

## **CHAPTER 1. GENERAL PROVISIONS**

### **1.00.00. TITLE AND EFFECTIVE DATE**

This *Code* shall be known and cited as the *Walton County Unified Land Development Code*, and may be referred to as the "Walton County Land Development Code", "Land Development Code" or as the "*Code*." These regulations shall be effective on August 1, 1997.

### **1.01.00. AUTHORITY**

This *Land Development Code* is enacted pursuant to the requirements and authority of Section 163.3202, Florida Statutes (The Local Government Comprehensive Planning and Land Development Regulation Act), and the general powers granted in Chapter 125, Florida Statutes.

### **1.02.00 SEVERABILITY**

If any section, subsection, sentence, clause or phrase of the *Walton County Land Development Code* is, for any reason, held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of the Code. The Board of County Commissioners hereby declares that it would have passed this *Land Development Code* and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

### **1.03.00. ABROGATION**

This *Code* is not intended to repeal, abrogate or interfere with any existing easements, covenants, or deed restrictions duly recorded in the public records of Walton County. Moreover, nothing in this *Code* shall be construed to give the Walton County Board of County Commissioners responsibility for enforcing private covenants or deed restrictions.

### **1.04.00. EFFECT OF CODE**

The regulations of the *Walton County Land Development Code* apply to the use and development of land. No application for development shall be approved by Walton County unless the application conforms to and complies with the procedures, standards, regulations and criteria of this *Land Development Code*.

### **1.05.00. PURPOSE**

A. The purpose of this *Land Development Code* is intended to enable Walton County to respond uniformly and consistently to development proposals and to promote the health, safety and general welfare of the residents of Walton County; to enhance the aesthetic quality of the natural and built environment in the community; to encourage the desirable use of land; to maintain and enhance the character of the community, and to facilitate quality development in accordance with the *Walton County Comprehensive Plan*.

B. Further, the purposes of this *Code* are:

1. To promote orderly future development within the County;
2. To implement the *Walton County Comprehensive Plan*;
3. To clearly articulate standards for quality and compatible development;
4. To facilitate the adequate provision of infrastructure to serve development;
5. To establish zoning districts and land use regulations; to regulate the use of buildings and structures; and to encourage the most appropriate use of land;
6. To preserve open space and other lands for the protection and enjoyment of the natural environment;
7. To establish procedures for development orders, permits, rezoning, development plans, conditional use permits, variance and other development related approval processes;
8. To proscribe penalties for violation of the *Walton County Land Development Code*.
9. To enhance the aesthetic appeal of the entire County in order to foster the tourism industry and to provide a pleasing environment for Walton County citizens.

#### **1.06.00. RELATIONSHIP TO AND CONSISTENCY WITH *COMPREHENSIVE PLAN***

- A. This *Land Development Code* implements the goals, policies and objectives of the *Walton County Comprehensive Plan* and is hereby deemed to be consistent and in accordance with the adopted *Comprehensive Plan*
- B. This *Land Development Code* is intended to guide development in compliance with the goals, policies and objectives of the *Walton County Comprehensive Plan*.
- C. Any amendment to the text of the *Land Development Code* shall be consistent with and in accordance with, the *Walton County Comprehensive Plan*.

#### **1.07.00. APPLICABILITY**

##### **1.07.01. *General Applicability***

Except as specifically provided below, the provisions of this *Code* shall apply to all development in the unincorporated area of Walton County, and no development shall be undertaken without prior authorization pursuant to this *Code*.

##### **1.07.02. *Exceptions***

- A. *Previously Issued Development Orders or Permits*. Development activity may be undertaken without issuance of a permit pursuant to this *Code* where:

1. The development activity is authorized by a development order or permit issued prior to the adoption date of this *Code* and

2. The development activity has been and is continuing at all times since issuance of the permit or development order without interruption (except because of natural disaster) until the development is complete. If the development permit or order for a site expires, any further development activity on that site shall occur only in conformance with the requirements of this *Code* and pursuant to a permit issued under this *Code*.

B. *Previously Approved Development Orders*. Projects with valid development orders that have not expired prior to the adoption date of this *Code*, and on which development activity has commenced or does commence and proceeds according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of the regulations in effect when the development plan was approved. If the development plan and/or order for a site expires or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this *Code* and pursuant to a permit issued under this *Code*.

C. *Previously Approved Developments of Regional Impact (DRIs)*. DRIs with valid development orders issued pursuant to Chapter 380, Florida Statutes, that have not expired prior to the adoption date of this *Code*, must meet only the requirements in effect when the DRI was originally approved. If the DRI development order has expired or is otherwise invalidated, any further development on that site shall occur only in conformance with the requirements of this *Code* and pursuant to a permit issued under this *Code* unless the development order has been extended pursuant to Chapter 380, Florida Statutes. If a DRI development order has been amended since May 1, 1991, the changed portions of the DRI only may be required to conform to the requirements of this *Code* and may be required to obtain a permit issued under this *Code*.

#### **1.08.00 INTERPRETATION**

A. Generally. In the interpretation and application of this *Code*, all provisions shall be liberally construed in favor of the objectives and purposes of the County and shall be deemed neither to limit nor repeal any other powers granted under State statutes.

B. Interpretation and application of the provisions of this *Land Development Code* shall be regarded as the minimum requirements for the promotion of public health, safety, and general welfare of the residents of Walton County.

C. Whenever any provision of the *Walton County Land Development Code* or any other provision of any other applicable law, rule, contract, resolution or regulation of the State of Florida or Federal Government contains standards covering the same subject matter, the more restrictive requirement(s) shall control.

D. The elements that make up the *Walton County Land Development Code* are interrelated and cannot be interpreted in isolation, they must be interpreted within the context and meaning of the entire *Land Development Code*.

E. The words and phrases used in this *Land Development Code* shall have the meanings assigned in the Definitions section of this *Code*, except where the context of such words and phrases clearly indicates a different meaning or construction or when a more specific meaning is provided in a particular section of this *Land Development Code*.

F. This *Land Development Code* may include illustrations, photographs, and graphics for the purposes of illustration and simplification. However, to the extent there is any inconsistency between the text of this *Land Development Code* and any such illustration, photograph, or graphic, the text shall control.

G. In the interpretation and application of this *Code*, all provisions shall be liberally construed in favor of the objectives and purposes of the County and shall be deemed neither to limit nor repeal any other powers granted under State statutes.

H. Rules of Interpretation. The following rules of interpretation are applicable to *the Walton County Land Development Code*:

1. *Code* Interpretations. The Director of Planning and Development Services shall have the duty and responsibility to issue formal interpretations relative to the meaning and application of any provision of this *Land Development Code*. Responsibility for interpretation by the Director shall be limited to standards, regulations and requirements of this *Code*, and shall not be construed as overriding the responsibilities given to any Commission, board or official named in other sections or chapters of this *Code*. An applicant may appeal an interpretation of this *Code* which has been made by the director of the Department of Planning and Development Services in accordance with Section 1.13.09.B of this *Code*

2. Zoning Map Boundary Interpretations. Interpretations regarding boundaries of land use districts shall be made in accordance with applicable provisions in Chapter 2 of this *Code*.

3. Computation of Time. The time within which an act is to be done under this *Code* shall be computed by calendar day.

4. Delegation of Authority. Whenever a provision in this *Code* requires the head of a department or some other County officer or employee to do some act or perform some duty, it is to be construed as an authorized delegation for the performance of the required act or duty unless the terms of the provision or section specify otherwise.

5. Gender. Words importing the masculine gender shall be construed to include the feminine gender, and vice versa.

6. Number. Words in the singular shall include the plural, and words in the plural shall include the singular.

7. Construction of Terms; Intended Meanings. The following words shall have the intended meanings indicated below:

- a. *Day*. The word “day” shall mean a calendar day.
- b. *May*. The word “may” is intended as permissive.
- c. *Shall*. The word “shall” is to be construed as mandatory.
- d. *Written or in writing*. The terms “written” or “in writing” shall be construed to include any representation of words, letters and/or figures which, whether hand or machine written. Documents submitted by facsimile transmission are acceptable as written documents.
- e. *Year*. The word “year” shall mean a calendar year, unless otherwise specifically indicated.

8. Relationship of Specific to General Provisions. More specific provisions of this *Code* shall control over more general provisions that are in conflict with the more specific provision.

#### **1.09.00. REPEAL OF PRIOR PROVISIONS**

Any ordinances and provisions in conflict with these regulations are hereby repealed as of the effective date of this *Code* are:

- A. County Ordinance 83-3, the Walton County Setback Ordinance.
- B. County Ordinances 85-10 and 86-13, the Walton County Zoning Ordinance and amendments thereto.
- C. County Ordinance 86-1, prohibiting the construction of rigid coastal protection structures seaward of the coastal construction control line.
- D. County Ordinances 86-5 and 87-3, Flood Damage Prevention Ordinance and amendments thereto.
- E. County Ordinance 87-9, Right-of-Way Protection Ordinance.
- F. County Ordinance 88-3, Planned Unit Development Ordinance.
- G. County Ordinances 88-4, 88-7 and 89-7, Subdivision Regulations of Walton County and amendments thereto.
- H. County Ordinance 89-6, Walton County Coastal Code.
- I. County Ordinance 89-11, Walton County Salvage and Recycling Center Ordinance.
- J. County Ordinance 90-05, Walton County Nuisance Ordinance.
- K. County Ord. No. 91-4, Unified Land Development Code.
- L. County Ordinance No. 82-6, Roadside Vendors.

## 1.10.00. DECISION MAKING BOARDS

The following boards and agencies are created to administer the provisions of this *Code* under the authority prescribed by this *Code* and by Florida law.

### 1.10.01. Technical Review Committee (TRC)

#### A. *Establishment.*

There is hereby established a Technical Review Committee.

#### B. *Membership.*

The Technical Review Committee (TRC) is comprised of County staff from various Departments involved in the development review process including planning, building and engineering professionals. The Committee is augmented by education, military, public safety and other outside regional and federal agencies to ensure coordinated review and implementation of development related regulations and policies from these agencies.

The voting membership of the Committee shall be composed of the following:

1. The Director of the Department of Planning and Development Services or delegate acting as Chairperson;
2. An employee appointed from the Building Department;
3. An employee appointed from the Public Works Department;
4. The County Engineer;
5. The Fire Inspector or his designee;
6. An employee appointed from the Health Department;
7. The Road Foreman from the Road District within which development proposed under a particular application would occur;
8. The Emergency Management Director.

#### C. *General Functions, Powers and Duties.*

The Technical Review Committee performs formal technical review and comment on development applications submitted to Walton County for consideration as applicable within this *Code*. The Committee shall be chaired by the Director of the Department of Planning and Development Services, and shall meet at the discretion of the chairman to review development proposals as prescribed in this *Code* and as deemed appropriate by the Director. The recommendations of the Technical Review Committee on each application reviewed shall be forwarded to the Planning Commission and/or Board of County Commissioners for their consideration, if applicable under this *Code*, in a timely manner prior to the final hearing as to each such application.

### 1.10.02. Board of Adjustment (BOA)

#### A. *Establishment.*

There is hereby established a Board of Adjustment of Walton County.

#### B. *Membership.*

1. *Generally.* The Board of Adjustment shall consist of seven members, appointed by the Commissioners of Walton County for overlapping terms of three years. Not more than the term of three such members shall expire in any one year. A member whose term expires may continue to serve until a successor is appointed and qualified. Any member of the Board may be removed from office for just cause by the Commissioners of Walton County upon written charges and after public hearing. All members of the Board shall be residents of Walton County. No member shall be a paid or elected official or employee of the County.
2. *Vacancies.* Any vacancy in membership shall be filled by the Commissioners for the remainder of the unexpired term in the same manner as the initial appointments are made.

#### C. *Organization.*

The Board of Adjustment shall elect a chairperson and a vice-chairperson from among its members. The Board may create and fill such other offices as it may determine to be necessary for the proper conduct of its duties. Terms of all such offices of the Board shall be for one year, with eligibility for reelection. The Board of Adjustment shall adopt rules for transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

Meetings of the Board shall be held once a month, or as otherwise necessary to ensure expeditious and effective fulfillment of the Board's duties and responsibilities, at the call of the chairman. The chairman, or the membership of the Board by majority agreement, may call special meetings with due public notice.

#### D. *Powers and Duties.*

The Board of Adjustment shall have the following powers and duties:

1. To hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this *Code*. The concurring vote of at least four members of the Board shall be necessary to reverse any order, requirement, decision or determination made by an administrative official in the enforcement of this *Code*, or to decide in favor of the applicant on any matter upon which it is

required to pass under this Section, or to effect any variance in the application of this Section.

2. To consider and act upon applications for variances from the terms of this *Code*, including approval of applications for variance when same will not be contrary to the public interest and when, owing to special conditions, a literal enforcement of the provisions of this *Code* would result in unnecessary and undue hardship. Variances shall be authorized in accordance with the standards in Section 1.16.00. The Board of Adjustment may prescribe a reasonable time limit within which the activity for which the variance is required shall be begun or completed or both.
3. To consider and act upon applications for special exceptions and conditional uses. The Board of Adjustments shall be a recommending body for the consideration of Special Exception Use applications and the final decision body for the consideration of Conditional Use applications.

### **1.10.03. Planning Commission**

#### *A. Establishment.*

Pursuant to, and in accordance with section 163.3174, F.S. [F.S. § 163.3174], the Walton County Planning Commission is hereby designated and established as the local planning agency for the unincorporated territory of the County.

#### *B. Membership.*

The Walton County Planning Commission shall consist of seven members appointed by the Board of County Commissioners of Walton County, with one member to be nominated by each of the County Commissioners, and two members to be appointed at large. All members shall be residents of Walton County. No member shall be a paid or elected employee of the County.

1. *Terms Generally.* Terms of the members of the Walton County Planning Commission shall be for two years. A member whose term expires may continue to serve until a successor is appointed and qualified. The Board of County Commissioners shall have the authority to remove any member of the Walton County Planning Commission for cause on written charges, after a public hearing. All members shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties.
2. *Vacancies.* When a position becomes vacant before the end of the term, the Board of County Commissioners shall appoint a replacement member to fill the vacancy for the duration of the vacated term. If a member fails to attend any two of three successive meetings without cause and without prior approval of the chair, or is absent for a total of more than 40 percent of the meetings held during any one-year period, the Planning

Commission shall declare such the member's office vacant and the County Commissioners shall appoint a replacement.

C. *Organization; Rules of Procedure; Meetings and Records.*

1. *Officers.* The Walton County Planning Commission shall elect a chairperson and a vice-chairperson from among its members. The Planning Commission shall appoint a secretary, who may be an officer or employee of the Board of County Commissioners. The Planning Commission may create and fill such other offices as it may determine to be necessary for the proper conduct of its duties. The term of all offices shall be one year.
2. *Technical Assistance and Advisors.* The Director of the Department of Planning and Development Services shall serve as an advisor to the Planning Commission. The district school board and any community college board in Walton County may appoint a representative thereof which shall, upon written notice of such appointment to the Planning Commission (through its secretary), be notified of all meetings and hearings of the Planning Commission and serve as an advisor to the Planning Commission. In addition, the Commission shall be authorized to call upon any branch of the County government for information and advice which in the opinion of the Planning Commission will ensure efficiency of its work.
3. *Rules of Procedure, Meetings and Records.* The Walton County Planning Commission shall make its own rules of procedure and determine its schedule of, and dates and times for, regular meetings, provided that its rules of procedure and schedule of meetings shall be in accordance with applicable law and shall be provided to the Board of County Commissioners. Special meetings of the Planning Commission may be called at such times as the majority of the membership shall determine, at the call of the chairman of the Planning Commission, or upon the request of the Board of County Commissioners or its designee for consideration of business before the Planning Commission.

D. *General Functions, Powers and Duties.*

The Walton County Planning Commission shall have all the powers, duties and responsibilities as set forth in Chapter 163, F.S., as amended. In addition, the Walton County Planning Commission is designated the local planning agency as defined in Chapter 163, F.S., as amended, and as such shall perform the following duties:

1. Review and make recommendations to the Board of County Commissioners on applications relating to major development activity pursuant to this *Code*, including without limitation: proposed zoning changes of any specific property; proposed planned unit developments; proposed street/alley vacation.

2. Review and make recommendations to the Board of County Commissioners concerning amendment to the comprehensive plan and the land development *Code*.
3. Review and recommend to the Board of County Commissioners ordinances designed to promote orderly development as set forth in the comprehensive plan.
4. Make recommendations to the Board of County Commissioners concerning initiation of studies on the location, condition and adequacy of specific facilities of the area, including without limitation studies on: housing, commercial and industrial facilities, parks, schools, public buildings, public and private utilities, traffic, transportation, and parking.
5. Schedule and conduct public meetings and hearings, and consult advisors as the Planning Commission deems appropriate, pertaining to land development as required in other sections of this *Code*.

*E. Legal Counsel.*

The legal counsel for the Board of County Commissioners shall represent the Planning Commission.

**1.10.04 Code Enforcement Board**

*A. Establishment of the Code Enforcement Board.*

There is hereby established a Walton County Code Enforcement Board, which shall act as an administrative board with authority to impose administrative fines and other noncriminal penalties as provided in this Code and by law, and which is intended to provide an equitable, expeditious, effective, and inexpensive method of enforcing the provisions of this *Code* and such other ordinances and regulations as the Board of County Commissioners may designate.

*B. Membership of the Code Enforcement Board.*

1. *Composition.* The membership of the Code Enforcement Board shall consist of seven regular members, plus two alternate members, appointed by the Board of County Commissioners of Walton County. The alternate members are intended to serve on the Code Enforcement Board in the absence of regular Board members. All members of the Code Enforcement Board shall be residents of Walton County.

Appointments shall be made on the basis of experience or interest in the subject matter jurisdiction of the Code Enforcement Board, in the sole discretion of the Commissioners. However, the regular membership shall include at a minimum:

one architect, one business person, one engineer, one general contractor, one subcontractor, and one Realtor.

2. *Terms; Vacancies; Requirements of Service.* Initial appointments to the Code Enforcement Board shall be for the following terms:
  - a. Two members appointed for a term of one year each.
  - b. Three members appointed for a term of two years each.
  - c. Two members appointed for a term of three years each. Thereafter, any appointment shall be made for a term of three years. Any member may be reappointed upon approval of the Commissioners. An appointment to fill any vacancy on the Board shall be for the remainder of the unexpired term of office of the member being replaced. A member whose term expires may continue to serve until a successor is appointed and qualified.
  - d. If any member fails to attend two of three successive meetings without cause and without prior approval of the chair, the Code Enforcement Board shall declare the member's office vacant, and the County Commissioners, upon being notified of such declaration shall promptly fill such vacancy. Members of the Board shall serve without compensation, but may be reimbursed for actual expenses incurred in connection with their official duties. A member of the Code Enforcement Board may be suspended or removed for just cause by the Commissioners of Walton County upon written charges and after public hearing. No member shall be a paid or elected official of the County.

#### C. *Organization of Code Enforcement Board.*

1. *Election of Chairperson.* At the first meeting of the Code Enforcement Board in each year, the members thereof shall elect a chairman and a vice-chairman from among the Board members.
2. *Quorum.* The presence of four or more members shall constitute a quorum of the Board necessary to take official action.
3. *Meetings.* Regular meetings of the Code Enforcement Board shall occur no less frequently than once every two months, but such Board may meet as often as necessary to effectively and efficiently address the caseload presented for its consideration. Meetings of the Code Enforcement Board shall be called by the chairman, upon giving reasonable notice thereof to each of the members of the Board. Meetings may also be called by written notice signed by at least three members of the Code Enforcement Board.
4. *Minutes.* Minutes shall be kept of all meetings and hearings held by the Code Enforcement Board, and all hearings, meetings, and proceedings shall be open to the public.
5. *Legal Counsel.* The Commissioners of Walton County may appoint the County Attorney, or another attorney of their choice, to serve as counsel for the Code Enforcement

Board. However, the County Attorney shall either be counsel to the Code Enforcement Board or shall represent the County by presenting cases before the Board. In no case shall the County Attorney serve in both capacities.

6. *Staff Support.* The office of the administrative supervisor shall provide clerical and administrative support to the Code Enforcement Board as may be reasonably required for the proper performance of its duties.

D. *Jurisdiction.*

1. *Generally.* The Code Enforcement Board shall have jurisdiction to hear and decide alleged violations of all codes and ordinances in force in the County including, but not limited to:
  - a. *Land Development Code*
  - b. *Fire Prevention Code*
  - c. *Building Code*
2. *Jurisdiction Not Exclusive.* The jurisdiction of the Code Enforcement Board shall not be exclusive. Any alleged violation of any of the aforesaid codes and ordinances may be pursued by appropriate remedy in court at the option of the Director of the Department of Planning and Development Services or the Director of the Building Department.

E. *General Functions, Powers and Duties of the Code Enforcement Board.*

1. *Generally.* The Code Enforcement Board shall have the power conferred by Chapter 162, F.S., including the power to:
  - a. Adopt rules for the conduct of its hearings, consistent with the provisions set forth in this Section and in Section 1.11.03 of this *Code*, and in Chapter 162, F.S.;
  - b. Subpoena alleged violators and witnesses to its hearings;
  - c. Subpoena records, surveys, plats, and other documentary evidence;
  - d. Take testimony under oath;
  - e. Establish and levy fines pursuant to Chapter 7 (Code Enforcement) of this *Code*; and
  - f. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
2. *Subpoenas.* Subpoenas shall be served by the Walton County Sheriff.

**1.10.05 Design Review Board (DRB)**

A. *Establishment.*

There is hereby established a Design Review Board of Walton County.

**B. Membership.**

1. *Generally.* The Design Review Board shall consist of seven members, appointed by the Board of County Commissioners of Walton County for overlapping terms of three years. Not more than the term of three such members shall expire in any one year. A member whose term expires may continue to serve until a successor is appointed and qualifies. Members shall serve at the pleasure of the Board of County Commissioners and shall relinquish their seat upon notice of replacement. All members of the board shall be residents of Walton County. No member shall be a paid or elected official or employee of the County.

2. *Membership Categories.* Two members of the Design Review Board shall be design professionals, three members shall be affected property owners within the corridor, one member shall be a real estate or development professional and one member shall be a general citizen of south Walton County. The design professionals shall include architects, engineers, planners and landscape architects. The Chairperson of the Planning Commission or a designee shall be an ex officio member of the Design Review Board.

3. *Vacancies.* Any vacancy in membership shall be filled by the commissioners for the remainder of the unexpired term in the same manner as the initial appointment is made.

**C. Organization.**

The Design Review Board shall elect a chairperson and a vice-chairperson from among its members. Support staff, including a designated secretary for the Board, shall be furnished by the County through its administrative supervisor. The Board may create and fill such other offices as it may determine to be necessary for the proper conduct of its duties. Terms of all such offices of the Board shall be for one year, with eligibility for re-election.

**D. Technical Assistance and Advisors.**

The Director of the Department of Planning and Development Services and a designated Scenic Corridor Review Specialist shall serve as advisors to the Board. In addition, the Board shall be authorized to call upon any branch of the County government at any time for information and advice which in the opinion of the Board will ensure efficiency of its work.

**E. Powers and Duties.**

The Design Review Board shall consider all development applications for design review as required by the *Land Development Code*, Chapter 6. This duty shall include, but is not limited to, the review of all design review applications as recommended by the Planning Director and Scenic Corridor Review Specialist.

In addition, the Design Review Board shall consider and act upon applications for deviations from the requirements of the scenic corridor standards in Chapter 6. The determination of whether a deviation should be granted shall be based upon the criteria established within Chapter 6. If the Design Review Board determines that the requested deviation does not meet one or more of these conditions and denies the requested deviation, the applicant may appeal that determination to the Board of Adjustments.

The Design Review Board shall also review and grant approval for alternative building technologies and/or new building materials, and shall periodically review the design review process and make recommendations to the Board of County Commissioners regarding appropriate amendments that may be necessary to further the design review program and/or improve the efficiency of the program.

*Rules of Procedure, Meetings and Records.* The Board shall make its own rules of procedure and determine its schedule of, and dates and times for, regular meetings, provided that its rules of procedure and schedule of meetings shall be in accordance with applicable law and shall be provided to the Board of County Commissioners. Special meetings of the Board may be called at such times as the majority of the membership shall determine, at the call of the chairperson of the Board, or upon the request of the Board of County Commissioners or its designee for consideration of business before the Design Review Board.

All meetings of the Board shall be open to the public. A written record of the proceedings of the Board in the form of meeting minutes shall be kept showing its actions on each question considered, and shall be filed in the office of the secretary of the Board. All records of the Board shall be public records. Any matter referred to the Board shall be acted upon by the Board within 45 days of the date of referral, unless a longer or shorter period is specified in the referral itself.

F. *Vote Required.*

The concurring vote of at least four members of the Board shall be necessary to approve any application or action brought before the Board or motion initiated by the Board. A quorum shall require four members to be present, one of which must be a design professional. Any decision or determination of the Board which is contested by an applicant with regard to application or interpretation of the standards shall be referred to the Board of Adjustment for appeal hearing. Since a Scenic Corridor application fee has been paid by the applicant for review of the project, the appeal fee normally charged for hearing by the Board of Adjustment shall be waived.

G. *Legal counsel.*

The Commissioners of Walton County may appoint the County Attorney, or another attorney of their choice, to serve as counsel for the Board.

### 1.10.06. COASTAL DUNE LAKES ADVISORY BOARD

#### A. *Establishment.*

There is hereby established a Coastal Dune Lakes Advisory Board of Walton County.

#### B. *Membership.*

1. *Generally.* The Advisory Board shall consist of seven members, appointed by the Board of County Commissioners for overlapping terms of three years. Not more than the terms of three such members shall expire in any one year. A member whose term has expired may continue to serve until a successor is qualified and appointed. Any member may be removed from office by the Board of County Commissioners, with or without cause. No member shall be a paid or elected official or employee of the County.
2. *Members* shall have the following qualifications: Four of the members shall be full time or part time residents of Walton County, residing within one-half mile of one of the Coastal Dune Lakes. One member shall be a full-time resident of Walton County, residing north of Choctawhatchee Bay. Two members shall be appointed at large. At least three of the above shall be individuals with special qualifications through education, experience or history with the lakes that bring special knowledge, skills or abilities to the deliberations.
3. *Ex Officio Members:* The Advisory Board may have as many as ten non-voting ex officio members representing recognized citizens groups, consultants under contract with the County and/or outside environmental agencies. The Advisory Board shall recommend these ex officio members to the Board of County Commissioners for appointment. The terms of ex officio members shall be for a two-year term.
4. *Appointments:* Initial appointments shall be: Three members for three years, two members for two years, and two members for one year. Subsequent appointments and re-appointments shall be for three years.
5. *Vacancies:* Any vacancy in membership shall be filled by the Board of County Commissioners for the unexpired term.

#### C. *Duties of the Advisory Board.*

The duties of the Advisory Board shall be to monitor the coastal dune lakes including activities that impact the environmental conservation of the lakes. Such activities may be those that occur within the lake, within the Coastal Dune Lake Protection Zone, and within the watersheds of the coastal dune lakes.

The Advisory Board shall adopt a Mission Statement describing the mission of the Advisory Board and shall submit it to the Board of County Commissioners for approval. Amendments and/or revisions to the approved Mission Statement may be submitted to the Board of County Commissioners at such intervals as the Advisory Board may determine.

The Board of County Commissioners may modify the Mission Statement of the Advisory Board at will.

D. *Rules and Procedures.*

1. The Advisory Board shall elect a Chairperson and a Vice-Chairperson from within its membership.
2. The Advisory Board shall elect a secretary who shall record the activities of the Board and prepare minutes of all meetings for transmittal to the Board of County Commissioners.
3. A quorum shall be required for any meeting and a record of attendance and a record of all votes, by member's name shall be a part of the minutes.
4. The Advisory Board may adopt such rules as they desire for the conduct of meeting.
5. All recommendations that are to be made shall be made to the Board of County Commissioners, in writing, through the Director of the Planning and Development Services Department. Prior to submittal to the Board of County Commissioners, the Planning Director, or his designee, shall prepare a report offering comments and recommendations to the Board of County Commissioners. The comments and recommendations shall be transmitted to the Board of County Commissioners in conjunction with the next available meeting.
6. All meetings of the Advisory Board shall be properly advertised and shall be subject to such open meetings laws as the State of Florida shall adopt. The advertisement shall include an agenda. No recommendation to the Board of County Commissioners shall be forwarded for any item that had not been on an advertised agenda.

## **1.11.00 DECISION- MAKING PROCEDURES**

### **1.11.01. Generally**

This Section sets forth the common procedural requirements for Quasi-Judicial and Legislative decisions made by the Boards described in the previous section and the Board of County Commissioners.

### **1.11.02 Administrative Decisions**

A. The Director of the Planning and Development Services Department shall make a final administrative decision (pursuant to procedures and requirements set forth for each particular type of request), for the following matters:

1. Building Permits;
2. Sign Permits;
3. Concurrency Certificates for Minor Development Plans;
4. Completeness and Compliance Review of Minor Development Plans;
5. Completeness Review of Major Development Plans; and
6. Any other matter as to which this *Code* does not specify any necessity of review and final action by the Walton County Board of Commissioners or by a Board appointed by the County Commissioners.

B. Any applicant, or other person directly affected by an administrative decision who desires review of an administrative decision made by the Director shall file a written request for such review, within 30 days after the date of the Director's decision, with the Planning and Development Services Department. A copy of such request for review shall also be provided by the applicant (or other person requesting review) to the Director of the Department of Planning and Development Services within 30 days of the date of the action being appealed. Review shall then be conducted by the Board of Adjustment in accordance with the requirements of Section 1.11.03 of this *Code*. The decision of the Board of Adjustment shall constitute final action of the County government and may, thereafter, be appealed to the Circuit Court in accordance with Florida law.

### **1.11.03 Quasi-Judicial Decisions**

#### *A. Applicability*

All decisions which are to be made by an elected or appointed Board, and which require the application of legislatively adopted standards and/or policies to individual cases, are categorized as quasi-judicial in nature. The following matters fall into such category, and shall require review and determination through a quasi-judicial decision-making proceeding by the applicable Board as follows:

| <b>MATTER</b>  | <b>DECISION-MAKING ENTITY</b>   |
|--|---|
| Official Zoning Map Amendments not Requiring Future Land Use Map Amendment | Planning Commission (recommendation)<br>County Commissioners (final decision) |
| Major Development Plan Review (including Concurrency Determinations)       | Planning Commission (recommendation)<br>County Commissioners (final decision) |
| Platting and Major Re-Platting   | County Commissioners (final decision)   |
| Variances  | Board of Adjustment (final decision)  |
| Vested Rights Determinations   | County Commissioners (final decision)   |
| Appeals of Administrative Decisions  | Board of Adjustment (final decision)  |
| Special Exceptions   | Board of Adjustment (recommendation)<br>County Commissioners (final decision) |
| Conditional Uses   | Board of Adjustment (final decision)  |
| Planned Unit Developments  | Planning Commission (recommendation)<br>County Commissioners (final decision) |

**B. Notice of Quasi-Judicial Proceedings.**

Unless otherwise specifically provided for in this *Code*, each quasi-judicial hearing shall be subject to the minimum notice requirements provided in Section 1.11.05 of this *Code*. Platting and Re-platting is exempt from all Notification Requirements except notice publication.

**C. Procedure for Quasi-Judicial Hearings.**

1. The basic procedures to be followed in all quasi-judicial hearings shall be as set forth herein, but may be altered by other provisions of the *Code* within specific substantive areas. Each quasi-judicial hearing required by this *Code* shall conform essentially to the following procedures, as supplemented by other portions of this *Code*, and by law, rule or judicial decision:
  - a. Applicant makes application through the Director of the Department of Planning and Development Services;
  - b. County staff reviews application for completeness and compliance with this *Code* and all other applicable County regulations, and prepares a report to be presented as part of the evidence at the final hearing as to the matter;
  - c. The appropriate reviewing Board conducts a quasi-judicial hearing, which shall be fair, open and impartial in nature, and which shall be followed by issuance or denial of the requested action or development order/permit. The issuance or denial of the requested action or development order/permit is the final action as to the matter, and may only be appealed to the Circuit Court as provided by law.

*D. Burden and Nature of Proof.*

The applicant shall bear the burden of proving, by a preponderance of the competent, substantial evidence presented before the reviewing Board, the completeness of his/her request and the compliance of his/her proposed activity with all requirements of this *Code* and other applicable law. A "preponderance of the evidence" shall mean that amount of evidence which is enough to persuade a reasonable and prudent person that a claim or contention is more likely true than not true. In determining whether any fact has been proven by a preponderance of the evidence, the reviewing Board shall consider the testimony of all witnesses, regardless of who may have called them, and all exhibits received in evidence, regardless of who produced them.

*E. Rules of Evidence.*

Formal rules of evidence shall not apply, but fundamental due process shall apply and shall govern the proceedings. All evidence of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a court of law; however, irrelevant, immaterial or unduly repetitious evidence shall be excluded upon motion of the opposing party or on the Board's own initiative. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a finding of fact unless it would be admissible over objection in a civil action.

*F. Order of Proceedings.*

Quasi-judicial hearings shall be conducted essentially as follows:

- 1) The applicant shall present evidence in support of the particular application under review. The County shall thereafter present evidence relating to the application under review.
- 2) The applicant's evidence may be presented by an attorney or by any other representative chosen and retained by the applicant. The County's evidence shall be presented by an attorney representing the County or by a member of the administrative staff of the County.
- 3) The applicant and the County may each call witnesses, who shall be sworn. All testimony shall be under oath and recorded.
- 4) Fundamental due process shall be observed and shall govern the proceedings.
- 5) Both parties may cross examine witnesses and present rebuttal evidence.
- 6) The Board and its attorney may call and may question any witness(es).
- 7) The Board may, at any hearing, order the reappearance of any witness at a future (or continued) hearing as to the particular case.
- 8) After all evidence has been submitted, the chair shall close presentation of evidence in the particular matter.

*G. Findings and Order.*

Unless the parties and the applicable Board agree to an extension the applicable Board shall, within 15 working days of the hearing, or within 15 working days of receipt of a transcript of the hearing if one is requested by the applicable Board, whichever is longer, prepare a written order which shall include:

- 1) A statement identifying the applicable criteria and standards against which the proposal or request was tested;
- 2) Findings of fact, based on evidence of record, which ultimately establish compliance or noncompliance with the applicable criteria and standards of this *Code*, directly or by reasonable inference;
- 3) The Board's conclusion (supported by its findings of fact and the applicable law, rules and regulations) to either approve, conditionally approve, or deny the proposal or request. Issuance of the findings of fact and order shall be by motion approved by a majority of those members of the reviewing Board present and voting. A copy of the Board's order shall be mailed to the applicant(s) by certified mail, return receipt requested, within three working days of rendition of the written order.

*G. Record of Proceedings.* All proceedings shall be recorded and meeting minutes produced. The Board hearing the matter shall, where practicable, include in the hearing record each item of physical or documentary evidence presented, and shall mark each item to show the identity of the person/party who presented it. Each exhibit received into evidence shall be retained in the hearing file until after the applicable appeal period has expired, when it may be returned to the person/party identified thereon or otherwise disposed of in accordance with Florida law. The findings and order of the Board as to each particular matter heard shall also be included in the record.

*F. Appeals from Quasi-Judicial Decisions of Boards.*

Any applicant, or any adversely affected person who appeared orally or in writing before any Board conducting a quasi-judicial proceeding under the provisions of this *Code* and asserted a position on the merits in a capacity other than as a disinterested witness, may seek review of the final decision reached by such Board in the proceeding by filing a petition for certiorari with a court of appropriate jurisdiction within 30 days following rendition of the Board's decision, and serving a copy of such petition, by mail or hand delivery, to the secretary of the Board who issued the final decision being appealed from.

*G. Special Provisions Relating to Quasi-Judicial Decision-Makers.*

*1. Participation by Interested Officers or Employees.* No officer or employee of the County who has a financial or other private interest in a proposal shall participate in discussions with or give an official opinion to the hearing body on the proposal without first declaring for the record the nature and extent of the interest.

2. *Ex Parte Contacts*. Quasi-judicial decision-makers shall disclose prior to the commencement of the hearing, in writing, the substance of any pre-hearing communication, the identity of any person, group, entity with whom the communication took place. Such disclosure shall be made part of the record before final action on the matter. For purposes of this section, "ex parte" shall mean any contact with a member of the hearing Board occurring outside of the hearing of a matter. However, incidental pre-application contacts that do not include discussion as to particulars of a pending proposal do not need to be stated. If the decision-maker's impartiality or ability to vote on the matter has been impaired by any such contact, the decision-maker shall so state and shall abstain from participation in the decision on the matter.

**1.11.04 Legislative Decisions**

All decisions which are primarily policy-setting, rather than a policy-application, in nature are characterized as legislative decisions. The following matters fall into such category, and shall require review and determination through a legislative decision-making proceeding by the applicable Board as follows:

| <b>MATTER</b>                                    | <b>DECISION-MAKING ENTITY</b>   |
|--|---|
| Comprehensive Plan Text and Map Amendments       | Planning Commission (recommendation)<br>County Commissioners (final decision) |
| Rezoning Requiring Future Land Use Map Amendment | Planning Commission (recommendation)<br>County Commissioners (final decision) |
| Land Development Code Text Amendments            | Planning Commission (recommendation)<br>County Commissioners (final decision) |

Each legislative hearing shall conform to the requirements and procedures set forth in this Part, which shall supplement the mandatory requirements of State law which must be adhered to in all respects.

*A. Procedures for Legislative Decisions*

1. *Scheduling of Hearing*. When the Director of the Department of Planning and Development Services determines that a public hearing is required pursuant to this *Code*, s/he shall notify the appropriate decision-making body so that a public hearing may be scheduled and notice given in accordance with the provisions of this *Code*. The applicant shall be provided with the date of a public hearing, once scheduled, in order for the applicant to proceed in a timely manner with provision of notice as provided in subsection 1.13.04 F.

2. *Conduct of Hearing*. Each public hearing or public meeting involving a decision which is legislative in nature shall at a minimum conform to the following:

- a. Comply with the requirements of applicable State law.

- b. Include a presentation of an analysis, prepared by the Department of Planning and Development Services, of the proposed action or decision.
- c. Include a presentation of a summary of reports of other agencies relating to the proposed action or decision, which summary shall be prepared by the Department of Planning and Development Services.
- d. A public hearing or meeting before the Board of County Commissioners shall include a presentation of the recommendations of the Planning Commission, if any, as to the proposed action or decision.
- e. Permit any person to submit written recommendations and/or comments as to the proposed action or decision before the hearing, and/or to appear, personally or by counsel or authorized agent, and submit documents, materials, and other written or oral testimony or statement(s) as to the proposed action or decision, either individually or as a representative of an organization, during the hearing. Each person who submits written information and/or appears at a public hearing shall identify him/herself, provide his/her address, and identify the name and mailing address of any organization s/he represents. The body conducting the public hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.
- f. Any public hearing or meeting may be continued by the body conducting the hearing to a fixed date, time and place announced during the hearing.

3. *Record of the Hearing.*

- a. The body conducting the hearing shall record the proceedings by any appropriate means. The transcript of testimony, when and if available, the minutes of the secretary, all applications, exhibits, documents, materials, and papers submitted in any proceeding before the decision-making body, the report of the Director of Planning and Development Services, the recommendation of any board, and the decision and report of the decision-making body, shall constitute the record of the hearing.

4. *Action by Decision-Making Body.* The decision-making body shall render its decision within 30 days of the date that the hearing is concluded, unless stated otherwise in a specific portion of this *Code* as to any particular matter under consideration.

C. *Review of Legislative Decisions.*

A final legislative decision or action of the Board of County Commissioners may be reviewed in a court of proper jurisdiction as prescribed by law.

D. *Planning Commission Consideration and Recommendation as to Proposals or Requests Requiring Legislative Decision.*

- 1. *Hearing Required.* The Planning Commission shall conduct a legislative hearing in conformance with the requirements of this section for consideration of each petition or request

which requires a decision or action which is legislative in nature. No recommendation or action in relation to such a decision shall be made by the Planning Commission unless and until it has conducted a legislative hearing, as prescribed in this *Code*, as to the particular matter.

2. *No Differential Treatment.* Proposals and petitions which require decision or action which is legislative in nature shall be treated in the same manner, regardless of their origin. Proposals and petitions originating with the Board of County Commissioners, the Department of Planning and Development Services, or initiated by the Planning Commission shall be processed in the same manner as provided for all other petitions and proposals.

3. *Input from Other Boards.* When reviewing a proposal or request which requires a decision which is legislative in nature, the Planning Commission may receive and consider the comments and concerns of other Boards serving the Board of County Commissioners which affect the development process.

4. *Recommendation to Board of County Commissioners.* After full consideration of a proposal or a petition for a rezoning of land, change in the *Future Land Use Map*, or text amendment to the *Comprehensive Plan*, the Planning Commission shall transmit the petition and its recommendation thereon to the Board of County Commissioners. A copy of the Planning Commission's recommendation shall also be provided to the applicant, by U.S. Mail, within three days of issuance of the recommendation.

E. *Legislative Decision by the Board of County Commissioners.*

1. *Recommendation by Planning Commission Required:* The Board of County Commissioners shall not make any *Comprehensive Plan* or *Land Development Code* text amendment, or any change to zoning district boundaries or Future Land Use map categories, until the proposed change has been considered by and a recommendation made by the Planning Commission.

2. *Hearing Required.* The Board of County Commissioners shall hold a legislative hearing as provided in this Section on each proposed amendment, and after such hearing is completed may enact or reject the proposal or enact a modified proposal that is within the scope of matters considered in the hearing.

#### **1.11.05. Notice Requirements.**

1. Notice for all hearings shall comply with F.S. Ch. 125 and 163 (as amended) as applicable.

2. Content. Every required notice shall include, without limitation: the date, time, and place of the hearing; a description of the substance of the subject matter that will be discussed at the hearing; location of property; identification of the body conducting the hearing; a brief statement of what action the body conducting the hearing may be authorized to take; and a statement that the hearing may be continued from time to time as may be necessary. Notices for public hearings before the Planning Commission or Board of County Commissioners on

amendments to the *Future Land Use Map* or *Official Zoning Map* shall also contain a geographic location map which clearly indicates the area covered by the proposed amendment or rezoning. The map shall include major street names as a means of identification of the area.

3. Notice Publication. Publication of the notice shall be as follows:

- a. Generally. Except as provided in paragraphs 2 and 3 below, notice of all public hearings, and appeals from a decision, order, requirement, or determination of an administrative officer or Board of the County shall be properly advertised in a newspaper of general circulation not more than 30 days nor less than ten days before the date of the hearing.
- b. Amendments to the *Walton County Comprehensive Plan*. Notice of public hearings relating to adoption of amendments to the Walton County comprehensive plan shall be given pursuant to F.S. Ch. 163.3184 through 163.3187.
- c. Amendments to the text of this *Code*. Any amendment to the text of this *Code* shall require public hearing and publication of notice as follows: (a) The Board of County Commissioners shall hold two advertised public hearings on the proposed ordinance. And at least one hearing shall be held after 5:00 p.m. on a weekday.
- d. The first [hearing] shall be held approximately ten days after the day that the first advertisement is published. The second hearing shall be held at least two weeks after the first hearing and shall be advertised approximately ten days prior to the public hearing. The date, time and place at which the second public hearing will be held shall be announced at the first public hearing.

4. Certificate of Mailing Notice. Certified Notice of the time and place of each public hearing before the Planning Commission or the Board of County Commissioners shall be postmarked at least ten days in advance of the hearing by certificate of mailing to owners of real property within 300 feet of the property directly affected by the proposed action whose address is known by reference to the latest approved ad valorem tax roll. The applicant, or his/her designee, shall certify at the time of the public hearing that notice as herein required was given. The certification shall be conclusive of the giving of certified notice.

5. Sign Notice. The applicant shall post a sign on the property or directly in front of the property that is visible from the public right of way, no less than 14 days prior to any and all public meetings at which the application will be considered. The sign shall be 36" x 36" and shall contain the name of the project, date, time and location of the public hearing, the type of meeting and the name of the public body holding the meeting. The placement of the sign shall be determined by Planning Staff for double frontage or corner lots.

6. Media Notice. Notice of each hearing, meeting, or workshop shall be provided to appropriate media representatives, to include a summary of the proposed matter and/or materials to be considered, to the extent reasonably possible.

7. Public Inspection Notice. A copy of the notice of public hearing shall be available in the Department of Planning and Development Services for inspection by any interested person during regular business hours.

8. Responsibility for Insuring that Property Notice Is Provided; Costs. The person applying for any action, permit or order requiring a legislative decision shall be responsible for insuring that all notices are provided as specified in this subpart. The applicant shall provide to the County, through the Department of Planning and Development Services, a sworn affidavit for posting sign, a sworn affidavit for notification of property owners and the Certificate of Mailing receipt no less than three working days prior to the advertised meeting date:

- a. Reflecting the nature, means, and dates of notice(s) provided under this subpart,
- b. Including a listing (by name and address) of each person or entity to whom notice has been provided with certified mail receipts;
- c. Including a statement certifying that such notice(s) in fact comply in every respect with the notice requirements set out in this subsection; and
- d. Attaching for reference a copy of each notice provided under this subpart.

**1.11.06. Limit on Petitions Relating to Same Property as Previous Petition for Land Use Change or Rezoning.**

- A. When the Board of County Commissioners has taken action on a petition for a *Comprehensive Plan* amendment, the Planning Commission shall not consider any further petition to any part of the same property for a period of 12 months from the date of rendition of the Board's action as to such prior petition.
- B. If a *Comprehensive Plan* amendment is proposed in conjunction with a Planned Unit Development, the foregoing 12-month limitation may be waived by a vote of the Board of County Commissioners.
- C. In any case other than one described in subpart B. above, the Board of County Commissioners may be waive the 12-month limitation described in subpart A. by an affirmative vote of the Board of County Commissioners, provided that at least 30 days have elapsed since the date of the Board's prior action on a petition for Future Land Use Map amendment or rezoning petition, and that the Board of County Commissioners deems such action necessary to prevent an injustice or facilitate the proper development of the County.

### 1.12.00 SPECIAL PROVISIONS RELATED TO VESTED RIGHTS

Certain land development rights are vested with respect to future adoption or amendment of land development regulations and cannot be revoked by changes to *the Land Development Code* without due process of law. Development rights are statutorily vested for any use or activity lawfully approved by the County according to the regulations in effect at the time of approval. For land owners who can adequately demonstrate they have acquired development rights through other official county action, those rights become equitably vested under principles of fairness and due process. A use or activity approved under either form of vesting may be completed or continued, even when inconsistent with newer Land Development Code provisions. However, any use or activity for which a vested right has been established shall continue to be subject in all other respects to regulations and requirements not addressed by the vested rights confirmation.

The vested rights determination shall be limited to rights acquired prior to adoption of the *Comprehensive Plan or Land Development Code* regulations in effect at the time of filing of the vested rights application and shall vest only that development specifically and expressly contemplated by the valid, unexpired "official act" of Walton County.

**1.12.01 Criteria for Vested Rights Determination.** An owner shall be entitled to a determination of vested rights only if through substantial competent evidence it can be established that the proposed use of the property meets one of the following criteria:

A. The proposed use was authorized pursuant to a County development order, or equivalent, issued on or before the adoption of the Comprehensive Plan or Land Development Code regulations in effect at the time of filing of the vested rights application and the development has commenced and is continuing in good faith. In a claim based upon this criterion, the owner must produce evidence of actions and accomplishments that substantiate timely and lawful progression towards the completion of the intentions and plans documented in the original order, or equivalent. In a claim based upon this criterion, the right to which the owner may be vested is a continuation of the original order, or equivalent.

B. The owner is determined to have acquired rights due to good faith reliance on an act of commission or omission of the County which has caused the owner to make such a substantial change in position or to incur such extensive obligations and expenses that it would be highly inequitable and unjust to destroy the rights acquired. In a claim based upon this criterion, the owner must document, and the County must verify, the obligations and expenses that are in jeopardy. The owner must produce evidence of actions and accomplishments that substantiate timely and lawful progression towards the completion of the intentions and plans that have been jeopardized. Evidence including, but not limited to, that which demonstrates that such activity has not progressed in such a manner may be sufficient to negate a finding of good faith on the part of the owner and therefore invalidate the claim to vested rights.

**1.12.02 Limitation on Vested Rights.** A determination of vested rights shall expire and be null and void unless construction of improvements, if any, are commenced pursuant to a development order within 18 months after the issuance of the determination of vested rights.

### 1.13.00 DEVELOPMENT APPROVALS

The intent of this Chapter is to establish pre-application, submittal, review and decision-making criteria involved in consideration of all new development proposals in Walton County.

A. *Generally.* No development activity may be undertaken, and no permit may be issued except as provided in the following subpart, unless and until the activity and permit:

1. Has been determined to be in conformance with all technical standards set forth in this *Code*, and
2. Has been authorized by a issuance of a final development order pursuant to the provisions of this *Code*.

B. *Exceptions.* A permit may be issued for the following development activities in the absence of a final development order issued pursuant to this *Code* provided that, unless otherwise specified in this *Code*, the development activity is in conformance with all requirements of this *Code*:

1. Development specifically exempted under Section 1.07.02 of this *Code*.
2. The construction or alteration of a one-family dwelling on a lot of record that existed prior to November 7, 1996. "Lot of record" shall mean an individual parcel of property that existed before November 7, 1996, which parcel has been documented by a subdivision plat, deed, agreement, map survey or other drawing recorded in the official public records of Walton County before November 7, 1996. All such development must be consistent with the other provisions of this *Code* and the *Comprehensive Plan*, including concurrency requirements.
3. The alteration of an existing building or structure, so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site.
4. The resurfacing of an existing vehicular use area that conforms to all requirements of this *Code*.
5. A minor lot shift, lot split or lot fusion granted pursuant to the requirements and procedures set forth in this *Code*.
6. Temporary uses or structures.
7. The division of tracts of rural land into parcels of ten acres or more and consisting of no more than 20 parcels and does not involve new roadways.

C. *Expedited Permitting and Review:* All permit requests for workforce/affordable housing projects shall be processed in an expedited manner. The County shall give preference to the review of applications for permit approval for development of affordable housing projects over all other projects requiring the development review process.

D. *Intergovernmental Review*: Should a proposed development impact adjacent jurisdiction(s), as determined by the Director of Planning and Development Services, the impacted jurisdiction(s) shall be notified in writing of the proposed development and given an opportunity to identify specific issues of concern. Such correspondence shall be submitted, along with the Director of planning and zoning's recommendation, to the appropriate Board approving such development action.

E. *Environmental Assessment Required*: Addressing wetlands, listed species, archaeological/cultural/historical resources, hazardous materials, and vegetative communities is required for all Less than Minor, Minor and Major Development Plans unless waived during the pre-application conference due to site conditions such as redevelopment of a previously developed site or lack of environmental features. The Planning Director may require an environmental assessment for any development if necessary to determine whether or not the provisions of this *Code* related to environmental resources are being met.

F. *Architectural Elevations Required*: Of all sides of each building other than one and two family dwelling units unless otherwise required by this *Code*.

G. *Landscape Plans Required*: For all Less than Minor (if applicable), Minor and Major Development Plans. Each application shall include information relating to and drawing(s) depicting proposed landscaping and grading for the development site, which shall indicate:

1. Location and dimensions of proposed buffer zones and landscaped areas, including buffer zones adjoining shorelines;
2. Description of plant materials existing and to be planted in buffer zones and landscaped areas;
3. Grading plans, specifically including perimeter grading; and
4. The percentage of land surface that is covered by native vegetation and the percentage of native vegetation that will be removed by the proposed development.

H. *Topographic Survey and Current Condition Information Required*: For all Less than Minor (if applicable), Minor and Major Development Plans. Topographic surveys for proposed subdivisions which have lots of four acres or more may show contours at ten foot intervals. In addition, the location of existing or previously platted streets, railroads, and utility rights of way, and infrastructure.

I. *Floodplain Data Required*:

1. For all Less than Minor (if applicable), Minor and Major Development Plans the 100-year flood elevation, and minimum required floor elevations if applicable, from current FEMA maps.
2. The boundaries of the 100-year floodplain for all parts of the proposed development.

3. A depiction of existing surface water bodies, wetlands, streams, and canals, within the proposed development site, which depiction shall include the boundaries and elevations of any jurisdictional wetland(s).
4. Each application shall include information relating to and drawing(s) depicting flood information, which shall indicate:
  - (a) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of each structure;
  - (b) Elevation in relation to mean sea level to which any nonresidential structure will be flood-proofed;
  - (c) Certification by a registered professional engineer or architect that each nonresidential flood-proofed structure will meet the flood-proofing criteria provided in this *Code*; and
  - (d) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

*J. Transportation, Internal Circulation, Lighting and Utilities Plans Required:* For all Less than Minor (when applicable), Minor and Major Development Plans. This shall include the layout of all streets, multi-modal paths, sidewalks, parking/loading, and driveways and shall provide an analysis of the developments access points in relation to other existing access points and developments. In addition each application shall provide the location of the nearest available public water and wastewater supply and the proposed connection, or an explanation of alternative systems proposed to be used. The location and design of all site lighting shall also be provided, guidance on preparation of a wildlife compliant lighting plan shall be available in the Planning and Development Services Department.

*K. Covenants, Easements, and Dedications Required.* Each Minor and Major Development Plan application shall include information relating to, and drawing(s) depicting (where appropriate), proposed covenants, easements and dedications applicable to the proposed development, which shall indicate:

1. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, and the like;
2. Restrictive covenants which reflect restrictions pertaining to the type and use of existing or proposed improvements, waterways, open spaces, building lines, buffer strips and walls, and other restrictions of similar nature, and which shall be submitted with the final development plan for recordation.

*L. Concurrency Required.* Each Less than Minor (if applicable), Minor, and Major Development Plan application shall include all documentation prescribed pursuant to Chapter 3 relating to the review for concurrency.

M. *Developer's Assurance and Guarantee of Completion of Improvements.* As part of the developer's duty of assuring that all improvements required in connection with the proposed development are satisfactorily constructed according to the approved development plan, the following shall be provided with each application for approval of a development plan:

1. Agreement that all improvements, whether required by this *Code* or constructed at the developer's option, shall be constructed and completed in accordance with the standards and provisions of this *Code* within a specific timeframe set out in such agreement. Timeframe may be either: completion of all improvements by the date of full completion of the development and final inspection of the development, where the project is not long-term; or completion of particular improvements by specific dates which are set out in the agreement, where the project is long-term in nature. No timeframe for completion of improvements shall exceed five years from the recording of the plat or 30 percent occupancy of the development, whichever comes first.

2. The projected total cost for each improvement. Cost for construction shall be determined by either of the following:

- a) Estimate prepared and provided by the applicant's engineer;
- b) The executed construction contract as to the improvement, a copy of which shall be provided; or
- c) Estimate prepared by the County engineer.

3. Specification of the public improvements to be made and dedicated, together with the timetable for making improvements. (d) Specification of the amount and means by which security in relation to the developer's guarantee of completion of the improvements shall be provided by the developer to the County; and

4. Agreement that upon failure of the applicant to complete, or to cause to be completed, the required improvements according to the schedule for making those improvements, the County shall utilize the security provided by the developer in connection with the agreement and guarantee.

N. *Additional Information.* The Director of the department of planning and zoning may, as required by special circumstances in the determination of the Director, require the submission of any other documentation and information relating to a proposed development project which the Director deems to be reasonably necessary to insure satisfactory review under the requirements of this *Code* and other applicable law.

#### **1.13.01 Application Submittal, Content and Format.**

The Director of Planning and Development Services administratively establishes specific application submittal requirements for each development application type, which are published and available from the County Department of Planning and Development Services. These requirements outline plan format, plan content and other required elements constituting a

complete application. The Director of Planning and Development Services shall establish minimum application submittal requirements to enable full review of the development proposal by all Departments and other public and quasi-public agencies.

#### **1.13.02 Application Completeness Review.**

An application will be considered complete if it is submitted in the required form, includes all required information and the required fee. A determination of application completeness shall be made by the Director of Planning and Development Services within three (3) business days of the application filing.

If an application is incomplete, the Director of Planning and Development Services shall provide written notice to the applicant along with an explanation of the application's deficiencies. No processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within thirty (30) days, the application shall be deemed withdrawn and the application shall be returned to the applicant.

Upon acceptance of an application as complete by the Director of Planning and Development Services, the application shall be processed in accordance with this Chapter.

#### **1.13.03 Pre-Application Conference Required.**

All applications, except those associated with administrative developments, require a pre-application conference prior to submittal of any formal development application as indicated within this Chapter. This requirement may be waived by the Director of Planning and Development Services due to special circumstances.

At the pre-application conference, the applicant will be provided written comments from the staff on the conceptual submittal. These comments are not intended to be complete, formal or binding comments, but rather are broad comments intended to identify major issues anticipated to be addressed during the formal review process. The comments will also identify required processes for approval, submittal requirements, and identification of the review criteria that will be used to evaluate the formal application, once submitted.

#### **1.13.04 Department / Agency Review Required**

The purpose of development review is to ensure that a proposed development or request is in compliance with adopted codes, policies, regulations and standards of the County and of other public and quasi-public agencies. Included within this process is public notice and public participation requirements designed to ensure that input from the surrounding area is considered as part of the review and approval of development applications. The generalized development review process is as follows:

**1.13.05 Required Contents of Development Orders.**

Each final development order shall contain the following:

- A. An approved final development plan with findings and conclusions.
- B. If modifications must be made to the development plan before a final development order may be issued, a listing of those modifications and the time limit for submitting a modified plan.
- C. A listing of federal, state, and regional permits that must be obtained in order for a development permit to be issued.
- D. With regard to the concurrency management requirements in Chapter 3 of this *Code*:
  - 1. The determination of concurrency, and
  - 2. The time period for which the preliminary development order is valid.
- E. A specific time period during which the development order is valid and during which time development shall commence. A final development order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval.

**1.13.06 Post-Development Order and Post-Permit Changes.**

After a final development order has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and/or conditions of the development order, or any permit issued for development, without first obtaining approval of a modification of the development order and/or permit. A modification may be applied for in the same manner as the original permit. A written record of the modification and approval thereof shall be entered upon the original development order and/or permit and shall be maintained in the files of the Department of Planning and Zoning.

**1.13.07. Withdrawal of Applications.**

An application for development review may be withdrawn at any time so long as there has been no public notice that the application will be reviewed at a public hearing. If an application for development review has been noticed for a public hearing, it may be withdrawn during said public hearing.

**1.13.08 Development Review Applications**

All developments must undergo development review, by submittal of an appropriate application, prior to issuance of any final development order or permit. The Planning Director shall determine the application submittal requirements based on the level of review and the requirements of this *Code*. Applications for development review shall be available at the Planning and Development Services Department. A completed application shall be signed by all owners of the property subject to the proposal, or the agent of such owner(s), and shall be

notarized. Signatures by persons other than the owner(s) will be accepted only with notarized proof of authorization by the owner(s). In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation.

The following sections establish procedural requirements relative to specific application types. For purposes of these review procedures, all development plans shall be designated by the Director of Planning and Development Services or their designee as either administrative, less than minor, minor or major developments according to the criteria below. Before submitting a development plan for review, the developer shall provide the division with sufficient information to make this determination. The Directors' determination shall be supported by written findings which shall be maintained in the department records.

**1.13.09. Administrative Developments.** Administrative Decisions are ministerial decisions of the Director of Planning and Development Services or designee in the administration of this *Code*. Administrative decisions are the result of the enactment and application of this *Code* by the Director or designee. The Director shall be assisted by appropriate staff and, where applicable, members of the Technical Review Committee, in making such administrative decisions. A final administrative decision approving a request for development permit shall be issued by the Director only after s/he has made a finding that the request for permit complies with all applicable provisions of this *Code* and all other applicable County regulations.

- A. The Director of the Department of Planning and Development Services shall make a final administrative decision (pursuant to procedures and requirements set forth for each particular type of request), for the following matters:
- 1) Building Permit and Floodplain Review (BPFRR)
  - 2) Sign Permits
  - 3) Land Clearing Permits
  - 4) Less than Minor and Minor Development Plans
  - 5) Minor re-plats, lot fusions and lots splits where one single parcel of land is being divided into only two separate lots or parcels; minor common lot line shifts or adjustments; or where two parcels of land are being fused into one single lot or parcel
  - 6) Any other matter as to which this *Code* does not specify any necessity of review and final action by the Walton County Board of Commissioners or by a Board appointed by the County Commissioners.
- B. *Appeal Process.* The following procedure shall be used should an applicant or affected party wish to appeal any administrative decision:
- 1) Appeal submittal requirements shall be established administratively by the Planning and Development Services Department. The applicant shall submit a complete application with the applicable fee with the Department, within thirty (30) days of

- the date of the rendition of the Director's decision. Following acceptance of an application as complete, the request shall be reviewed by appropriate departments and other external agencies.
- 2) Following completion of the review, the Department shall set a date for a Public Hearing with the Board of Adjustment and provide public notice pursuant to this Chapter. The Department shall prepare and submit a written report and recommendation to the Board, prior to the date of the Public Hearing.
  - 3) The Board of Adjustment shall consider the appeal at Public Hearing. The scope of the Boards' review shall be limited to determining whether the administrative decision by the Director was correct and in accordance with the intent and requirements of this *Code*. The Board may affirm, modify, or reverse the decision of the Director.
  - 4) The decision of the Board of Adjustment shall constitute final action of the County government and may, thereafter, be appealed to the Circuit Court in accordance with Florida law.

### *C. Building Permits*

Application for a building permit or other development permit shall be made to Planning and Development Services Department on a form provided by the department, and may be acted upon by the department without public hearing or notice. No portion of permit fees will be refunded if the permit becomes void or is denied.

1. *Generally.* No erection, alteration, or reconstruction of any building or structure shall be commenced without first obtaining a building permit from the building official.
2. *Application.* Each application for a building permit shall be accompanied by:
  - a. A site plan drawn to scale, showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected;
  - b. Written certification by a qualified professional that the plans submitted conform to all application regulations; and
  - c. Such other information as the Director deems necessary to provide for the enforcement of this *Code*.
3. *Special Requirements for Issuance of Building Permit.* In addition to the requirement that the application for building permit meets all applicable regulations, the following restrictions shall apply in relation to issuance of any building permit:
  - a. No building permit shall be issued until the final plat has been recorded in the office of the clerk of the circuit court of Walton County.

- b. No building permit shall be approved if construction pursuant to the permit would threaten the life or habitat of any species listed on the federal endangered species inventory or any species designated as threatened species or species of special concern either by the State or the federal government.
- c. No building permit shall be issued for any development which has a potential of significant impact upon the quality or quantity of natural resources (soils, fisheries, protected wildlife and/or natural habitats, surface water bodies, floodplains, wetlands, etc.) unless and until the applicant has obtained all necessary permits from applicable State and federal agencies.

4. *Expiration.* A building permit shall expire and become null and void if work authorized by such permit:

- a. Has not commenced, having called for and received a satisfactory inspection, within six months from the date of issuance of the permit; or
- b. Has not been completed within one year from the date of issuance of the building permit.

5. *Extensions.* The effective life and validity of a building permit may be extended at the discretion of the building official beyond the timelines specified above, subject to compliance with the provisions of Section 3.01.01 herein, if any of the following occur:

- a. A time schedule has been submitted by the permittee, and approved by the building official, prior to the issuance of the building permit, which schedule is predicated upon customary time for construction of similar buildings and reasonably indicates completion of construction in excess of one year;
- b. The permittee furnishes the building official satisfactory evidence in writing, prior to expiration of the permit, that the delay is due to the unavailability of construction supplies or materials, and every effort has been made to obtain substitute materials equal to those called for in specifications;
- c. The permittee furnishes the building official satisfactory evidence in writing, prior to expiration of the permit, that the delay is due to an unavoidable delay in delivery of construction supplies or materials; or
- d. The permittee furnishes the building official satisfactory evidence in writing, prior to expiration of the permit, that the delay is due to fire, weather conditions, civil commotion or strike. Neither increased costs of building materials or supplies, nor financial hardship, shall be considered by the building official as good cause for extension of the life of a building permit. A building permit for a single family dwelling being constructed by the owner may be extended by the building official upon written request from the owner.

6. *Reapplication.* In order to continue construction once a building or site clearing permit becomes null and void or expires, the permittee shall reapply and obtain a new building permit

covering the proposed construction before proceeding with construction. The permittee shall comply with all regulations in existence at the time application is made for a new building permit.

*7. Limit on Resubmittal to the Planning and Development Services Department.* Failure to obtain approval within five resubmittals shall result in an automatic denial of any building permit or floodplain review application to the Planning and Development Services Department.

#### *D. Sign Permits*

*1. Generally.* No erection, alteration, or reconstruction of any sign shall be commenced without obtaining a sign permit from the building official. No sign permit shall be issued for development without written certification that plans submitted conform to applicable regulations. When a sign permit has been issued by the building official, it shall be unlawful to change, modify, alter or deviate from the terms of said permit without obtaining prior written approval of the building official. A written record of such approval shall be entered upon the original permit application and maintained in the files of the building official.

*2. Application.* The application for a sign permit shall be made by the owner or tenant of the property on which the sign is to be located, or his/her authorized agent, or by an appropriately licensed contractor. The sign permit application shall be submitted to the department of planning and zoning, and shall include the following information:

- a. The name, address, and telephone number of: the owner of the property upon which the sign is to be placed; any other person entitled to possession of the sign; and the contractor or erector retained in relation to the sign.
- b. The location by street address of the proposed sign structure.
- c. A legal description of the property on which the sign is to be located.
- d. Three blueprints or ink drawings of the plans and specifications of regulated signs, and method of their construction and attachment to the building or ground, except those plans for standard signs that have been placed on file with the building official. The plans shall show all pertinent structural details, wind pressure requirements, and display materials in accordance with the requirements of this *Code* and the building and electrical codes adopted by Walton County. The plans shall clearly illustrate the type of sign or sign structure as defined in this *Code*; the design of the sign, including dimensions, colors and materials; the aggregate sign area; dollar value of the sign; maximum and minimum heights of the sign; and sources of illumination. The building official may require that plans submitted be prepared by a registered professional engineer of Florida.
- e. For regulated ground signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly:

- i. The location of the sign relative to property lines, rights-of-way, streets, alleys, sidewalks, vehicular access and parking areas and other existing ground signs on the parcel;
  - ii. All protected trees that will be damaged or removed for the construction and display of the sign.
- f. For regulated building signs, a plan, sketch, or similar presentation drawn to scale which indicates clearly:
- i. The location of the sign relative to property lines, rights-of-way, streets, alleys, sidewalks, vehicular access and parking areas, buildings and structures on the parcel;
  - ii. The number, size, type, and location of all existing signs on the same parcel, except a single business unit in a multiple-occupancy complex shall not be required to delineate the signs of other business units;
  - iii. A building elevation or other documentation indicating the building dimensions.

**3. *No Signs, Other Than Regulatory or Governmental Signs Shall Be Erected Within or on a Public Right-Of-Way.***

**4. *Expiration.*** Each sign must be completed and placed pursuant to the permit issued for such sign within six months of obtaining the permit or, unless extended by the building official in writing for good cause shown by the permittee prior to such expiration date, the permit becomes automatically void and a new permit must be applied for and issued. Final inspection must be called for by the applicant within the six-month time period after issuance of the permit. Identification numbers issued with sign permits must be displayed on the sign itself. Once a sign has been completed and has passed final inspection within the specified timeframe, the permit for such sign need not be renewed as long as the sign exists in its approved form, in the same location.

**5. *Revocation.*** The Building Official may revoke any permit issued under this Section in any instance in which it shall appear that the application for the permit contains knowingly false or misleading information, or in the event that the required liability insurance coverage is at any time canceled or modified without prior written agreement of the Building Official and County Attorney.

**E. *Land Clearing and Alteration***

Clearing and grading permits regulate clearing and removal of vegetation, excavation, grading and earthwork construction within unincorporated Walton County. These regulations protect public health, safety and welfare by minimizing stormwater impacts, wetland and floodplain impacts, aquatic and wildlife habitat loss from adverse impacts generated by the removal of vegetation and alteration of landforms. Other protections include water quality from adverse

impacts associated with erosion and sedimentation, and protection of native communities or required buffer areas from adverse clearing and grading activities. Land Clearing permits are required or not required in Walton County as follows:

1. For all areas lying south of the Choctawhatchee Bay and within the South Walton Planning Area land clearing permits shall only be issued in conjunction with or as part of an application for building permit, less than minor, minor or major development plan. Where any portion of a parcel is located within the Coastal Dune Lake Protection Zone (CDLPZ), a Land Clearing Permit applicant is required demonstrate control of erosion and sedimentation. Lot clearing within the CDLPZ shall conform to all applicable CDLPZ regulations related to preservation of natural areas.
2. For all other areas land clearing permits may be issued without a proposed plan of development. However, appropriate documentation may be required to ensure clearing or alteration does not violate other provisions of this *Code*.
3. Land clearing permits are not required for lands designated as either General Agriculture or Large Scale Agriculture on the Future Land Use Map.

#### *F. Less than Minor Development Plan*

1. Generally, Less than Minor Development Plans are any development plan deemed minor in nature including minor amendments to existing Development Orders or proposed developments that are of a de-minimis or small scale nature not requiring full Technical Review Committee review. It is presumed that such developments would not have substantive impacts to infrastructure or environmental resources.

#### *2. Less than Minor Development Review Procedure*

Step 1: The applicant shall submit the minor development plan and supporting documentation to the Department of Planning and Zoning.

Step 2: After receipt of all required information and documentation, the Department of Planning and Zoning shall have 15 working days to:

- (a) Determine that the application is complete, and then proceed with review of the proposal and plans for compliance with this *Code*; or
- (b) Determine that the application is incomplete, and inform the applicant of the deficiencies. In order to proceed with any further review, the applicant must submit a revised application, correcting the deficiencies, to the department within 45 days of his/her receipt of the letter of notification of such deficiencies. If the applicant fails to timely submit a revised and corrected application, the Director shall provide the applicant with notice of denial of the requested permit. In the event that the applicant

timely submits a revised application, the department shall have an additional ten working days after the date of such submittal to review the revised application, to make a determination as to whether or not such revised application is complete, and to give notice to the applicant as to such determination. If the application remains incomplete after the applicant has been given at least two opportunities to submit a revised and corrected application, the Director may notify the applicant of denial of the application for development approval without allowing any further opportunity for amendment of the application.

Step 3: Within ten working days after the Director has determined an application to be complete and sufficient, the Director shall either approve, approve with conditions, or deny the application, based upon the requirements of this *Code*. Where a proposed less than minor development includes adjustments to platted lands, the final approval of the application for such development shall be made contingent upon approval of a plat conforming to the development plan.

3. Expiration Less than Minor Development. A development order for a less than minor development plan shall be valid for a period of one year, and may be renewed only once for a period not to exceed one year; provided, however, that any previously renewed development order, the second year of which will expire on or after March 1, 2008, shall be extended for an additional one year; and provided further that the Board of County Commissioners may, on a case-by-case basis, extend the development order of any development, the commencement of which is contingent upon the receipt of state or federal funding, for the time necessary to obtain such funding. The development permit shall not expire if development has commenced and is continuing in good faith according to the approved plan.

G. *Minor Lot Line Shifts, Lot Fusions and Lot Splits*. Where one single parcel of land is being divided into only two separate lots or parcels; minor common lot line shifts or adjustments; or where two parcels of land are being fused into one single lot or parcel.

1. *Restriction and Limitation*. After a minor lot split has been approved as to particular property, no further division (by minor re-plat, lot split, or otherwise) is permitted unless a development plan is prepared and submitted in accordance with this *Code*.

2. *Review Process*.

Step 1: A developer or owner requesting a minor replat or lot split shall submit the following materials with an application form provided by the department of planning and zoning, along with the required application fee:

- a. Three paper copies of the proposed minor replat or lot split;
- b. A statement indicating whether water and/or sanitary sewer service is available to the property; and

- c. Land descriptions, and a statement of acreage or square footage, of the original and proposed lots, along with a scaled drawing showing the intended division, all prepared by a professional land surveyor registered in the State of Florida; and
- d. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot, prepared by a professional land surveyor registered in the State of Florida.

Step 2: Upon receipt of a complete application for approval of a minor re-plat, lot fusion, or lot split, the Director of the department of planning and zoning shall transmit a copy of the proposed minor re-plat, lot fusion or lot split to any other appropriate department(s) of the County for review and comments and review the proposal to determine whether it complies with the following minimum standards:

- a. Each proposed lot must conform to the requirements of this *Code*;
- b. Each proposed lot shall abut a public or private street (except as hereinafter provided) for the required minimum lot dimensions for the land use district where the lots are located;
- c. If any lot abuts a street right-of-way that does not conform to the design specifications provided in or adopted by reference in this *Code*, the Director may require that the owner dedicate one-half the required right-of-way width necessary to meet the minimum design standards.

Step 3: Within 14 days of receiving a complete application for approval of a proposed minor re-plat, lot fusion, or lot split, the Director shall either:

- a. Approve the minor re-plat or lot split by signing the application form, in the event that the Director determines that the proposed minor re-plat, lot fusion, or lot split meets the conditions of this Section and otherwise complies with all applicable laws and ordinances; or
- b. In the event that the proposed minor re-plat, lot fusion, or lot split fails to meet the conditions of this Section or otherwise comply with all applicable laws and ordinances, provide the applicant with written notice, by regular mail, of each deficiency in the proposal and of the applicant's option to submit a corrected proposal for review and possible approval.

### **1.13.09 Minor Development Plan**

A. Minor Development Plan is a proposed development that is not exempt from development plan review by this Chapter and meets one or more of the following:

- 1) A division of land into more than two (2) parcels, but fewer than twenty (20) parcels;
- 2) Multi-family residential projects of fewer than thirty (30) dwelling units and does

- not involve platting;
- 3) Non-residential projects involving a combined total building square footage of less than 20,000 square feet;

B. *Minor Development Plan Review Procedure.*

Step 1: The applicant shall submit the minor development plan and supporting documentation to the Department of Planning and Zoning.

Step 2: After receipt of all required information and documentation, the Department of Planning and Zoning shall have 15 working days to:

(a) Determine that the application is complete, and then proceed with review of the proposal and plans for compliance with this *Code*; or

(b) Determine that the application is incomplete, and inform the applicant of the deficiencies. In order to proceed with any further review, the applicant must submit a revised application, correcting the deficiencies, to the department within 45 days of his/her receipt of the letter of notification of such deficiencies. If the applicant fails to timely submit a revised and corrected application, the Director shall provide the applicant with notice of denial of the requested permit. In the event that the applicant timely submits a revised application, the department shall have an additional ten working days after the date of such submittal to review the revised application, to make a determination as to whether or not such revised application is complete, and to give notice to the applicant as to such determination. If the application remains incomplete after the applicant has been given at least two opportunities to submit a revised and corrected application, the Director may notify the applicant of denial of the application for development approval without allowing any further opportunity for amendment of the application.

Step 3: After an application has been determined to be complete, the Director of the Department of Planning and Zoning shall place the application on the agenda for the next available meeting of the Technical Review Committee to review the application. A written summary of the comments and recommendations of the Technical Review Committee shall be prepared upon conclusion of such review. The summary shall be maintained in the department files, and a copy of it shall be provided to the applicant.

Step 5: Within ten working days after the Technical Review Committee has completed its review of an application and provided its comments and recommendations to the Director of the Department of Planning and Zoning, the Director shall either approve, approve with conditions, or deny the application, based upon the comments and recommendations of the Technical Review Committee and the requirements of this *Code*. Where a proposed minor development includes the subdivision of land, the final

approval of the application for such development shall be made contingent upon approval of a plat conforming to the development plan.

C. All application information required by this *Code*, and all other information submitted by the applicant in support of an application for a development permit, shall become part of any resulting permit and approval issued for the development.

D. *Expiration Minor Development Orders.* A development order for a minor development plan shall be valid for a period of one year, and may be renewed only once for a period not to exceed one year; provided, however, that any previously renewed development order, the second year of which will expire on or after March 1, 2008, shall be extended for an additional one year; and provided further that the Board of County Commissioners may, on a case-by-case basis, extend the development order of any development, the commencement of which is contingent upon the receipt of state or federal funding, for the time necessary to obtain such funding. The development order shall not expire if development has commenced and is continuing in good faith according to the approved plan.

#### **1.13.10. Major Development Plan**

A. A Major Development Plan is a proposed development that meets one or more of the following:

- 1) A division of land into twenty (20) or more parcels;
- 2) Multi-family residential projects of thirty (30) or more dwelling units;
- 3) Non-residential projects involving a combined total building square footage of 20,000 square feet or more;
- 4) Planned Unit Developments regardless of size;
- 5) Any development that the Director of Planning and Development Services determines should be subject to more thorough consideration and review, based on the following criteria:
  - a. The proposed development is part of a larger parcel for which development is anticipated and would likely exceed the limits for a Minor Development Plan when considered in conjunction with the larger parcel; or
  - b. The proposed development will have a potential impact on public facilities, natural resources or public safety based on location, complexity or the hazardous nature of the use.

B. *Major Development Plan Review Procedure.*

Step 1: The applicant shall submit the major development plan and supporting documentation to the Planning and Development Services Department.

Step 2: After receipt of all required information and documentation, the Planning and Development Services Department shall have fifteen (15) working days to:

- (a) Determine that the application is complete and proceed with the review; or
- (b) Determine that the application is incomplete, and inform the applicant of the deficiencies. In order to proceed with any further review, the applicant must submit a revised application, correcting the deficiencies, to the department within 45 days of his/her receipt of the letter of notification of such deficiencies. In the event that the applicant timely submits a revised application, the Department shall have an additional ten working days after the date of such submittal to review the revised application, to make a determination as to whether or not such revised application is complete, and to give notice to the applicant. If the application remains incomplete after the applicant has been given at least two opportunities to submit a revised and corrected application, the Director may notify the applicant of denial of the application for development approval without allowing any further opportunity for amendment of the application.

Step 3: After an application has been determined to be complete, the Director of the Department of Planning and Zoning shall place the application on the agenda for the next available meeting of the Technical Review Committee to review the application. A written summary of the comments and recommendations of the Technical Review Committee shall be prepared upon conclusion of such review. The summary shall be maintained in the department files, and a copy of it shall be provided to the applicant. The applicant shall have 45 days from his/her receipt of the summary to respond to the Technical Review Committee's comments and recommendations, and to provide any revisions and amendments to the application.

Step 4: If no timely revisions or amendments are submitted by the applicant (as provided above), the Director shall within 15 days following the expiration of the period allowed for submission of amendments or revisions issue a written recommendation approving, approving with conditions, or denying the application based upon the requirements of this *Code* and the Comprehensive Plan. If the applicant timely submits any revisions or amendments to an application, the Director shall have an additional 45 days from the date of his receipt of such submission to review the revised application and issue a recommendation approving, approving with conditions, or denying the application based upon the requirements of this *Code*.

Step 5: After issuance of the Director's recommendation as described above, the Planning Commission shall consider the application at a regularly scheduled public hearing which has been noticed pursuant to the requirements of Section 1.11.05 of this *Code*. In reviewing the application, the Commission shall consider the recommendation of the Director and the Technical Review Committee, and shall make its determination of whether the application and plans for the proposed development meet the provisions of this *Code* and the Comprehensive Plan. The Planning Commission shall, based upon such determination, issue a written recommendation to approve, approve with conditions, or deny the application, and shall forward the application, along with its

recommendation and that of the Director and the Technical Review Committee, to the Board of County Commissioners for final action.

Step 6: The Board of County Commissioners shall consider the application at the next regularly scheduled public hearing. In reviewing the application, the Board shall consider the recommendations of the Planning Commission, the Technical Review Committee, and the Director of the Department of Planning and Zoning, and shall determine whether the proposed development meets the requirements and provisions of this *Code* and the Comprehensive Plan. Based upon such determination, the Board of County Commissioners shall issue a final decision either approving, approving with conditions, or denying the application. Where a proposed major development includes the subdivision of land, the final approval of the application for such development shall be made contingent upon approval of a plat conforming to the development plan.

*C. Project Phasing.* A master plan for the entire development site must be approved for any major development that is to be developed in phases. The master plan shall be submitted simultaneously with an application for review of the site development plan for the first phase of the development and must be approved prior to approval of the site development plan for the first phase. A site development plan must be approved for each phase of the development under the procedures for development review prescribed above. Each phase shall include a proportionate share of the proposed recreational and open space, and other site and building amenities of the entire development, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases. The master plan must also include the following:

1. A development phasing schedule, including: the sequence for each phase; approximate size of the area in each phase; and proposed phasing of construction of public recreation and common open space areas and facilities;
2. Total land area, and approximate location and amount of open space included in each residential, office, commercial, and industrial area;
3. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress;
4. Approximate location and acreage of any proposed public use such as parks, school sites, and similar public or semipublic uses;
5. A vicinity map of the area within 300 feet surrounding the site showing:
  - a) Land use designations and boundaries;
  - b) Traffic circulation systems;
  - c) Major public facilities; and
  - d) Municipal boundary lines;
7. Base flood elevations for all lots.

D. *Expiration.* A development order for a major development plan shall be valid for a period of one year and may be renewed for a cumulative period not to exceed one year. The development order shall not expire if development has commenced and is continuing in good faith according to the approved plan; provided, however, that any previously renewed development order, the second year of which will expire on or after March 1, 2008, shall be extended for an additional one year; and provided further that the Board of County Commissioners may, on a case-by-case basis, extend the development order of any development, the commencement of which is contingent upon the receipt of state or federal funding, for the time necessary to obtain such funding.

#### **1.13.11. Major Plats**

A. *Generally.* After receiving a plat-contingent final development plan approval or, alternatively, at any point in the development plan review process, the developer shall submit to the Planning and Development Services Department a plat conforming to the development plan, the requirements of this *Code*, and the requirements of Chapter 177, Florida Statutes. Where proposed minor or major development includes a subdivision of land, the final approval of the development plan and issuance of any development order shall be made contingent upon approval of a plat conforming to the development plan and the provisions of this *Code*.

B. *Sales of Lots Without Proper Plat Approval and Recording is Prohibited.* It shall be unlawful for anyone who is the owner or agent of the owner of any land to transfer or sell such land by reference to or exhibition of or by other use of a plat or subdivision of such land without having submitted a plan and plat of such subdivision for approval as required by these regulations and having recorded the approved subdivision plat as required. If such unlawful use be made of a plat before it is properly approved and recorded, the owner or agent of the owner of such land shall be deemed guilty of a misdemeanor and shall be punishable as provided by law. This provision shall not be construed to prohibit an owner of land or agent of the owner of land from contracting to sell a lot or condominium unit according to a preliminary site plan or plat.

C. *Exceptions.* A proposed plan for development that meets all other requirements of the *Comprehensive Plan* and *Land Development Code*, may receive final approval without the requirement for separate approval of a plat as provided in this Section, only where:

- 1) The development will involve only a division of land received directly by inheritance, either by testate or intestate, provided that such division is not accomplished through recorded plats.
- 2) The development will involve only division of land received by deed of gift, given without valuable consideration to any members of the donor's immediate family, provided that such division is not accomplished through recorded plats.
- 3) Subdivisions in the Agriculture and Rural districts divided so that no lot is less than four acres and the roads are kept private.

- 4) Division of tracts of rural land into parcels of ten acres or more involving no more than 20 parcels.

#### *E Major Plat Review Procedure*

Step 1: Within 14 days of receiving a plat for review, the Director of the Planning and Development Services Department, by and through his/her staff and with assistance of the department of public works, shall determine whether the plat conforms to the approved development plan, the requirements of this *Code*, and the requirements of Chapter 177, Florida Statutes. If the Director determines that the plat is in conformance, s/he shall place the plat on the next available agenda of the Board of County Commissioners for its consideration. If the plat is not in conformance, the Director shall inform the applicant, within three working days of making such determination, of each deficiency in the plat. A developer may thereafter submit a corrected plat, addressing each deficiency noted by the Director, for review by the Director and, if in conformance with all requirements, consideration by the Board of County Commissioners.

Step 2: *Board of County Commissioners' Review.* The Board of County Commissioners' review of a submitted plat shall be strictly limited to whether the plat conforms to the requirements of this *Code* and Chapter 177, Florida Statutes. A conforming plat shall be approved by the Board of County Commissioners, and the Board or the Director (as appropriate to the type of approval requested and required for the particular development) shall forthwith issue the development order allowing development to proceed. The Board of County Commissioners shall return any nonconforming plat to the developer, within five working days after completion of review of the proposed plat, with a written explanation of each deficiency in the plat and a notice that a corrected plat may be resubmitted to the Director of the department of public works for review and possible approval.

*F. Guarantees and Security Required as Condition of Final Plat Approval.* The final plat approval for any subdivision plan in Walton County, including but not limited to a plan for a private road subdivision, shall be subject to the requirement that the developer provide, prior to issuance of any development order for a project, assurance that all required improvements – including without limitation storm drainage facilities, streets and highways, water and sewer lines, and replacement trees – shall be satisfactorily constructed according to the approved development plan and order, and satisfactorily maintained for a certain period of time after completion of construction.

1. Nothing in this Section shall be construed as relieving a developer of any requirement in this *Code* relating to concurrency. This Section does not modify existing agreements between a developer and the County for subdivisions platted and final development orders granted prior to April 28, 1991, provided that such agreements are current as to all conditions and terms thereof.

2. *Type of Security.* Guarantee and security requirements for completion and maintenance of improvements may be met by providing in an appropriate amount the following, as approved by the Director in relation to each particular project and development order:

- a. Cashiers check;
- b. Certified check;
- c. Developer/lender/County agreement;
- d. Interest-bearing certificate of deposit;
- e. Irrevocable letters of credit drawn on a local bank;
- f. Surety bond.

3. *Amount.* A developer may satisfy his/her requirement for guarantee of completion of improvements included in a development plan by providing to the County, in addition to the information specified herein and without limitation, an amount of security equal to 110 percent of the total construction costs for the required developer-installed improvements in a form specified herein and approved by the Director.

4. *Release of Security Funds for Guarantee of Completion.* As required improvements are completed, certified accordingly by and accepted as complete by the County after inspection, the developer may apply for release of his security funds. The Director of Planning and Zoning shall be responsible for approving or denying any request for release of all or part of a developer's security, and shall make such decision based upon facts provided to the Director to substantiate full completion of improvements in accordance with the plans, specifications, and approved development permit and order. The amount of the security may be reduced periodically, but not more than two times during each year, subject to completion, inspection and County satisfaction with completion of improvements. In no case shall the amount of the security funds be reduced to an amount less than 110 percent of the cost of completing the remaining required improvements. Only upon full completion of the development and all improvements, and the County's final inspection approval of the development, may the full amount of the developer's funds dedicated as guarantee of completion of construction be released.

5. *Guarantee of Maintenance.* A developer may satisfy his/her requirement for guarantee of maintenance of improvements included in a development plan by providing security to the County, in a form specified by the County Attorney, in the amount of 15 percent of the total construction cost of the improvements or the estimated cost of normal period maintenance of the system for the full maintenance period, whichever is greater. Otherwise, a maintenance agreement shall be provided by the developer to assure the County that all required improvements shall be maintained by the applicant, according to the following requirements:

- i. The period of maintenance shall be a minimum of three years, beginning at the time of the County's acceptance of the completed project where the project is to be dedicated to the County, or at the time of final inspection approval upon full completion of the improvement(s) where the project is not to be dedicated to the County;
- ii. Security shall be provided to the County for the cost of maintaining the improvements (in an amount meeting the standard specified in the following subpart herein);
- iii. In the event that such improvements and facilities are not to be dedicated to the County, a legal entity shall be created by the applicant to be responsible for the ownership and maintenance of the improvements and related facilities;
- iv. In the event that the development is organized as a condominium under the provisions of Chapter 718, Florida, Statutes, common facilities and property shall be conveyed to a duly established condominium association pursuant to law;
- v. For any development other than a condominium, an owners' association shall be created and all common facilities and property shall be conveyed to that association; and
- vi. An original executed copy of the agreement shall be provided to the Director of planning and zoning for the department's records.

### **1.13.12 Certificate of Land Use Compliance**

For the purpose of this Section, certain words and phrases used herein are defined as follows:

Business shall mean all activities, trades, occupation, calling, vocation or professions engaged in, conducted, advertised, carried on, or held out to the public to be a business for the purpose of gain or economic benefit. "Business" shall not include the following: agricultural or silvicultural uses; roadside and beach vending; home occupations, as defined in the *Land Development Code*; and residential long-term and short-term rentals.

Owner shall mean the person in whom is vested the ownership, dominion, or title of real property.

A. Businesses Certification. All Businesses operating in Walton County shall obtain a Certificate of Land Use Compliance from the Walton County Planning and Development Services Division. This certification shall remain valid for the operation of the listed business as long as there are no changes to the type, intensity, ownership or location of the Business. Such certification may be verified by the County periodically. However, this shall not release the Business from complying with the State requirement to have periodic fire inspections. It shall be the duty and responsibility of the Fire Departments to inspect, as part of their regular periodic fire

inspections, that all Businesses have a valid Certificate of Land Use Compliance. It shall be a violation of this ordinance for any person or entity to operate a new business in Walton County without first obtaining a Certificate of Land Use Compliance from the Walton County Planning and Development Services Division. Existing Businesses shall have 180 days from the adoption of this Ordinance to obtain a Certificate of Land Use Compliance from the Walton County Planning and Development Services Division. The Fire Department shall notify the Walton County Code Enforcement Department of any violations of this section.

B. Application. This Certificate shall be issued to the Business owner upon submission of an application to the Walton County Planning and Development Services Division and confirmation that the Business is one that is permissible in the land use district in which the Business is located and meets the requirement of the *Walton County Comprehensive Plan and Land Development Code*. The application shall contain the following information:

1. The name, address, telephone number, e-mail address and website (if applicable) of the following:

- a. The Business;
- b. The owner of the Business;
- c. The owner of the property; and
- d. The manager or other designated responsible person of the operation of the Business;

2. Parcel Number;

3. Building or Property Use;

4. Federal ID number (if applicable); and

5. Any other information deemed necessary by the Walton County Planning and Development Services Division.

C. Contents of Certificate. The following information shall be printed on the Certificate:

- a. Owner of the Property
- b. Parcel Number
- c. Street Address
- d. Building or Property Use
- e. Number of required parking spaces
- f. Name and contact information of operator or responsible person

D. Posting of Certificate. The Certificate shall be posted in a conspicuous place in the building for which the Business is conducted. A copy of the Certificate shall be maintained in the Walton County Planning and Development Division.

E. Fee. The initial Certificate will be issued at no cost. The fee for re-issuance of the Certificate shall be \$30. The following will constitute grounds for a re-issuance: a change to the type, intensity, ownership, or location of the Business.

F. Enforcement and Penalties.

A. It shall be the duty and responsibility of the Walton County Code Enforcement Department to enforce the provisions of this ordinance.

B. In addition to any and all additional remedies available at law, any owner violating any provision of this ordinance may be subject to Code Enforcement fines as set forth in Chapter 12 of the Walton County *Land Development Code*.

### **1.13.13 Conditional Uses and Special Exceptions:**

A. Conditional Uses: The zoning regulations found in Chapter 2 identify certain land uses which are only allowed in certain zoning districts as conditional uses. These uses have been determined to require additional design standards to ensure compatibility with adjacent uses and or the surrounding neighborhood. If a use has been identified as a conditional use, compliance with the conditions is required for approval.

In addition to the conditions associated with the use established in Chapter 2, the Board of Adjustment must find, based upon evidence, both factual and supportive, provided by the applicant, that:

1. The site for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this *Land Development Code*.
2. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use.
3. Any negative impacts of the proposed use on adjacent properties and on the public can be mitigated through the application the stated conditions, other applicable *Land Development Code* standards, and/or other reasonable conditions of approval.

B. Special Exceptions: Any development on parcels of land, for which the use is by special exception shall receive a recommendation from the Board of Adjustment prior to being acted on by the Board of County Commissioners:

1. The Board of Adjustment shall consider the application at a public hearing. In reviewing the application, the Board of Adjustment shall consider the recommendations of the TRC and shall determine whether the proposed development meets the requirements and special conditions

of Section 3 below in its recommendation. Based upon such determination, the Board of Adjustment shall make a recommendation on the project prior to its being heard by the Planning Commission.

2. When a use is requested on a parcel or parcels with more than one land use designation and one of those designations requires a special exception for that use, the development application in its entirety will be treated as a special exception.

3. To promote the compatibility of special exceptions with existing development the developer must:

- a. Hold a community meeting that will take place following a pre-application conference with the county and before submitting a special exception application. Topics covered in community meetings shall include, but are not limited to: scale, intensity and overall impacts from proposed special exception use. The applicant must address any potential traffic impacts, including traffic circulation and existing road conditions and improvements to be made to support the proposed special exception use;
- b. Provide a compatibility analysis and mitigation plan that addressed: scale, intensity, traffic impacts, including traffic circulation and existing road conditions. Each analysis shall also demonstrate:
  - i. That the proposed use will not unreasonably increase traffic on local residential streets in the impacted area;
  - ii. That the scale, intensity, and operation of the use shall not create adverse impacts from noise, smoke, exhaust, emissions, dust, lighting, vibration, or odors that are detrimental to the reasonable use or quiet enjoyment of existing development in the surrounding neighborhood;
  - iii. That the proposed development is consistent with the extent, design, and location of parking, parking access drives, service areas, outside storage, landscaping, and other site features of the surrounding neighborhood, including but not limited to setbacks, buffers, fences, walls, and open space; and
  - iv. An operational plan that includes operating hours, number of employees, number of work related vehicles and equipment considered as part of the proposed development.

For the purposes of this compatibility analysis, "surrounding neighborhood" shall be construed as the surrounding residential uses within a minimum of a one-quarter mile radius and any additional area as determined by the Planning and Development Director, of the special exception parcel, with the strongest consideration given to those residential uses that are adjacent to the special exception parcels.

#### **1.14.00 DEVELOPMENT AGREEMENTS**

**1.14.01. Purpose and Intent.** It is the intent of this Section to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate

public facilities for development, encourage efficient use of resources, and reduce the economic cost of development, all in conformity with and to carry out the purposes of the Walton County Comprehensive Plan and the Local Government Comprehensive Planning and Land Development Regulation Act.

**1.14.02. Authority.** This intent is affected by exercising the authority granted to the County to enter into Development Agreements with applicants under Sections 163.3220 through 163.3243, F.S. This Section shall be regarded as supplemental and additional to the powers conferred upon the County by other laws and shall not be regarded as derogation of any powers now existing.

**1.14.03. Definitions.** The definitions set forth in Section 163.3221, F.S. of the Local Government Comprehensive Planning and Land Development Regulation Act are incorporated by reference for the purposes of this Section as fully set forth herein.

**1.14.04. Applicability.** A Development Agreement may be entered into based on the following:

- A. The development is proposed to be constructed in phases with commitments to substantial site infrastructure improvements being required in early phases, or
- B. Commitments to improvements beyond those ordinarily required of similar development are desirable by reason of location, topography, or other characteristics of the property, or
- C. It is desirable to provide incentives to coordinate developments with a specific plan.
- D. If applicable, provides the guarantee and security requirement as set forth in this Chapter.

**1.14.05. Requirements of a Development Agreement.** A development agreement shall include the following:

- A. A legal description of the land subject to the agreement, and the names of its legal and equitable owners;
- B. The duration of the agreement;
- C. The development uses permitted on the land, including population densities, and building intensities and height;
- D. A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development;
- E. A description of any reservation or dedication of land for public purposes;
- F. A description of all local development permits approved or needed to be approved for the development of the land;
- G. A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

- H. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and
- I. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.
- J. A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.
- K. In addition to the information listed above, a Development Agreement may contain any terms agreed to by the parties so long as such terms are not inconsistent with Florida law, the *Walton County Land Development Code* and *Comprehensive Plan*.

**1.14.06.** The burdens of a Development Agreement shall be binding upon, and the benefits of an Agreement shall inure to, all successors in interest to the parties of the Agreement.

**1.14.07. Public Hearings; Notice.**

- A. There shall be two (2) public hearings prior to approval of a proposed Development Agreement or a proposed amendment or revocation.
- B. Public hearings shall be conducted in accordance with the procedures and requirements of Section 1.11.05 of this *Code*.
- C. Notice of intent to consider a Development Agreement shall be published and shall also be mailed to all affected property owners in accordance with Section 163.3225, F.S. The day, time and place at which the second public hearing will be held shall be announced at the first public hearing.

**1.14.08. Review and Recommendation.** Review of a Development Agreement shall be performed by the Planning Director and the Public Works Director or their designees. Recommendations on the proposed Development Agreement shall be provided to the applicant, the Planning Commission, and to the Board.

**A .Review and Action by the Planning Commission and Board of County Commissioners.** The Board and Planning Commission shall each hold a public hearing to review the application for Development Agreement and hear recommendations from the Planning Director and Public Works Director.

**B. Planning Commission.** The Planning Commission shall hold a public hearing on each application for a Development Agreement. After conducting the public hearing the Planning Commission shall make a recommendation to the Board on each application for a Development Agreement.

**C. Board of County Commissioners.** The Board shall conduct a public hearing in accordance with the procedures and requirements of Section 1.13.04 F of this Code and after a review by the County Attorney for consistency, the Chairman upon final approval by the Board shall execute the Development Agreement on behalf of the County.

**1.14.09. Recording.** The County, at the applicant's expense, shall record the Development Agreement within fourteen (14) days after Board approval, and shall provide a copy to the applicant.

**1.14.10. Annual Review.** The Planning Director shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the Planning Director finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the Development Agreement, the Planning Director, shall notify the parties to the agreement of the failure. A reasonable time period, not less than fourteen (14) days shall be provided for the parties to come into compliance with the agreement. If the violating parties have failed to comply within the specified time period, the Planning Director shall forward to the Board a recommendation that the agreement be revoked or modified. Notice of this recommendation, the reasons therefore, and the time and place of the hearing on this matter will be sent to all parties not less than fourteen (14) days prior to said hearings.

**1.14.11. Amendment or Cancellation.** A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or their successors in interest.

**1.14.12. Modification or Revocation.** The Development Agreement may be modified or revoked by the Board:

- A. For failure or inability of the Parties to comply with the terms of the agreement; or
- B. In order to apply subsequently adopted local laws.

**1.14.13.** A Development Agreement shall be modified as is necessary to comply with relevant state or federal laws enacted after the execution of the agreement which preclude the parties' compliance with the terms of the agreement.

**1.14.14. Application of Subsequently Adopted Local Laws and Policies.** The County may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the Board has held a public hearing and determined that the subsequently adopted laws and policies:

- A. Are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement; or
- B. Are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement; or

- C. Are specifically anticipated and provided for in the development agreement; or
- D. The development agreement was based on inaccurate information supplied by the parties to the agreement or their agents.

**1.14.15. Enforcement.** Any party, any aggrieved or adversely affected person, as defined in Section 163.3215(2), F.S., may file an action for injunctive relief in the Circuit Court of Walton County to enforce the terms of a Development Agreement.

### **1.15.00 HARDSHIP RELIEF**

**1.15.01. Purpose.** The purpose of this Chapter is to provide for the regulation of legally nonconforming structures, lots of record, uses and signs and to specify those circumstances and conditions under which such nonconformities shall be permitted to continue. It is necessary and consistent with the regulations prescribed by this chapter that those nonconformities which adversely affect orderly development and the value of nearby property not be permitted to continue without restriction.

The regulations established by this Code are designed to guide the future use of Walton County land by encouraging appropriate groupings of compatible and related uses and thus to Promote and protect the public health, safety and general welfare. The continued existence of nonconformities is frequently inconsistent with the purposes for which such regulations are established, and thus the gradual elimination of such nonconformities is generally desirable. With limited exceptions, the regulations of this chapter permit such nonconformities to continue without specific limitations of time but are intended to restrict further investments which would make them more permanent.

This Chapter distinguishes between nonconforming uses, noncomplying structures, nonconforming lots of record, and nonconforming signs. Different regulations are made applicable to each of these categories. The degree of restriction made applicable to each separate category is a function of the degree to which that category of nonconformity is a nuisance or incompatible with the purposes and regulations of this Code.

#### **1.15.02. Categories Established.**

A. *Nonconforming Use.* A nonconforming use is an activity using land, buildings, signs, and/or structures for purposes which were legally established prior to the effective date of this Code and which would not be permitted to be established as a new use in a district in which it is located by the regulations of Chapter 2 (Zoning Districts) this Code.

B. *Noncomplying Structure.* A noncomplying structure means any building or structure that existed prior to the effective date of any change in this Code, but which thereafter, by reason of such change, is not in compliance with the regulations as to the minimum distance from a property line, building height, floor area, etc. Single-family residential structures on single-family lots south of the Choctawatchee Bay not located within the boundaries of previously approved stormwater management plan shall be considered complying structures for the purpose of compliance with stormwater requirements, subject to Chapter 5.

C. *Nonconforming Lot of Record.* A nonconforming lot of record is any validly recorded lot which at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with current requirements.

D. *Nonconforming Sign.* A nonconforming sign is any sign legally established prior to the effective date of any change in this *Code* or that existed prior to the effective date of this *Code*, but which thereafter, is not in compliance with the current regulations.

**1.15.03. Continuation of Noncomplying Structure or Nonconforming Use**

- A. Except as otherwise provided in this Chapter, any nonconforming lot, use, or sign lawfully existing on the effective date of this *Code* may be continued so long as it remains otherwise lawful.
- B. A nonconforming use, other than a single family residential use, which has been discontinued for more than six months may not be re-established unless in conformance with this *Code* and the comprehensive plan.
- C. Single family residential lots of record that are noncomplying and cannot meet the minimum site design requirements of Chapter 5 of this *Code* without so diminishing the building area so as to render its use for a single family residence unfeasible, may be considered as complying for purposes of construction of a single family home and the setback requirements may be reduced by the minimum extent necessary to accommodate the structure. However, in no case shall the minimum side yard be less than five feet, the minimum rear yard less than ten feet and the minimum front yard be less than 15 feet.

**1.15.04 .Expansion of Nonconforming Use or Sign.** No nonconforming use or sign or non-complying structure shall be enlarged upon, expanded, or extended unless such alteration is in full compliance with all requirements of this *Code*. Normal maintenance and incidental repair of shall be permitted, provided that this does not violate any other section of this *Code*.

A. Nothing in this section shall be deemed to prevent the strengthening or restoration to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition, provided that such restoration is not otherwise in violation of this section prohibiting the repair or restoration of partially damaged or destroyed structures or signs.

B. Nothing in this section shall be deemed to prevent an expansion for the exclusive purpose of providing required off-street parking or loading spaces, provided that the off-street parking or loading is brought into compliance with the standards of Chapter 5.

**1.15.05. Relocation of Nonconformity.** No nonconforming use or sign or non-complying structure shall be moved, in whole or in part, for any distance whatsoever, to any location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the land use district in which it is located after being moved.

**1.15.06. Accessories to Nonconformities.** Any other provision of this *Code* to the contrary notwithstanding, no use, structure, or sign which is accessory to a principal nonconforming use or noncomplying structure shall continue after such principal use or structure shall have ceased or terminated, unless it shall thereafter conform to all regulations of this ordinance.

**1.15.07. Burden of Proof.** The burden of establishing that any nonconformity is a legal nonconforming use or lot or legal noncomplying structure as established by this Chapter shall, in all cases, be upon the owner and not upon Walton County.

**1.15.08. Termination of nonconforming development.**

*A. Non-Residential Nonconforming Uses and Noncomplying Structures.* In the event that any nonconforming use or noncomplying structure is destroyed; demolished or otherwise removed due to an act of nature (fire, flood, and natural catastrophe); or was demolished due to imminent danger of collapse or danger to life, limb or property; or was demolished by order of a government official, to the extent of more than 50 percent of the replacement cost of the structure before the calamity, such structure or use shall not be restored, rebuilt, or reoccupied for any purpose unless it shall thereafter conform to all regulations of this *Code*. When such a structure or use is damaged or destroyed to the extent of 50 percent or less of the replacement cost of the structure may rebuild to its pre-damaged footprint and conditions provided there is no increase in the degree of noncompliance or nonconformance.

*B.* Single-family homes existing as of November 7, 1996, are considered conforming uses not subject to be provisions of this Section; however, any redevelopment must meet all requirements of the *Land Development Code* unless expressly exempted. Ordinary repair and maintenance is permitted.

*C. Nonconforming Sign.*

- 1) No nonconforming sign shall be changed, expanded, or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved in whole or in part to any other location where it would remain nonconforming.
- 2) Prohibited signs or sign features as set forth in Chapter 6 shall be terminated within six months after the effective date of this *Code*, except as otherwise expressly permitted by this *Code*. Termination of the sign shall consist of removal of the sign or its alteration to eliminate all prohibited features.
- 3) Permanent outdoor advertising signs which are non-conforming as a result of the prohibitions contained in Chapter 6 of this *Code* must be removed no later than January 1, 2003 unless they are required to be removed sooner by any other provision of this *Code*.
- 4) A nonconforming sign structure the use of which has been discontinued for a period of 90 days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not thereafter be reestablished except in full

compliance with this *Code*. Any period of discontinuance caused by government actions, strikes, materials shortages, or acts of God, and without any contributing fault by the nonconforming user, shall not be considered in calculating the length of the discontinuance for purposes of this subsection.

- 5) Any nonconforming sign damaged or destroyed, by any means, to the extent of 50 percent of its replacement cost shall be terminated and shall not be restored.

## 1.16.00 VARIANCES

**1.16.01 Purpose.** The purpose of this Section is to empower the Zoning Board of Adjustment to vary or adapt the strict application of any of the requirements of this *Code* in any district. A variance may be appropriate where, by reason of exceptional narrowness, shallowness, or shape or by reason of other exceptional topographic conditions or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of any regulation enacted under this *Code* would result in peculiar, exceptional, and undue hardship on the owner of such property. Where the requested deviation is from a provision of the scenic corridor guidelines set forth in Chapter 6 the Design Review Board shall make the initial determination whether a deviation should or should not be granted, based on the findings required Chapter 6. If the Design Review Board determines that the deviation should not be granted, the applicant may appeal that determination to the Board of Adjustments. The Board of Adjustments shall make a determination, based on the evidence presented to the Design Review Board, whether the applicant provided competent, substantial evidence that they met the criteria for a deviation from the scenic corridor provisions.

**1.16.02 Variances to be Considered as Part of Development Review.** Any person desiring to undertake a development activity not in conformance with this *Code* may apply for a variance in accordance with the Section 8.02.02. A development activity that might otherwise be approved by the Director must be approved by the Board of Adjustment if a variance is sought. The variance shall be granted or denied in conjunction with, but prior to, any action to be taken on the application for development review.

### 1.16.03 Standards and Procedures.

- A. *Petition.* The applicant for a variance must submit a written petition to the Board of Adjustment demonstrating that the application conforms to the required findings in Sections (C) and (D) below.
- B. *Public Hearing.* The Board of Adjustment shall hold a public hearing on the application for the variance. Notice of the public hearing shall be given in accordance with Section 1.11.05
- C. *Initial Determination.* The Board of Adjustment shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall make the required findings based on the cumulative effect of granting the variance to all who may apply.
- D. *Required Findings.* The Board of Adjustment shall not vary the requirements of any provision of this *Code* unless it makes a positive finding, based on substantial competent evidence, on each of the following:

- 1) The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this *Code* or the land use district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 2) The granting of the variance will not permit the establishment of any use that is not permitted in the land use district.
- 3) There must be proof of unique circumstances: there must exist special circumstances or conditions, fully described in the findings, applicable to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this *Code* would deprive the applicant of the reasonable use of such land or building.
- 4) There must be proof of unnecessary hardship. It is not sufficient proof of unnecessary hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship cannot be self-created; nor can it be established on this basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this *Code*; it must be suffered directly by the property in question; and evidence of variance granted under similar circumstances shall not be considered.
- 5) That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish that purpose.
- 6) That the proposed variation will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger public safety, or substantially diminish or impair property values within the adjacent neighborhood.
- 7) That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this *Code* to other lands, structures, or buildings in the same district.

E. *Imposition of Conditions.* In granting a development approval involving a variance, the Board of Adjustment may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to allow a positive finding to be made on any of the foregoing factors, or to minimize the injurious effect of the variance.

F. *Documentation by Resolution.* Action taken by the Board of Adjustment to grant a variance or to grant a variance with conditions or safeguards shall be documented in the form of a resolution containing a legal description of the real property to which the variance applies, together with the terms of the variance and any additional conditions or safeguards to be imposed.

G. *Historic Properties.* Notwithstanding the foregoing requirements, special variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on, or

classified as contributing to a district or site listed on, the National Register of Historic Places or the Florida Master Site File. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical integrity as determined by conformance with the U.S. Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.