

Chapter 10. Application, Review and Decision-Making Procedures

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10.01.00 GENERALLY

10.01.01 Purpose and Intent

This chapter sets forth the procedures for receiving, reviewing and rendering decisions on applications for **Development** approval, through **Local Development Orders, Building**

Permits, amendments to this *LDC* and amendments to *Local Development Orders* and for appealing such decisions. It is the *City's* intent that the procedures set forth in this chapter shall be followed in order to seek approval for any *Development*.

10.01.02 Local Development Orders and Building Permits Required

- A. A *Local Development Order* shall be issued to indicate approval of any *Site Plan*, *Subdivision Plat*, *Variance* or *Rezoning*.
- B. Except as provided in section 10.01.03 and 10.01.05, a valid and current *Local Development Order* shall be required prior to the issuance of any *Building Permit* to authorize *Development* or a *Change of Use*.
- C. No *Development* or *Change of Use* shall be made or continued without a lawful *Building Permit*, unless exempted by section 10.01.03.

10.01.03 Applicability to Development and Exceptions

A. The applicability of the provisions of the *LDC* to *Development* and exemptions from those provisions are set forth in Chapter 1. In addition, the following proposed *Development*, if otherwise qualified, may obtain a *Building Permit* without a *Local Development Order*:

1. The construction of a *Single Family Dwelling* or a duplex within a district designated for *Residential Use*.
2. The construction of *Accessory Structures* within a district designated for *Residential Use*.
3. Modifications to the interior of a legal conforming structure, when such modifications are not associated with a change in *Use*.
4. Modifications to the façade of a legal conforming structure, when such structure is not in a designated historical district.
5. Expansion of a legal conforming non-residential structure by less than 300 square feet.
6. Any *Residential Development* for which a *Site Plan* is not required.

B. Nothing herein shall exempt the foregoing from any requirement of obtaining a *Building Permit*.

10.01.04 Expiration of Local Development Orders and Building Permits

- A. A *Local Development Order* shall expire automatically after six (6) months of issuance unless a longer period of time is specifically provided in the *Local Development Order*.
- B. Prior to its expiration, a *Local Development Order* shall be extended once for an additional three (3) months, provided that:

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1. A written request for such an extension is provided to the **Building** and Planning Department prior to the **Local Development Order's** expiration date; and
2. Payment of the extension fee is submitted with the written request.

10.01.05 Applicability to a *Change of Use* and Exceptions

- A. The applicability of the provisions of the **LDC** to a **Change of Use** and exemptions from those provisions, are set forth in Chapter 1. In addition, a proposed **Use** meeting all of the following conditions and being otherwise qualified may obtain a **Building Permit** without a **Local Development Order**.
1. The proposed **Use** conforms to the requirements of the Comprehensive Plan and this **LDC**;
 2. The proposed **Use** does not increase density;
 3. Any proposed modifications to an existing **Building** are only to the façade or interior of the **Building**;
 4. The proposed **Use** does not require a greater number of **Parking Spaces** than the existing **Use**;
 5. The proposed **Use** does not require a greater number of **Parking Spaces** than are currently available on the site.
 6. The proposed **Use** does not increase the amount of **Impervious Surface**, whether due to expansion of an existing **Building**, proposed construction of additional **Buildings** or an addition to paved areas for any purpose; and
 7. All required **Building Permits** are obtained.
- B. When a **Local Development Order** is required due to a proposed **Change of Use**, all standards and procedures of the Comprehensive Plan and this **LDC** shall apply to the proposed new **Use**.

10.01.06 Fees Required

A fee shall be paid with the filing of all applications for **Local Development Orders** and **Building Permits** and for administrative appeals, in the amount specified in the current fee schedule employed by the Planning and **Building** Department and Engineering Department, as amended from time to time by resolution of the City Council.

10.01.07 Fees for Independent Review of Applications

The **City** is authorized to enter into a contract with persons who have expertise necessary for the review of an application or a specific technical aspect of an application. The costs of such review shall be paid by the applicant, in accordance with a fee schedule adopted and amended from time to time by resolution of the City Council.

10.01.08 Certificate of Occupancy

- A. A **Certificate of Occupancy** is the only demonstration that the **Use** and occupancy of land or **Buildings** conform to the requirements of this **LDC**. A **Certificate of Occupancy** shall be received by the property owner prior to the **Use** or occupancy of land or **Buildings**.
- B. When a **Change of Use** occurs, as set forth in section 10.01.05, a new **Certificate of Occupancy** shall be required. This section shall not be construed to apply to the transfer of ownership or the change of occupants, except as provided in section 10.01.05.

10.01.09 Computation of Time

Weekends and **City** holidays shall be excluded in the computation of any period of time of less than seven (7) days specified in this Chapter 10.

10.02.00 APPLICATION REQUIREMENTS

10.02.01 Submittal Requirements for All Applications

- A. Submittal requirements necessarily contemplate a wide variety of circumstances and it is understood that some information may be unnecessarily burdensome to produce. The City Manager may alter submittal requirements on a case by case basis for good cause shown, to tailor the application to the specific request being made, provided that the alteration will not materially affect the ability to evaluate compliance with the LDC. Unless waived by the **City Manager**, each application shall contain the following information:
 - 1. A completed form provided by the Building and Planning Department;
 - 2. Name, address, telephone number, facsimile number, email address and signature of the property owners;
 - 3. When the applicant is a representative of the property owner, a statement acknowledged by the owners before a notary public authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures;
 - 4. A sketch obtained no more than two (2) years prior to the filing of the application, containing the legal description, land area and existing improvements located on the site;
 - 5. Written documentation that the property, has or will comply with all applicable notice requirements of this LDC; and
 - 6. Payment of the required application fee.
- B. The **City Manager** may waive any submittal requirement that the **City Manager** determines to be unnecessary for a particular application.

10.02.02 Basic Submittal Requirements for *Site Plans, Subdivision Plats, PUD Master Plans, PUD Final Development Plans, TNOD Master Plans, TNOD Final Development Plans, Telecommunications Towers, Telecommunications Antennas and Conditional Uses.*

- A. Each application for a *Site Plan, Subdivision Plat, PUD Master Plan, PUD Final Development Plan, Telecommunications Tower, Telecommunication Antenna* or *Conditional Use* shall contain the following information:
1. All information required pursuant to section 10.02.01;
 2. Name, address, telephone number and facsimile number of the plan or *Plat* preparer;
 3. Date of preparation and date(s) of any modifications, north arrow and written and graphic scale;
 4. Legal description of the property, consistent with the required survey;
 5. A vicinity map showing the location of the property;
 6. Future Land Use Map designation for the property;
 7. Zoning designation for the property;
 8. Additional plans, documents and reports as deemed necessary by the *City Manager*; and
 9. Information required for the specific type of application, as specified in sections 10.02.03 through 10.02.07, as applicable.
- B. All *Site Plans* and *Plats* shall be drawn to a scale approved by the City Manager.

10.02.03 Additional Submittal Requirements for *Site Plans*

Each application for a *Site Plan* shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. Location and *Use* of any existing and proposed, principal or *Accessory Buildings* and structures, including *Setbacks*, required *Yards, Building Heights* and other dimensional requirements of the *LDC*.
- C. Pedestrian *Access Plan* showing the proposed vehicular *Access points, Driveway* design, on-site parking, internal circulation, *Crosswalk* or *Pedestrian Crossover* and sidewalks.
- D. Location of utilities, utility service and easements.
- E. Topographic survey, soil report and a grading, drainage and erosion control plan.
- F. Proposed buffer and landscaping plan.

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- G. Location of significant natural features and habitats.
- H. Habitat Management Plan and wetlands (for those areas identified in the Comprehensive Plan).
- I. Delineation of proposed phases.
- J. Summary block containing:
 - (a) Total acreage;
 - (b) Total square footage;
 - (c) Impervious area calculation;
 - (d) Floor area ratio;
 - (e) Total number of **Parking Spaces**, required and provided; and
 - (f) Total number of **Dwellings**/rooms.
- K. Infrastructure impact reports, if required by this LDC.
- L. Stormwater Management Plan which meets the requirements of Chapter 26 of the *City's Code of Ordinances*.

10.02.04 Additional Submittal Requirements for *Subdivision Plats* and **Lot Splits**

Each application for a preliminary or final *Subdivision Plat* shall contain all of the following information. A two (2) *Lot* split described in section 1.04.02.B shall contain only the information listed in paragraphs A through E, if determined to be applicable by the City Manager:

- A. All information required pursuant to section 10.02.02.
- B. **Development** specifications: area of the tract, proposed number and layout of **Lots** and blocks, location, names and widths of proposed roadways and easements.
- C. Location of land to be dedicated or reserved for **Public Use** for rights-of-way, easements, schools, **Open Spaces** or other **Public Uses**.
- D. Locations of utilities, utility service and connections.
- E. Location of all **Protected Trees** pursuant to section 4.06.06.
- F. Topographic survey, soil report and a grading, drainage and erosion control plan.
- G. Location of significant natural features and habitats.
- H. Environmental impact report.
- I. When required elsewhere by this LDC, infrastructure impact reports.

- J. Stormwater Management Plan which meets the requirements of Chapter 3 of the **LDC**.

10.02.05 Additional Submittal Requirements for Large Site Development, TNOD and PUD Master Plans

Each application for a large site development, **TNOD** or **PUD** master plan shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. A statement of objectives describing the general purpose and character of the proposed **Development**, including type of structures, **Uses**, **Lot** sizes and **Setbacks**.
- C. A boundary survey.
- D. Perimeter buffering and landscaping.
- E. General location and size of **Land Uses**.
- F. Type of zoning districts and existing **Uses** abutting the proposed **Development** boundaries.
- G. A detailed, written list and complete explanation of how the proposed **Development** differs from any provision of the **LDC**, including a comparison with the **Lot** and **Building** standards of the underlying zoning district. If the master plan is approved, any such difference not listed or explained shall not be recognized or permitted and no such difference shall be implied or inferred.
- H. A detailed explanation of the public benefit which justifies allowing the property owner to deviate from otherwise applicable minimum requirements of the **LDC**.
- I. A timeline for the **Development**, which addresses the following items:
1. **Development** phases, if applicable and benchmarks for monitoring the progress of construction of each phase. Wherever applicable, the benchmarks shall include:
 - (a) Land clearing;
 - (b) Soil stabilization;
 - (c) Construction of each landscaping element of horizontal infrastructure, including, but not limited to, roads, utilities and drainage; and
 - (d) Vertical infrastructure and improvements.
 2. The Final Development Plan shall be submitted within one (1) year of master plan approval. The timeline shall show that construction of the horizontal improvements will be commenced and substantially completed within one (1) year and two (2) years, respectively, after approval of the final development plan; provided that in the event the **Development** is divided into phases, the timeline shall show that construction of Phase I horizontal improvements will be commenced and substantially completed within one (1) year and two (2)

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years, respectively, after approval of the first final development plan and that the horizontal infrastructure for all remaining phases will be substantially completed within four (4) years after approval of the final development plan.

3. The timeline shall provide that ninety (90) percent of the land area of the **Development**, excluding horizontal infrastructure, will be built-out to its intended, final **Use** within ten (10) years of approval of the master plan.
 4. Proposed dates for the submittal of progress reports.
- J. Other applicable information as required on the application for **Development** master plan or which the applicant may desire to submit to demonstrate satisfaction of the conditions set forth in section this **LDC**.
- K. This section shall not be construed so as to require detailed engineering or **Site Plan** drawings as a prerequisite to approval by the Planning Board. An applicant may provide a concept plan showing the general types and locations of proposed **Development, Open Space**, conservation areas, etc. (bubble plan); however, detailed drawings and information consistent with the approved master plan will be required prior to approval of a final development plan for any phase(s) of **Development**. In the event that the master plan contains no provision for a particular matter that is regulated in the underlying zoning district generally, then the final development plan approval shall be consistent with both the approved Master Plan and all regulations applicable within the underlying zoning district generally.

10.02.06 Additional Submittal Requirements for PUD Final Development Plans

Each application for a **PUD** final development plan shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. A boundary survey.
- C. The location of all proposed **Building** sites, including height of structures and **Setbacks** indicating the distance from:
 1. Property lines;
 2. Proposed and existing **Streets**;
 3. Other **Buildings**; and
 4. Other man-made or natural features that would be affected by the **Building** encroachment.
- D. A table showing the acreage for each **Land Use** category and the average **Residential** density.
- E. **Lot** sizes.

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- F. Common **Open Spaces** that are **Useable** and operated by the developer or dedicated to a homeowners association or similar group. Common **Open Space** may contain such **Recreational** structures and improvements as are desirable and appropriate for the common benefit and enjoyment of the residents of the **PUD**.
- G. A utility service plan, including sanitary sewer, storm drainage and potable water.
- H. A statement indicating the type of legal instruments that will be created to provide for management of common areas.
- I. Boundaries of each phase shall be indicated, if the project is to be phased.
- J. Identification of the public benefit that was approved in the **PUD** Master Plan.
- K. A plan graphically depicting location, height, density, intensity and massing of all **Buildings**. The plan shall additionally depict the location of all parking areas, **Access** points, points of connectivity to surrounding neighborhoods and similar areas that will be utilized for any purpose other than landscaping.
- L. Infrastructure impact reports.

10.02.07 Additional Submittal Requirements for Telecommunications Towers and Antennas.

Each application for a **Telecommunications Tower** or **Antenna** shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. Evidence of proper Federal Communications Commission licensure.
- C. A statement of intent that collocators will be permitted in cases where devices are required or proposed to accommodate more than one (1) provider. The positions of anticipated collocator **Antennas** on the mount and the space provided for collocator equipment shelters shall be shown on all **Site Plans** and elevations.
- D. Certification by the Naval Support Activity – Panama City and the Airport Authority that, as proposed, the device should not cause harmful electrical interference with any **City**-operated radio frequency devices in existence at the time of the application and certification that the applicant acknowledges its obligation to take all steps necessary to resolve any interference that actually occurs.
- E. Certification as to compliance with or exemption from, any Federal or State regulations applicable to siting.
- F. Certification that the proposed mount complies with regulations administered by the FAA, FCC and any State reviewing authority or that the mount is exempt from those regulations.
- G. Description of liability insurance or binding for the device.
- H. Identification of all existing users (including the applicant) on the support structure to be replaced. This listing shall include existing **Antennas**, types of support

structure and mounting positions for each such *User* and shall identify the FCC radio service for each such facility. The applicant shall also identify the proposed location for each such *Antenna* as well as any additional facilities which such *User* intends to place upon the proposed replacement structure.

- I. For each such existing user, the applicant shall identify any future loading for which it has been requested to reserve capacity for future *Use*. For any such users for which the applicant is not reserving future space, the applicant shall certify that it has contacted each such users and has been advised that such users does not anticipate requiring any additional support structure capacity at that site in the future.
- J. The applicant shall identify all prospective users of the support structure, not identified above, for which it has either entered into negotiations or agreed to provide space on the support structure. The applicant shall identify:
 - 1. The proposed mounting location for each *Antenna* to be utilized by each such prospective users; and
 - 2. The capacity for which the applicant has been requested to reserve future loading capacity.
- K. The applicant shall identify all additional capacity which will be available for future *Collocation Use* at the proposed structure beyond the *Collocation* users identified in section 10.02.07(B)-(J).
- L. A full set of engineering drawings, which drawings shall be stamped by a registered Florida engineer, specifying the dimensions of all structural members and mounting facilities to be incorporated into the support structure for all loading identified in sections 10.02.07(H)-(K) and shall expressly identify each such *Antenna* as having been incorporated into the support structure design. These drawings shall also include the foundation design for the proposed structure. In addition, the registered Florida engineer shall certify compliance with both the then-current EIA/TIA 222 standard as well as the applicable provisions of the Standard Building Code, which include a 120-mph wind load, as defined by the American Society of Civil Engineers, Publication No. 7 of 1993 (ASCE 7-93) and the 1997 Standard Building Code or its then-current replacement. Where conflicting standards are set forth in those documents, the more stringent standard shall be utilized in the design.
- M. An estimate of the cost to remove all structures in the event that the structure is abandoned or discontinued, and a bond guaranteeing the costs of removal. The cost estimate shall be signed and certified by a general contractor licensed in Florida.

10.02.08 Submittal Requirements for Protected Tree Removal Permit

- A. Applications shall be submitted to the *Building* and Planning Department. In addition to the submittal requirements of section 10.02.01, the following information is required for a tree removal permit:

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1. If the application is for the removal of three (3) or fewer trees, a tree survey which contains the location and identification of the trees requested to be removed.
2. If the application is for the removal of four (4) or more trees, a certified tree survey which shows the following:
 - (a) Location of all trees, identifying their species;
 - (b) Location, including footprint, of all proposed and **Existing Structures** and other planned improvements which require the removal of the **Protected Trees**;
 - (c) Indication of trees to be retained, trees to be removed, diseased trees, trees endangered by motor **Vehicle** ingress and egress to rights-of-way and the location of protective barriers as required by section 4.06.06; and
 - (d) Proposed grade changes that might adversely affect or endanger the trees, with specifications on how to maintain the trees.
- B. A tree replacement and replanting plan shall be submitted, showing the location and specification of all replacement trees pursuant to and consistent with the tree replacement and relocation standards in section 4.06.06.E.
- C. The **City Manager** shall conduct a field check of the tree removal application. The applicant shall physically mark each tree on the site to be removed with flagging tape or a similar device.
- D. Applications shall be reviewed by the **City Manager** for compliance with the requirements of section 4.06.06.
- E. Except for applications that are included as part of the application and review for **Site Plan** approval or **Subdivision Plat** approval, applications shall be reviewed and processed in accordance with the requirements of section 10.14.01F, G and H.

10.02.09 Submittal Requirements for Petitions for Voluntary Annexation

A Petition for a Voluntary Annexation shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. The applicant shall submit an analysis of the annexation criteria set forth in Chapter 171, *Florida Statutes*.
- C. The signatures of all owners of the property proposed to be annexed.
- D. Title evidence demonstrating that the Petition of Voluntary Annexation bears the signatures of all owners of the property proposed to be annexed.
- E. A boundary survey of the property proposed to be annexed.

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- F. A complete legal description of the property proposed to be annexed.
- G. An excerpt of the *City's Official Zoning Map*, with the property proposed to be annexed depicted.
- H. Stormwater acknowledgement consent.

10.02.10 Submittal Requirements for Rezoning

An application to change the zoning district classification of property shall contain the following information:

- A. All information requested in section 10.02.2.
- B. A boundary survey of the property proposed to be annexed.
- C. The current and proposed zoning district classification for the property for which the amendment is sought.
- D. An analysis of the consistency of the proposed amendment with all requirements of the Comprehensive Plan and the *LDC*.

10.02.11 Submittal Requirements for Land Clearing Permit

A *Land Clearing Permit* shall be issued by the City Manager upon application containing the following information and accompanied by the following fee:

- A. A *Site Plan* in sufficient detail to show compliance with the provisions of this *LDC*;
- B. A stormwater and erosion control plan in sufficient detail to demonstrate compliance with section 3.05.00 of this *LDC*;
- C. A brief description of the means and methods of work to demonstrate compliance with section 4.08.00;
- D. The *Street* address and legal description of the subject property, the name and mailing address of the owner of the subject property and evidence of ownership; a copy of such information printed from the most recent ad valorem tax roll shall suffice;
- E. Written permission of the owner if different from the applicant; and
- F. An application fee.

10.02.12 Submittal Requirements for Requests for Variances

An application for a request for a *Variance* from the Board of Adjustment shall contain the following information:

- A. All information required pursuant to section 10.02.02.
- B. A statement setting forth:
 - 1. All facts and circumstances upon which the applicant intends to rely for the requested *Variance*; and

2. An analysis of each of the criteria set forth in section 9.03.03(A)(1)-(8).

10.02.13 Requirements for Infrastructure Impact Reports

- A. Traffic impact reports shall be prepared by a registered Florida engineer and shall contain an analysis of on-site and off-site traffic impacts, including:
 1. Existing average daily traffic;
 2. Existing level of service for adjacent and affected roadways;
 3. Post **Development** average daily traffic;
 4. Post **Development** level of service;
 5. Potential conflicts with pedestrian and bicycle traffic;
 6. Sight distances;
 7. **Intersection** operations and improvements; and
 8. Other potential impacts identified by the **Building** and Planning Department.
- B. Transportation system design shall address the design of **Streets, Access** points, **Driveways, Alleys**, sidewalks and other components of the **Street** system.
- C. Stormwater drainage reports shall be prepared by a registered Florida engineer and shall contain an analysis of pre- and post-**Development** drainage conditions, including:
 1. Graphic description of upstream drainage for stormwaters expected to flow through the **Development**;
 2. Data showing the quantity and location of water entering and discharging from the site sufficient to evaluate compliance with the stormwater requirements and other applicable law;
 3. Description of proposed methods for erosion control at discharge points;
 4. Potential impact on downstream properties;
 5. Analysis of the capacity of public stormwater drainage facilities to accept anticipated stormwater runoff;
 6. Any proposed measures to mitigate adverse impacts from stormwater drainage; and
 7. Other information as required by the **Building** and Planning Department.
- D. Utility capacity analysis reports shall be prepared by a registered Florida engineer and shall address the pre- and post-**Development** capacity of existing and proposed gas, potable water, electrical and sanitary sewer systems. Evidence shall be provided that the applicant has given notice of the proposal to applicable utility providers.

10.02.14 Additional Submittal Requirements for Requests for Conditional Uses

- A. All information required pursuant to section 10.02.02.
- B. An analysis of the proposed request using the general criteria of section 5.06.00 and the applicable specific criteria of sections 5.06.01 – 5.06.16.

10.02.15 Additional Submittal Requirements for Requests for Traditional Neighborhood Overlay District Master Plan Approval and Final Development Plans

- A. All information required pursuant to section 10.02.02.
- B. An information analysis of the proposed request using the criteria of section 7.02.02.K.

10.03.00 NOTICE REQUIREMENTS

10.03.01 Generally

- A. All notices required by this chapter shall contain the following information:
 - 1. The name of the applicant;
 - 2. The location of the property for which **Development** approval is sought;
 - 3. The nature of the approval sought by the applicant;
 - 4. The type of review, re-hearing or appeal applicable to the application for **Development** approval; and
 - 5. The date, time and place of any applicable public hearings on the application.
- B. Any notice required by this **LDC** to be **mailed, posted or published** (except a notice required by Florida Statutes to be given on a different schedule) shall be **mailed, posted or published** as appropriate at least fifteen (15) days before the applicable public hearing.
- C. Any notice required by the Florida Statutes to be published in a newspaper shall comply with the applicable requirements of the Florida Statutes as to form, content, time and manner of **Publication**.

10.03.02 Neighborhood Notice

- A. When required by this **LDC**, the applicant shall provide **Neighborhood Notice**, by U.S. Postal Service certified mail return receipt requested. Within five (5) days after such **mailing**, the applicant shall provide sworn proof of **Mailing** to the **Building** and Planning Department.

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- B. The applicant shall be responsible, as part of the application process for sending certified letters to surrounding property owners whose names and addresses are known by reference to the most recent ad valorem tax rolls of Bay County, giving notice of the requested action along with the date, time and place of the hearing. The form of the letter shall be approved by the **City** prior to mailing. Notice letters shall be sent to all owners of surrounding property lying in whole or in part within such distance of the boundary of the subject property as shall be specified in the applicable procedures.
- C. The notice letter shall be mailed at least twenty (20) days prior to the hearing and proof of mailing shall be submitted to the **City** as part of the application. A good faith effort to mail notice to all such owners whose names and addresses are shown on a list generated by the Bay County property Appraiser's automated mass appraisal system by that system referring to its cadastral (tax) map shall be conclusively deemed in compliance with the requirement to mail notice. Failure of any such owner to receive such notice, even if never mailed, shall not affect the jurisdiction of the board to consider the issue or validity of the board's decision.
- D. Failure of such an owner to receive such notice shall not affect the jurisdiction of the decision-making entity to consider the application or the validity of such entity's decision.

10.03.03 Posted Notice

- A. When required by this **LDC**, the **Building** and Planning Department shall post a sign on the property that is the subject of an application. The sign shall be located in a manner to ensure that it is visible on each portion of the subject property that fronts on a roadway.
- B. The sign shall contain a copy of the notice required by section 10.03.02.
- C. Failure to maintain or replace a sign properly posted shall not affect the jurisdiction of the decision-making entity to consider the application or the validity of such entity's decision.
- D. **Posted Notice** may be removed after conclusion of the hearing of which notice is given or as specified or if neither of the forgoing apply, thirty (30) days after it is first posted.

10.03.04 Published Notice

When required by this **LDC**, the **Building** and Planning Department shall publish a notice in a standard size or tabloid size newspaper of general paid circulation in the **City**. The newspaper shall be of general interest and readership, not one of limited subject matter and shall be **published** at least five (5) days a week.

10.03.05 Mailed Notice

- A. When **notice** by **mail** is permitted or required by this **LDC**, the **notice** shall be **mailed** with the US Postal Service Certified Mail, Return Receipt requested.

Unless otherwise specified in this *LDC*, notice shall be mailed by the **Building** and Planning Department.

- B.** *Notice* shall be deemed complete upon *mailing* regardless of receipt.

10.04.00 CLASSIFICATION OF APPLICATIONS

10.04.01 Generally

There are six (6) different categories of applications: Type I, Type II, Type III, Type IV, Type V or Type VI. An application will be reviewed based upon the category to which it is assigned by the Building and Planning Department in accordance with sections 10.04.02-07.

10.04.02 Applications Subject to Type I Review – Notice of Intent Proceedings

The following applications shall be processed pursuant to the Type I procedures:

- A.** A *Site Plan* approval;
- B.** A *Land Clearing Permit* or a *Tree Removal Permit*;
- C.** Administrative approval of a preliminary *Subdivision Plat* to confirm compliance of the subject lands, lots, *Streets* and other features with the substantive requirements of this LDC;
- D.** A planned unit development *Final Development Plan*;
- E.** A traditional neighborhood overlay district *Final Development Plan*; and
- F.** Approval of a two (2) lot *Subdivision* sketch of description.

10.04.03 Applications Subject to Type II Review – Quasi-Judicial Proceedings

The following application, which pertains to quasi-judicial decisions, which are required to be made by the City Council, shall be processed pursuant to the Type II procedures:

- A.** Statutorily required approval of final *Subdivision Plats* for compliance as to form with state law and review for compliance with additional requirements, if any, imposed by this LDC on the form of *Subdivision Plats*;
- B.** A Zoning or *Rezoning* which does not involve one or more *Lots* of land that in the aggregate are so large as to affect the community as a whole and accordingly constitute a legislative and not a quasi-judicial action.

10.04.04 Applications Subject to Type III Review – Legislative Proceedings

The following applications, which all pertain to legislative decisions, shall be processed pursuant to the Type III procedures:

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- A. A Zoning or **Rezoning** which involves one or more **Parcels** of land that, in the aggregate, are so large as to affect the community as a whole and accordingly does not constitute a quasi-judicial action;
- B. Any annexation.

10.04.05 Applications Subject to Type IV Review - Telecommunications Proceedings

The following applications shall be processed pursuant to the Type IV procedures:

- A. Telecommunications Tower or Antenna;
- B. Reserved

10.04.06 Applications Subject to Type V Review – Planning Board Proceedings

The following applications shall be processed pursuant to the Type V procedures:

- A. Planned unit development Master Plan;
- B. Traditional Neighborhood Overlay Development Master Plan (**TNOD**);
- C. Large site development (see section 7.02.03P);
- D. Variances to the FBO district requirements;
- E. **Conditional Uses**.

10.04.07 Applications Subject to Type VI Review – Board of Adjustment Proceedings

The following applications shall be processed pursuant to the Type VI procedures.

- A. **Variances** before the Board of Adjustment;
- B. Appeal of a termination of a restricted or conditional **Variance**;
- C. An Administrative Appeal to the Board of Adjustment is not a Type VI proceeding.

10.05.00 GENERAL PROCEDURES

10.05.01 Determination of Completeness and Consistency with Regulations

- A. The **Building** and Planning Department and the Engineering Department shall each provide notice by mail to the applicant within thirty (30) days (except as provided below) of receipt of an application stating that the application is complete and that the proposed action complies with the applicable provisions of the Comprehensive Plan and **LDC** or stating with specificity any deficiencies which, if cured, would make the application properly completed and in compliance with applicable regulations. Failure to timely provide such notices shall not be deemed an acknowledgement of completeness and consistency with applicable regulations.

Notwithstanding the forgoing, such notice shall be provided with respect to any wireless communication facility application within twenty (20) business days of receipt. FS 365.172(11)(d)(3)(2005).

- B. The applicant shall have forty-five (45) days from the date of each notice to correct the deficiencies. Until the applicant corrects the deficiencies, the Departments will take no further action for processing the application. If the applicant fails to correct the deficiencies within the forty-five (45) day period, the application shall be deemed withdrawn.
- C. Plans submitted in response to a notice specifying deficiencies shall be processed according to 10.05.01(A). The applicant shall then respond to any further notice by the Departments according to 10.05.01(B).
- D. The **Building** and Planning Department and the Engineering Department shall each process the application for review and action in accordance with the procedures applicable to that type of application as established by the respective Department.

10.06.00 TYPE I PROCEDURES – NOTICE OF INTENT PROCEEDINGS

10.06.01 Generally

The procedures set forth in this section, are applicable to all applications subject to Type I review, which are listed in section 10.04.02.

A.

10.06.02 Procedures After Completeness Determination

- A. When the **Building** and Planning Department and the Engineering Department determine that the application is consistent with the requirements of the Comprehensive Plan and the **LDC**, the **Building** and Planning Department shall issue a Notice of Intent to issue a **Local Development Order, PUD** or **TNOD Final Development Plan** approval or preliminary **Plat** approval. The Notice of Intent shall contain the following information:
 - 1. The information required in section 10.03.01;
 - 2. A statement notifying affected parties of their right to file a written request for a public hearing before the Board of Adjustment;
 - 3. The requirements for such a written request; and
 - 4. The deadline for filing such a written request.
- B. As soon as practicable after issuance, the Notice of Intent shall be **mailed** to the applicant and noticed by **Publication**.

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- C. An **Adversely Affected Person** may file a written request for a hearing with the **Building** and Planning Department within five (5) days of **Publication** of the Notice of Intent. The written request for a hearing shall identify the specific sections of the Comprehensive Plan and/or the **LDC** that the application violates and describe how such sections are not met.
- D. If a written request for a hearing has not been filed within five (5) days of **Publication** of the Notice of Intent, the **Building** and Planning Department shall issue the **Local Development Order PUD** or **TNOD Final Development Plan** approval or **Building Permit** for which application was made.
- E. If a written request for a hearing has been filed within seven five (5) of **Publication** of the Notice of Intent, the **Building** and Planning Department shall schedule a quasi-judicial hearing on the application before the Board of Adjustment.
- F. In the event the **Building** and Planning Department or the Engineering Department determine that the application is complete but that the proposed action fails to comply with the requirements of the Comprehensive Plan and the **LDC**, the **Building** and Planning Department shall issue a notice of intent to deny the application which shall be subject to the notice and appeal procedures provided in this section, except that if a request for a hearing is not timely and properly made by an **Adversely Affected Person**, the application for the **Local Development Order, PUD** or **TNOD Final Development Plan** approval or **Building Permit** shall be deemed denied upon expiration of the time for requesting a hearing without the necessity of further action by the **Building** and Planning Department.

10.06.03 Procedural Requirements Regarding a Request for Hearing to Address a Notice of Intent

- A. The **Building** and Planning Department and the Engineering Department shall prepare a written report to the Board of Adjustment setting forth the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Board of Adjustment's public hearing on the application.
- B. The hearing shall be conducted under the procedures for Administrative Appeals and City Council rehearings specified in sections 10.16.00 and 10.17.00.

10.07.00 TYPE II PROCEDURES – QUASI-JUDICIAL PROCEEDINGS

10.07.01 Generally

The procedures set forth in this section, are applicable to all applications subject to Type II review, which are listed in section 10.04.03.

10.07.02 Procedures After Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's (for all applications) and the Engineering Department's (for **Subdivisions**) determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
- B. The **Building** and Planning Department (for all applications) and the Engineering Department (for **Subdivisions**) shall prepare a written report to the Planning Board regarding the respective Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
- C. The Planning Board shall conduct a quasi-judicial hearing on the application and prepare a recommendation to the City Council.
- D. Public Notice of the Planning Board quasi-judicial hearing shall be provided by **posting, Publication** and **Neighborhood Notice** (300 feet).
- E. The City Council shall conduct a quasi-judicial hearing on the application and determine whether to approve, approve with conditions or deny the application.
- F. In addition to notice of hearing by **Publication** as required by the Florida Statutes, notice of the City Council hearing shall be by **posting**.
- G. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

10.08.00 TYPE III REVIEW PROCEDURES- LEGISLATIVE PROCEEDINGS

10.08.01 Generally

The procedures set forth in this section are applicable to all applications subject to Type III review, which are listed in section 10.04.04.

10.08.02 Procedures After Completeness Determination

- A. When the **Building** and Planning Department determines that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
- B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
- C. The Planning Board shall conduct a quasi-judicial hearing on the application and prepare a recommendation to the City Council.

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- D. Public Notice of the Planning Board quasi-judicial hearing shall be provided by **posting, Publication and Neighborhood Notice** (300 feet).
- E. The City Council shall conduct a quasi-judicial hearing on the application and determine whether to approve, approve with conditions or deny the application.
- F. In addition to notice of hearing by **Publication** as required by the Florida Statutes, notice of the City Council hearing shall be by **posting**.
- G. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

10.09.00 TYPE IV PROCEDURES – TELECOMMUNICATIONS PROCEEDINGS

10.09.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type IV review, which are listed in section 10.04.05.
- B. In the case of a declared local, state or federal emergency that directly affects the **City's** administration of all permitting activities, the **City** may require a one-time waiver by the applicant of the time-frames set forth in this section. Other than this one-time waiver, the **City** may request, but not require, an applicant to waive the time-frames set forth in this section.
- C. The applicant may voluntarily waive the time-frames set forth in this section.

10.09.02 Procedures After Completeness Determination -- New Wireless Tower or Antenna -- No Collocation

An application for a new wireless tower or **Antenna**, which does not involve **Collocation**, shall be processed as follows:

- A. If the **Building** and Planning Department determines that the application is complete, the application shall be processed in accordance with the requirements of section 10.07.02.
- B. The City Council shall render its decision within ninety (90) business days after the date on which the applicant submits a properly completed application to the **City**. See section 365.172(11)(d), Florida Statutes.
- C. If the City Council fails to act within the ninety (90) business day time-frame mandated by section 10.09.02(B), the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the **City**.

10.09.03 Procedures After Completeness Determination -- Collocation of Wireless Communications Facility -- Height Increase

- A. An application for the **Collocation** of a wireless communications facility, which increases the height of the **Existing Structure**, shall be processed pursuant to the requirements of section 10.09.02, except the time-frame for the City Council to render its decision is forty-five (45) business days after the date on which the applicant submits a properly completed application to the **City**. See section 365.172(11)(d), Florida Statutes.
- B. If the City Council fails to act within the forty-five (45) business day time-frame mandated by section 10.09.03(A), the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the **City**.

10.09.04 Collocation of Wireless Communications Antenna -- No Height Increase.

An applicant seeking approval to collocate a wireless communications **Antenna** on an above-ground structure and any related equipment to service the **Antenna**, is not required to obtain a **Local Development Order**, provided the height of the **Existing Structure** is not increased. Rather, the applicant shall apply for a **Building Permit** in accordance with applicable law.

10.10.00 TYPE V PROCEDURES – MASTER PLAN PROCEEDINGS FOR PUD, TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICTS (TNOD), LARGE SITE DEVELOPMENT PLANS AND CONDITIONAL USES

10.10.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type V review, which are listed in section 10.04.06.
- B. Notice of the Planning Board quasi-judicial hearings shall be provided by **Neighborhood Notice, posting and Publication** (300 feet).
- C. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.
- D. A property owner has no legal right for approval of a Master Plan. Rather, the **City** shall approve a **PUD** Master Plan only when it has determined that the applicant has demonstrated, to the satisfaction of the **City**, that the **PUD** Master Plan provides a sufficient public benefit to justify allowing the property owner to deviate from otherwise applicable minimum requirements of the **LDC**. For approval of a **TNOD** Master Plan, the Planning Board shall follow the requirements of Section 7.02.02.

10.10.02 Procedures After Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
- B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
- C. The Planning Board shall conduct a quasi-judicial hearing on the application and determine whether the following conditions (among others it deems appropriate) are met by the applicant:
 - 1. That the **Development** is planned under unified ownership and control rather than as an aggregation of individual and unrelated **Buildings** and **Uses**;
 - 2. That the applicant has met the intent of the applicable sections addressing **PUD, TNOD** or large site development; and
 - 3. That the applicant is providing sufficient public benefit to allow the applicant to deviate from the regulations applicable within the underlying zoning district generally.
- D. At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.
- E. Notice of the proposed order shall be mailed to the applicant and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.
- F. Within ten (10) days after mailing the notice of proposed order, the **City**, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council.
- G. If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- H. If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.

10.10.03 Revisions to a Conditional Use or Master Plan for a PUD or TNOD

Any revisions to an approved **PUD** or **TNOD** Master Plan shall be submitted to the Planning Board for approval with the same procedures and formality as approval of the original Master Plan.

10.10.04 Progress Report to Planning Board

Upon **PUD** or **TNOD** Master Plan approval, the applicant shall submit a Progress Report to the Planning Board no later than the dates as stated in the **PUD** or **TNOD** Master Plan. The Progress Report shall give a summary of the **Development** of the **PUD** or **TNOD** to date including number of **Dwelling Units**, square footage of non-**Residential Development**, protection of natural resources, unanticipated events that have taken place and other benchmarks that measure progress in completing the approved **PUD** or **TNOD** Master Plan.

10.11.00 TYPE VI PROCEDURES – BOARD OF ADJUSTMENT PROCEEDINGS (*Variances*)

10.11.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type VI review which are listed in section 10.04.07. A Type VI review is not an administrative appeal.
- B. Notice of the Board of Adjustment quasi-judicial hearings shall be provided by **Neighborhood Notice, posting** and **Publication**. For **Neighborhood Notice** of a variance for an existing or proposed structure more than forty (40) feet in height, a distance of 500 feet shall be used. For **Neighborhood Notice** of all other variances, a distance of 150 feet shall be used.
- C. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

10.11.02 Procedures After Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Board of Adjustment.
- B. The **Building** and Planning Department shall prepare a written report to the Board of Adjustment regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Board of Adjustment's public hearing on the application.
- C. The Board of Adjustment shall conduct a quasi-judicial hearing on the application.
- D. At the conclusion of the quasi-judicial hearing or within 30 days thereafter, the Board of Adjustment's decision shall be reduced to a proposed, written order

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containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.

- E. Notice of the proposed order shall be mailed to the applicant and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.
- F. Within ten (10) days after mailing the notice of proposed order, the **City**, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council.
- G. If no such request is timely filed, the Board of Adjustment's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- H. If such a request is timely filed, the Board of Adjustment's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10-17.00.

10.12.00 MODIFICATIONS, CONTINUANCES and WITHDRAWAL OF PENDING APPLICATIONS

10.12.01 Modification to Pending Applications

An applicant shall submit any proposed modification to an application to the **Building** and Planning Department.

10.12.02 Request for Continuance of Public Hearing

- A. An applicant may request, in writing, a continuance of the public hearing.
- B. If the **Building** and Planning Department receives the written request for a continuance at least seven (7) days prior to the public hearing at which the application is scheduled to be heard, the applicant's request for a continuance will be automatically granted. An applicant is not entitled to more than two (2) automatic continuances.
- C. If the **Building** and Planning Department receives the written request for a continuance less than seven (7) days prior to the public hearing at which the application is scheduled to be heard, the applicant is not entitled to an automatic continuance. The decision-making entity will consider the request for a continuance and shall only grant such request upon a demonstration by the applicant of good cause for a continuance.
- D. Failure by the **City** to disclose to the applicant more than ten (10) days before the hearing any data or analysis which is materially adverse to the application and previously unknown to the applicant, shall be rebuttably presumed to be good cause for a continuance.

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- E. If an applicant receives a continuance, other than a continuance due to tardy initial disclosure of adverse data or analysis by the **City**, the applicant shall reimburse the **City** for all advertising costs associated with rescheduling the public hearing for the application. If the applicant does not reimburse the **City** for such costs by ten (10) days prior to the rescheduled hearing, the hearing will be cancelled and the application will be deemed withdrawn.

10.12.03 Withdrawal of Pending Applications

- A. An applicant may withdraw an application at any time prior to issuance of a **Local Development Order**. The applicant shall provide written notice of the withdrawal to the **Building** and Planning Department.
- B. If the **Building** and Planning Department receives an applicant's written notice of withdrawal less than seven (7) days prior to the public hearing at which the application is scheduled to be heard, the applicant shall be precluded from re-filing the same or substantially same application for the subject property for a period of three (3) months.
- C. If the **Building** and Planning Department receives an applicant's written notice of withdrawal at least seven (7) days prior to the public hearing at which the application is scheduled to be heard, the three (3) month preclusion contained in section 10.12.03(B) is inapplicable.
- D. If an application is withdrawn, fees and costs will neither be refunded nor credited to any subsequent application.

10.13.00 QUASI-JUDICIAL HEARINGS

10.13.01 Generally

- A. A quasi-judicial hearing shall be scheduled when all required reports and procedures have been completed. A quasi-judicial hearing shall not be scheduled until an applicant has paid all outstanding amounts.
- B. A quorum of the decision-making entity shall be present.
- C. The hearing shall be conducted in a manner to protect the due process rights of the applicant and affected parties.
- D. All testimony presented by the applicant, an **Adversely Affected Person**, any witness for a party or the staff (other than legal advice given by the City Attorney) shall be given under oath.
- E. The applicant, an **Adversely Affected Person** and the staff may cross-examine any person presenting information at the hearing.
- F. An electronic record shall be made of the hearing.
- G. A member of a decision-making entity shall not willfully participate in an ex parte communication regarding a pending application. All ex parte communications are

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presumed prejudicial, unless the approximate date and general substance of the ex parte communication is disclosed at the beginning of the quasi-judicial hearing at which the decision-making entity considers the pending application. The **City** may rebut the presumption of prejudice by demonstrating the absence of any actual prejudice to any party challenging the validity of a decision-making entity's decision on the basis of ex parte communications.

- H. Members of the general public may provide comment during the hearing. If a member of the general public desires his or her testimony to be considered as potential competent substantial evidence, such person shall be placed under oath and subject to cross-examination. For final **Subdivision Plat** approval testimony and action on the application shall be limited to issues of compliance with chapter 177 FS and this LDC.
- I. The deliberations of the decision-making entity shall be guided by Robert's Rules of Order and such other rules and procedures as may be adopted by the decision-making entity. The decision-making entity may question the applicant, other parties, witnesses and the **City** staff at any time during the hearing.
- J. The decision-making entity may approve, approve with conditions or deny the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.
- K. The decision-making entity shall enter a written order which contains findings of fact and conclusions of law in support of its decision.
- L. The decision-making entity's written order shall be filed with the Clerk of that entity.

10.13.02 Procedures

A quasi-judicial hearing shall be conducted generally in the following order:

- A. The chairman of the decision-making entity shall call the hearing to order at the time specified on the public notice.
- B. Staff shall confirm that the notice requirements were met.
- C. Each member of the decision-making entity shall disclose the existence and general substance of any conflicts and ex parte contacts.
- D. A staff member shall present staff's analysis of the pending application.
- E. The applicant shall present evidence supporting the application and shall bear the burden of demonstrating that the application should be granted.
- F. An affected party is entitled to present evidence opposing the application.
- G. Public comment.
- H. Rebuttal by staff, any affected party and the applicant.
- I. Conclusion of the evidentiary portion of the hearing.

- J. Closing arguments by staff, any affected party and the applicant.
- K. Deliberation by the decision-making entity.

10.13.03 Denial of Application

If the decision-making entity denies an application, the applicant cannot refile the same or substantially same application for the subject property for a period of one (1) year.

10.14.00 PROCEDURES AND REQUIREMENTS FOR BUILDING PERMITS

10.14.01 Generally

- A. **Building Permits** are required for new construction of **Buildings** and structures, signs, fences, walls, **Accessory Buildings**, temporary **Buildings** and modifications to Existing Structures, subject to the administrative procedures set forth in the **FBC**.
- B. **Building Permits** are required for electrical, plumbing, heating and air conditioning, gas or swimming pool installation, subject to the administrative procedures set forth in the **FBC**.
- C. The **City Manager** is authorized and directed to establish and submit to the City Council for approval by resolution, from time to time, an Engineering Technical Manual to specify technical standards for stormwater improvements, sanitary sewer connections, potable water connections, reuse water connections, **Street** and other public works construction, sidewalk construction, paving, land clearing and such other similar matters as may be addressed in such a resolution. No **Building Permit** shall be issued for **Development** not in compliance with those technical standards.
- D. Applications shall be submitted to the Building and Planning Department and shall comply with the submittal requirements of section 10.02.00 et seq.
- E. Applications shall be reviewed by the **City Manager** for compliance with the requirements of this **LDC**, including the Engineering Technical Manual.
- F. The **City Manager** shall render his written decision, within thirty (30) days of the submittal of a complete application, to approve, approve with conditions or deny the application.
- G. **Mailed Notice** of the **City Manager's** decision to approve, approve with conditions or deny the application shall be given to the applicant. **Posted Notice** of the **City Manager's** decision to approve or approve with conditions shall be provided and may be removed ten (10) days after first posting.
- H. The applicant or, if the decision is to approve or approve with conditions an **Adversely Affected Person**, may appeal the **City Manager's** decision by filing a notice of Administrative Appeal to the Board of Adjustment with the **City Clerk** within ten (10) days after the later of the **Mailed Notice** or the **Posted Notice**.

10.14.02 Temporary Permits

The establishment of a temporary *Use* or structure, including but not limited to temporary uses in construction and roadside and *Parking Lot* vending, requires a temporary *Use* permit, subject to the following requirements:

- A. Applications shall be submitted to the *Building* and Planning Department. In addition to the submittal requirements of section 10.02.00 et seq, the application shall include a drawing and drawing notes to show the proposed location and site features for the temporary *Use* or structure, demonstrating compliance with the requirements of this *LDC*.
- B. Applications shall be reviewed by the *City Manager* for compliance with the requirements of section 5.03.00.
- C. Applications shall be reviewed and processed in accordance with the requirements of section 10.14.01(F), (G) and (H).
- D. A temporary *Use* permit shall be valid for a maximum of thirty (30) days and may be renewed for one (1) thirty (30) day period.
- E. In addition to all other requirements of section 10.14.02, an information copy of an application to establish a temporary *Use* or structure as part of a *Special Event* as defined and regulated in Article II of Chapter 4 of the City of Panama City Beach *Code of Ordinances* must be furnished to the Chief of Police or his designee, to ensure compliance with that Article.

10.15.00 PROCEDURES AND REQUIREMENTS TO AMEND LOCAL DEVELOPMENT ORDERS

10.15.01 Generally

An amendment to a *Local Development Order* may constitute either a non-substantial or substantial deviation. The following regulations establish the procedures for such deviations.

10.15.02 Non-Substantial Deviations

- A. Non-Substantial Deviations Defined. A non-substantial deviation includes changes to a *Local Development Order* that do not alter the overall characteristics of the total plan and that create no adverse impacts on adjacent *Uses* or public services and facilities. Non-substantial deviations include:
 - 1. changes in location and type of landscaping and/or screening so long as the approved character and intent is maintained;
 - 2. changes in the orientation of portions of parking areas so long as the effectiveness of the overall site circulation and parking is maintained; parking areas shall be relocated not closer than twenty (20) feet to any *Residential* structure or ten (10) feet to any *Street* or right-of-way lines; and the number of *Parking Spaces* shall not be reduced by the relocation;

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3. changes in the location of sidewalks and pathways, provided that continuity of pedestrian circulation remains;
 4. the reorientation, but not complete relocation of structures;
 5. changes that will not impact properties or *Uses* outside of and adjacent to the *Development*; or
 6. redesign of *Open Space* that does not decrease the Recreational, buffering or environmental benefits of the *Open Space*.
- B. Prohibitions. No minor change authorized by this section may cause any of the following:
1. Any increase in the number of *Dwelling Units* on the site;
 2. A change in the *Use* of the site or *Building* as specified in the *Local Development Order*;
 3. Any reconfiguration of locations for *Buildings*, structures, parking areas, landscaped areas or stormwater control structures;
 4. Any relocation or reconfiguration of *Driveways* or other vehicular *Access*;
 5. Any change involving damage or destruction of natural resources including, but not limited to, *Protected Trees*, wetlands and shoreline buffers;
 6. Any changes involving additional acreage or an increase in the dimensions or property boundaries of the site;
 7. Any increase of 1,000 square feet or more of gross floor area or impervious area;
 8. Any increase in structure height of more than five (5) feet;
 9. Any increase in the number of stories;
 10. Any change in the phasing schedule which affects the timing or the amount of improvements or the satisfaction of specific conditions;
 11. Any reduction in *Yards*, *Setbacks* or *Open Space* of more than five (5) percent;
 12. A change to any condition that was included in the *Local Development Order*;
or
 13. Any change that affects the compatibility of the proposed project.

10.15.03 Procedural Requirements for Non-Substantial Deviations

Any non-substantial deviation from a Local Development Order shall be reviewed pursuant to the requirements for Type I Review as set forth in section 10.06.00.

10.15.04 Substantial Deviations

All proposed changes to a Local Development Order other than those listed as non-substantial deviations shall be considered substantial deviations. Any substantial deviation from an approved *Local Development Order* will necessitate a formal amendment of such order. All such amendments shall be reviewed and processed in the same manner and procedure as was used to approve the original *Development*.

10.16.00 ADMINISTRATIVE APPEALS BEFORE BOARD OF ADJUSTMENT

10.16.01 Applicability

An *Adversely Affected Person* may appeal an administrative decision to the Board of Adjustment.

10.16.02 Time for Filing Administrative Appeal and Submittal Requirements

An administrative appeal shall be filed with the office and within the time period specified in the *LDC* for such appeal or if no office or time period is so specified, with the *City Manager* and within thirty (30) days of the administrative decision that is the subject of the administrative appeal. An administrative appeal shall include:

- A. All information required pursuant to section 10.02.01 which has not been previously provided in the pending application.
- B. A copy of the decision order or ruling from which the administrative appeal is taken.
- C. The date of the decision order or ruling which is the subject of the administrative appeal.
- D. The grounds for the administrative appeal, including a summary of any argument in support thereof which the applicant wishes to advance to the Board of Adjustment.

10.16.03 Stay of Proceedings

The filing of an administrative appeal stays all proceedings in furtherance of the action that is the subject of the administrative appeal, unless the *City Manager* certifies to the Board of Adjustment that a stay would cause imminent peril to life and property. In such a case, the proceedings shall not be stayed unless the person who has filed the appeal obtains a restraining order from either the Board of Adjustment or a Circuit Court. The Board of Adjustment shall not issue a restraining order unless notice of the request has been provided to the *City Manager*.

10.16.04 Hearing Before the Board of Adjustment

- A. Time

10. Application, Review and Decision-Making Procedures

1. A hearing before the Board of Adjustment on an Administrative Appeal shall be scheduled and held within forty-five (45) days of the filing of the Administrative Appeal, not counting the day of receipt and not counting any Saturday, Sunday or legal holiday which falls upon the forty-fifth (45th) day.
 2. With respect to any appeal from the denial in whole or in part of an application made under the **Sign Code** (herein a "**Sign Application Appeal**"), if the Board fails to meet and commence the hearing within such forty-five (45) day period, the appeal will be deemed denied and the decision of the City Manager or designee regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The Board shall render a written decision on a **Sign Application Appeal** within ten (10) days following the commencement of the hearing, failing which the appeal shall be deemed denied and the decision of the City Manager or designee will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The applicant may waive or extend these deadlines and proceed to a hearing before the Board.
- B.** The **Building** and Planning Department shall prepare a written report to the Board of Adjustment regarding Department's analysis of the pending Administrative Appeal. The report shall be available to the person filing the Administrative Appeal and the general public no less than five (5) days prior to the Board of Adjustment's public hearing on the application.
- C.** The Board of Adjustment shall conduct a quasi-judicial hearing, pursuant to the requirements of section 10.13.00 on the Administrative Appeal.
- D.** Notice of the quasi-judicial hearing shall be provided by **posting** and **Publication**.
- E.** At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Board of Adjustment shall issue a proposed order to:
1. Reverse, wholly or partly, the administrative decision that is the subject of the Administrative Appeal;
 2. Affirm, wholly or partly, the administrative decision that is the subject of the Administrative Appeal; or
 3. Modify the administrative decision that is the subject of the Administrative Appeal.
- F.** The Board of Adjustment's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.
- G.** Notice of the proposed order shall be mailed to the party who invoked the jurisdiction of the Board of Adjustment and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.

- H. Within ten (10) days after mailing the notice of proposed order, the **City**, the party who invoked the jurisdiction of the Board of Adjustment or an **Adversely Affected Person** who attended the hearing shall be entitled to file with the secretary of the Board of Adjustment a request for rehearing before the City Council.
- I. If no such request is timely filed, the Board of Adjustment's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- J. If such a request is timely filed, the Board of Adjustment's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10-17.00.
- K. Once an administrative decision concerning a **Sign** is appealed, the City Manager or designee shall take no further action on the matter pending the Board's decision, except for unsafe **Signs** which present an immediate danger to the public in which event the **City** may pursue any legal remedy available to it.
- L. In the case of a hearing concerning an interpretation of the **Sign Code** or the denial in whole or in part of an application made under the **Sign Code**, the person who invoked the jurisdiction of the Board and any **Adversely Affected Party** who attended the hearing and is aggrieved by a decision of the Board of Adjustment, including the **City**, may elect to request a rehearing before the City Council as provided above or, alternatively, the applicant may elect to seek judicial review in a court of competent jurisdiction in which case the City Council shall have no further jurisdiction until the judicial review is completed.

10.17.00 CITY COUNCIL REHEARING OF DECISIONS OF THE BOARD OF ADJUSTMENT AND PLANNING BOARD

10.17.01 Scheduling of Rehearing Before the City Council

Within ten (10) days of the filing of a request for rehearing of a decision of the Board of Adjustment, pursuant to section 10.11.02 (**Variances**) or 10.16.04 (Administrative Appeal) or of a decision of the planning Board pursuant to section 10.10.02 (**PUD** Master Plan), the **City Manager** shall schedule the rehearing within forty-five (45) days of the receipt of the request for rehearing, unless all parties consent to additional time.

10.17.02 Notice

- A. Notice of the rehearing before the City Council shall be provided by **posting** and **Publication**.
- B. In addition to the notice provided pursuant to section 10.16.02(A), a minimum of fifteen (15) days' written notice shall be provided to:
 - 1. The party who invoked the jurisdiction of the Board;
 - 2. The party requesting the rehearing; and

3. Any person who provided his name and address to the Board below during the Board's hearing on the matter for which a request for a rehearing has been filed and requested notice of any rehearing.

10.17.03 Stay of the Board's Decision

The timely filing of a valid request for rehearing shall stay the Board's decision until the City Council has issued its decision.

10.17.04 Rehearing Before the City Council

- A. The City Council shall conduct a quasi-judicial hearing in accordance with the requirements of section 10.13.00.
- B. The **City** staff shall introduce into the record the minutes and exhibits that were introduced during the Board's hearing.
- C. The party requesting the rehearing shall have the burden of going forward with the evidence and the privilege of opening and closing the rehearing.
- D. The party invoking the jurisdiction of the Board shall bear the burden of proof.
- E. The City Council shall base its decision upon the record of the Board's hearing, which may, but shall not be required to, include a verbatim transcript and such additional evidence as may be submitted to the City Council during the rehearing.

10.17.05 Final Decision

- A. The City Council shall affirm, clarify, modify or reverse, in whole or in part, the decision of the Board below.
- B. The City Council shall enter a written order signed by the Mayor or Vice Mayor and attested by the City Clerk.
- C. The order of the Board, as affirmed, clarified, modified or reversed by the City Council, shall be the final decision of the **City**.

10.18.00 CONSTRUCTION OF IMPROVEMENTS

10.18.01 Compliance with Local Development Orders and Building Permits

- A. All construction of **Buildings**, structures and systems shall comply with the construction or installation permit and the procedures and requirements of the **FBC**.
- B. Construction of facilities and improvements described in a **Local Development Order** shall be performed in strict compliance with the approved **Local Development Order** and any **Building Permits**.

- C. Any deviation for the **Local Development Order** and subsequent **Building Permit(s)** shall require additional review of the change to the plans by the **City** and must be approved prior to commencement of work.
- D. Upon completion of improvements, the applicant shall provide to the City Engineer record drawings sealed by a professional engineer, licensed in Florida, certifying that the actual construction conforms to the approved **Site Plan(s)** and/or **Subdivision Plat(s)**.
- E. All improvements shall be inspected by the **City**. For the purposes of scheduling and conducting inspections, the applicant shall notify the **City** of commencement and completion of the following:
 - 1. Clearing and grubbing;
 - 2. All utilities prior to backfilling;
 - 3. All concrete structures when steel is in place, prior to pouring;
 - 4. Stabilized subgrade;
 - 5. Curb and concrete work;
 - 6. Roadway or **Parking Lot** base;
 - 7. Wearing surface during application; and
 - 8. The water and hydrant system.
- F. Upon completion of the improvements, the applicant shall provide to the City Engineer the following:
 - 1. A letter stating that the construction of the improvements has been completed and requesting final inspection and approval;
 - 2. The testing reports and certificates of compliance from material suppliers;
 - 3. As-built construction plans; and
 - 4. Certification from a professional engineer, licensed in Florida, that the improvements have been constructed in conformity with the approved construction plans and specifications.
- G. Upon receipt and review of the items listed in section 10.18.01(E) and after satisfactory final inspection by the City Engineer, the **City Manager** shall issue a certificate of completion.
- H. All improvements required by this **LDC** shall be designed, installed and paid for by the developer. Such improvements include, but are not limited to, transportation facilities, potable water facilities, sewer facilities, stormwater and drainage facilities and **Recreation** facilities. Improvements required by this **LDC** shall be guaranteed as set forth in section 10.19.00.

10.19.00 INFRASTRUCTURE CONSTRUCTION, ACCEPTANCE and MAINTENANCE

10.19.01 Developments Proposed with Public Improvements

All improvements designated for **Public Use** to be constructed by private parties shall be constructed in accordance with construction drawings and specifications approved in writing by the **City**. All such improvements shall be constructed prior to acceptance by the **City** or within the time period specified in an escrow agreement that complies with the performance and security requirements of this part.

10.19.02 Construction Phasing Plan Required

The following **Developments** shall require a written statement describing the date for commencement and completion of construction, by phase and a chart indicating the approximate construction period for each of the utilities and public and private roadway improvements prior to approval of the utilities plan and public and private roadway improvements:

- A. **Subdivision Plats;**
- B. **Site Plans;** and
- C. **PUD** Master Plans.

10.19.03 Construction of Improvements or Installation of Utility Facilities

- A. The property owner shall notify the City Engineer a minimum of three (3) days prior to starting the construction of improvements (including installation of utility facilities) designated for **Public Use**.
- B. Construction improvements or installation of utility facilities shall not commence until the following has occurred:
 - 1. Final **Subdivision Plat** has been accepted by the City Council and recorded with the County Clerk; or a performance agreement between the **City** and the Developer regarding completion of improvements shown on the **Plat** or required by this **LDC** has been executed and secured by an unconditional letter of credit, all in a form approved by the **City**;
 - 2. A current and valid **Local Development Order** issued by the **City**;
 - 3. If applicable, **Variance** application approval filed with the **City**; and
 - 4. The City Engineer has approved all construction plans and the City Attorney has approved the surety agreement.

10.19.04 Performance Agreements and Security

- A. The property owner shall submit to the City Engineer a cost estimate prepared by a licensed Florida civil engineer for construction of private improvements designated for **Public Use** based on normal construction practices and procedures.

10. Application, Review and Decision-Making Procedures

In lieu of an engineer's cost estimate, a property owner may provide bid contracts and other documentation sufficiently illustrating the owner's costs to have the improvements installed by a third party.

- B.** Construction of such improvements shall be ensured by either of the following:
1. An unconditional letter of credit or an escrow agreement in a form approved by the City Attorney in an amount of money sufficient to pay 110 percent of the costs of construction of all public improvements and public utilities. The City Engineer shall confirm that the amount is adequate.
 2. A cash deposit escrow agreement approved by the City Attorney in an amount of money sufficient to pay 110 percent of the cost of the improvements. The City Engineer shall approve the amount of deposit. Upon approval, the City Engineer shall arrange for filing of the cash deposit with the **City** finance department. At the developer's request, the cash escrow shall bear interest at the locally prevailing pass book rate under the developer's tax identification number.
- C.** The escrow agreement shall provide that no funds shall be released until all improvements have been installed by the developer and accepted by the **City**.
- D.** If the property owner intends to have any part of the improvements installed by contractors or subcontractors, copies of the contracts, along with copies of performance and payment bonds naming the property owner as obligee, shall be submitted to the City Engineer and the City Attorney for approval. Approval shall be limited to the terms of performance.
- E.** The **City** may **Use** all available escrow funds to complete the required improvements when, in the opinion of the City Engineer, the following two (2) conditions are met:
1. No substantial work on the improvements has been accomplished for a period of eighty (80) days (in the absence of inclement weather conditions, intentional shutdowns, work stoppages, etc.); and
 2. It is in the public interest to complete the required public improvements.
- F.** Prior to **Use** of available escrow funds, the City Engineer shall serve upon the property owner, by certified mail, return receipt requested, a letter requiring the property owner to resume work on the required improvement or show good cause in writing within thirty (30) days why the work on the required improvements has ceased. If the property owner resumes work and makes substantial progress on the required public improvements within thirty (30) days, the City Engineer shall not begin the work using the escrow funds. If the property owner does not respond to the notice to show cause or if the reasons cited by the property owner for failure to make progress are not deemed by the City Engineer to be sufficient or if the property owner resumes work but does not make substantial progress on the required improvements in the City Engineer's opinion, the owner's right to complete the improvements shall be waived and the **City** shall **Use** the available escrow funds to complete the required improvements. The City Engineer shall

promptly notify the property owner of the **City's** intent to complete the improvements.

- G. Upon acceptance of the improvements, the balance upon deposit in the escrow account shall be returned to the developer with any interest earned thereon.

10.19.05 Responsibility for Maintenance

Any **Development** where improvements (including utilities) are proposed for dedication to the **City** shall comply with the following requirements:

- A. To provide for repair of damage resulting from subsequent construction operations of the property owner or the property owner's contractors, the property owner shall be responsible for all maintenance of improvements for a period of not less than twelve (12) months following acceptance of the improvements by the City Engineer. If the property owner fails to begin maintenance or repair work within twenty-one (21) days of written notice from the City Engineer stating what work needs to be done, the **City** may complete the necessary work. The property owner shall then be liable for all costs incurred by the **City**.
- B. Upon acceptance by the **City** of the improvements, either the property owner shall furnish a maintenance bond guaranteeing completion of any maintenance required by the City Engineer for twelve (12) months after acceptance of the **Development** by the **City** or the **City** shall retain at least ten (10) percent of the original escrow funds required by section 10.19.04 as a maintenance deposit. The maintenance bond shall be satisfactory in form and content to the City Engineer and the City Attorney. The bond shall be released or balance of escrow funds returned to the property owner at the later date of twelve (12) months after acceptance of the **Development** or completion of maintenance required by the City Engineer. Upon acceptance of the improvements, the balance upon deposit in the escrow account shall be returned to the developer with any interest earned thereon.

10.19.06 Acceptance of Improvements

City acceptance of the improvements (including utilities) shall be by the City Council. The City Council shall accept improvements only upon recommendation by the City Engineer. The recommendation by the City Engineer shall be contingent upon satisfaction of each of the following conditions:

- A. Fulfillment of the requirements for responsibility for maintenance as outlined by this part;
- B. An opinion by the City Attorney that satisfactory and proper conveyances have been made by the applicant to the **City**;
- C. Improvements have been completed and are in good repair in accordance with approved plans and specifications reviewed by the City Engineer;
- D. As-built drawings dated, certified and stamped by a registered Florida surveyor have been submitted to and accepted by the City Engineer, in a form acceptable to the **City**;

- E. All monuments have been placed; and
- F. Except when a **Development** is approved as a phased **Development**, a **Development** shall not be recommended for acceptance by the City Engineer or accepted by the City Council in part. A **Development** shall be accepted only as a whole as indicated in the Final **Plat** or **Local Development Order** and approved engineering drawings.

10.19.07 Installation and Maintenance Guarantees for Landscaping, Irrigation and Replacement Trees

A maintenance guarantee shall be provided to ensure that required landscaping, **Irrigation System** or **Protected Trees** are perpetually maintained in accordance with the provisions of this **LDC**. For all **Development** projects, the applicant shall provide legal documents, approved by the **City**, which ensure such maintenance after **Building** construction has occurred on the site. Such documents may include, but are not limited to, conservation easements, dedication of common **Open Space**, tree protection easements, deed restrictions and homeowner association documents.

Andrea Chester

From: Andrea Chester
Sent: Friday, July 27, 2012 12:56 PM
To: 'Support'
Subject: RE: [#7404] Andrea Chester
Attachments: PCB Official ZoningFINAL.pdf; PCBFrontBeachOverlayFBOMeeting.pdf

I have more to add to the request.....Please make sure that all the words of DRAFT are removed and dates are replaced with 07/26/2012. Also on the same page the following attached maps need to be replaced.

Zoning Map - 1st attachment
Front Beach Overlay Map - 2nd Attachment

Please let me know if you have any questions to the added request.

Thank you,

Andrea Chester

City of Panama City Beach
Planning Department
850-233-5100 ext. 2313
achester@pcb.gov

-----Original Message-----

From: Support [<mailto:support@cysyinc.com>]
Sent: Friday, July 27, 2012 12:24 PM
To: Andrea Chester
Subject: [#7404] Andrea Chester

-- reply above this line --

Your email to our support department has been received and added to our queue. One of our staff members will be in contact with you as soon as possible.

You can communicate with us directly by responding to this email.

Thank you.

CYber SYtes, Inc.
850 233-5514

Sales: sales@cysy.com
Support: support@cysy.com
Accounting: accounts@cysy.com

Check out our Updates and Repairs policy here:

<http://www.cysy.com/support/support-documents/updates-and-repairs-policy/>