

ARTICLE II. ADMINISTRATION AND ENFORCEMENT*

*Cross references: Administration, ch. 2.

DIVISION 1. GENERALLY

Sec. 42-46. Planning department.

(a) There shall be a planning department under the direction and control of the county coordinator/administrator. Unless otherwise specified or assigned, the planning department shall perform all administrative functions of the county government related to the administration of this chapter.

(b) The planning department shall be responsible for all investigation, analysis, inspection and review required by this chapter for the approval of development proposals. It shall perform its duties and responsibilities in conjunction with, and as staff for, the planning board.

(LDC §§ 11.01.01, 11.01.03)

Sec. 42-47. Planning director.

(a) The planning director is appointed by the county coordinator/administrator with the concurrence of the board of county commissioners and serves at the pleasure of the board of county commissioners.

(b) The planning director or his designee shall perform the following duties:

(1) Receive all applications for comprehensive plan amendments, amendments to this chapter and applications for development approval.

(2) Determine the completeness of development applications.

(3) Conduct all preapplication conferences.

(4) Schedule all applications before the technical review committee and/or the planning board.

(5) Chair the technical review committee.

- (6) Ensure that proper notice is given prior to all hearings and prior to all hearings on development applications.
- (7) Ensure that all time limits prescribed by this chapter are met.
- (8) Monitor the progress of all development applications through the review process and be available to respond to the queries of interested persons.
- (9) Interpretation of this chapter.
- (10) Prepare forms and guidelines which implement this chapter.
- (11) Perform other duties as prescribed or implied by this chapter.

(LDC § 11.01.02)

Cross references: Officers and employees, § 2-61 et seq.

Sec. 42-48. Technical review committee.

- (a) There is established a technical review committee (TRC).
- (b) The voting membership of the technical review committee shall be composed of an employee appointed from each of the following departments and entities:
 - (1) Planning department.
 - (2) Building department.
 - (3) Public works department/road department.
 - (4) County engineer.
 - (5) County coordinator.
- (c) Employees from other departments and entities may be included in the technical review committee meetings at the discretion of the planning director.
- (d) The technical review committee shall be chaired by the planning director and meet at least monthly to review development proposals as prescribed in this chapter. The planning director may call additional meetings and may refer matters to the technical review committee for review and comment. The recommendation of the technical review committee shall be forwarded to the planning board for their consideration. Development applicants will be given an opportunity to participate in the review process of their proposed developments.

(LDC §§ 11.02.01--11.02.03)

Cross references: Boards, commissions and authorities, § 2-126 et seq.

Sec. 42-49. Board of adjustments and appeals.

- (a) There is established a board to be called the county board of adjustments and appeals, hereinafter referred to as "board," which shall consist of seven members. The board shall be appointed by the board of county commissioners.
- (b) The board of adjustments and appeals shall consist of seven members. Such board shall be composed of one member from the plumbing industry, one member from the electrical industry, one member from the mechanical industry, one building contractor and three members at large from the public. Nothing shall prohibit the board of county commissioners from appointing members of any other county designated board from serving as members of the board of adjustments and appeals.
- (c) Members of the board of adjustments and appeals shall be appointed for terms of two years. Vacancies shall be filled for an unexpired term in the manner in which original appointments are required to be made. Continued absence of any member from regular meetings of the board shall, at the discretion of the board of county commissioners, render any such member liable to immediate removal from office.
- (d) Four members of the board of adjustments and appeals shall constitute a quorum. In varying the application of any provisions of this section or in modifying an order of the county building official, affirmative votes of the majority present, but not less than three affirmative votes, shall be required. A board member shall not act in a case in which he has a personal interest.
- (e) The county building official shall act as secretary of the board of adjustments and appeals and shall make a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote.
- (f) The board of adjustments and appeals shall establish rules and regulations for its own procedure not inconsistent with the provisions of this section. The board shall meet at regular intervals, to be determined by the chairman. In any event, the board shall meet within ten days after a notice of appeal has been received. Every decision shall be promptly filed, in writing, in the office of the county building official, and shall be open to public inspection, a certified copy shall be sent by mail or otherwise to the appellant and a copy shall be kept publicly posted in the office of the county building official for two weeks after filing.
- (g) Whenever the county building official shall reject or refuse to approve the mode or manner of construction proposed to be followed or materials to be used in the installation or alteration of a building or structure, or when it is claimed that the provisions of any electrical, mechanical,

plumbing, gas, building or fire safety codes adopted by the county do not apply or that any equally good or more desirable form of installation can be employed in any specific case, or when it is claimed that the true intent and meaning of those codes or any of the regulations set forth in such codes have been misconstrued or incorrectly interpreted, the owner of such building or structure or his duly authorized agent may appeal from the decision of the county building official to the board of adjustments and appeals. Notice of appeal shall be in writing and filed within 90 days after the decision is rendered by the county building official. Appeals shall be on forms provided by the county building official.

(h) In the case of a building or structure which, in the opinion of the county building official, is unsafe or dangerous, the county building official may, in his order, limit the time for such appeal to a shorter period of time.

(i) The board of adjustments and appeals, when so appealed to and after a hearing, may vary the application of any provision of those codes to any particular case when, in its opinion, the enforcement thereof would do manifest injustice and would be contrary to the spirit and purpose of the codes or public interest, or when, in its opinion the interpretation of the county building official should be modified or reversed.

(j) The board of adjustments and appeals shall, in every case, reach a decision without unreasonable or unnecessary delay. Each decision of the board shall also include the reasons for this decision. If a decision of the board reverses or modifies a refusal, order or disallowance of the county building official, or varies the application of any provision of these codes, the county building official shall immediately take action in accordance with such decision.

(k) Every decision of the board of adjustments and appeals shall be final, subject, however, to such remedy as any aggrieved party might have at law or in equity.

(Ord. No. 90-1, §§ 1--8, 1-2-1990)

Cross references: Boards, commissions and authorities, § 2-126 et seq.

Sec. 42-50. Vested rights.

(a) *Established.*

(1) *Generally.* There shall be two types of vested rights under the county comprehensive plan. Both types shall entitle the holder of such vested rights to develop the property that is the subject of such vested rights as was allowed pursuant to the laws and regulations in existence on June 29, 1990, and those provisions of the county comprehensive plan that merely restate such law and regulation, including both compliance with the county comprehensive plan and satisfaction of concurrency requirements.

(2) *Types.* The two types of vested rights are:

a. Those vested rights acquired pursuant to policies 1.8.1 and 1.8.2 of the county comprehensive plan.

1. Vacant or unimproved lots or parcels which are nonconforming as to size for residential use for single-family, duplex or triplex units only, and which can individually be identified and described from documents recorded in the public records of the county on June 29, 1990, the date of adoption of the comprehensive plan, shall continue to be eligible for the issuance of residential building permits, subject to all other provisions of the comprehensive plan, including setbacks and concurrency.

2. Nonconforming residential lots or parcels may continue in residential use until their separate identity is lost or there is a change in use.

b. Those vested rights acquired pursuant to a special use permit as defined in subsection (b) of this section.

(3) *Conditions.* All vested rights permits shall be subject to the provisions of this chapter.

(b) *Special use permit.*

(1) *Issuance.* A vested rights special use permit may be issued by the county administrator/coordinator or his designee with the concurrence of the planning director, if the applicant meets the following criteria:

a. Presentation of a sufficient showing that the applicant has been issued a final development order and development has commenced and is continuing in good faith; or

b. A satisfactory showing that the property owner has relied, to his detriment, by making a material change in his position in good faith on a commitment by or omission of the county.

(2) *Relevant factors.* In making such determination, all relevant factors shall be considered, including, but not limited to, the following:

a. Whether construction has commenced;

b. Whether the planned development is part of a phased development a portion of which has been commenced with the reasonable expectation that the proposed development would be included in the overall development;

c. Whether the expense or obligation incurred is unique to the development;

d. Whether the development satisfied all prior regulations.

(3) *Factors not considered development expenditures or obligations.* The following are not considered to be development expenditures or obligations in and of themselves:

- a. Expenditures for legal or other professional services that are not related to the design or construction of improvements;
- b. Payment of taxes;
- c. Expenditures for initial acquisition of land.

(4) *Time limits.* On or before December 1, 1993, an application for a vested rights special use permit may be submitted to the planning director on such forms as may be provided from time to time. The vested rights special use permit will be granted or denied within 90 days of the filing of the application.

(c) *Limitations.* Vested rights special use permits shall be issued with the following limitations:

(1) Upon the expiration of five years from the date of issuance of a vested rights special use permit, the development subject to such permit shall no longer be vested as to satisfying any concurrency requirements of the comprehensive plan and shall be subject to the requirements for the determination of capacity of public facilities and the availability of such public facilities as required by the comprehensive plan. Vested rights granted pursuant to this section may be extended by the board of county commissioners upon finding that such extension is reasonable and necessary in light of the development approved; and

(2) All development subject to a vested rights special use permit must be consistent with the terms of the development approvals upon which such permit was based. Any substantial deviation from a prior development approval shall be subject to the comprehensive plan.

(d) *Substantial deviations.* The planning director shall determine whether a proposed change in a development subject to a vested rights special use permit is a substantial deviation. The following shall be considered substantial deviations:

(1) An increase in the intensity of use of more than five percent of the usable floor area of a nonresidential development;

(2) Any change in use from a specifically approved use;

(3) Any increase in traffic generated by the proposed development of more than ten percent;

(4) A decrease of more than ten percent in the area set aside in the proposed development for open space;

(5) Any change in height of more than 15 feet of any structure included within the proposed development; or

(6) A combination of increases in a multiuse development where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 100 percent.

(e) *Legal status.* Vested rights established pursuant to this section shall apply to the land and therefore may be transferred from owner to owner. Subject to the limitations set forth in this section, a vested right vests the development with respect to the comprehensive plan, this chapter and the requirements for the determination for the capacity and availability of public facilities.

(LDC §§ 12.08.01--12.08.05)

Sec. 42-51. Existing nonconforming development.

(a) *Continuation.* A nonconforming development is a development that does not conform to the use regulations in article V of this chapter and/or the development design and improvement standards in article VIII of this chapter and/or accessory structures and uses as set forth in section 42-407. Subject to the provisions in subsection (b) of this section for terminating a nonconforming development, such development may, if otherwise lawful and in existence on the date of enactment of this chapter, remain in use in its nonconforming state. Existing nonconforming lots of record, as of the adoption date of this chapter, may be issued a building permit subject to conforming with all other requirements of this chapter.

(b) *Termination.*

(1) *Generally.* Nonconforming developments must be brought into full compliance with the use regulations in article V of this chapter, and the development design and improvement standards in articles VIII and IX of this chapter, in conjunction with the following activities:

a. The gross floor area of the development is expanded by more than 50 percent or more than 4,000 square feet, whichever is less. Repeated expansions of a development, constructed over any period of time commencing with the effective date of this chapter, shall be combined in determining whether this threshold has been reached.

b. Notwithstanding anything to the contrary contained in this chapter, in any case or situation where a structure or use, or an accessory use, as of the effective date of this chapter, violates any dimensional or use requirement prescribed in this chapter, if such structure or accessory structure is damaged or destroyed by fire or other casualty, such damaged or destroyed structure or use, or accessory structure, may be restored within the dimensional area now occupied by it, provided such restoration or reconstruction shall be initiated within one year of the date of damage or destruction.

(2) *Special provisions for specific nonconformities.*

a. *Nonconformity with the stormwater management requirements of this chapter.* In addition to the activities listed in subsection (c)(1) of this section, an existing development that does not comply with the stormwater management requirements of this chapter must be brought into full compliance when the use of the development is intensified, resulting in an increase in stormwater runoff or added concentration of pollution in the runoff.

b. *Nonconformity with the parking and loading requirements of this chapter.* In addition to the activities listed in subsection (c)(1) of this section, full compliance with the requirements of this chapter shall be required where the seating capacity or other factor controlling the number of parking or loading spaces required by this chapter is increased by ten percent or more.

c. *Nonconforming signs.*

1. *Defined.* Any sign within the county on the effective date of this chapter, which does not conform to the requirements of this chapter, except that signs that are within ten percent of the height and size limitations of the requirements of this chapter, and that in all other respects conform to the requirements of this chapter, shall be deemed to be in conformity with this chapter.

2. *Amortization.* All nonconforming signs shall be removed or altered to be conforming within five years of the effective date of this chapter, unless an earlier removal is required by subsection (b)(1) of this section or subsection (b)(2)c.3 of this section.

3. *Continuation of nonconforming signs.* Subject to the restrictions in subsections (c)(1) and (c)(2) of this section, a nonconforming sign may be continued and shall be maintained in good condition as required by this chapter, but it shall not be:

i. Structurally changed to another nonconforming sign.

ii. Structurally altered to prolong the life of the sign, except to meet safety requirements.

iii. Altered in any manner that increases the degree of nonconformity.

iv. Expanded.

v. Reestablished after damage or destruction if the estimated cost of reconstruction exceeds 50 percent of the appraised replacement cost as determined by the county building official.

vi. Continued in use when a conforming sign or sign structure shall be erected on the same parcel or unit.

vii. Continued in use when the structure housing the occupancy is demolished or requires renovations the cost of which exceeds 50 percent of the assessed value of the structure.

viii. Continued in use after the structure housing the occupancy has been vacant for six months or longer.

(c) *Additions.* Additions, improvements or accessory structures proposed on parcels or structures that are nonconforming to the dimensional regulations and design standards in articles V, VIII and IX of this chapter may be approved by the building official provided that the following requirements are met:

- (1) The requested addition or improvement does not create any hardship for abutting property owners and is in harmony with the intent of this chapter.
- (2) The proposed addition or improvement will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
- (3) The proposed addition or improvement does not violate any regulations or design standards in this chapter.
- (4) The proposed addition or improvement does not increase the amount of nonconformity.

(LDC §§ 7.01.01--7.01.03)

Sec. 42-52. Variances.

(a) *Generally.*

(1) Where there are practical difficulties or unnecessary hardships incurred in the literal enforcement of the provisions of this chapter, the county planning board shall have the power, in specific and appropriate cases, and after due notice and a public hearing, to grant, upon petition, such variance from or exception to the terms of this chapter as may not be contrary to the public interest and in order that substantial justice may be done, except, the county planning board shall not grant variances from land use classification provisions in article V of this chapter and consistency/concurrency provisions in article III of this chapter.

(2) At least ten days prior to such hearing, notice of the time and place of such public hearing shall be given in a newspaper of general circulation within the county, by posting such notice at the county courthouse, and by verified notification to owners and adjacent and opposite lots extending laterally a distance of 500 feet on each side of the property for which such variance petition is being made. For multiple-owned structures (condominiums, cooperative ownership, etc.) the mailing shall be to the property owner's association only.

(3) A person desiring to undertake a development activity not in conformance with this chapter may apply for a variance in conjunction with the application for development review as specified in section 42-53(b). A development activity that might otherwise be approved by the planning

director must be approved by the county planning board if a variance is sought. The variance shall be granted or denied in conjunction with the application for development review.

(b) *Limitations on granting variances.*

(1) Before granting any variance, the county planning board shall determine that:

a. Special conditions and circumstances exist which are peculiar to the land, structure or building involved.

b. The special conditions and circumstances do not result from actions of the applicant.

c. Literal interpretation of the provisions of this chapter could work unnecessary and undue hardship on the applicant.

d. The variance, if granted, is the minimum variance that will make possible the reasonable use of the land, structure or building.

e. A grant of variance will be in harmony with the general intent and purpose of this chapter, and that such variance will not be injurious to the land use district involved or otherwise detrimental to the public interest.

f. In granting a variance, the county planning board may prescribe any terms, conditions and safeguards which it may, in its judgment, deem fitting and proper to preserve the safety, health and welfare of the county.

g. Neither nonconforming use of neighboring properties, structures or buildings, nor permitted use of properties, structures or buildings in other land use districts shall be considered a substantive basis for granting a variance, nor will financial hardship or gain be a justification for granting a variance.

(2) In granting a development approval involving a variance, the county planning board 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 factors set forth in subsection (b)(1) of this section, or to minimize the injurious effect of the variance.

(3) If the granting of any variance pursuant to this section is for the purpose of allowing additional new improvements to be constructed, then such variance, if granted, shall automatically expire 12 months after such variance is approved by the county planning board, unless a building permit is procured from the county with respect to the improvements contemplated by the application for variance within such 12-month period, and unless the construction of such improvement is promptly commenced pursuant to the building permit and diligently pursued to completion thereafter. Upon application pursuant to section 42-52(b), the county planning board may extend the expiration for up to one year.

(c) *Special provisions.*

(1) In addition to the findings required in subsection (b) of this section, the county flood appeals board (FAB), shall find that the requested variance will not result in an increase in the elevation of the base flood, additional threats to public safety, additional public expense, the creation of nuisances, fraud or victimization of the public or conflicts with other local ordinances.

(2) Before granting a variance, the flood appeals board shall consider:

- a. The danger that materials may be swept from the site onto other lands.
- b. The danger to life and property from flooding or erosion.
- c. The potential of the proposed facility and its contents to cause flood damage and the effect of that damage on the owner and the public.
- d. The importance of the services provided by the proposed facility to the county, and whether it is a functionally dependent facility.
- e. The availability of alternative locations not subject to flooding or erosion for the proposed use.
- f. The compatibility of the proposed use with existing and anticipated neighboring developments.
- g. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.
- h. Safe vehicular access to the property in times of flood.
- i. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and effects of wave action, if applicable, at the site.
- j. The costs of providing governmental services during and after floods, including maintenance and repair of public utilities and facilities.

(3) Variances that would increase flood levels during the base flood shall not be issued within any regulatory floodway.

(4) No variance that would increase flood damage on property outside any regulatory floodway shall be granted unless flowage easements have been obtained from the owners of all affected properties. In no event shall a variance be granted that would increase the elevation of the base flood more than one foot.

(5) All variances to the flood damage prevention regulations shall:

a. Specify the difference between the flood protection elevation and the elevation to which the structure is to be built.

b. State that the variance will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage.

c. State that construction below the flood protection level increases risks to life and property.

(6) The secretary of the flood appeals board shall maintain a record of all variances including the justification for their issuance and a copy of the notice of the variance. The Federal Emergency Management Agency shall report all variances in the annual report to the Federal Insurance Administrator.

(7) Notwithstanding the requirements of this section, special variances may be granted for the reconstruction, rehabilitation or restoration of structures listed on, or classified as contributing to a district listed on the National Register of Historic Places, the local register of historic places or the state inventory of historic places. The special variances 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 designation.

(LDC §§ 7.02.01--7.02.03)

Sec. 42-53. Chapter amendments.

(a) *State law controlling.* The procedures in this section shall be followed in amending this chapter. This section supplements the mandatory requirements of state law, which must be adhered to in all respects.

(b) *Application.* Any person, board or agency may apply to the planning department to amend this chapter in compliance with procedures, not inconsistent with state law, prescribed by the planning department. The application shall include the following:

(1) The applicant's name and address;

(2) The precise wording of any proposed amendments to the text of this chapter;

(3) A statement describing any changed conditions that would justify an amendment;

(4) A statement describing why there is a need for the proposed amendment;

(5) A statement describing whether and how the proposed amendment is consistent with the county comprehensive plan;

(6) A statement outlining the extent to which the proposed amendment:

- a. Is compatible with existing land uses;
- b. Affects the capacities of public facilities and services;
- c. Affects the natural environment;
- d. Will result in an orderly and logical development pattern.

(7) Such other information or documentation as the planning director may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

(c) *Standards for review.* In reviewing the application of a proposed amendment to the text of this chapter, the board of county commissioners and the planning board shall consider:

- (1) Whether the proposed amendment is in conflict with any applicable provisions of this chapter;
- (2) Whether the proposed amendment is consistent with all elements of the county comprehensive plan;
- (3) Whether or the extent to which the proposed amendment is inconsistent with existing and proposed land uses;
- (4) Whether there have been changed conditions that require an amendment;
- (5) Whether or the extent to which the proposed amendment would result in demands on public facilities, and whether or the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities;
- (6) Whether or the extent to which the proposed amendment would result in significant adverse impacts on the natural environment;
- (7) Whether or the extent to which the proposed amendment would adversely affect the property values in the area;
- (8) Whether or the extent to which the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern;
- (9) Whether the proposed amendment would be in conflict with the public interest, and in harmony with the purpose and interest of this chapter; and
- (10) Any other matters that may be deemed appropriate by the planning board or the board of county commissioners, in review and consideration of the proposed amendment.

(d) *Review by the planning department.*

(1) *Submission and completeness.* Within 30 days after an application for an amendment to the text of this chapter or an application for an amendment to the county comprehensive plan is submitted, the planning director shall determine whether the application is complete. If the application is not complete, he shall send a written statement specifying the application's deficiencies to the applicant by certified mail, return receipt requested. The planning director shall take no further action on the application unless the deficiencies are remedied.

(2) *Review.* When the planning director determines an application for an amendment to this chapter is complete, he shall notify the planning board, review the application and make a recommendation to the planning board.

(e) *Action by planning board.*

(1) *Public hearing.* Upon notification of the completed application for an amendment to the text of this chapter, the planning board shall place it on the agenda of a regular or special meeting for a public hearing in accordance with the requirements of section 42-153. The public hearing held on the application shall be in accordance with section 42-154. In recommending the application to the board of county commissioners, the planning board shall consider the standards set forth in subsection (c) of this section.

(2) *Action by planning board.* Within 45 days of the conclusion of the public hearing, the planning board shall make a recommendation to grant or deny the application for amendment to the board of county commissioners. Such recommendation shall:

a. Identify any provisions of this chapter, the comprehensive plan or other law relating to the proposed change and describe how the proposal relates to it.

b. State factual and policy considerations pertaining to such recommendations.

c. In the case of proposed amendments to this chapter, include the written comments, if any, received from the planning director.

(f) *Action by board of county commissioners.*

(1) Upon receipt of the recommendation of the planning board, the board of county commissioners shall place the application on the agenda of a regular meeting of the board of county commissioners for a public hearing in accordance with the requirements of section 42-154.

(2) In making a decision on the application, the board of county commissioners shall consider the recommendation of the planning board and the standards set forth in subsection (c) of this section.

(3) Within a reasonable time of the conclusion of the public hearings, the board of county commissioners shall either grant or deny the application for a proposed amendment.

(4) Notification of the board of county commissioners' decision shall be mailed to all parties, and the decision shall be filed in the planning department in accordance with section 42-154(f).

(g) *Time limitation.*

(1) After a decision or recommendation denying a proposed amendment to the text of this chapter the board of county commissioners and the planning board shall not consider an application for the same amendment for a period of two years from the date of the action.

(2) The time limits set forth in subsection (g)(1) of this section may be waived by the affirmative vote of four members of the board of county commissioners when such action is deemed necessary to prevent injustice or facilitate the proper development of the county.

(LDC §§ 12.10.01--12.10.07)

State law references: Ordinance adoption procedures, F.S. § 125.66 et seq.; adoption of zoning ordinances, F.S. § 125.66(4); adoption of land development regulations, F.S. § 163.3194(2); administrative review of land development by regulations, F.S. § 162.3213.

Sec. 42-54. Comprehensive plan amendments.

(a) *State law controlling.* Procedures in this section shall be followed in amending the comprehensive plan. This section supplements the mandatory requirements of state law, which must be adhered to in all respects.

(b) *Application.*

(1) *Generally.* Any person, board or agency may apply to the planning department to amend the comprehensive plan in compliance with procedures, not inconsistent with state law, prescribed by the planning department.

(c) *Submittals.* The application shall include the following:

(1) The applicant's name and address;

(2) A statement describing any changed conditions that would justify an amendment;

(3) A statement describing why there is a need for the proposed amendment;

(4) A statement describing whether and how the proposed amendment is consistent with the county comprehensive plan;

(5) A statement outlining the extent to which the proposed amendment:

a. Is compatible with existing land uses;

- b. Effects the capacities of public facilities and services;
- c. Effects the natural environment;
- d. Will result in an orderly and logical development pattern.

(6) If the application requests an amendment to the future land use map, the applicant shall include the:

- a. Street address and legal description of the property proposed to be reclassified;
- b. Applicant's interest in the subject property;
- c. Owner's name and address, if different than the applicant;
- d. Current land use district classification and existing land use activities of the property proposed to be reclassified;
- e. The area of the property proposed to be reclassified stated in square feet or acres.

(7) For plan amendments involving those areas designated agricultural/rural residential, mixed use rural residential and mixed use urban development on the future land use map, the applicant shall provide an inventory of all wetlands and other environmentally sensitive lands, as well as documentation that the proposed use will not negatively impact environmentally sensitive lands.

(8) Such other information or documentation as the planning director may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

(d) *Standards for review.* In reviewing the application of a proposed amendment to the county comprehensive plan, the board of county commissioners and the planning board shall consider:

- (1) Whether the proposed amendment is in conflict with any applicable provisions of this chapter;
- (2) Whether the proposed amendment is consistent with all elements of the county comprehensive plan;
- (3) Whether or the extent to which the proposed amendment is inconsistent with existing and proposed land uses;
- (4) Whether there have been changed conditions that require an amendment;
- (5) Whether or the extent to which the proposed amendment would result in demands on public facilities, and whether or the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities;

(6) Whether or the extent to which the proposed amendment would result in significant adverse impacts on the natural environment;

(7) Whether or the extent to which the proposed amendment would adversely affect the property values in the area;

(8) Whether or the extent to which the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern;

(9) Whether the proposed amendment would be in conflict with the public interest, and in harmony with the purpose and interest of this chapter; and

(10) Any other matters that may be deemed appropriate by the planning board or the board of county commissioners, in review and consideration of the proposed amendment.

(e) *Review by the planning department.*

(1) *Submission and completeness.* Within 30 days after an application for an amendment to the county comprehensive plan is submitted, the planning director shall determine whether the application is complete. If the application is not complete, he shall send a written statement specifying the application's deficiencies to the applicant by certified mail, return receipt requested. The planning director shall take no further action on the application unless the deficiencies are remedied.

(2) *Review.* When the planning director determines an application for an amendment to the county comprehensive plan is complete, and, as determined by the planning director, should a proposed amendment impact adjacent local governments, the county school board and other units of government which provide services, but do not have regulatory authority over the use of land, such agencies shall be notified that the application has been filed and found complete. In addition, the planning director shall notify the planning board, review the application and make a recommendation to the planning board.

(f) *Action by planning board.*

(1) *Public hearing.* Upon notification of the completed application for an amendment to the county comprehensive plan, the planning board shall place it on the agenda of a regular or special meeting for a public hearing in accordance with the requirements of section 42-153. The public hearing held on the application shall be in accordance with section 42-154. In recommending the application to the board of county commissioners, the planning board shall consider the standards set forth in subsection (d) of this section.

(2) *Action by planning board.* Within 45 days of the conclusion of the public hearing, the planning board shall make a recommendation to grant or deny the application for amendment to the board of county commissioners. Such recommendation shall:

a. Identify any provisions of this chapter, the comprehensive plan or other law relating to the proposed change and describe how the proposal relates to it.

b. State factual and policy considerations pertaining to such recommendation.

(g) *Action by board of county commissioners.*

(1) Upon receipt of the recommendation of the planning board, the board of county commissioners shall place the application on the agenda of a regular meeting of the board of county commissioners for a public hearing in accordance with the requirements of section 42-154.

(2) In making a decision on the application, the board of county commissioners shall consider the recommendation of the planning board and the standards set forth in subsection (d) of this section.

(3) Within a reasonable time of the conclusion of the public hearing, the board of county commissioners shall either grant or deny the application for a proposed amendment.

(4) Notification of the board of county commissioners' decision shall be mailed to all parties, and the decision shall be filed in the planning department in accordance with section 42-154(f).

(h) *Time limitation.*

(1) After a decision or recommendation denying a proposed amendment to the county comprehensive plan, the board of county commissioners and the planning board shall not consider an application for the same amendment for a period of two years from the date of the action.

(2) The time limits of this subsection may be waived by the affirmative vote of four members of the board of county commissioners when such action is deemed necessary to prevent injustice or facilitate the proper development of the county.

(LDC §§ 12.09.01--12.09.07)

State law references: Comprehensive plan amendment, F.S. § 163.3189.

Sec. 42-55. Appeals.

(a) *Appeals from decisions of the planning department, the county engineer, the county road department and the building department.* A developer or any adversely affected person may appeal an order, decision, determination or interpretation of the comprehensive plan by the planning department subject to an appeal, specifying the grounds for the appeal. Appeals shall be made to the planning board by filing a notice of appeal with the planning department within 30

days of the decision. Other appeals, including to an order, decision, determination or interpretation of this chapter by the planning department, the county engineer, the county road department or the building department shall be made to the planning board in the same manner.

(b) *Appeals from decisions of the planning board.* A developer, an adversely affected party or any person who appeared orally or in writing before the planning board and asserted a position on the merits in a capacity other than as a disinterested witness, may appeal the decision of the planning board to the board of county commissioners.

(c) *Record.* The record to be considered on appeal shall be all written materials considered during the initial decision, any additional written material submitted by the appellant to the county and any testimony considered on the hearing of the appeal.

(d) *Effect of filing an appeal.* The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed from unless the planning director, county engineer, county road director or building official, as appropriate, certifies to the planning board that, by reason of certain facts, a stay would pose an imminent peril to life or property; in such case the appeal will not stay further proceedings except by a restraining order.

(e) *Procedure.*

(1) The appellate board (planning board or board of county commissioners, as appropriate) shall hold a hearing on the appeal within a reasonable time after a notice of appeal is filed. The appellant shall be notified by the planning director, county engineer, county road director or building official, as appropriate, of the time, date and place of the public hearing by certified mail, return receipt requested. The appellate board shall reverse the order, decision, determination or interpretation only if there is substantial competent evidence in the record that an error was made in the decision being appealed from that fails to comply with the requirements of this chapter. In modifying such decision, the appellate board shall be deemed to have all powers of the officer or board from whom the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant.

(2) The decision of the appellate board shall be mailed to all parties by the planning director.

(f) *Appeals to circuit court.* Any person, firm, organization or agency claiming to be injured or aggrieved by any final action of the planning director, code enforcement board, planning board or board of county commissioners arising from the decision-making or administration of this chapter may present to the circuit court of the county a petition for a writ of certiorari to review such final action as provided by the state appellate rules. Such action shall not be taken until the litigant has exhausted all of the remedies available in this chapter. Such petition shall be presented to the court within 30 days after the date the litigant has exhausted all such chapter remedies.

(LDC §§ 12.11.01--12.11.06)

Sec. 42-56. Fees.

A schedule of fees may be established by resolution of the board of county commissioners in order to cover the costs of technical and administrative activities required pursuant to this chapter. Unless specifically exempted by the provisions of this chapter, an applicant for any development that is subject to the rules and regulations set out in this chapter shall bear the costs stipulated within such fee schedule.

(LDC § 12.12.00)

Secs. 42-57--42-80. Reserved.

DIVISION 2. PLANNING BOARD*

***Cross references:** Boards, commissions and authorities, § 2-126 et seq.

Sec. 42-81. Establishment.

The county planning board is established and designated as the local planning agency in accordance with the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. § 163.3161 et seq.).

(LDC § 11.03.01)

Sec. 42-82. Membership; compensation; terms of office; removal from office; vacancy.

(a) The planning board shall consist of seven members, which shall be appointed by the board of county commissioners at large. No member of the planning board shall be paid or be an elected official or employee of the county.

(b) The term of office for members of the planning board shall be for three years. All appointments shall be staggered as the existing terms expire.

(c) Members of the planning board may be removed for cause by the board of county commissioners after filing of written charges, a public hearing and a majority vote of the board of county commissioners. Vacancies in the planning board membership shall be filled by appointment by the board of county commissioners for the unexpired term of the member affected. It shall be the duty of the chairman of the planning board to notify the board of county commissioners within ten days after any vacancy shall occur among members of the planning board. A member whose term expires may continue to serve until a successor is appointed and qualified.

(LDC §§ 11.03.02, 11.03.03)

Sec. 42-83. Organization.

(a) The planning board shall elect from within the planning board a chairman, who shall be the presiding member, and a vice-chairman, who shall preside in the chairman's absence or disqualification. The county administrator/coordinator or his designee shall serve as secretary to the planning board.

(b) The planning board shall establish rules and regulations approved by the board of county commissioners for its own operation, not inconsistent with the provisions of applicable state statutes. Such rules of procedure shall be available in a written form to persons appearing before the planning board and to the public.

(c) The planning board shall meet at regular intervals at the call of the chairman, at the written request of four or more regular members or within 30 days after receipt of a matter to be acted upon by the planning board, provided that the planning board shall hold at least one regularly scheduled meeting each month, on a day to be scheduled by the planning board. All meetings of the planning board and its subcommittees shall be open to the public. A record of all its motions, recommendations, transactions, findings and determinations shall be made, which record shall be of public record, on file.

(d) If any member of the planning board shall find that his private or personal interests are involved in a matter coming before the planning board, he shall disqualify himself from all participation in that case. No member of the planning board shall appear before the planning board as agent or attorney for any person.

(e) The planning board shall create whatever subcommittees it deems necessary to carry out the purposes of the planning board. The chairman of the planning board shall appoint the membership of each subcommittee from the members of the planning board.

(f) The board of county commissioners shall make available to the planning board appropriations necessary in the conduct of planning board work and shall also establish a schedule of fees to be charged by the planning board.

(g) Four members of the planning board shall constitute a quorum.

(h) The concurring vote of a majority of the members of the planning board who are present and voting shall be necessary to pass any motion which is considered by the planning board.

(LDC § 11.03.04)

Sec. 42-84. Legal counsel.

The board of county commissioners may provide legal counsel to the county planning board when merited and upon request by the planning board.

(LDC § 11.03.06)

Sec. 42-85. General functions, powers and duties.

(a) The functions, powers and duties of the planning board, in general, shall be to:

(1) Acquire and maintain such information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions. Such information and materials may include maps and photographs of manmade and natural physical features of the areas subject to the comprehensive plan, statistics on past trends and present conditions with respect to population, property values, economic base, land use and such other information as is important or likely to be important in determining the amount, direction and kind of development to be expected in the areas subject to the comprehensive plan.

(2) Prepare, update and recommend to the board of county commissioners and from time to time amend the comprehensive plan for meeting present requirements and such future requirements as may be foreseen.

(3) Recommend principles and policies for guiding action affecting development in the unincorporated areas of the county.

(4) Prepare and recommend to the board of county commissioners proposed land development regulations, land development codes, ordinances, regulations and other proposals promoting orderly development along the lines indicated as desirable by the comprehensive plan.

(5) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan. The planning board shall review and make

recommendations to the board of county commissioners on applications for major development review pursuant to this chapter.

(6) Conduct such public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plan and ordinances, codes and regulations related to it and to establish public committees when deemed necessary for the purpose of collecting and compiling information necessary for the plan, or for the purpose of promoting the accomplishment of the plan in whole or in part.

(7) Make or cause to be made any necessary special studies on the location, adequacy and conditions of specific facilities which are subject to the comprehensive plan. These may include, but are not limited to, studies on housing, commercial and industrial conditions and facilities, recreation, public and private utilities, roads and traffic, transportation, parking, etc.

(8) Keep the board of county commissioners informed and advised on these matters.

(9) Perform such other duties as may be lawfully assigned to it, or which may have bearing on the preparation of implementation of the comprehensive plan.

(b) All employees of the county shall, upon request and within reasonable time, furnish to the planning board or its agents such available records or information as may be required in its work. The planning board or its agents may, in the performance of official duties, enter upon lands and make examinations of surveys in such manner as other authorized agents or employees of the county and shall have such other powers as are required for the performance of official functions in carrying out the purposes of the planning board.

(c) All official actions in regard to the recommendations made by the planning board shall be presented to the board of county commissioners who shall be responsible for the final decisions relating to the recommendations of the planning board.

(LDC § 11.03.05)

Secs. 42-86--42-105. Reserved.

DIVISION 3. DEVELOPMENT ORDERS, PERMITS AND PLANS

Subdivision I. In General

Sec. 42-106. Withdrawal of application.

An application for development review may be withdrawn at any time.

(LDC § 12.00.02)

Sec. 42-107. Major and minor deviations.

(a) In this section:

(1) A minor deviation is a deviation from a final development plan that falls within the following limits, and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

a. Alteration of the location of any road, walkway, landscaping or structure by not more than five feet.

b. Reduction of the total amount of open space by not more than five percent, or a reduction of the yard area or open space associated with any single structure by not more than five percent, provided that such reduction does not permit the required yard area or open space to be less than that required by this chapter.

(2) A major deviation is a deviation other than a minor deviation from the final development plan.

(b) The planning department shall utilize code enforcement officers for periodic inspection of development work in progress to ensure compliance with the development permit which authorized such activity.

(c) If the work is found to have one or more minor deviations, the planning department shall amend the development order to conform to actual development. The planning department may, however, refer any minor deviation that significantly affects the development's compliance with the purposes of this chapter to the planning board for treatment as a major deviation.

(d) If the work is found to have one or more major deviations, the planning department shall:

(1) Place the matter on the next agenda of the planning board allowing for adequate notice, and recommend appropriate action for the planning board to take.

(2) Issue a stop work order or other legal action available to remedy the deviation and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the planning department determines that work or occupancy may proceed pursuant to the decision of the planning board.

(e) The planning board shall hold a public hearing on a major deviation and shall take one of the following actions:

(1) Order the developer to bring the development into substantial compliance (i.e., having no deviations or only minor deviations) within a reasonable period of time specified by the planning board. The development order or permit may be revoked if such order is not complied with.

(2) Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this chapter.

(3) Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

(f) After a development order or permit has been revoked, development activity shall not proceed on the site until a new development order or permit is granted in accordance with procedures for original approval.

(LDC §§ 12.13.01, 12.13.02)

Sec. 42-108. Application for certificate of occupancy.

Upon completion of work authorized by a development order or permit, and before the development is occupied, the developer shall apply to the building department for a certificate of occupancy. The building department shall inspect the work and issue the certificate of occupancy if the development is found to be in conformity with the permit or order.

(LDC § 12.13.03)

Secs. 42-109--42-125. Reserved.

Subdivision II. Subdivisions, Plats and Abandonment of Roads*

***State law references:** Provisions regulating subdivision of land required, F.S. § 163.3202(2)(a).

Sec. 42-126. Requirements for subdivisions.

(a) *Generally.* Where proposed minor or major development includes the subdivision of land, the final approval of the development plan by the planning board shall constitute preliminary plat approval and must conform to the development plan provisions of this division.

(b) *Final plat approval.*

(1) *Construction plans submittal.* Prior to submittal of the final subdivision plat for approval, the developer shall submit the construction plans for all subdivision improvements. Such plans shall be prepared and signed by a licensed professional engineer registered in the state. The developer shall submit two sets of prints of the completed construction plans to the planning department. The final plat of the proposed subdivision shall conform substantially to the approved preliminary plat. If so desired by the developer, the plat may contain only that portion of the preliminary plat which is proposed to be developed and recorded. In such case, that portion shall conform to the requirements of this section.

(2) *Maintenance.* The developer shall be held responsible for the maintenance of all roads within the project during construction and until such time as the roads are accepted in dedication by the board of county commissioners in accordance with section 42-156(f).

(3) *Action by the board of county commissioners.* The developer shall submit the original of the subdivision plat with two blue or black line copies and a title opinion from an attorney to the office of the planning director at least ten days prior to the meeting of the board of county commissioners at which the plat is to be considered. The county engineer shall, within ten days of receipt, review one copy of the plat for completeness and conformity to this section, to the approved preliminary plat and to any conditions attached thereto. If the plat is found to be in compliance, the county engineer shall sign the original in an appropriate space. Review of the plat by the board of county commissioners shall be strictly limited to whether the plat conforms to the requirements of F.S. ch. 177. If the final plat is in compliance with the approved preliminary plat and meets and fulfills the conditions and requirements set forth in this section, the chairman of the board of county commissioners shall indicate such approval by signing in an appropriate space on the original plat after approval by the board of county commissioners. If the final subdivision plat is disapproved, reasons for such disapproval shall be stated in the record of the board of county commissioners. Such reasons for disapproval shall be given to the developer, in writing, along with the original plat.

(4) *Recording.* When the subdivision plat has all approvals, the county clerk shall return the original plat to the developer for copying. The original plat, one reproducible copy on linen or mylar and two black or blue line copies, one of which shall be printed on cloth, shall then be returned to the county clerk for filing as an official plat of record. A copy shall also be maintained by the planning department. Approval and recording of the final subdivision plat

shall not constitute acceptance by the county of any proposed dedication of any street, right-of-way or grounds until inspected by the county engineer and approved and certified, in writing, by the board of county commissioners in its records. A copy of such certification shall be sent to the developer.

(5) *Final plat requirements.* The plat shall substantially conform to the layout and design proposed on the preliminary plat.

- a. It shall be an original drawing made with black permanent drawing ink or veritype process on a good grade linen tracing cloth or with suitable permanent black drawing ink on a stable base film a minimum of 0.003 inch thick, coated upon completion with a suitable plastic material to prevent flaking and to assure permanent legibility, or a nonadhered scaled print on a stable base film made by photographic processes from a film scribing tested for residual hypo-solution to assure permanency. Marginal lines, standard certificates and approval forms shall be printed on the plat with a permanent black drawing ink.
- b. The size of each sheet of a plat for recording shall be 24 inches wide and 36 inches in length. Each sheet shall be drawn or printed with a marginal line completely around each sheet and placed so as to leave at least a three-quarter-inch margin on the left side of the plat for binding purposes. Whenever there is more than one sheet, the total number of sheets included shall be indicated, as well as clearly labeled match lines to show where the other sheets match or adjoin.
- c. The scale used shall be of sufficient size to show all detail and shall be both stated and graphically illustrated by a graphic scale drawn on every sheet showing any portion of the lands subdivided. The standard scale shall be one inch to 100 feet, unless approved otherwise by the planning director.
- d. The name of the plat shall be shown in bold, legible letters. The name of the subdivision shall be shown on each included sheet.
- e. Each sheet shall have a north arrow drawn so as to be prominent on each sheet showing lands subdivided.
- f. Each plat shall show a description of the lands subdivided and the description shall be the same in the title certification.
- g. Location of all streets with their names, waterways and all other rights-of-way and easements shall be shown and properly labeled.
- h. All contiguous properties shall be identified by subdivision title, plat book and page number, or if unplatted, shall be so designated by numbers.
- i. All lots shall be designated by progressive numbers within each block. All blocks shall be progressively designated by numbers.

- j. Sufficient survey data shall be shown to positively describe the bounds of every lot, block, street, easement and all other areas shown on the plat. All dimensions shall be shown to a minimum of hundredths of feet. Bearings of deflection angles, radii, arcs and central angles of all curves shall be given to the nearest minute. All measurements shall refer to horizontal plane and be in accordance with the definition of a foot adopted by the United States Bureau of Standards.
- k. Municipal, county or U.S. Government lot lines are to be shown when available.
- l. Street centerlines showing angles of deflection, radii, lengths of arcs and degree of curvature with basis of curve data shall be shown. When curve data cannot be shown on the map, it may be given on the plat in tabular form with the curves numbered.
- m. All section lines and quarter section lines falling within the map or plat are to be identified with appropriate words and figures. If the description is by metes and bounds, the point of beginning shall be indicated together with all bearings and distances of the boundary lines. The initial point shall be tied to the nearest government corner or other recorded and well established corner.
- n. Title certification on the plat showing that the applicant is the owner, and a statement by such owner in dedication of all rights-of-way, easements and public sites to the purposes for which they are intended, shall be included.
- o. Certification of the surveyor shall be included.
- p. The statement that "this subdivision is subject to a special taxing district for the maintenance and improvement of public facilities" pursuant to section 42-858.
- q. All other requirements of this chapter shall be complied with by the final plat before approval by the board of county commissioners may be given and the plat recorded.
- r. The following statement shall appear on the final plat: "Notice--There may be additional restrictions that are not recorded in this plat but may be found in the public records of Taylor County."
- s. There shall be a statement on all deeds that "this property is subject to a special municipal service benefit unit for the maintenance of roads within the subdivision."

(LDC §§ 12.03.01, 12.03.02)

Sec. 42-127. Dedication.

Approval of subdivision plans and plats by the planning director or the planning board shall not constitute or effect an acceptance of the dedication of any street or any other ground shown upon

the plat. The authority to accept dedications of land for any purpose shall be exercised exclusively by the board of county commissioners.

(LDC § 12.04.01)

Sec. 42-128. Lot splits.

(a) *Review by the planning department.*

(1) *Generally.* The planning department may approve a lot split (a replat of one lot into two lots) that conforms to the requirements of this section. Division of land among family members shall be excluded from the submittal and recordation requirements of this section.

(2) *Submittals.* The planning department shall consider a proposed lot split replat upon the submittal of the following materials:

- a. An application form provided by the planning department;
- b. Three paper copies of the proposed lot split replat;
- c. A statement indicating whether water and/or sanitary sewer service is available to the property; and
- d. Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the state. If a lot contains any principal or accessory structure, a survey showing the structure on the lot shall accompany the application.

(3) *Review procedure.*

- a. The planning department shall transmit a copy of the proposed lot split replat to any other appropriate departments of the county for review and comment.
- b. If the proposed lot split replat meets the conditions of this section and otherwise complies with all applicable laws and ordinances, the planning director shall approve the lot split replat by signing the application form.

(4) *Recordation.* Upon approval of the lot split replat, the planning department shall record the replat on the appropriate maps and documents, and shall, at the developer's expense, record the replat in the official records of the county.

(b) *Standards and restrictions.* All lot split replats shall conform to the following:

- (1) Each proposed lot must conform to the requirements of this chapter.

(2) Each lot shall abut a public or private street, except as otherwise provided in this chapter, for the required minimum lot dimensions for the land use district where the lots are located.

(3) 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 division, the owner may be required to dedicate one-half the required right-of-way width necessary to meet the minimum design standards.

(c) *Restriction.* No further division of an approved lot split replat is permitted under this section, unless a development plan is prepared and submitted in accordance with this division.

(LDC §§ 12.05.01, 12.05.02)

Sec. 42-129. Right-of-way abandonment; plat vacation.

(a) *Authority and applicability.*

(1) Any dedication or conveyance of real property for the purpose of streets, rights-of-way, access, ingress and egress, utilities and drainage which has been made on or by a plat, easement, deed or other instrument of any kind which instruments have been approved by the board of county commissioners for filing of record in the official records of the county, or which instruments convey any interest in real property to the board of county commissioners, is deemed to be under the jurisdiction and control of the board of county commissioners for the purposes of the vacation, annulment and/or abandonment of plats, or portions thereof, rights-of-way and easements for utility and drainage purposes.

(2) The provisions of this section shall apply to all plats, rights-of-way and easements under the jurisdiction and control of the board of county commissioners.

(3) The procedures set forth in this section shall apply to applications pursuant to F.S. § 177.101(1), (2), and to all applications for vacating plats, or any portions thereof, including public easements, pursuant to F.S. § 177.101(3). Any petition to vacate a plat or portion thereof, which plat or portion thereof, contains private rights-of-way shall not require a public hearing; provided, however, that a public hearing shall be required if the petition site includes a county right-of-way or public easement for drainage purposes which services a county right-of-way.

(b) *Petitioners.*

(1) *Petitioners for abandonment of plats.* Any person, governmental entity or business entity desiring to abandon a plat or any portion thereof, including public easements, shall be required to make application to the county pursuant to F.S. § 177.101, and the provisions of this section. The application shall be on a petition form prescribed by the planning department and the information contained in such petition shall be verified by the petitioner under oath. Unless initiated by the county, the petition shall be signed by all owners of any portion of the petition site.

(2) *Petitions for abandonment of rights-of-way.* Any person, governmental entity or business entity desiring to abandon the public's interest in and to any right-of-way shall be required to make application to the county pursuant to this section. The application shall be on the petition form prescribed by the planning department and the information contained in such application shall be verified by the petitioner under oath. Unless initiated by the county, any petition for abandonment of rights-of-way shall be signed by all owners of abutting property.

(3) *Application fee.* The application fee shall be determined in accordance with section 42-56.

(c) *Access to water.* No right-of-way, road, street or public accessway giving access to any publicly accessible waters in the county shall be closed, vacated or abandoned, except in those instances wherein the:

(1) Right-of-way does not benefit the public and/or there is no adequate parking to facilitate the use of the right-of-way and it is not a burden upon the county; or

(2) Petitioner offers to trade or give to the county comparable land for a right-of-way, road, street or public accessway to give access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the direction of the board of county commissioners.

(d) *Notice of intent to file petition to vacate a plat.* Immediately prior to filing the petition with the planning department to vacate a plat, the petitioner shall cause to be published a notice of intent in a newspaper of general circulation in the county once weekly for two consecutive weeks. Such notice of intent shall state the intent of the petitioner to file a petition pursuant to this section and F.S. ch. 177.

(e) *Petition application procedures.* In addition to any other information, the petition shall contain the following:

(1) A complete and accurate legal description of the petition site.

(2) A statement identifying the type of petition, the source of the county's or public's interest, together with a reference to the recording information for the petition site. The type of petition may be for abandonment of:

a. A plat;

b. A portion of a plat;

c. A county right-of-way;

d. The public's interest in a private right-of-way; or

e. A public easement.

(3) A drawing measuring not less than eight inches by 14 inches and not larger than 11 inches by 17 inches, which clearly and legibly identifies the location of the petition site in relation to the nearest public right-of-way, excluding the petition site, and all affected properties. The location map may be located on the survey in a separate block.

(4) The petition shall contain a statement that to the best of the petitioner's knowledge, the granting of the petition would not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

(5) The petitioner shall certify that the petition site or any portion thereof is not a part of any state or federal highway and was not acquired or dedicated for state or federal highway purposes.

(6) The petition shall state the source of petitioner's ownership or interest in and to the petition site, and a reference to the recording information for such evidence of title. A copy of the source instrument shall be certified by the clerk of the circuit court and attached to the petition.

(7) The petition shall state that all state, municipal and county taxes on the petition site have been paid. The certificate of the tax collector's office showing payment of such taxes (as payment is defined in F.S. § 177.101(4) shall be attached to the petition. If the petition site or any portion thereof is tax-exempt, the petition shall so state and a copy of the tax roll from the tax collector's office which shows such exemption shall be attached to the petition.

(8) The petition shall state whether the petition site lies within the corporate limits of a municipality, within the unincorporated area, or both. If any portion of the petition site lies within the corporate limits of a municipality, the municipality shall first abandon its interest in the petition site by appropriate resolution, and a certified copy of the municipal resolution shall be attached to the petition.

(9) The petition shall state whether the petition site is subject to the application fee set forth in section 42-56, the amount of the fee, and that the fee is submitted with such petition.

(10) The petition shall detail the relevant reasons in support of the request and granting of the petition.

(f) *Review of petition.*

(1) *Review and notification.* Each petition shall be reviewed by the planning director and any governmental agency or affected county department. Upon receipt of the petition, the planning director shall distribute the petition to the reviewing departments and agencies. Within 20 days of receipt of the petition, the reviewing departments and agencies shall submit a written report containing its findings and recommendations to the planning director. Upon receipt of all written reports, the planning director shall review the petition and reports and shall notify the petitioner, in writing, of any reasonable conditions to be performed prior to forwarding the petition and reports pursuant to subsection (f)(2) of this section. Within 60 days of receipt of the planning

director's notification, the petitioner shall either comply with, agree and commit, in writing, to the conditions, or disagree, in writing, to the conditions. Failure to respond to the planning director's notification may result in a recommendation to deny the petition by the planning director.

(2) *Review by the board of county commissioners.* After expiration of the 60-day period set forth in subsection (f)(1) of this section, or sooner if conditions are not imposed, or, if conditions are imposed, are responded to by the petitioner in the manner set forth in subsection (f)(1) of this section, the planning director shall forward the petition together with his findings and recommendations to the board of county commissioners for their review in accordance with this section. The planning director shall set the petition for public hearing in accordance with section 42-154 unless the petition is not subject to a public hearing. If a public hearing is not required, upon its review, the board of county commissioners shall adopt a resolution either approving or denying the petition. The board of county commissioners may reject a petition if a petition covering the same lands had been considered at any time within six months of the date the later petition is submitted.

(g) *Public hearing of petitions for abandonment of county rights-of-way and public easements for drainage of county rights-of-way.*

(1) *Generally.* Pursuant to F.S. § 336.10, a public hearing shall be held for any petition for abandonment which affects a county right-of-way and public easements for drainage which services a county right-of-way.

(2) *Time and place of hearing.* The board of county commissioners exercises their authority, as set forth in F.S. § 336.09, by authorizing and directing the county engineer to establish a definite time and place to hold the public hearing required by F.S. § 336.10 and this section, and to publish the notice of the hearing.

(3) *Publication of notice of public hearing.* Advertisement of such public hearing shall be as set forth in section 42-153.

(4) *Posting of notice of public hearing.* The county engineer shall notify the petitioner of the date and time of the public hearing and shall direct the petitioner to post the property with a notice of petition to vacate such property. The petitioner shall place the notice in a conspicuous and easily visible location, abutting a public thoroughfare when possible, on such property at least ten days prior to the public hearing.

(5) *Mailing of notice of public hearing.* The county engineer shall mail a copy of the notice of public hearing to all affected property owners as set forth in section 42-153.

(6) *Notice of adoption of resolution.* If the board of county commissioners shall, by resolution, grant the petition, notice thereof shall be published one time within 30 days following the date of

adoption of such resolution in a newspaper of general circulation published in the county. The proof of publication of the notice of public hearing, and the proof of publication of the notice of the adoption of the resolution, and a copy of the resolution shall be recorded in the public/official records.

(h) *Recordation of resolution.* Upon adoption of a resolution approving a petition, a certified copy of such resolution shall be filed in the public records in accordance with F.S. § 177.101 or F.S. § 336.10, whichever is applicable.

(i) *Effect of recording resolution of abandonment.* For county rights-of-way, upon the recordation of the proof of publication of notice of public hearing, proof of publication of the notice of adoption of the resolution and a copy of the resolution in the public records, the interest of the right-of-way so closed shall be vested in accordance with provisions of F.S. § 336.12. For plats or portions thereof, recordation in the public records of resolutions approving abandonment of a plat or a portion thereof shall have the effect of vacating all streets and alleys in accordance with F.S. § 177.101(5), and shall either return the vacated property to the status of unplatted acreage or shall vacate the first plat in accordance with F.S. § 177.101(1) or F.S. § 177.101(2), as applicable.

(LDC §§ 12.06.01--12.06.09)

Secs. 42-130--42-145. Reserved.

Subdivision III. Site Development Plan Review

Sec. 42-146. Preapplication conference.

Prior to filing for development plan review, the developer shall meet with the planning director to discuss the development review process. With the consent of the applicant, the planning director may waive the preapplication conference requirement if, in the planning director's opinion, the conference is unnecessary. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the preapplication conference, as a representation or implication that the proposal will be ultimately approved or rejected in any form.

(LDC § 12.02.01)

Sec. 42-147. Designation of plans as major or minor developments.

(a) *Generally.* For purposes of this subdivision, all development plans shall be designated by the planning director as either minor or major developments as set in this section, except

notwithstanding this subsection and subsection (b) of this section, any division of land into three or more parcels of 15 acres or greater, each of which has at least 60 feet of frontage on an existing County maintained road, any division of land deeded to the present landowner on or before October 17, 2006, into three or more parcels of 15 acres or greater, each of which has at least 60 feet of frontage on an existing private easement or private roadway, servicing not more than 8 parcels, and any division of land into three or more parcels of 40 acres or greater, each of which has at least 60 feet of frontage on an existing private easement or private roadway, servicing not more than 24 parcels, is exempt from this subdivision.

(b) *Minor development.* A plan shall be designated as a minor development if it is:

- (1) Any division of land into more than two parcels but less than 25 parcels.
- (2) Any multifamily residential development of less than 25 units that does not involve platting.
- (3) Any nonresidential use, including additions to existing structures of less than 25,000 square feet, excluding those minor deviations within the limits described in section 42-107.

(c) *Major development.* A plan shall be designated as a major development if it is:

- (1) Any division of land into 25 or more parcels.
- (2) Any multifamily residential development of 25 or more dwelling units.
- (3) Twenty-five thousand square feet or more of nonresidential floor space.
- (4) Any development that, in the estimation of the planning director, should be more thoroughly considered and reviewed because of its location or potential for impact on public facilities, natural resources and public safety.

(LDC § 12.02.02; Ord. No. 2006-13, § 1, 10-17-2006)

Sec. 42-148. Application and submittal.

(a) *Application.* Applications for development review shall be available at the planning department. A completed application shall be signed by all owners or their agents of the property subject to the proposal. Signatures by other parties will be accepted only with notarized proof of authorization by the owners.

(b) *Submittal requirements based on development plan designation.* A tiered approach shall be used in determining the information which must be submitted at the time of application for development review. The greater the intensity of a project, based upon its designation as either minor or major, pursuant to section 42-147, the greater the amount of information required. Development projects not qualifying as a minor or major development shall meet the submittal

requirements described in the applicable permit application form provided by the county or as outlined in other administrative procedures adopted by the county. The applicable submittal requirements for specific development plans are as follows:

- (1) *General plan requirements.* These shall be mandatory for all development plans.
- (2) *Minor review requirements.* These shall be mandatory for major and minor development plans.
- (3) *Major review requirements.* These shall be mandatory only for major development plans.
- (4) *Optional review requirements.* These may be required for the review of any development plan on a case-by-case basis at the discretion of the planning board when additional data is needed.
- (5) *Significant natural area/environmentally sensitive area requirements.* These shall be required for all developments within significant natural areas or environmentally sensitive areas as set forth in article VII of this chapter.

(c) *General plan requirements.* Unless specifically waived by the planning director, county engineer or building official, as appropriate, all development plans shall include the following submittal requirements:

- (1) Plans shall be drawn to a scale of one inch equals 100 feet unless the planning director determines that a different scale is sufficient or necessary for proper review of the proposal.
- (2) Plans shall be 24 inches by 36 inches in size. A three-quarter-inch margin shall be provided on all sides except for the left binding side where a two-inch margin shall be provided, unless the planning director determines that a different size is sufficient or necessary for proper review of the proposal.
- (3) If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each sheet.
- (4) The front cover sheet of each plan shall include:
 - a. A general vicinity or location map drawn to scale, both stated and graphic, showing the position of the proposed development in the section, township and range, together with the principal roads, city limits and/or other pertinent orientation information.
 - b. A complete legal description of the property.
 - c. The name, address and telephone number of the owner of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.

- d. Name, business address and telephone number of those individuals responsible for the preparation of the drawing.
 - e. Each sheet shall contain a title block with the name of the development, stated and graphic scale, a north arrow and the date.
 - f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot numbers.
 - g. The area of the property shown in square feet or acres.
- (5) Unless a format is specifically called for in this section, the information required may be presented textually, graphically or on a map, plan, aerial photograph or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information on a form provided by the county that allows ready determination of whether the requirements of this division have been met.
 - (6) The total number and type of residential units. The total number of residential units per acre (gross density) and also impervious surface ratio (ISR) calculations shall be given, where applicable.
 - (7) 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, shall require the establishment of restrictive covenants and such covenants shall be submitted with the final development plan for recordation.
 - (8) Documentation pursuant to article III, division 2, of this chapter related to the review for concurrency.
 - (9) Other documentation necessary to permit satisfactory review under the requirements of this division and other applicable law as required by special circumstances in the determination of the planning director with approval of the planning board.
- (d) *Minor review requirements.*
 - (1) Location, names and widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public spaces, and similar facts regarding adjacent property.
 - (2) Contour lines at not greater than five-foot intervals.
 - (3) Proposed development activities and design.
 - a. *Generally.*
 - 1. Area and percentage of total site area to be covered by an impervious surface.

2. Grading plans specifically including perimeter grading.

3. Construction phase lines.

b. *Buildings and other structures.*

1. Building plan showing the location, dimensions, gross floor area and proposed use of buildings.

2. Architectural or engineering elevations of all sides of all buildings larger than a one- or two-family dwelling unit.

3. Building setback distances from property lines, abutting right-of-way centerlines and all adjacent buildings and structures.

4. Minimum flood elevations of buildings within any 100-year floodplain.

c. *Water supply and wastewater disposal system.* Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.

d. *Streets, parking and loading.*

1. The layout of all proposed lots, blocks and streets with approximate dimensions and proposed street names, bike paths and driveways.

2. The location and specifications of any proposed garbage dumpsters.

3. Cross sections and/or specifications of all proposed pavement in conformance with section 42-888.

e. *Tree removal and protection.*

1. All protected trees to be removed and a statement of why they are to be removed.

2. A statement of the measures to be taken to protect the trees to be retained.

f. *Landscaping.*

1. Location and dimensions of proposed buffer zones and landscaped areas.

2. Description of plant materials existing and/or to be planted in buffer zones and landscaped areas.

(4) Signs.

a. For regulated ground signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly 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.

b. For regulated building signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly:

1. 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.

2. 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.

3. A building elevation or other documentation indicating the building dimensions.

4. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, etc.

5. Location of on-site wells, and wells within 200 feet of any property line, exceeding 100,000 gallons per day.

6. Total acreage in each phase and gross intensity (nonresidential) and gross density (residential) of each phase.

7. Number, height and type of residential units.

8. Floor area, height and type of office, commercial, industrial and other proposed uses.

(e) *Major review requirements.*

(1) Every development shall be given a name by which it shall be legally known. The name shall not be the same as any other name appearing on any recorded plat except when the proposed development includes a subdivision that is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision name shall have legible lettering of the same size and type including the words "section," "unit," "replat," "amended," etc. The name of the development shall be indicated on every page.

(2) A master plan is required for a major development which is to be developed in phases. A master plan shall provide the following information for the entire development:

a. A development plan for the first phase or phases for which approval is sought.

- b. 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.
 - c. Total land area and approximate location and amount of open space included in each residential, office, commercial and industrial area.
 - d. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress.
 - e. Approximate location and acreage of any proposed public use such as parks, school sites and similar public or semipublic uses.
 - f. A vicinity map of the area within 300 feet surrounding the site showing:
 - 1. Land use designations and boundaries.
 - 2. Traffic circulation systems.
 - 3. Major public facilities.
 - 4. Municipal boundary lines.
 - g. Base flood elevations for all lots located within any A or V zone as shown on a Federal Emergency Management Agency map.
- (f) *Optional review requirements (see subsection (b)4. of this section).*
- (1) A soils map of the site (existing U.S. Soil Conservation Service maps are acceptable).
 - (2) A topographic map of the site clearly showing the location, identification and elevation of benchmarks.
 - (3) Existing surface water bodies, wetlands, streams and canals within the proposed development site, including seasonal high water table elevations and attendant drainage areas for each.
 - (4) A map showing the location of any soil borings or percolation tests.
 - (5) A depiction of the site, and all land within 400 feet of any property line of the site, showing the location of environmentally sensitive areas and any significant natural areas.
 - (6) The location of any underground or overhead utilities, culverts and drains on the property and within 100 feet of the proposed development boundary.
 - (7) The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year floodplain for all parts of the proposed development.

(8) The entity or agency responsible for the operation and maintenance of the stormwater management system.

(9) The location of off-site water resource facilities such as works, surface water management systems, wells or well fields that will be incorporated into or used by the proposed project, showing the names and addresses of the owners of the facilities.

(10) Runoff calculations.

(11) Amount of area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as the location thereof.

(g) *Significant natural area/environmentally sensitive area requirements.* A detailed statement or other material showing the following:

(1) The distances between development activities and the boundaries of any significant natural area or environmentally sensitive area.

(2) The manner in which habitats of endangered and threatened species are to be protected.

(LDC § 12.02.03)

Sec. 42-149. Review of major developments.

(a) *Procedure.*

(1) The applicant shall submit the major development plan and supporting documentation, pursuant to section 42-148, to the planning department.

(2) After receipt of the major development plan and the supporting documentation, the planning department shall have five 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 by certified mail, return receipt requested, of the deficiencies. The applicant must submit a revised application, correcting the deficiencies within 45 days of receipt of the letter of incompleteness, in order to proceed with the review.

(3) The planning department shall, within five days, then route the application to members of the technical review committee (TRC) and any applicable agencies and review the major development plan for compliance with this division and other applicable rules and regulations.

(4) Within three days of the completion of the review, the planning director shall convene a meeting of the technical review committee to review the application. The results of the technical

review committee's meeting shall be transmitted to the applicant, in writing, certified mail, return receipt requested, within five days after the technical review committee's meeting. The applicant shall have 45 days from the receipt of the technical review committee's comments to respond to them.

(5) Within five days of the receipt of any revisions to the application pursuant to the technical review committee's comments, the planning director shall have an additional five days to review the revised application and issue a recommendation approving, approving with conditions or denying the application based upon the requirements of this division.

(6) The planning board shall consider the application at a regularly scheduled public hearing which has been noticed pursuant to section 42-153. In reviewing the application, the planning board shall consider the recommendation of the planning director and the technical review committee and shall determine whether the proposed development specified in the application meets the provisions of this division. The planning board shall approve, approve with conditions (conditions may include provisions that a surface water permit must be issued prior to receiving a county construction permit) or deny the application.

(7) Notification of the planning board's decision shall be mailed to the applicant and filed with the planning department.

(b) *Expiration.* A development permit for a major development shall be valid for a period of one year and may be renewed for a cumulative period not to exceed one year subject to the provisions of section 42-224(b).

(LDC § 12.02.04)

Sec. 42-150. Review of minor developments.

(a) *Procedure.*

(1) The applicant shall submit the minor development plan and supporting documentation, pursuant to section 42-148, to the planning department.

(2) After receipt of the minor development plan and supporting documentation, the planning department shall have five 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 by certified mail, return receipt requested, of the deficiencies. The applicant must submit a revised application, correcting the deficiencies within 45 days of receipt of the letter of incompleteness, in order to proceed with the review.

(3) The planning department shall then route the application to members of the technical review committee and any outside review agencies within five days, and review the minor development plan for compliance with this division within five days.

(4) Within three days of the completion of the review, the planning director shall convene a meeting of the technical review committee to review the application. The results of the technical review committee's meeting shall be transmitted to the applicant, in writing, certified mail, return receipt requested. The applicant shall have 45 days from the receipt of the technical review committee's comments to respond to them.

(5) Within three days of the technical review committee's meeting, the planning director shall issue a finding approving, approving with conditions or denying the application based upon the comments of the technical review committee and the requirements of this division.

(6) Notification of the planning director's decision shall be mailed to the applicant and filed with the planning department.

(7) For any division of land into ten through 24 parcels, or any multifamily residential development of ten through 24 units that does not involve platting, or any nonresidential use, including additions to existing structures, of at least 10,000 square feet, but less than 25,000 square feet, excluding those minor deviations within the limits described in section 42-107, the procedures set forth in subsection 42-149(a)(6) shall be followed, except that the decision of the planning board shall be the final action subject to the appeal provisions of this chapter.

(8) Notification of the planning board's decision shall be mailed to the applicant and filed with the planning department.

(b) *Expiration.* A development permit for a minor development shall be valid for a period of one year and may be renewed for a period not to exceed one year subject to the provisions of section 42-224(b).

(LDC § 12.02.05)

Sec. 42-151. Intergovernmental review.

Should a proposed development impact adjacent jurisdictions, as determined by the planning director, the impacted jurisdictions will 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 planning director's recommendation, to the appropriate board approving such development action. Review by the planning director shall include the relationship of the proposed development to the existing comprehensive plans of adjacent local governments.

(LDC § 12.02.06)

Sec. 42-152. Project phasing.

A master plan for the entire development site must be approved for a 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 in this subdivision. 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.

(LDC § 12.02.07)

Sec. 42-153. Notice requirements.

Notice of all public hearings which are required by a provision of this division shall be given as follows, unless expressly stated otherwise:

(1) *Content of notice.* Every required notice shall include the date, time and place of the hearing, a description of the substance of the subject matter that will be discussed at the hearing; a legal description of the properties directly affected, including the street address, when available; a statement 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 board or board of county commissioners on amendments to the future land use map shall also contain a geographic location map which clearly indicates the area covered by the proposed amendment. The map shall include major street names as a means of identification of the area. The applicant is responsible for verbatim recording of proceedings.

(2) *Publication.* 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 10 days before the date of the hearing.

a. *Public inspection.* A copy of the notice of public hearing shall be available in the planning department during regular business hours.

b. *Mail.* Mailing of such notice shall be made to specific real property owners within 500 feet of the property directly affected by the proposed action and whose address is known by reference to the latest approved ad valorem tax roll.

c. *Posting of notice.* After an application has been filed, the planning director shall cause a sign to be posted on the property concerned. The sign shall be located where, in the judgment of the planning director, the sign would be in the most conspicuous place to the passing public. Each sign shall contain the following information:

1. Present land use classification;
2. Date, time and place of the scheduled hearing;
3. Proposed action and board which will hear the application; and
4. Any other pertinent information.

(LDC § 12.02.08)

Sec. 42-154. Public hearings.

(a) *Setting the hearing.* When the planning director determines that a public hearing is required pursuant to this division, he shall notify the appropriate decision-making body so a public hearing may be set and notice given in accordance with the provisions of section 42-153.

(b) *Examination and copying of application and other documents.* Any time after the provision of notice as required by section 42-153, any person may examine the application or petition in question and the material submitted in support or opposition to the application or petition in the planning department during regular business hours. Any person shall be entitled to obtain copies of the application or petition and other materials upon reasonable request and payment of a fee to cover the actual costs of providing such copies.

(c) *Conduct of the hearing.* Public hearings shall be conducted in the following manner:

(1) Any person may appear at a public hearing or may be represented by counsel or agent, and may submit documents, materials and other written or oral testimony either individually or as a representative of an organization. Each person who appears at a public hearing shall identify himself, his address and state the name and mailing address of any organization 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.

(2) The body conducting the hearing may continue the hearing to a fixed date, time and place.

(d) *Record of the hearing.*

(1) The transcript of testimony of the hearing, 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 planning director and the decision and report of the decision-making body shall constitute the record.

(2) The body conducting the hearing shall record the proceedings by any appropriate means, upon request of any person to the planning director and payment of a fee to cover the cost of transcription, the record may be transcribed and a copy provided to that person. If a sound recording is made, any person shall be entitled to listen to the recording at any reasonable time, or make copies at his own expense, at the planning department.

(3) Any person shall be entitled to examine the record of such hearing at a reasonable time, or make copies at his own expense, at the planning department.

(e) *Action by decision-making body.* The decision-making body may render its decision at the public meeting immediately following the public hearing; however, it shall render its decision at its next public meeting or within 45 days, unless stated otherwise in this chapter, or the applicant agrees, in writing, to further continuance of the decision.

(f) *Notification.* Notification of the final decision on an application shall be mailed to all parties. A copy of the final decision shall be filed in the planning department.

(LDC § 12.02.09)

Sec. 42-155. Required contents of development orders.

(a) *Preliminary development order.* If a preliminary development order is required, it shall contain the following:

(1) An approved preliminary development order, which may be subject to conditions and modifications, with findings and conclusions.

(2) A listing of conditions that must be met, and modifications to the preliminary development plan that must be made, in order for a final development order to be issued. The modifications shall be described in sufficient detail and exactness to permit a developer to amend the proposal accordingly.

(3) A listing of federal, state and regional permits that must be obtained in order for a final development order to be issued.

(4) With regard to the concurrency management requirements in article III of this chapter:

a. The determination of concurrency; and

b. The time period for which the preliminary development order is valid.

A construction permit may be issued subject to the satisfaction of the preliminary development order.

(b) *Final development order.* A final development order (DO) shall contain the following:

(1) A determination that, where one was required, a valid preliminary development order exists for the requested development.

(2) An approved final development plan with findings and conclusions.

(3) A determination that all conditions of the preliminary development order, if previously issued, have been met.

(4) 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.

(5) 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.

(LDC § 12.02.10)

Sec. 42-156. Guarantees and sureties.

(a) *Applicability.*

(1) The provisions of this section apply to all proposed developments in the county, including private road subdivisions.

(2) Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in article III of this chapter.

(3) This section does not modify existing agreements between a developer and the county for subdivisions platted and final development orders granted prior to adoption of this chapter, providing such agreements are current as to all conditions and terms thereof.

(b) *Improvement agreements required.* The approval of any development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines and replacement trees shall be satisfactorily constructed according to the approved development plan. The following information shall be provided:

(1) Agreement that all improvements, whether required by this chapter or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this chapter.

(2) The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five years from the recording of the plat or 30 percent occupancy of the development, whichever comes first.

(3) Specification of the public improvements to be made and dedicated together with the timetable for making improvements.

(4) A statement that all construction shall be completed pursuant to the final development order before final plat approval or a certificate of occupancy is issued.

(c) *Final plat approval without construction improvement.* Where the applicant wishes to have final plat approval prior to construction and acceptance of improvements, all of the information set forth in subsection (b) of this section, plus the following, shall be provided:

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

- a. An estimate prepared and provided by the applicant's engineer; or
- b. A copy of the executed construction contract provided.

(2) Agreement that upon failure of the applicant to make the required improvements, or to cause them to be made, according to the schedule for making those improvements, the county shall utilize the security (see subsection (d) of this section) provided in connection with the agreement.

(3) Provision that the amount of the security may be reduced periodically, but not more than two times during each year, subsequent to the completion, inspection and acceptance of improvements by the county (see subsection (e) of this section).

(d) *Amount and type of security.*

(1) Security requirements may be met by, but are not limited to, the following:

- a. Cashier's check.
- b. Certified check.
- c. Developer/lender/county agreement.
- d. Interest bearing certificate of deposit.
- e. Irrevocable letter of credit.

f. Surety bond.

(2) The amount of security shall be 110 percent of the total construction costs for the required developer installed improvements. The amount of security may be reduced by the county engineer commensurate with the completion and final acceptance of required improvements. In no case, however, shall the amount of the bond be less than 110 percent of the cost of completing the remaining required improvements.

(3) Standard forms are available from the building official's office and approved by the board of county commissioners.

(e) *Completion of improvements.*

(1) When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before final acceptance is recommended by the planning director. A recommendation for final acceptance shall be made upon receipt of a certification of project completion and one copy of all test results.

(2) As required improvements are completed and accepted, the developer may apply for release of all or a portion of the bond consistent with the requirements of subsection (b) of this section.

(f) *Maintenance of improvements.*

(1) A maintenance agreement and security shall be provided to assure the county that all required improvements shall be maintained by the developer according to the following requirements:

a. The period of maintenance shall be a minimum of one year.

b. The maintenance period shall begin with the acceptance by the county of the construction of the improvements.

c. The security shall be in the amount of ten percent of the construction cost of the improvements or the improvements shall be maintained by the developer and inspected by the county.

d. The original agreement shall be maintained by the planning director.

(2) Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the county a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.

a. When the proposed development is to be organized as a condominium under the provisions of F.S. ch. 718, common facilities and property shall be conveyed to the condominium's association pursuant to that law.

b. When no condominium is so organized, an owners' association shall be created, and all common facilities and property shall be conveyed to that association.

c. No development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the county attorney.

(3) An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the county shall be created by covenants running with the land. Such covenants shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise without first offering to dedicate them to the county.

(LDC § 12.02.11)

Secs. 42-157--42-180. Reserved.

Subdivision IV. Development Permits

Sec. 42-181. Generally.

(a) No regulated development may be undertaken unless the activity is authorized by a development permit.

(b) Except as provided in subsection (c) of this section, a development permit may not be issued unless the proposed development activity is authorized by a final development order issued pursuant to this division.

(c) A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this division. Unless otherwise specifically provided, the development activity shall conform to this division.

(1) Development activity necessary to implement a valid development plan on which the start of construction took place prior to the adoption of this chapter and has continued in good faith. Compliance with the development standards in this division is not required if it is in conflict with the previously approved plan.

(2) The construction or alteration of a one-family or two-family dwelling on an existing lot or parcel of public record. Compliance with the development standards in this division is not required if such development standards are in conflict with the previously approved plat.

(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 erection of a sign or the removal of protected trees on a previously developed site and independent of any other development activity on the site.
 - (5) The resurfacing of a vehicle use area that conforms to all requirements of this division.
 - (6) A minor replat granted pursuant to the procedures set forth in section 42-128.
 - (7) Temporary uses or structures except as set forth in section 42-185.
 - (8) Right-of-way use permits.
 - (9) Hazardous waste generator's permits, except as set forth in section 42-187.
- (d) After a preliminary development order or final development order has been issued, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of the preliminary or final development order without first obtaining a modification of the preliminary or final development order. A modification may be applied for in the same manner as the original preliminary or final development order. A written record of the modification shall be entered upon the original preliminary or final development order and maintained in the files of the planning department.

(LDC §§ 12.01.01--12.01.04)

Sec. 42-182. Application.

Application for a development permit shall be made to the planning department on a form provided by the planning department and may be acted upon by the planning department without public hearing or notice. No portion of the permit fees will be refunded if the permit becomes void.

(LDC § 12.07.01)

Sec. 42-183. Building and sign permits.

(a) *Generally.* The erection, alteration or reconstruction of any building or structure, including signs, shall not be commenced without obtaining a building permit from the building official. No building permit shall be issued for development without written certification that plans submitted conform to applicable regulations. The erection, alteration, reconstruction or conversion of any sign shall not be commenced without obtaining a sign permit, where applicable.

(b) *Time limitation of building and site clearing permits.*

(1) A building permit shall expire and become null and void if work authorized by such permit is not commenced, having called for and received a satisfactory inspection within six months

from the date of issuance of the permit. Active permits shall remain active as long as inspections are being conducted and the permit is not inactive for a period of six months. One or more extensions of time for periods of not more than 90 days each may be allowed by the building official provided the extension is requested, in writing, and justifiable cause is demonstrated.

(2) In order to continue construction once a building 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.

(3) Any building permit issued prior to the effective date of this chapter that is an active permit shall remain active as long as inspections are being conducted and the permit is not inactive for a period of six months. One or more extensions of time for periods of not more than 90 days each may be allowed by the building official provided the extension is requested in writing, and justifiable cause is demonstrated.

(4) Signs must be placed within six months of obtaining the permit or the permit shall be voided and a new permit must be issued unless the permit is extended by the building official. Final inspection must be called for by the applicant within the six-month time period, or the permit is voided. Identification numbers issued with sign permits must be displayed on the sign itself. Sign permits need not be renewed as long as the sign exists in its approved form in the same location.

(5) Licensed real estate brokers or contractors may obtain multiple permits for signs with each sign requiring a permit.

(LDC § 12.07.02)

Sec. 42-184. Driveway permits.

(a) *Generally.* Any person seeking to construct or reconstruct any curb cut or driveway on any county maintained public road in the unincorporated areas of the county shall submit a permit application to the planning department.

(b) *Contents.* The original and two copies of the driveway permit application shall be submitted to the planning department and shall include the following information:

(1) Name and address of the owner of the property on which the driveway is proposed to be located.

(2) Except for one-family and two-family residences, a set of detailed plans for the proposed driveway or curb cut, including the site development plan, if applicable.

(3) Except for one-family and two-family residences, estimated cost of the alteration.

- (4) Approval from the state department of transportation, if applicable.
- (5) Payment of the applicable fee.
- (6) All other information deemed necessary by the county road director for the reasonable review of the proposed driveway connection.

(c) *Procedure for review of driveway permit applications.* Within three days after the application for a driveway permit has been submitted, the county road director shall review the application and determine if it is complete. If the county road director determines that the application is incomplete, the planning director shall send the applicant a written statement specifying the deficiencies, and shall take no further action unless the deficiencies have been remedied. Within three days after the county road director has determined an application complete with the concurrence of the planning director, the county road director shall approve, approve with conditions or deny the application based upon the standards in section 42-892. Notification of the decision shall be mailed to the applicant and filed in the office of the county planning department.

(LDC § 12.07.03)

Sec. 42-185. Temporary use permits.

(a) *Generally.* Temporary uses and structures are permitted subject to the standards established in this section, provided that a permit for such use or structure is obtained from the planning department. Temporary real estate sales offices and construction trailers located on the same parcel as the development may be approved as part of a building permit application. Temporary sales offices in new subdivisions must comply with the Standard Building Code and the parking area must comply with the landscaping regulations set forth in article VIII, division 3 of this chapter. One or more construction trailers may only be permitted for a specified period of time provided they are located off the public right-of-way. Construction trailers are not required to comply with building code requirements; however, the building must provide reasonable safety for the intended use and additional permits for electrical or plumbing shall be obtained as necessary to serve the temporary building.

(b) *Permissible temporary uses and structures.* Permissible temporary uses and structures not requiring a temporary use permit include the following:

- (1) Indoor and outdoor art and craft shows, bazaars, carnivals, revivals, circuses, sports events and exhibits, provided that no more than six events for a maximum of five days each are conducted on the same property during any calendar year.
- (2) Christmas tree sales, provided that no such use shall exceed 60 days.

(3) Other temporary uses and structures which are, in the opinion of the planning director, consistent with the comprehensive plan and the provisions of this chapter.

(LDC § 12.07.04)

Sec. 42-186. Right-of-way use permits.

(a) *Generally.* County right-of-way use permits are required for the use of county rights-of-way or easements for the construction, installation or maintenance of any public or private utility, roadway or any other facility, structure, driveway, culvert, drainage system, pavement, easement or object in the right-of-way approved by the board of county commissioners other than those constructed or maintained by the county.

(b) *Exemptions.* No permit shall be required for the following:

(1) Construction of water, sewer, power, telephone or gas utilities in subdivisions in accordance with engineering drawings approved by the county where such construction will be completed prior to acceptance of the road right-of-way by the county.

(2) Repairs of previously permitted utilities in the right-of-way; provided, however, such repairs do not require cutting of any pavement, including curbs and driveways, or excavation requiring restoration involving seeding or mulching and/or sodding.

(c) *Prohibitions.* The following shall be prohibited within county rights-of-way:

(1) Construction of masonry or other substantial structures other than for permitted utilities.

(2) Private signs.

(d) *Application procedures.* Application for a right-of-way use permit, accompanied by the appropriate fee, shall be submitted to the county road director. The application shall be on a form approved and designated by the county road director and in accordance with the procedure established by the county road director. The county road director or his designee shall, upon request for a permit application, provide to the applicant a copy of the current right-of-way utilization application procedures. All right-of-way use permits shall meet the specifications and guidelines set forth in this chapter.

(e) *Approving authority.* The county road director shall have the authority to approve, approve with conditions or deny right-of-way use permits.

(f) *Time limit.* The right-of-way use permit shall be considered valid for 60 days beginning on the date of issuance of such permit. If work does not commence by the 60th day, the permit shall be considered void and reapplication will be necessary. Work must be completed by the completion date indicated on the application. Work not completed by the completion date will be

subject to a stop work order, reapplication, additional fee or other remedy as may be required by the board of county commissioners.

(g) *Restoration.* No person shall use a county right-of-way or easement for any purpose for which a permit is required by this section without first obtaining a permit therefor. If county rights-of-way or easements are used and/or construction takes place without a permit, upon written notice by the approving authority, the person shall remove any constructed facility, restore the area to its original condition and cease any nonpermitted use.

(LDC § 12.07.05)

Sec. 42-187. Hazardous waste generator's permit.

(a) *Generally.* The purpose of this section is to establish a system for licensing business activities which produce hazardous waste, and to provide for the collection of fees necessary to pay the county's expenses of issuing such permits and verifying the management practices of small quantity generators of hazardous waste.

(b) *Registration and permit required.* No person shall be a small quantity hazardous waste generator without possessing a current hazardous waste generator's permit issued pursuant to this section.

(c) *Application for and issuance of permits.* An application for a hazardous waste generator's permit must be submitted to the emergency management director in the form and manner prescribed by the emergency management director. The emergency management director shall issue the permit upon receipt of a complete application and payment of the applicable fee.

(d) *Term and scope of permit.* Subject to the provisions of subsection (c) of this section, a hazardous waste generator's permit shall be valid for a period of one year. All small quantity hazardous waste generators within the county must apply for and receive a valid hazardous waste generator's permit prior to November 1 of each year. The permit document shall identify the specific activity or facility permitted, the specific location at which such activity or facility is to be conducted or operated and the person to whom the permit is issued. The permit shall be valid only for the identified activities or facilities conducted or operated at the identified locations by the identified persons and shall only be valid until the next November 1 at which time a renewal application shall be submitted.

(e) *Generation of hazardous waste without a valid permit.* The generation of hazardous waste by any person not holding a valid unrevoked permit for purposes or in positions specified in this section is unlawful.

(f) *Revocation of permit.* The hazardous waste generator's permit may be revoked by the board of county commissioners upon a finding that the identified activities or facilities or the identified

location on the application for the permit are substantially different than the actual activities or facilities of the permit holder.

(LDC § 12.07.06)

Sec. 42-188. Tree removal permits.

(a) *Generally.* Unless otherwise provided in this chapter, no person shall remove any protected tree from any lot or parcel of land or portion thereof in the unincorporated area of the county without first obtaining a tree removal permit from the planning director unless exempt pursuant to section 42-746(e).

(b) *Permit application and other administrative requirements.* Any person desiring a tree removal permit shall make written application to the planning director upon forms provided by the planning director.

(1) Each application for a tree removal permit shall be accompanied by a generalized tree inventory which shall consist of a survey based upon the most current available information. The survey shall show the approximate location, extent and type of protected trees upon the site, including common or scientific names of the major groups of trees. The survey shall indicate which protected trees are intended for removal and/or grubbing and which will be left undisturbed. For nonresidential and multifamily developments, the survey may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating areas of trees. For individual single-family or duplex developments, the survey may be in the form of hand-drawn sketches accompanied by photographs of existing conditions. If site development plans have been prepared, the survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationships between areas of protected trees and proposed site improvements. If site development plans are available, the survey shall be prepared to a convenient scale which clearly reveals the extent of protected trees upon the site. The requirements of subsection 42-148(d)(3)e shall be met for those applications not requiring a site development plan.

(2) The planning director may require that the application include such additional information which is reasonable and necessary for adequate administration of this section.

(3) The completed application shall be accompanied by an application fee.

(4) The filing of an application shall be deemed to extend permission to the planning director to inspect the subject site, if necessary, for the purpose of evaluating the application.

(5) For those applications which are not being processed concurrently with a site development plan, the planning director shall review each complete application and shall render a decision within 30 days of acceptance. If no decision is made within the 30-day time period, the permit

shall be deemed to have been granted in accordance with the information on the application. If the permit is not issued, the planning director shall state, in writing, the reasons for denial and advise the applicant of any appeal remedies available. For good cause, the planning department may request one extension from the applicant of an additional 30 days in which to make a determination, provided the extension is requested prior to expiration of the initial 30-day period.

(6) Any permit issued under this section shall remain valid for a term of six months and may be renewable for a second six-month period upon request to the planning director, provided such request occurs prior to the expiration date of the initial permit. The planning director may require reapplication and full review in those renewal cases where site conditions have changed significantly from the date of issuance of the initial permit as a result of natural growth of trees and vegetation or high winds, hurricane, tornado, flooding, fire or other act of nature. If a permit required by this section has been issued concurrently with a bona fide site development plan, then such permit shall run concurrently with the bona fide site development plan and they shall be renewed together.

(7) Tree removal permits shall automatically expire and become void if the work authorized by such permit is not commenced within six months after the date of the permit.

(8) Tree removal permits shall expire and become void if authorized removal work, once commenced, is suspended, discontinued or abandoned for a period equal to or greater than six months.

(9) If a tree removal permit expires or becomes void after work has commenced, a new permit shall be obtained before work is resumed.

(10) A tree removal permit shall be prominently displayed upon the site of such tree removal.

(c) *Enforcement and penalties.* Enforcement, penalties, appeals and remedy of matters related to this section shall be the responsibility of the county code enforcement board.

(LDC § 12.07.07)

Sec. 42-189. Mining permits.

(a) Except as provided in this section, no mining or excavation operation shall be conducted in the unincorporated areas of the county without a permit from the board of county commissioners and compliance with state and/or federal permitting requirements and regulations. As used in this section, the terms "mining" and "excavation operation" include any operation that entails the excavation or removal of earth in excess of 100 cubic yards, from one parcel of property to another parcel of property, or from one area of a parcel of property to another area on the same parcel if a public road is used.

- (b) No mining permit shall be required under this section for the following activities:
- (1) Installing utilities;
 - (2) Installing foundations for any building or other structure or undertaking any development authorized by site plan approval, conditional use permit, planned unit development approval or building permit;
 - (3) Digging drainage or mosquito control ditches and canals by authorized units and agencies of government;
 - (4) Digging drainage or mosquito control ditches and canals by private persons when construction is permitted by all authorizing agencies, if any, and when the excavated material is not removed from the involved tract of land;
 - (5) Excavating for accessory uses of land, such as parking lots, septic tanks, graves, etc., that are designed to be filled and graded upon completion of excavation; and
 - (6) Excavating for a swimming pool when construction is permitted by all authorizing agencies.

(LDC § 12.07.08)

State law references: Hazardous waste, F.S. § 403.72 et seq.

Secs. 42-190--42-220. Reserved.