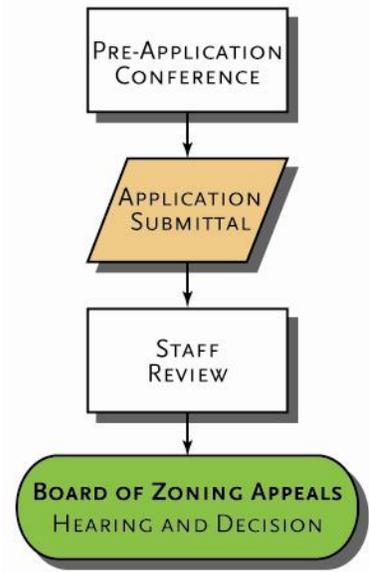
30 **F. Action by Board of Zoning Appeals**

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

42 **G. Additional Approval Criteria**

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

- 46 **1.** The proposed special exception is either explicitly permitted by the
47 regulations in the zoning district for which it is requested, or is permitted
48 by reasonable implication within that district, as determined by the
49 Zoning Official.
- 50 **2.** The establishment of the proposed special exception will not impede the
51 normal and orderly development of the surrounding property.



- 1 3. The proposed special exception is compatible with existing and planned
- 2 uses surrounding immediately adjacent and contiguous to the land on
- 3 which the proposed special exception would exist.
- 4 4. The proposed special exception will comply with the Comprehensive
- 5 Plan, the Code of Ordinances, and this Code.
- 6 5. The establishment, maintenance, or operation of the proposed special
- 7 exception shall not be detrimental to or endanger the public health,
- 8 safety or general welfare.

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

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

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

31 Whenever the Board of Zoning Appeals has denied an application for a special

32 exception, the Board of Zoning Appeals shall not thereafter consider an identical

33 application for a special exception concerning all or any part of the same property for a

34 period of one year from the date of such action, except that this requirement may be

35 waived upon approval by the Board of Zoning Appeals. This Section does not apply to

36 applications for a modification of a previously approved special exception.

37 **J. Modifications**

38 Minor expansion, alteration, or modification of any special exception shall be approved

39 by the Zoning Official. Major modifications must be approved by the Board of Zoning

40 Appeals. It shall be the duty of the Zoning Official to determine which modifications

41 are classified as major or minor.

42 **K. Historical Structures**

43 Owners of structures designated on the local or National Historic Register may petition

44 the Board of Zoning Appeals for a special exception for any type of use which would

45 encourage the adaptive re-use of the historic structure, regardless of whether such

46 use is permitted by special exception in the zoning district in which the historic

47 structure is located.

1 **1.3.12 Variance**

2 **A. Applicability**

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

10 **B. Initiation**

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

13 **C. Application Requirements**

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

18 **D. Notice and Public Hearings**

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

23 **E. Action by County Staff**

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

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

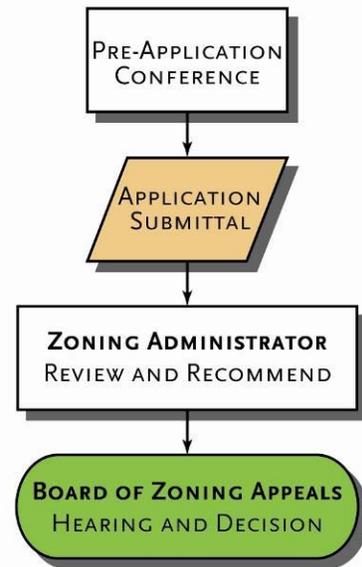
31 **F. Action by Board of Zoning Appeals**

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

42 **G. Additional Approval Criteria**

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

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



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

11 **H. Effect of Variance Approval**

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

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

26 Whenever the Board of Zoning Appeals has denied an application for a variance, the

27 Board of Zoning Appeals shall not thereafter consider an identical application for a

28 variance concerning all or any part of the same property for a period of one year from

29 the date of such action, except that this requirement may be waived by the positive

30 votes of a majority of the members of the Board of Zoning Appeals when such action

31 is deemed necessary. Should the variance application be modified, the one-year

32 waiting period shall not apply.

33 **J. Administrative Variance**

34 If the proposed variance is for no more than one foot or 10 percent of the dimensional

35 standards, whichever is greater, the applicant may request that the Zoning Official

36 grant an Administrative variance. The Zoning Official may grant the Administrative

37 variance if it is found to not be harmful to adjoining land uses or adverse to the public

38 interest. No administrative variance shall be granted for relaxation of building height

39 or minimum lot size.

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
6 the modification process, although no site plan approval shall be implied by this
7 review.

8 **B. Initiation**

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

11 **C. Application Requirements**

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

14 **D. Notice and Public Hearings**

15 The County shall hold all required public hearings and provide public notice in
16 accordance with the Public Notice Requirements and Public Hearings Requirements
17 provisions of this 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. Site plans associated with modifications must be
21 reviewed and comments provided during the modification process, although no site
22 plan approval shall be implied by this review.

23 **F. Action by Zoning Official**

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

26 **G. Additional Approval Criteria**

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

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

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

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

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approved modification, in addition to all other applicable requirements.
The Final Site Plan Review application shall include a copy of the
approved modification.

I. Period of Validity

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

1 **1.3.14 Appeal of Administrative Decision**

2 **A. Applicability**

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

5 **B. Initiation**

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



11 **C. Application Requirements**

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

16 **D. Appellate Bodies**

17 **1. Board of County Commissioners**

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

20 **2. Board of Zoning Appeals**

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

23 **3. Earthmoving Hearing Examiner**

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

26 **E. Stay of Proceedings and Work**

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

33 **F. Notice and Public Hearings**

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

37 **G. Action by County Staff**

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

41 **H. Action by Appellate Body**

42 The Appellate Body shall hold a public hearing on the appeal, and may reverse or
43 affirm, wholly or partly, or may modify the order, requirement, decision, or
44 determination made, and may make such order, requirement, decision, or
45 determination as shall be proper in the circumstances, and for such purpose shall have
46 all the powers of the officer from whom the appeal was taken. At the hearing, any
47 substantially interested person may appear and be heard either in person or by his or
48 her representative. Where the Appellate Body denies the appeal, the reasons for denial
49 shall be stated for the record.

50 **I. Additional Approval Criteria**

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

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- 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.

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
4 which results in increased density on the subject property, a Certification of a Sending
5 Zone (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
11 TDU Appeal shall be submitted in accordance with the Application Requirements of this
12 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
15 accordance with the Public Notice Requirements and Public Hearings Requirements
16 provisions of this 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
20 and submit a report to the BCC detailing the facts involved. Upon a determination that
21 an application does not meet the Transfer of Density Units provisions of this Code,
22 staff 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, Rezoning,
 - 25 changes to the County Code, Development of Regional Impact approvals
 - 26 or amendments, Plat or Street Vacations, Variances, Special Exceptions,
 - 27 or any other official action by the County having the effect of permitting
 - 28 the development of land. Those Use Amendments that result in an
 - 29 increase in density units on property subject to the proposed change,
 - 30 except for property involved in petitions initiated by Charlotte County to
 - 31 correct inconsistencies between the Future Land Use Map and Zoning
 - 32 Atlas that were in existence prior August 28, 2001, shall comply with the
 - 33 Transfer of Density Units Articles.
- 34 **2.** A Use Amendment requiring a TDU shall include notice of the TDU in all
 - 35 public notice for the Use Amendment provided in accordance with the
 - 36 Public Notice Requirements and Public Hearings Requirements provisions
 - 37 of this Code.
- 38 **3.** Discussion of the TDU requirements for the Use Amendment shall be
 - 39 included in the staff report and decision for that Use Amendment.
- 40 **4.** One of the following processes shall be followed when a Use Amendment
 - 41 that is subject to this Section does not involve a Planned Development
 - 42 rezoning. The documents indicated below shall be placed on the same
 - 43 agenda as, and subsequent to, the hearing of the Use Amendment.
 - 44 **a.** The applicant shall submit a TDU petition utilizing certified
 - 45 Density Units, requiring submittal of an original Certificate of
 - 46 Transferable Density Credits, with the Use Amendment.
 - 47 **b.** The applicant shall submit a CSZ petition to sever density from
 - 48 an identified Receiving Zone (RZ) and a TDU petition with the
 - 49 Use Amendment.
 - 50 **c.** The applicant shall submit a TDU petition and an Agreement to
 - 51 Purchase Density Credits with the Use Amendment. The use of
 - 52 an Agreement to Purchase Density Credits allows the applicant
 - 53 the opportunity to gain approval of the Use Amendment prior to

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

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

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

- 29 **1.** A CSZ petition, if approved, will serve to sever Density Units from an
30 approved SZ. Once Density Units are severed, or, as otherwise termed,
31 certified, the units may be sold to other parties or used by the CSZ
32 applicant for transference to a Receiving Zone. A Transfer of Certified
33 Density Units form and the original Certificate of Transferable Density
34 Credits must be submitted to the County in order for the ownership of
35 density to be officially transferred. A new Certificate of Transferable
36 Density Credits will be issued by the County to the new owner(s).
- 37 **2.** Any owner of real property may request a determination of Staff on
38 whether such property meets the criteria of an SZ at a pre-application
39 conference. If the determination is positive that the property meets the
40 criteria of an SZ, the owner may petition the Board to have their
41 property approved as an SZ and Density Units certified.
- 42 **3.** A Conservation Easement shall be required for any SZ. If encumbrances
43 exist that, in the judgment of the County Attorney, would impair or
44 otherwise adversely affect the recorded easement, the County Attorney
45 may require that the applicant take such steps to ensure that the
46 enforcement of the encumbrances will not impair or otherwise adversely
47 affect the easement.
- 48 **4.** If the proposed SZ is platted, the applicant may be required to submit a
49 plat vacation along with the CSZ application, as established at the pre-
50 application conference.
- 51 **5.** A CSZ shall be as approved by resolution of the BCC. The BCC shall not
52 grant a CSZ unless it finds that:
 - 53 **a.** The CSZ meets the intent, purpose and provisions of this Code
54 and the Comprehensive Plan, and that the property meets the
55 criteria of an SZ as established in this Code.

1 **b.** The applicant has submitted a signed and notarized Conservation
2 Easement, as applicable.

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

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

9 **H. Transfer of Density**

10 **1.** A TDU application, if approved, will serve to transfer Density Units from a
11 certified SZ to an approved RZ. The increase in density units on the RZ
12 shall be approved through a Use Amendment and the TDU is the BCC's
13 acknowledgement that the density has been shifted from an SZ to an RZ
14 and that, wholly or in portion, the approved density increase is now able
15 to be developed.

16 **2.** Density Units shall only be transferred in whole units.

17 **3.** A TDU shall be approved by resolution of the BCC. The BCC shall not
18 grant a TDU unless it finds that:

19 **a.** The TDU meets the intent, purpose and provisions of this Code
20 and the Comprehensive Plan.

21 **b.** The applicant has submitted an original Certificate of
22 Transferable Density Credits.

23 **c.** The property to which the density is being transferred is an
24 approved RZ.

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

26 **1.** A CSZ shall become effective when the Conservation Easement, and
27 management plan, as applicable, has been recorded with the Clerk of the
28 Circuit Court. The applicant shall be responsible for recording. Upon the
29 CSZ becoming effective, Staff shall issue a Certificate of Transferable
30 Density Credits to the owner(s) of the SZ property. The issuance of the
31 Certificate shall establish the quantity of Density Units for the property at
32 the time the Certificate is issued and shall be considered a final
33 determination. Once a Certificate has been issued, the property owner
34 shall maintain the property in accordance with the requirements of the
35 Conservation Easement. Density Units certified pursuant to this Code
36 may be transferred to an eligible RZ.

37 **2.** A TDU shall become effective upon approval by the BCC unless an
38 applicant has simultaneously submitted an Agreement to Purchase
39 Density Credits with the TDU application. In such a case, the TDU shall
40 become effective if the purchase of Density Credits has occurred and the
41 Certificate of Transferable Density Credits has been surrendered to the
42 County within ten working days of the TDU approval by the BCC.

43 **J. TDU Appeal**

44 **1.** Upon a determination that an application does not meet the Transfer of
45 Density Units provisions of this Code, the applicant may appeal to the
46 BCC to seek limited relief from those requirements. Such appeal shall be
47 made no more than 30 days following the receipt of such determination.
48 Additionally, the applicant must establish the following prerequisites to
49 the satisfaction of the BCC:

50 **a.** That strict and literal enforcement of the provisions that have
51 prohibited the approval of a CSZ, TDU, or Use Amendment would
52 create an undue hardship as distinguished from a mere
53 inconvenience for the owner of the affected real property.
54 Financial hardship shall not be considered.

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- b.** That the special conditions and circumstances are not the result of the actions of any person presently having an interest in the property.
 - c.** That strict and literal enforcement of the provisions of this Code would not deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Code.
 - d.** That granting of an appeal would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood, or otherwise detrimental to the public welfare.
 - e.** The requested appeal is the minimum modification of the regulation at issue that will afford relief.
 - f.** The requested appeal is consistent with the Comprehensive Plan.
 - g.** Owing to the specific circumstances which gave rise to the prohibition or hardship, the spirit and intent of the standards of this Code would be preserved by granting the appeal.
- 2.** An application for TDU Appeal shall be submitted in writing and shall contain, at a minimum, the following information:
 - a.** The sections of this Code from which relief is sought.
 - b.** The nature of the relief.
 - c.** A narrative and supporting evidence that describes how the appeal meets the approval criteria.
- 3.** The BCC shall not grant any CSZ, TDU, or Use Amendment which would require the granting of a TDU Appeal at the same hearing at which the granting of the TDU Appeal is made.
- 4.** A denial of any TDU Appeal request which would not permit the applicant to proceed with a CSZ, TDU, or a Use Amendment under this article shall constitute a final decision.

K. Waiver Prohibition

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

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1.3.16 Earthmoving

Procedure being prepared

1 **1.3.17 Construction and Demolition Permits**

2 **A. Applicability**

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

6 **B. Initiation**

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

10 **C. Application Requirements**

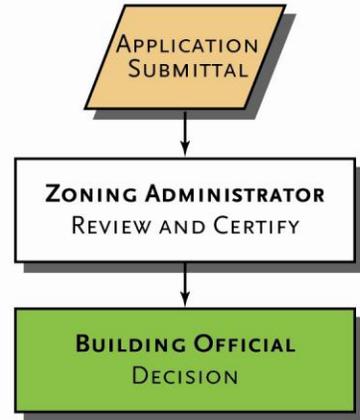
11 An application for a construction or demolition
12 permit shall be submitted in accordance with the
13 Application Requirements of this Code.

14 **D. Action by County Staff**

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

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

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



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1 **1.3.18 Vegetation Management and Tree Removal**

2 **A. Applicability**

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

8 **B. Initiation**

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

12 **C. Application Requirements**

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

16 **D. Action by County Staff**

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

21 **E. Effect of Approval**

- 22 1. Authorization to remove vegetation shall be confined to the area
23 specifically identified in the approved permit.
24 2. Authorization to remove a tree shall be confined to the tree specifically
25 identified in the approved permit.

26 **F. Period of Validity**

- 27 1. For development requiring Site Plan Review approval, permits are valid
28 for six months from the date of issuance. Permitted activity may only be
29 performed following final Site Plan Approval.
30 2. For development that does not require Site Plan Review approval,
31 permits are valid for six months from the date of issuance.
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1.3.19 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

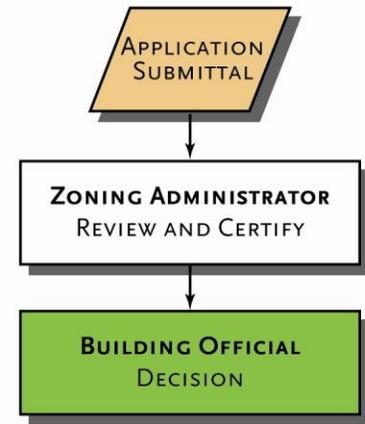
An application for a zoning permit may only be initiated by the owner of the subject property.

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 **1.3.20 Archaeological and Historical Resource Review**

2 **A. Applicability**

3 The following procedure shall be used to review any application for development for
4 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
9 subject site is listed on the National Register of Historic Places, the
10 Florida Master Site File List, any Local Historic Register, or is designated
11 as having a High or Medium probability of containing archaeological
12 resources according to the County’s Archaeological Predictive Model.

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

1 **1.3.21 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
5 in public infrastructure.

6 **B. Initiation**

7 A request for a concurrency mitigation may only be initiated by the owner of the
8 subject 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
14 accordance 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
21 the 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
26 deficiencies, the County has calculated the fair-share of costs required to
27 provide public infrastructure facilities adequate to serve the proposed
28 development according to the methodology established in the
29 Proportionate Fair_Share provisions of this Code.
- 30 **2.** In the case of other forms of mitigation, the mitigation is deemed
31 appropriate by the department, agency, or organization responsible for
32 operating and maintaining the affected public infrastructure.
- 33 **3.** Any capital projects required to mitigate the deficiencies are included in
34 the next update to the Capital Improvements element of the County's
35 comprehensive plan.
- 36 **4.** The burdens and benefits of a concurrency mitigation agreement are
37 binding upon all parties to the agreement and to their successors, in
38 interest and assigns.

39 **H. Authority Granted by Approval**

40 Approval of a concurrency mitigation agreement

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1 **1.3.22 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
9 the 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
12 be paid to the County prior to the final building inspection and issuance of the
13 Certificate of Occupancy. Any impact fee credits received as part of concurrency
14 mitigation shall be credited against the impact fees owed. No final building inspection
15 shall be made, nor any Certificate of Occupancy issued, until all applicable impact fees
16 have been paid. The 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
25 Board of County Commissioners after ten days' notice to the County Administrator.
26 The appeal 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
29 error.
30 **3.** If the complained County action is in writing, a copy thereof.
31 **4.** The order of the Board of County Commissioners or the relief requested
32 by the appellant.
33 **5.** A certified signed statement that the appellant has provided a copy of
34 the appeal to the County Administrator.

1 **1.3.23 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
6 the subject property.

7 **C. Application Requirements**

8 An application for a determination of vested rights shall be submitted in accordance
9 with 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
12 accordance with the Public Notice Requirements and Public Hearings Requirements
13 provisions of this Code. The procedures for notices and hearings in this Article are
14 adopted pursuant to Chapter 163.3215(4), F.S. The provisions of this article shall be
15 construed in a manner so as to conform to the requirements of Chapter 163.3215(4),
16 F.S. A party shall bring all actions for relief in connection with a decision issued
17 pursuant to this article under the procedures set forth in this Article. The sole method
18 by which a party may challenge any decision under this Article shall be as provided in
19 Chapter 163.3215(4), F.S.

20 **E. Action by County Staff**

21 **1.** Any person claiming vested rights pursuant to Chapter 163.3167(8), F.S.
22 shall submit an application asserting such claim to the Community
23 Development Department, together with the specific legal justification
24 and factual data to support such claim. Such data may include, but is
25 not limited to, copies of documents which evidence previous plat or
26 zoning approvals and such other county approvals and actions, and
27 actions, investments, and other acts in reliance of the claimant or its
28 predecessor(s)-in-title which the claimant asserts is the basis for a
29 vesting decision. The applicant shall also list with particularity the
30 provisions of the comprehensive plan and land development regulations
31 from which the applicant asserts his or her development is vested. The
32 application shall be accompanied by a non-refundable fee as established
33 by resolution of the board of county commissioners. The department
34 shall make a determination whether or not a claim of vested rights has
35 been established pursuant to this article. If the department determines
36 that a claim of vested rights has been established, it shall issue a
37 preliminary decision which describes the vested rights of the
38 development and which reflects the basis for the vesting decision, the
39 nature and extent of such vested rights and any restrictions or
40 conditions thereon which are required to recognize and maintain such
41 vested rights status. If the department determines that a claim of vested
42 rights has not been established, it shall issue a preliminary decision
43 which reflects the basis for this determination.

44 **2.** Any person may apply for a decision that a proposed change to a
45 development which has been determined to have vested rights will not
46 divest such vested rights, upon a determination by the department that
47 such change will not create additional impacts on public facilities and
48 cultural and natural resources and meets one of the following criteria:

49 **a.** It is in a community redevelopment area created pursuant to
50 Chapter 163, F.S. and the proposed change is consistent with the
51 community redevelopment area plan and is otherwise consistent
52 with the comprehensive plan and the land development
53 regulations.

54 **b.** It is in an infill area within the urban service area overlay district
55 and the proposed change is otherwise consistent with the

1 comprehensive plan and the land development regulations and
2 proposes a development plan which furthers the goals and
3 objectives of the comprehensive plan regarding redevelopment.

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

1 statement which sets forth the prohibitions on ex parte
2 communications, together with a copy of this ordinance
3 and the forms promulgated under subsection (c), may be
4 obtained at the office of the department.

5 **5)** Copies of the preliminary decision may be obtained at the
6 Department.

7 **8.** The BCC shall, by resolution, fix reasonable fees to be charged by the
8 County for all applications and requests for hearings made pursuant to
9 this Article.

10 **F. Appeal of Staff Decision**

11 **1.** Within 15 calendar days of issuance of a preliminary decision pursuant to
12 Subsection (a) or (b), above, any aggrieved or adversely affected party
13 who wishes to challenge or support such decision shall request a quasi-
14 judicial hearing to challenge or support the preliminary decision on the
15 basis that it is not consistent with the comprehensive plan, this Code, or
16 both. Such request shall be filed with the Department on appropriate
17 forms and shall be accompanied by a non-refundable fee as established
18 by resolution of the BCC. For purposes of this Article, the term "party" or
19 "parties" shall mean an "aggrieved or adversely affected party", as such
20 term is defined in Chapter 163.3215(2), F.S. The County shall not be
21 bound by the preliminary decision. If no hearing is requested, the
22 preliminary decision shall become final.

23 **2.** A party shall not be required to be represented by an attorney in order
24 to participate in the hearings.

25 **3.** Within 45 calendar days after a request to challenge or support the
26 preliminary decision is submitted pursuant to subsection (a), above, a
27 quasi-judicial hearing shall be held before an impartial special master to
28 determine whether the preliminary decision is consistent with the
29 comprehensive plan, the land development regulations or both. If
30 multiple parties have requested a quasi-judicial hearing pursuant to
31 subsection (a), above, to challenge or support the same preliminary
32 decision, the county shall consolidate all such requests and shall hold a
33 single hearing before the special master. If a party needs additional time
34 to prepare and present a case for the hearing, the department may
35 grant up to an additional 30 days to do so, upon a determination that
36 such additional time is necessary.

37 **4.** Not less than 15 days prior to the hearing before the special master, the
38 county shall provide notice of such hearing by publication consistent with
39 the provisions of Chapter 125.66(4)(b)2, F.S. The County shall also post
40 notice prominently at the site that is the subject of the application. The
41 clerk of the board shall also give notice of the set date and time of the
42 hearing by certified mail to the parties. Such notice shall be mailed at
43 least ten calendar days prior to the date set.

44 **5.** All parties shall have the opportunity to prepare and present a case for
45 the hearing, to require the disclosure of witnesses and exhibits and to
46 take depositions of witnesses.

47 **6.** The special master shall be an attorney who has at least five years'
48 experience. The special master shall have the power to rule on
49 procedural matters, swear witnesses and take their testimony under
50 oath, to issue subpoenas and other orders regarding the conduct of the
51 proceedings, and to compel entry upon the land. The special master
52 shall allow relevant testimony and evidence regarding standing and
53 objections thereto, which shall be a part of the record of the
54 proceedings, but shall not exclude any person from participating in the
55 hearing.

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

G. Appeal of Special Master Decision

- 1. Within 30 days following the issuance of the written recommendation of the special master, a duly-noticed quasi-judicial hearing shall be held before the board of county commissioners.
- 2. No less than 15 days prior to the hearing before the board, the county shall provide notice of such hearing by publication consistent with the provisions of Chapter 125.66(4)(b)2, F.S. 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 and to any person who participated at the hearing and who signed an attendance sheet at the hearing before the special master. Such notice shall be mailed at least 15 calendar days prior to the date set for the hearing.
- 3. The BCC shall be bound by the special master's findings of fact, unless the findings of fact are not supported by competent substantial evidence. The board may modify the conclusions of law if it finds that the special master's application or interpretation of law is erroneous. The board may make reasonable legal interpretations of its comprehensive plan and land development regulations without regard to whether the special master's interpretation is labeled as a finding of fact or a conclusion of law. The board may question witnesses and parties.
- 4. Any person who presents evidence or testimony at the hearing shall sign in on an attendance sheet. All testimony shall be under oath.

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5. At the hearing before the BCC, all parties shall have the opportunity to respond, to present evidence and argument on all issues which are related to the special master's recommendations on the preliminary decision and to other matters properly presented to the special master and to conduct cross-examination and submit rebuttal evidence. Public testimony shall be allowed.
 6. At the hearing before the board, staff of the Department shall present the Department's preliminary decision, explain the reasoning for its findings and preliminary decision and answer any questions of the board.
 7. Any ex parte communication relating to the merits of the matter under review may not be made to members of the board after the written recommendation of the special master has been received and officially date stamped by the county clerk.
 8. The final decision of the board shall be provided in writing within 15 days of the close of the hearing and shall include findings of fact and conclusions of law, with a copy being provided to the clerk of the board. The clerk of the board shall, on the same calendar day or the next working day, mail by certified mail, or otherwise deliver a copy of the recommendation to the parties and to any person who participated at the hearing and who signed an attendance sheet at the hearing before the board. The final decision of the board is not considered rendered or final until officially date-stamped by the county clerk.

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H. Vested Rights

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

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I. Bridgeless Barrier Islands

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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 an
8 after-the-fact fee of quadruple the established standard fee.

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1 **Article 1.5 Violations and Enforcement**

2 **1.5.1 Control of Development**

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

5 **1.5.2 Penalties**

6 **A.** Any person who violates the provisions of this Code may be prosecuted through
7 criminal proceedings as provided in Chapter 125.69, F.S., and may be punished by
8 the maximum fine, or imprisonment, or both. Each day such violation continues shall
9 be considered a separate offense.

10 **B.** The owner or tenant of any structure or site, or any part thereof, and any architect,
11 building contractor, surveyor, agent, or any other person who commits, participates
12 in, assists in, or maintains such violation may each be found guilty of a separate
13 offense and suffer the penalties provided. All fines collected under this Article shall
14 be deposited into a Code Enforcement account to augment code enforcement
15 services.

16 **C.** Any person who opposes, obstructs, or resists any Code Enforcement Officer or any
17 person authorized by the Code Enforcement Officer in the discharge of his or her
18 duties as provided by this Code shall be in violation of these regulations and
19 prosecuted in the same manner as misdemeanors are prosecuted, punishable by a
20 fine, or by imprisonment not to exceed 60 days, or both.

21 **D.** The County is expressly authorized to take such other lawful action, or combination
22 of actions, against any owner or other person as is necessary to prevent or remedy
23 any violation of this Code, including, but not limited to, resort to equitable action for
24 injunctive relief, and enforcement pursuant to Chapter 162, F.S., and this Code.
25 Fines for offenses prosecuted as citations under this Code shall be established by
26 resolution of the Board of County Commissioners.

27 **E.** The County shall have full discretion to select among appropriate remedies based on
28 which would be the most effective in a particular situation.

29 **F.** All remedies provided by this Code shall be cumulative. To the extent that Florida
30 law may limit the availability of a particular remedy for a certain violation or a part
31 thereof, such remedy shall remain available for other violations or other parts of the
32 same violation.

33 **1.5.3 Repeat Violations**

34 **A.** If an owner or occupant or other person repeats the same violation, whether or not
35 such violation is at the same location, within a five-year period from the date of the
36 initial violation, it shall be considered to be a repeat of the initial violation and shall
37 be subject to additional penalties and remedies.

38 **B.** Any action considered a violation of any previous version of the regulations contained
39 in this Code may be considered a repeat violation of this Code where the prior
40 provisions have been replaced with provisions in this Code, even where the location
41 of the applicable provisions within this Code has changed, provided such action
42 continues to be considered unlawful.

43 **C.** For the purposes of a repeat violation, payment of a fine shall be considered
44 admission of a violation.

45 **1.5.4 Bad Actors**

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

49 **B.** Once a violation has been brought into compliance or dismissed, development
50 permits may be applied for.

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- C.** Deveopment permits may be issued if those permits are to correct the outstanding violations.

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
 - 33 its value to 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.