

- **Chapter 46 - ADMINISTRATION AND ENFORCEMENT**¹¹

- **ARTICLE I. - IN GENERAL**

- **Secs. 46-1—46-30. - Reserved.**

- **ARTICLE II. - PLANNING AND ZONING COMMISSION**¹²

- **Sec. 46-31. - Established; appointment; terms of office.**

modified

(a)

Establishment. A planning and zoning commission is hereby established for the city.

(b)

Appointment. The planning and zoning commission shall consist of seven residents of the city who shall be appointed by the city council. The city council shall also appoint one nonvoting member which has been also designated by the county school board as a school board representative. No member of the planning and zoning commission shall be a paid or elected official or employee of the city.

(c)

Term of office. The term of office shall be for three years; provided, however, that of the seven members first appointed to the planning and zoning commission at the effective date of these land development regulations two shall be appointed for one year, two shall be appointed for two years, and three shall be appointed for three years, and that all appointments thereafter shall be for three years.

(d)

Removal for cause. Members of the planning and zoning commission may be removed for cause by the city council after filing of written charges, a public hearing, and a majority vote of the city council.

(e)

Removal for absenteeism. The term of office of any member of the planning and zoning commission who is absent, without being excused by the chairperson, from three consecutive, regularly scheduled meetings of the planning and zoning commission shall be declared vacant by the city council.

(f)

Appointments to fill vacancies. Vacancies in planning and zoning commission membership shall be filled by appointment by the city council for the unexpired term of the member affected. It shall be the duty of the chairperson of the planning and zoning

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commission to notify the city council within ten days after any vacancy shall occur among members of the planning and zoning commission.

(Code 1958, §§ 2-72, 2-73; Ord. No. 434, § 3.1.1, 5-7-2002; Ord. No. 458, § 1, 4-22-2003)

- **Sec. 46-32. - Rules and procedures.**

modified

(a)

Rules. The planning and zoning commission shall establish rules for its own operation not inconsistent with the provisions of applicable state statutes or of these land development regulations. Such rules of procedure shall be available in a written form to persons appearing before the planning and zoning commission and to the public.

(b)

Officers. The planning and zoning commission shall elect from within the commission a chairperson, who shall be the presiding member, and a vice chairperson, who shall preside in the chairperson's absence or disqualification. The land development regulations administrator shall appoint the secretary for the planning and zoning commission. Terms of all elected officers shall be for one year. Elected officers, other than the chairperson, shall serve no more than two consecutive terms in the same position.

(c)

Meetings and quorum. The planning and zoning commission shall meet at regular intervals at the call of the chairperson, 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 and zoning commission provided that the planning and zoning commission shall hold at least one regularly scheduled meeting each month, on a day to be scheduled by the planning and zoning commission. Four members of the planning and zoning commission shall constitute a quorum. All meetings of the planning and zoning commission shall be public. A record of all its resolutions, transactions, findings, and determinations shall be made, which record shall be a public record on file in the office of the land development regulations administrator.

(d)

Disqualification of members. If any member of the planning and zoning commission shall find that his private or personal interests are involved in a matter coming before the planning and zoning commission, he shall disqualify himself or herself from all participation in that case. No member of the planning and zoning commission shall appear before the planning and zoning commission as agent or attorney for any person.

(Code 1958, §§ 2-74, 2-75; Ord. No. 434, § 3.1.2, 5-7-2002)

- **Sec. 46-33. - Appointment of employees and staff.**

The planning and zoning commission may appoint such employees and staff as it may deem necessary for its work, and may contract with the state planning agency, city planners and other consultants for such services as it may require. The expenditure of the planning and

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zoning commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council.

(Ord. No. 270, § 1, 2-5-1985; Code 1958, § 2-75)

- **Sec. 46-34. - Powers and duties.**

modified

From and after the time when the planning and zoning commission shall have organized and selected its officers and shall have adopted its rules of procedure, then the planning and zoning commission shall have all the powers, duties and responsibilities set forth herein:

(1)

Comprehensive plan. The planning and zoning commission shall have the power and duty to prepare and recommend to the city council for adoption a comprehensive plan for the physical development of the city and to perfect it from time to time. In conducting its work, the commission may consider and investigate any subject matter tending to the development and betterment of the municipality and may make recommendations as it may deem advisable concerning the adoption thereof to the city council. Such comprehensive plan may show, among other things, existing and proposed streets, highways, expressways, bridges, tunnels and viaducts and approaches thereto; routes of railroads and transit lines, terminals, ports and airports; parks, playgrounds; forests, reservations, and other public open space; sites for public buildings and structures; districts for residence, business, industry, recreation, agriculture and forestry; special districts for other purposes; limited development districts for purposes of conservation; water supply, sanitation, drainage, protection against floods, and the like; areas for housing developments; slum clearance, urban renewal and redevelopment; location of public utilities whether publicly or privately owned, including but not limited to sewerage and water supply systems; together with time and priority schedules and cost estimates for the accomplishment of the proposals. The comprehensive plan shall be based upon and include appropriate studies of the location and extent of present and anticipated use of land, population, social and economic resources and problems, and other useful data. The comprehensive plan shall be a public record, but its purpose and effect shall be solely to aid the planning and zoning commission in the performance of its duties.

(2)

Zoning. The planning and zoning commission shall act as the zoning commission for the city as provided for in planning and zoning requirements of Florida Statutes, and shall have all the powers, duties and responsibilities set forth therein.

(Ord. No. 270, § 1, 2-5-1985; Code 1958, § 2-76)

- **Sec. 46-35. - Local planning agency.**

(a)

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The planning and zoning commission is hereby designated and established as the "local planning agency" as required by Florida Statutes.

(b)

The planning and zoning commission shall have the duty of preparing a comprehensive plan as required by Florida Statutes.

(c)

The citizens of the city are hereby requested to cooperate with the planning and zoning commission in order to comply with all aspects of the Local Government Comprehensive Planning Act, F.S. § 163.3161 et seq.

(Ord. No. 270, § 1, 2-5-1985; Code 1958, § 2-77)

- **Secs. 46-36—46-60. - Reserved.**
- **ARTICLE III. - BOARD OF ADJUSTMENT AND CODE ENFORCEMENT (BACE)**^[3]

- **Sec. 46-61. - Established; appointment; term of office.**

modified

(a)

Establishment. A board of adjustment and code enforcement (BACE) is hereby established for the city.

(b)

Appointment. The board of adjustment and code enforcement shall consist of seven residents of the city who shall be appointed by the city council. No member of the board of adjustment and code enforcement shall be a paid or elected official or employee of the city.

(c)

Term of office. The term of office shall be for three years; provided, however, that of the seven members first appointed to the board of adjustment and code enforcement at the effective date of these land development regulations two shall be appointed for one year, two shall be appointed for two years, and three shall be appointed for three years, and that all appointments thereafter shall be for three years.

(d)

Removal for cause. Members of the board of adjustment and code enforcement may be removed for cause by the city council after filing of written charges, a public hearing, and a majority vote of the city council.

(e)

Removal for absenteeism. The term of office of any member of the board of adjustment and code enforcement who is absent from three consecutive, regularly scheduled meetings

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of the board of adjustment and code enforcement shall be declared vacant by the city council.

(f)

Appointments to fill vacancies. Vacancies in board of adjustment and code enforcement membership shall be filled by appointment by the city council for the unexpired term of the member affected. It shall be the duty of the chairperson of the board of adjustment and code enforcement to notify the city council within ten days after any vacancy shall occur among members of the board of adjustment and code enforcement.

(Ord. No. 434, § 3.2.1, 5-7-2002)

- **Sec. 46-62. - Rules and procedures.**

modified

(a)

Rules. The board of adjustment and code enforcement shall establish rules for its own operation not inconsistent with the provisions of applicable state statutes or of these land development regulations. Such rules of procedure shall be available in a written form to persons appearing before the board of adjustment and code enforcement and to the public.

(b)

Officers. The board of adjustment and code enforcement shall elect from within the board a chairperson, who shall be the presiding member, and a vice chairperson, who shall preside in the chairperson's absence or disqualification. The land development regulations administrator shall appoint the secretary for the board of adjustment and code enforcement. Terms of all elected officers shall be for one year. Elected officers shall serve no more than two consecutive terms in the same position.

(c)

Meetings and quorum. The board of adjustment and code enforcement shall meet at regular intervals at the call of the chairperson, 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 board of adjustment and code enforcement provided that the board shall hold at least one regularly scheduled meeting each year, on a day to be scheduled by the board of adjustment and code enforcement. Four members of the board of adjustment and code enforcement shall constitute a quorum. All meetings of the board of adjustment and code enforcement shall be public. A record of all its resolutions, transactions, findings, and determinations shall be made, which record shall be a public record on file in the office of the land development regulation administrator.

(d)

Disqualification of members. If any member of the board of adjustment and code enforcement shall find that his private or personal interests are involved in a matter coming before the board, he shall disqualify himself or herself from all participation in that case. No member of the board of adjustment and code enforcement shall appear before the board of adjustment and code enforcement as agent or attorney for any person.

(Ord. No. 434, § 3.2.2, 5-7-2002)

- **Sec. 46-63. - Administrative review.**

The board of adjustment and code enforcement shall have the power to hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by the land development regulations administrator in the enforcement of these land development regulations as set out in article V of this chapter.

(Ord. No. 434, § 3.2.3, 5-7-2002)

- **Sec. 46-64. - Variances.**

The board of adjustment and code enforcement shall have the power to authorize upon appeal such variance from the terms of these land development regulations as set out in article V of this chapter.

(Ord. No. 434, § 3.2.4, 5-7-2002)

- **Secs. 46-65—46-90. - Reserved.**

- **ARTICLE IV. - PERMITTING AND CONCURRENCY
MANAGEMENT**

- **Sec. 46-91. - General provisions.**

(a)

The land development regulations administrator and/or the building official shall administer and enforce these land development regulations directly or through aides and assistants. In the performance of his duties, the land development regulations administrator and/or the building official may request the assistance of any officer or agency of the city.

(b)

The land development regulations administrator and/or the building official shall investigate promptly complaints of violations and report findings and actions to complainants, and shall use best endeavors to prevent violations or to detect and secure the correction of violations. If the land development regulations administrator and/or the building official finds that a provision of these land development regulations is being violated, the land development regulations administrator and/or the building official shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The land development regulations administrator and/or the building official shall order the discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being

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done; or shall take any other lawful action authorized by these land development regulations necessary to ensure compliance with or to prevent violations of these land development regulations.

(c)

It is the intent of these land development regulations that questions of interpretation and enforcement shall first be presented to the land development regulations administrator, and that such questions shall be presented to the board of adjustment only on appeal from the decision of the land development regulations administrator.

(d)

The land development regulations administrator shall maintain written records of official actions regarding (i) land development regulation administration; (ii) complaints and actions taken with regard to the land development regulations; and (iii) violations discovered by whatever means, with remedial action taken and disposition of all cases, all of which shall be public record.

(Ord. No. 434, § 13.1, 5-7-2002)

- **Sec. 46-92. - Land development regulation action on building permits.**

The land development regulations administrator shall determine whether applications for building permits required by the building code of the city are in accord with the requirements of these land development regulations, and no building permit shall be issued without written certification that plans submitted conform to applicable land development regulations. No building permit shall be issued by the building official except in conformity with the provisions of these land development regulations, unless the building official shall receive a written order in the form of an administrative review, interpretation, special exception, or variance as provided by these land development regulations, or unless he shall receive a written order from the city council or a court of competent jurisdiction.

(Ord. No. 434, § 13.2, 5-7-2002)

- **Sec. 46-93. - Application for building permit.**

modified

(a)

Information necessary for application. Applications for building permits required by the building code of the city shall be accompanied by two copies of the plat and construction plans drawn to scale showing the actual shape and dimensions of the lot to be built upon; the exact sizes and locations on the lot of existing structures, if any; the exact size and location on the lot of the buildings or structures to be erected or altered; the existing use of buildings or structures on the lot, if any; the intended use of each building or structure or parts thereof; the number of families the building is designed to accommodate; the location and number of required off street parking and off street loading spaces; and such other information with regard to the lot and existing and proposed structures as may be necessary to determine and provide for the enforcement of these land development

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regulations. The application shall be accompanied by a survey and site plan of the lot, prepared by a land surveyor or engineer registered in the state. All property stakes shall be in place at the time of application.

(b)

Public record. One copy of the plat and construction plans shall be returned to the applicant by the building official after making such copy either as approved or disapproved, and attested by the building official's signature on the plans. The second copy of the plat and construction plans, similarly marked, shall be retained by the building official as part of the public record.

(c)

Display of permit. Building permits shall be issued in duplicate and one copy shall be kept on the premises affected prominently displayed and protected from the weather when construction work is being performed thereon. No owner, contractor, workman or any other person shall perform any building operations of any kind unless a building permit covering such operation has been displayed as required by these land development regulations, nor shall they perform building operations of any kind after notification of the revocation of the building permit.

(d)

Expiration of building permit. Every permit issued shall become invalid unless the work authorized by such permit is commenced in the form of actual construction within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced; provided that one or more extensions of time, for periods not exceeding 90 days each, may be allowed, and such extensions shall be in writing by the building official.

(e)

Construction and use to be as provided in applications; status of permit issued in error. Building permits issued on the basis of plans and specifications approved by the building official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction different from that authorized shall be deemed a violation of these land development regulations and punishable as set out in these land development regulations in article VII of this chapter. Statements made by the applicant on the building permit application shall be deemed official statements. Approval of application by the building official shall in no way exempt the applicant from strict observance of applicable provisions of these land development regulations and all other applicable regulations, ordinances, codes, and laws. A building permit issued in error shall not confer any rights or privileges to the applicant to proceed to construction, and the building official shall have the power to revoke such permit if actual construction has not commenced.

(Ord. No. 434, § 13.3, 5-7-2002)

- **Sec. 46-94. - Certificate of land development regulation compliance.**

modified

(a)

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Generally. It shall be unlawful to use or occupy, or permit the use or occupancy, of any building or premises, or part of any building or premises created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of land development regulation compliance shall have been issued by the land development regulations administrator stating that the proposed use of the structure or land conforms to the requirements of these land development regulations. No permit for erection, alteration, moving, or repair of any building shall be issued until an application has been made for a certificate of land development regulation compliance, and the certificate shall be issued in conformity with the provisions of these land development regulations upon completion of the work. For established nonconforming uses, a change of "use," as determined by the land development regulations administrator, shall trigger the requirement for a certificate of land development regulation compliance.

(b)

Temporary certificate of land development regulation compliance. A temporary certificate of land development regulation compliance may be issued by the land development regulations administrator for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may include such conditions and safeguards as are necessary in the circumstances to protect the safety of occupants and the general public.

(c)

Records, violations. The land development regulations administrator shall maintain a record of all certificates of land development regulation compliance, and a copy shall be furnished upon request to any person at a reasonable cost of duplication. Failure to obtain a certificate of land development regulation compliance as set out in these land development regulations shall be a violation of these land development regulations and punishable as provided by article VII of this chapter. Certificates of land development regulation compliance issued on the basis of plans and specifications approved by the land development regulations administrator authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction different from that authorized shall be deemed a violation of these land development regulations and punishable as set out in article VII of this chapter.

(Ord. No. 434, § 13.4, 5-7-2002)

- **Sec. 46-95. - Assurance of completion of public improvements.**

Where, by the terms of these land development regulations or other applicable regulations or ordinances of the city council, provision is made for ensuring to the city council that the public improvements required will be constructed as required, the following procedures and regulations shall govern. Before any building permit is issued in such situation, the city council shall require the applicant to present satisfactory evidence that full provision has been made for public improvements, including, but not limited to, utility lines, sanitary sewers, storm sewers, construction or reconstruction of streets or alleys, streets signs, and traffic devices or signals. Where such public improvements are to be constructed by the applicant in accordance with the applicant's permit, the city council shall require security satisfactory to the city council in the

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form of (i) a deposit in cash or cashier's check or (ii) a performance and payment bond in the amount of 110 percent of the estimated cost of such improvements. The purpose of this requirement is to ensure to the city council that the public improvements required will be properly and timely completed and paid by the applicant. The form of any such bond or sureties thereon shall be subject to the approval of the city attorney for the city council as to legal form and correctness prior to the issuance of any building permit.

(Ord. No. 434, § 13.5, 5-7-2002)

- **Sec. 46-96. - Special move-on permits for mobile homes.**

It shall be deemed a violation of these land development regulations for any person, firm, corporation, or other entity to place or erect any mobile home on any lot or parcel of land within any area subject to these land development regulations for private use without first having secured a mobile home move-on permit from the land development regulations administrator. Such permit shall be deemed to authorize placement, erection, and use of the mobile home only at the location specified in the permit. The responsibility of securing a mobile home move-on permit shall be that of the person causing the mobile home to be moved. The move-on permit shall be posted prominently on the mobile home before such mobile home is moved onto the site.

(Ord. No. 434, § 13.6, 5-7-2002)

- **Sec. 46-97. - Special permits for temporary uses.**

modified

(a)

Generally. Certain uses are temporary in character. These temporary uses vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in these land development regulations, the following regulations shall govern temporary uses.

(b)

Temporary use permits issued by city council. The city council may issue a temporary use permit for the following uses: In agricultural, commercial, and industrial districts: commercial circuses, carnivals, outdoor concerts, and similar uses. Requests for such a permit shall be submitted in writing to the land development regulations administrator together with such reasonable fees as the city council may determine through action in setting fees as set out in [chapter 44](#). The city council shall take final action on the request by either approving, approving with conditions, or denying the request. Prior to granting a temporary use permit, the city council shall determine that:

(1)

Any nuisance or hazardous feature involved is suitably separate from adjacent uses.

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(2)

Excessive vehicular traffic will not be generated on minor residential streets.

(3)

A vehicular parking problem will not be created.

The temporary use permit, if granted, shall be granted for a specific time period, at the end of which, if the use permitted has not been discontinued, it shall be deemed a violation of these land development regulations and shall be punished as set out in article VII of this chapter. Appropriate conditions and safeguards may include, but are not limited to, reasonable time limits within which the action for which temporary use permit is requested shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the temporary use permit is granted, shall be deemed a violation of these land development regulations and punishable as provided in these land development regulations.

(c)

Temporary use permits issued by the land development regulations administrator. Certain uses are of short duration and do not create excessive incompatibility during the course of the use. Therefore, the land development regulations administrator is authorized to issue temporary use permits for the following activities, after a showing that any nuisance or hazardous feature involved is suitably separated from adjacent uses; excessive vehicular traffic will not be generated on minor residential streets; a vehicular parking problem will not be created; and, if appropriate, restroom facilities will be provided:

(1)

In any zoning district: special events operated by nonprofit, eleemosynary organizations.

(2)

In any zoning district: Christmas tree sales lots operated by nonprofit, charitable organizations.

(3)

In any zoning district: other uses which are similar to subsections (c)(1) and (2) of this section and which are of a temporary nature where the period of use will not extend beyond 30 days.

(4)

In any zoning district: mobile homes or travel trailers used for temporary purposes by any agency of municipal, county, state, or federal government; provided such uses shall not be or include a residential use.

(5)

In any zoning district: mobile homes or travel trailers used as a residence, temporary office, security shelter, or shelter for materials of goods incident to construction on or development of the premises upon which the mobile home or travel trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. The land development regulations administrator shall require posting of sufficient bond to ensure removal of the temporary structure within two weeks after issuance of the certificate of occupancy on the permanent structure. In no event shall the use continue more than 12 months without the approval of the city council and

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the city council shall give such approval only upon finding that actual construction has begun and is continuing.

(6)

In agricultural, commercial, and industrial districts: temporary religious or revival activities in tents which are of a temporary nature where the period of use will not extend beyond 30 days.

(7)

In commercial districts: retail sales which are of a temporary nature where the period of use will not extend beyond one period of three consecutive days within a seven-day period.

(8)

In commercial districts: automobile tent sales, located on approved parking lots, which are of a temporary nature where the period of use will not extend beyond one period of ten consecutive days within a 90-day period.

(9)

In commercial districts: mobile recycling collection units. These units shall be subject to the review of the land development regulations administrator. Application for permits shall include written confirmation of the permission of the property owner and a site plan which includes distances between the mobile recycling collection units and buildings, roads, and property lines.

(10)

On residential properties in any zoning district: mobile homes or travel trailers used as an accessory residence in the case of an established medical need for assistance. Such use shall be strictly limited to the time that the medical condition exists. In no event shall the use continue more than 12 months without an extension by the city council and the city council shall give such approval only upon finding that actual medical need is continuing.

(11)

An occupied property in a residential zoning district: the harboring of livestock for 4-H/FFA purposes. This permit shall be issued by the land development regulations administrator. The application shall contain the following information:

a.

Detailed site plan showing the proposed location of the containment facility.

b.

Applicable building setbacks for the zoning district where located.

c.

Name and mailing address of all adjacent property owners.

The following requirements shall apply to this temporary use:

a.

Maximum 120-day permit period (available once per calendar year).

b.

Maximum of one head of livestock per parcel.

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- c. The containment facility shall be located in the rear yard only.
- d. Containment facility placement must adhere to ten-foot minimum rear and side yard setbacks.
- e. The use shall not violate the city noise ordinance.
- f. The use shall not create a sanitary nuisance.
- g. The containment facility shall be regularly cleaned so as not to create hazardous waste or hazardous lands (as defined in [section 44-10](#) of this Code).

The temporary use shall be periodically inspected by the animal control officer. Failure to comply with the requirements outlined above shall result in the written revocation of permit and two days to remove livestock from the property. Failure to remove the livestock from the property within two days shall result in a fine of \$50.00 per day until compliance is achieved.

Requests for such a permit shall be submitted in writing to the land development regulations administrator. Appropriate conditions and safeguards may include, but are not limited to, reasonable time limits within which the action for which temporary use permit is requested shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the temporary use permit is granted, shall be deemed a violation of these land development regulations and punishable as provided in article VII of this chapter.

(Ord. No. 434, § 13.7, 5-7-2002; Ord. No. 447, § 1, 10-22-2002; Ord. No. 462, § 1(12), 9-16-2003; Ord. No. 594, § 1(att. A), 2-17-2009)

• **Sec. 46-98. - Special permits for essential services.**

- (a) Certain uses are essential to providing service to a community and therefore require special permitting.
- (b) Essential services requiring a special permit to be approved by the city council are: electrical substations, radio, telecommunication and television antennae or towers, owned or operated by publicly regulated entities.
- (c) All other essential services which do not require a special permit from the city council are hereby defined to include and be limited to poles, wires (including electrical transmission and distribution lines, telephone lines and substations and cable television lines), mains (including water distribution lines and mains and natural gas transmission and distribution lines and mains), hydrants, drains, pipes, conduits, telephone booths, school bus shelters,

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bicycle racks, bus stop benches, newspaper delivery boxes, mail boxes, police or fire call boxes, traffic signals, and other similar structures.

(d)

In addition, where permanent structures are involved in providing essential services, such structures shall conform with the character of the district in which the property is located and to architectural and landscaping characteristics of the adjoining properties.

(e)

The criteria for the granting of special permits for essential services shall be limited to a showing of the need for such services in the requested location, that it is in the public interest that such special permits be granted, and is in compliance with the other provisions heretofore set out in this section.

(f)

Further, all radio, telecommunication and television towers shall maintain the rated self-collapsing distance from any single or multiple-family residence, group living facility, school or hospital.

(Ord. No. 434, § 13.8, 5-7-2002)

• **Sec. 46-99. - Site and development plan approval.**

modified

(a)

Generally. Where these land development regulations require site and development plan approval, the land development regulations administrator shall approve all site and development plans as a condition precedent to the issuance of building permits by the building official.

(b)

Contents. The site and development plan required to be submitted by the requirements of these land development regulations shall include the following elements, where applicable:

(1)

Vicinity map, indicating general location of the site, abutting streets, existing utilities, complete legal description of property in question, and adjacent land use.

(2)

Site plan, including but not limited to the following:

a.

Name, location, owner, and designer of the proposed development.

b.

Present zoning for subject site.

c.

Location of the site in relation to surrounding properties, including the means of ingress and egress to such properties and any screening or buffers on such properties.

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- d. Date, north arrow, and graphic scale not less than one inch equal to 50 feet.
- e. Area and dimensions of site.
- f. Location of all property lines, existing right-of-way approaches, sidewalks, curbs, and gutters.
- g. Access to utilities and points of utility hookup.
- h. Location and dimensions of all existing and proposed parking areas and loading areas.
- i. Location, size, and design of proposed landscaped areas (including existing trees and required landscaped buffer areas).
- j. Location and size of any lakes, ponds, canals, or other waters and waterways.
- k. Structures and major features fully dimensioned including setbacks, distances between structures, floor area, width of driveways, parking spaces, property or lot lines, and percent of property covered by structures.
- l. Location of trash receptacles.
- m. For multiple-family, hotel, motel, and mobile home park site plans:
 - 1. Tabulation of gross acreage.
 - 2. Tabulation of density.
 - 3. Number of dwelling units proposed.
 - 4. Location and percent of total open space and recreation areas.
 - 5. Percent of lot covered by buildings.
 - 6. Floor area of dwelling units.
 - 7. Number of proposed parking spaces.
 - 8.

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Street layout.

9.

Layout of mobile home stands (for mobile home parks only).

(3)

Stormwater management plan, including the following:

a.

Existing contours at two-foot intervals based on United States Coastal and Geodetic Datum.

b.

Proposed finished elevation of each building site and first floor level.

c.

Existing and proposed stormwater management facilities with size and grades.

d.

Proposed orderly disposal of surface water runoff.

e.

Centerline elevations along adjacent streets.

f.

Water management district surface water management permit.

(c)

Procedure. Where, by the terms of these land development regulations, approval by the planning and zoning commission of a site and development plan is required prior to the issuance of a building permit, 12 sets of such site and development plan shall be submitted to the land development regulations administrator to be circulated for comment to any other official or department of the city which may have responsibility for some aspect of the site and development plan. Twelve sets of data required for site and development plan approval shall be submitted to the land development regulations administrator not less than 15 days prior to the public meeting of the planning and zoning commission at which the application for site and development plan approval is to be considered together with the payment of such reasonable fees as the city council may determine through action in setting fees as set out in [chapter 44](#).

(d)

Action on site and development plan. The land development regulations administrator shall forward the application for site and development plan approval along with any comments or criticisms to the planning and zoning commission for consideration. The planning and zoning commission shall handle such matters in a public session as part of a previously prepared agenda, however, no public notice and hearing is required. All matters relating to planning and zoning commission consideration of site and development plans shall be a public record and approval, approval with conditions, or denial shall require formal action of the planning and zoning commission. A petition for a zoning amendment and an application for site and development plan approval shall not be handled concurrently. Rather, an application for site and development plan approval shall be heard only after the applicant has secured the appropriate zoning on the subject parcel. Appeals from decisions of the planning and zoning commission shall be heard as set out

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in article V of this chapter. In reaching a decision as to whether or not the site and development plan as submitted should be approved with a directive to the land development regulations administrator to issue building permits, the planning and zoning commission shall be guided in its decision to approve, approve with conditions, or to deny by the following standards; the planning and zoning commission shall show in its record that each was considered where applicable and it shall make findings in regard to those of the following standards which it finds to be applicable:

- (1) Sufficiency of statements on ownership and control of the development and sufficiency of conditions of ownership or control, use, and permanent maintenance of common open space, common facilities, or common lands to ensure preservation of such lands and facilities for their intended purpose and to ensure that such common facilities will not become a future liability for the city council.
- (2) Density and/or the intended use of the proposed development with particular attention to its relationship to adjacent and nearby properties and effect on those properties and relationship to the comprehensive plan.
- (3) Ingress and egress to the development and proposed structures on the development, with particular reference to automotive and pedestrian safety, minimization of marginal friction with free movement of traffic on adjacent streets, separation of automotive traffic and pedestrian and other traffic, traffic flow and control, provision of services and servicing of utilities and refuse collection, and access in case of fire, catastrophe, or emergency.
- (4) Location and relationship of off street parking and off-street loading facilities to thoroughfares and internal traffic patterns within the proposed development, with particular reference to automotive and pedestrian safety, traffic flow and control, access in case of fire or catastrophe, and screening and landscape.
- (5) Sufficiency of proposed screens and buffers to preserve internal and external harmony and compatibility with uses inside and outside the proposed development.
- (6) Manner of stormwater management on the property, with particular reference to the effect of provisions for stormwater management on adjacent and nearby properties and the consequences of such stormwater management on overall public stormwater management capacities.
- (7) Adequacy of provision for sanitary sewers, with particular relationship to overall sanitary sewer availability and capacities.
- (8) Utilities, with reference to hook-in locations and availability and capacity for the uses projected.
- (9)

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Recreation facilities and open spaces, with attention to the size, location, and development of the areas as to adequacy, effect on privacy of adjacent and nearby properties and uses within the proposed development, and relationship to community open spaces and recreational facilities.

(10)

General amenities and convenience, with particular reference to assuring that appearance and general layout of the proposed development will be compatible and harmonious with properties in the general area and will not be in conflict with other development in the area as to cause substantial depreciation of property values.

(11)

Such other standards as may be imposed by these land development regulations on the particular use or activity involved.

(e)

Issuance of building permits. Upon the approval of the site and development plan application by the land development regulations administrator or its approval with conditions, building permits for the proposed development shall be issued by the building official. The development shall be built substantially in accordance with the approved site and development plan. If after such approval should the owner/applicant or his successors desire to make any changes in the site and development plan, such changes shall be submitted to the building official. If the building official deems there to be a substantial change or deviation from that which is shown on the approved site and development plan, the owner/applicant or his successors shall be required to submit the amended site and development plan for approval as set forth in [section 46-100](#). Failure to submit such amended site and development plan for determination by the building official that a substantial change or deviation is occurring or has occurred, prior to such changes, shall constitute a violation of these land development regulations and shall be punishable as provided in article VII of this chapter.

(Ord. No. 434, § 13.9, 5-7-2002)

- **Sec. 46-100. - Consistency with the comprehensive plan.**

modified

(a)

Conformance. These land development regulations are required by law to be in conformance with the comprehensive plan. All development in conformance with these land development regulations shall therefore be in conformance with the comprehensive plan.

(b)

Basis for adoption of plan; service and development standard. The basis for this section is the city comprehensive plan, article V of this chapter. Article V of this chapter was prepared and adopted by the city voluntarily, as an optional plan element. [Chapter 2](#), Future Land Use, also requires levels of service to be provided concurrent with development.

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(1)

Concurrency.

a.

Construction or binding agreement.

1.

Facilities and services necessary to meet the level of service standards adopted by the city shall be in place at the time a building permit is issued;

2.

The necessary facilities are under construction at the time a permit is issued and the services are already available;

3.

The necessary facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the development permit is issued; or

4.

The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable agreement may include, but is not limited to, development agreements pursuant to F.S. § 163.3220, or an agreement or development order issued pursuant to F.S. ch. 380.

b.

Guidelines for interpreting and applying level of service standards.

1.

All development, including but not limited to residential subdivisions, commercial development, industrial development, mobile home parks, multifamily developments, planned residential developments (PDs) and developments of regional impact (DRIs), all level of service standards and the concurrency requirements shall apply. With each application for development approval, the applicant shall document how the level of service standards and concurrency requirements will be met.

2.

Any proposed land use which would utilize more than five percent of the surplus capacity* of any road will be required to negotiate a development agreement pursuant to [Section 2.01](#) of the city comprehensive plan, at the discretion of the elected officials. (The five percent figure is the threshold amount which, when equaled or exceeded, is defined as having a "significant" impact.)

* As defined herein, the term "surplus capacity" means the difference between the capacity of the road at level-of-service D (the level at which service becomes unacceptable) and the existing adjusted average daily traffic volume (AADT).

3.

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No development will be approved and no permits of any kind will be issued for any proposed development which reduces levels of service below accepted levels, or which fails to provide the requisite level of service. To implement this policy, the building official shall determine, at the initial stage of the application review process, whether or not any threshold level will be met or exceeded, and whether or not the concurrency requirements as set forth in this plan have been met.

4.

All development orders and permits approved prior to the actual authorization for the commencement of construction or physical activity on the land will be conditioned to provide that issuance of building permits will be contingent upon the availability of public facilities and services necessary to serve the proposed development.

(2)

Monitoring and management. A monitoring system shall be implemented, as needed, which enables the elected officials to determine, on an annual basis (immediately prior to annual budget preparation), whether they are adhering to the adopted level of service standards and to their schedule of capital improvements; and to ascertain existing facilities and service capacity at the time a development order and development permit is approved.

(3)

Levels of service.

a.

Roads. The minimum level of service for all roads in the city is "C".

b.

Sanitary sewer. The minimum level of service for sewer systems is 100 gallons per capita per day, with a peak design capacity of 120 gallons per day.

c.

Solid waste. The minimum level of service for solid waste is 2.8 pounds per capita per day.

d.

Drainage. The minimum level of service for drainage is the 25-year, 24-hour duration storm event.

e.

Potable water. The minimum level of service for potable water is 175 gallons per capita per day.

f.

Recreation. The minimum levels of service for recreation are:

1.

Neighborhood parks: Ten acres of public park per 1,000 persons.

2.

Vest pocket park: One acre per 1,000 persons.

3.

Open space: Ten acres of dedicated open space per 1,000 persons.

(Ord. No. 434, § 13.10, 5-7-2002)

- **Secs. 46-101—46-130. - Reserved.**
- **ARTICLE V. - APPEALS, SPECIAL EXCEPTIONS, VARIANCES AND INTERPRETATIONS**

- **Sec. 46-131. - Appeals.**

modified

An appeal may be taken as follows:

(1)

Zoning regulation appeals provisions.

a.

Board of adjustment; appeals.

1.

Appeals; hearings; notice.

i.

Appeals to the board of adjustment/code enforcement concerning any order, requirement, decision or determination made by the land development regulations administrator may be taken by any person aggrieved or by any officer, agency, or bureau of the city affected by any such action of the land development regulations administrator. Such appeals shall be taken by filing, within 30 days after rendition of any such order, requirement, decision or determination, with the land development regulations administrator a written notice of appeal specifying the grounds thereof. In addition, appeals to the board of adjustment for special exception or for variance under these land development regulations shall be taken by a property owner of the property subject to the appeal or his agent, or any officer, agency or bureau of the city, by filing a written notice of appeal with the land development regulations administrator.

ii.

Before rendering a decision upon an appeal, the board of adjustment shall hold a public hearing. The board of adjustment shall fix a reasonable time for the hearing, give public notice thereof, as well as due notice to the parties involved. In addition, in the case of an appeal for special exception or variance, the land development regulations

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administrator shall erect a sign advertising the appeal on a prominent position on the land in question and clearly visible to the public. At the hearing, any party may appear in person or by agent or attorney. Appellants may be required to assume such reasonable costs as the city council may determine through action in setting fees to be charged for appeals.

2.

Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the land development regulations administrator from whom the appeal is taken certifies to the board of adjustment after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would, in the land development regulations administrator's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the land development regulations administrator from whom the appeal is taken and on due cause shown.

3.

Decisions. The concurring vote of a majority of the members of the board of adjustment who are present and voting shall be necessary to reverse any order, requirement, decision, or determination of the land development regulations administrator or to decide in favor of the appellant in respect to any matter upon which it is required to pass under the terms of [chapter 60](#) or to effect any variance of [chapter 60](#).

b.

Appeals from decisions of planning and zoning commission. Wherever in these land development regulations the planning and zoning commission is required to make a final decision rather than an advisory recommendation, said decision shall be final provided that any person or persons, jointly or severally aggrieved by said decision of the planning and zoning commission, or any officer, department, board, commission, or bureau of the city aggrieved by said decision may, within 30 days after said decision is rendered, appeal said decision to the city council by filing a written notice of appeal specifying the grounds thereof with the land development regulations administrator.

(2)

Subdivision regulation appeals provisions.

a.

Appeals procedure.

1.

The city council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the land development regulations administrator in the enforcement or administration of [chapter 56](#).

2.

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Any such appeal shall be in written form and filed within 30 days of the decision of the land development regulations administrator, and filed with the land development regulations administrator. Such appeal shall state the location of the property, the date of the notice of violations, and the number of such notice. The appellant must state the modification requested, the reasons therefor, and the hardship or conditions upon which the appeal is made.

3.

Standing to appeal shall be limited to those property owners affected by the decision of the land development regulations administrator.

b.

Decision. In passing upon such appeal, the city council shall consider all technical evaluations, all relevant factors, and standards specified in [chapter 56](#). Upon consideration of the factors of [chapter 56](#), the city council may attach such conditions to the granting of modifications to the land development regulations administrator's determination as it deems necessary to further the purposes of these land development regulations.

(3)

Hazardous building regulations appeals provisions.

a.

Form of appeal. Any person served notice in accordance with the provisions of [chapter 48](#) may appeal such action of the land development regulations administrator under this article to the board of adjustment. Such appeal must be filed in writing with the land development regulations administrator within 30 days from the date of service and must contain at least the following information:

1.

Identification of the building or structure concerned by street address or legal description.

2.

A statement identifying the legal interest of each appellant.

3.

A statement identifying the specific order or section being appealed.

4.

A statement detailing the issues on which the appellant desires to be heard.

5.

The legal signatures of all appellants and their official mailing addresses.

b.

Hearing; notice. Upon the filing of an appeal, the board of adjustment and code enforcement shall as soon as practicable fix a date, time and location for the hearing of the appeal. Written notice of the time and location of the hearing shall be mailed to each appellant at the address on the appeal by certified mail, return receipt requested.

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- c. *Failure to appear.* Failure of any person to appear at the hearing set forth in accordance with the provisions of this article shall constitute a waiver of his right to an appeal on the notice.
 - d. *Scope of appeal.* The appeal public hearing shall offer the appellant reasonable opportunity to be heard on only those specific matters or issues raised by the appellant in his appeal. The appellant may appear at the hearing in person or through his attorney or other designated representative.
 - e. *Staying of notice under appeal.* Enforcement of any notice issued by the land development regulations administrator under the provisions of this article shall be held in abeyance during the course of an appeal to [chapter 48](#) herein.
- (4) *Appeals generally.* For appeal procedures for all chapters of these land development regulations not specifically described above, the following shall apply:
- a. An appeal from any final order or decision of the land development regulations administrator may be taken to the board of adjustment and code enforcement by any person aggrieved. An appeal is taken by filing with the land development regulations administrator a written notice of appeal specifying the grounds therefor. A notice of appeal shall be considered filed with the land development regulations administrator when delivered to the office of the land development regulations administrator. The date and time of filing shall be entered on the notice by city staff.
 - b. An appeal must be filed within 30 days after the date of the decision or order appealed from.
 - c. Whenever an appeal is filed, the land development regulations administrator shall forthwith transmit to the board of adjustment and code enforcement all the papers constituting the record relating to the action appealed from.
 - d. An appeal stays all actions by the land development regulations administrator seeking enforcement of or compliance with the order or decision appealed from, unless the land development regulations administrator certifies to the board of adjustment and code enforcement that (because of the facts stated in the certificate) a stay would, in the land development regulations administrator's opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the board of adjustment or a court of record on application, on notice to the land development regulations administrator from whom the appeal is taken and on due cause shown.
 - e.

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The board of adjustment and code enforcement may reverse or affirm, wholly or partly, or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board of adjustment and code enforcement shall have all the powers of the officer from whom the appeal is taken.

(Ord. No. 434, § 11.1, 5-7-2002)

- **Sec. 46-132. - Special exceptions**

(a)

The city council shall have the power to hear and decide upon appeals in specific cases such special exceptions as the city council is specifically authorized to pass on under the terms of [chapter 60](#); to decide such questions as are involved in the determination of when special exceptions should be granted; and to grant special exceptions with appropriate conditions and safeguards or to deny special exceptions when they would not promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or the general welfare.

(b)

Appropriate conditions and safeguards may include, but are not limited to, reasonable time limits within which the action for which special exception is requested shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of these land development regulations and punishable as provided in these land development regulations.

(c)

If the city council shall deny a special exception, it shall state fully in its record its reasons for doing so. Such reasons shall take into account the factors stated in this article, or such of them as may be applicable to the action of denial, and the particular regulations relating to the specific special exception requested, if any.

(d)

The procedure for taking an appeal for a special exception shall be as set forth in this article, and, in addition, a special exception shall not be granted by the city council unless and until:

(1)

Written petition. A written petition for special exception is submitted by the applicant indicating the section of [chapter 60](#) under which the special exception is sought and stating the grounds on which it is requested, with particular reference to the types of findings which the city council must make under this article. The petition should include material necessary to demonstrate that the granting of the special exception would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or the general welfare. Such material shall include, but is not limited to, the following: (i) site and development plan at an appropriate scale showing proposed placement of structures on the property;

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provisions for ingress and egress, off-street parking and off-street loading areas, and refuse and service areas; and required yards and other open spaces; (ii) plans showing proposed locations for utility hook-up; (iii) plans for screening and buffering with reference as to type, dimensions, and character; (iv) proposed landscaping; and signs and lighting, including type, dimensions, and character. Where these land development regulations place additional regulations on specific special exceptions, the petition should demonstrate that such requirements are met.

(2)

Planning and zoning commission report. It is the intent of these land development regulations that all proposed special exceptions shall be heard in the first instance by the planning and zoning commission and that the planning and zoning commission's report and recommendations in such matters shall be advisory only to the city council. Within a reasonable time after a proposed special exception is officially received by the planning and zoning commission, the planning and zoning commission shall submit its report and recommendations concerning the proposed special exception to the city council. Before making a recommendation concerning the proposed special exception, the planning and zoning commission shall hold a public hearing to consider the proposed special exception. The planning and zoning commission shall fix a reasonable time for the hearing, give public notice thereof, as well as due notice to the parties involved. At the hearing, any party may appear in person or by agent.

(3)

Findings. Before any special exception shall be granted, the city council shall make a specific finding that it is empowered under [chapter 60](#) to grant the special exception described in the petition, and that the granting of the special exception would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or the general welfare. Before any special exception shall be granted, the city council shall further make a determination that the specific rules governing the individual special exception, if any, have been met by the petitioner and that, further, satisfactory provision and arrangement has been made concerning the following matters, where applicable:

a.

Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

b.

Off-street parking and loading areas, where required, with particular attention to the items in subsection (d)(3)a of this section and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district.

c.

Refuse and service areas, with particular reference to the items in subsections (d)(3)a and b of this section.

d.

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Utilities, with reference to locations, availability, and compatibility.

e.

Screening and buffering with reference to type, dimensions, and character.

f.

Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effects, and compatibility and harmony with properties in the district.

g.

Required yards and other open space.

h.

Considerations relating to general compatibility with adjacent properties and other property in the district including but not limited to:

1.

Conformity with the comprehensive plan and the effects upon the comprehensive plan;

2.

The existing land use pattern;

3.

The impact of the proposed use upon the load on public facilities such as schools, utilities, and streets;

4.

Changed or changing conditions which find the proposed use to be advantageous to the community and the neighborhood;

5.

The impact of the proposed use upon living conditions in the neighborhood;

6.

The impact of the proposed use upon traffic congestion or other public safety matters;

7.

The impact of the proposed use upon drainage;

8.

The impact of the proposed use upon light and air to adjacent area;

9.

The impact of the proposed use upon property values in the adjacent area;

10.

The impact of the proposed use upon the improvement or development of adjacent property in accordance with existing regulations; and

11.

The impact of the proposed use with regard to the scale of needs of the neighborhood or the community.

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(4)

Limitations on subsequent written petition for a special exception. No written petition by an owner of real property for a special exception for a particular parcel of property, or part thereof, shall be filed with the land development regulations administrator until the expiration of 12 calendar months from the date of denial of a written petition for a special exception for such property, or part thereof, unless the city council specifically waives said waiting period based upon a consideration of the following factors:

a.

The new written petition constitutes a proposed special exception different from the one proposed in the denied written petition.

b.

Failure to waive said 12-month waiting period constitutes a hardship to the applicant resulting from mistake, inadvertence, or newly discovered matters of consideration.

(e)

In the event of a sale or transfer of a parcel(s) with special exception approval, the permitted special exception use, prior to the sale or transfer of the given parcel(s), shall remain with the property unless specified by the city council in the adopted resolution. In order to rely on an approved special exception use, all new land owner(s) must include said special exception use on their business permit application with the city.

(Ord. No. 434, § 11.2, 5-7-2002; Ord. No. 583, § 1(att. A, § 13), 4-22-2008)

- **Sec. 46-133. - Variances.**

modified

(a)

Generally. The specific provisions of this section apply to the following portions of these land development regulations. Not all portions of these land development regulations provide for variances to the requirements contained therein. This is due to the inappropriateness of granting variances to such specific regulations as, but not limited to, the use of land, hazardous building requirements and historic site designation.

(b)

Variances to zoning regulations. The board of adjustment and code enforcement shall have power to authorize upon appeal such variance from the terms of these land development regulations as will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these land development regulations would result in unnecessary and undue hardship on the land. In granting any variance to the provisions of [chapter 60](#), the board of adjustment and code enforcement may prescribe appropriate conditions and safeguards in conformity with such regulations, including but not limited to, reasonable time limits within which the action for which variance is requested shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the

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terms under which the variance is granted, shall be deemed a violation of these land development regulations. Under no circumstance shall the board of adjustment and code enforcement grant a variance to permit a use not permitted under the terms of these land development regulations in the zoning district involved, or any use expressly or by implication prohibited by the terms of these land development regulations in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance. The procedure for filing an appeal for a variance shall be as set forth in this article, and in addition, a variance shall not be granted by the board of adjustment and code enforcement unless and until:

(1)

Written petition. A written petition for a variance from the terms of these land development regulations is submitted by the applicant indicating the section of these land development regulations from which the variance is sought and stating the grounds on which it is requested, with particular reference to the types of findings which the board of adjustment and code enforcement must make under subsection (b)(2) of this section.

(2)

Findings. In order to authorize any variance from the terms of these land development regulations, the board of adjustment and code enforcement must find:

a.

Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

b.

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

c.

Granting the variance requested will not confer on the applicant any special privilege that is denied by these land development regulations to other lands, buildings, or structures in the same zoning district.

d.

Literal interpretation of the provisions of these land development regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these land development regulations and will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these land development regulations would result in unnecessary and undue hardship on the land.

e.

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

f.

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The grant of the variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of these land development regulations would result in unnecessary and undue hardship on the land.

g.

Limitations on subsequent written petition for a variance. No written petition by an owner of real property for a variance for a particular parcel of property, or part thereof, shall be filed with the land development regulations administrator until the expiration of 12 calendar months from the date of denial of a written petition for a variance for such property, or part thereof, unless the board of adjustment specially waives said waiting period based upon a consideration of the following factors:

1.

The new written petition constitutes a proposed variance different from the one proposed in the denied written petition.

2.

Failure to waive said 12-month waiting period constitutes a hardship to the applicant resulting from mistake, inadvertence, or newly discovered matters of consideration.

(c)

Variations to the subdivision regulations. Where the city council finds that compliance with the design standards for lot and street layout of the provisions of [chapter 56](#) would cause unusual or extraordinary difficulties because of exceptional and unique conditions of topography, access, location, shape, size, drainage, or other physical features of the site, it may grant a variance from the subdivision regulations found herein so that substantial justice may be done and the public interest secured; provided that the public interest is protected and the development is in keeping with the general spirit and intent of these land development regulations. No such variance shall be granted if it would have the effect of nullifying the intent and purpose of these land development regulations. No such variance shall be granted if the special conditions or circumstances are the result of actions of the applicant. Furthermore, no variance shall be granted from the required improvements as specified within [chapter 56](#).

(1)

Conditions. In granting variances and/or modifications, the city council may require such conditions as will, in the judgment of the city council, secure substantially the objectives of the standards for requirements so varied or modified.

(2)

Procedures. Variances may be granted upon written request of the subdivider setting forth the reasons for each variance. A petition for any such variance shall be submitted in writing by the subdivider to the land development regulations administrator for the consideration of the planning and zoning commission, in conjunction with the submission of the preliminary plat. The planning and zoning commission shall handle such matter in a public session as part of a previously prepared agenda. The planning and zoning commission shall submit its report and

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recommendation to the city council. Within a reasonable time after receiving the planning and zoning commission report and recommendation, the city council shall by majority vote either approve, approve with conditions, or deny the request. Such matters shall be handled in a public hearing as part of a previously prepared agenda.

(Ord. No. 434, § 11.3, 5-7-2002)

- **Secs. 46-134—46-160. - Reserved.**
- **ARTICLE VI. - HEARING PROCEDURES**

- **Sec. 46-161. - General.**

Meetings of the planning and zoning commission and board of adjustment are required to be open to the public. There is a difference, between workshops, public hearings and public meetings, as well as a difference between meetings conducted by city staff and those conducted by the city advisory boards and city council. This article provides more specific requirements for hearing procedures and public notification.

(Ord. No. 434, § 12.1, 5-7-2002)

- **Sec. 46-162. - Hearings before board of adjustment and code enforcement.**

(a)

Before making a decision on an appeal or an application for a variance, or a petition from a decision of the land development regulations administrator for a determination, the board of adjustment shall hold a public hearing on the appeal or application.

(b)

Subject to subsection (c) of this section, the public hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and arguments.

(c)

The board of adjustment may place reasonable and equitable limitation on the presentation of evidence and arguments so that the matter at issue may be heard and decided without undue delay.

(d)

The board of adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six calendar weeks or more elapses between hearing dates.

(Ord. No. 434, § 12.2, 5-7-2002)

• **Sec. 46-163. - Hearings before planning and zoning commission and city council.**

(a)

Before making a recommendation or decision on an application for amendment of the zoning map or an amendment to the text of these land development regulations, the planning and zoning commission and the city council, as the case may require, shall hold a public hearing on the application.

(b)

Subject to this section, the public hearing shall be open to the public, and all persons interested in the outcome of the application shall be given an opportunity to be heard.

(c)

The planning and zoning commission or city council, as the case may be, may place reasonable and equitable limitation on any discussion or presentation so that the matter at issue may be heard and decided without undue delay.

(d)

The planning and zoning commission or the city council, as the case requires, may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six calendar weeks or more elapses between hearing dates.

(Ord. No. 434, § 12.3, 5-7-2002)

• **Sec. 46-164. - Notice of hearing.**

(a)

The land development regulations administrator shall give notice of any public hearing required by sections [46-162](#) and [46-163](#) as follows:

(1)

Any application requiring a public hearing before the planning and zoning commission or board of adjustment shall be noticed once in a newspaper of general circulation in the area, with the publication not less than ten days prior to the hearing.

(2)

A special permit requiring a public hearing before the city council shall be noticed once in a newspaper of general circulation in the area, with the publication not less than ten days prior to the hearing. The ten-day notice requirement regarding public notice for special permits can be waived by the city council in the case of an emergency public hearing and where consistent with state law.

(3)

An amendment to these land development regulations, including the zoning map, requiring a public hearing before the city council shall be noticed in accordance with the requirements of F.S. ch. 166.

(4)

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In addition to the above stated notice requirements all rezoning, special exception and variance public hearings before the planning and zoning commission and board of adjustment and code enforcement, as applicable, shall also be noticed by prominently posting a sign on the property that is the subject of the proposed action. Such sign shall be posted not less than ten days prior to the public hearing.

(b)

The owner of properties adjacent to the subject property of a public hearing before the planning and zoning commission or the board of adjustment and code enforcement shall be provided written notice not less than ten days prior to the public hearing. For the purposes of this requirement, the property owner shall be the owner of record as listed by the county property appraiser.

(c)

The notices required by this section shall:

(1)

State the date, time and place of the public hearing;

(2)

Reasonably identify the property that is the subject of the application or appeal;

(3)

Give a brief description of the action requested or proposed;

(4)

State the place where a copy of the proposed action may be inspected by the public; and

(5)

Advise that interested parties may appear at the public hearing and be heard regarding the proposed action.

(Ord. No. 434, § 12.4, 5-7-2002)

- **Secs. 46-165—46-190. - Reserved.**
- **ARTICLE VII. - ENFORCEMENT**^[4]

- **Sec. 46-191. - Code enforcement officers.**

For the purpose of these land development regulations, the term "code enforcement officer" shall mean any designated employee or agent of the city whose duty it is to enforce codes and ordinances enacted by the city. This shall include, but not be limited to, code inspectors, including building inspectors, law enforcement officers, and municipal fire safety inspectors as defined under any applicable state statute. Appropriate training for such officers shall be determined by the city council.

(Ord. No. 434, § 14.1, 5-7-2002)

- **Sec. 46-192. - Persons liable.**

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of these land development regulations may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

(Ord. No. 434, § 14.2, 5-7-2002)

- **Sec. 46-193. - Authorized code enforcement procedures.**

The provisions of these land development regulations may be enforced in accordance with any of the following procedures:

(1)

The Local Government Code Enforcement Boards Act as set forth in F.S. §§ 162.01—162.13.

(2)

The citation procedure as set forth in F.S. § 162.21.

(3)

The procedure set forth in F.S. § 162.22 which authorizes the issuance of a citation, a summons or a notice to appear or arrest for violation of municipal ordinances as provided for in F.S. ch. 901.

(4)

The procedure set forth in F.S. § 162.23 which authorizes the issuance of a notice to appear.

(Ord. No. 434, § 14.3, 5-7-2002)

- **Sec. 46-194. - Other remedies.**

The provisions and procedures contained in this article shall be in addition and supplemental to any other remedies now existing or subsequently provided for by law, regarding violations of municipal ordinance.

(Ord. No. 434, § 14.4, 5-7-2002)

- **Sec. 46-195. - Procedures; penalties.**

When the enforcement of any provision of these land development regulations is initiated under F.S. § 162.21 by the issuance of a citation, summons or notice to appear, the following procedures and penalties shall apply:

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(1)

The violation of any provision of these land development regulations so enforced shall be deemed a civil infraction.

(2)

Unless specifically set forth in the code provision cited, the maximum civil penalty for a violation of any provision of these land development regulations shall be \$250.00.

(3)

Unless specifically set forth in the code provision cited, a civil penalty of \$125.00 shall be assessed if the person who has committed the civil infraction does not contest the citation.

(4)

In the case of a repeat violation of the same provision by the same person, the applicable penalty amount shall be doubled.

(5)

Any person who willfully refuses to sign and accept a citation issued by a code enforcement officer shall be punished by a fine up to \$500.00 and/or imprisonment up to 60 days in the discretion of the court.

(6)

If a person fails to pay the civil penalty or request a hearing, fails to appear in court to contest the citation when a hearing has been requested, or fails to appear in court as may be required, the court may enter judgment for an amount not to exceed the maximum penalty amount for each infraction. At any hearing pursuant to this section, the commission of a violation of a code or ordinance must be proved by a preponderance of the evidence. The Florida Rules of Civil Procedure and the Florida Evidence Code shall be applicable to any hearing.

(7)

All civil penalties shall be paid to and collected by the clerk of the court. All penalties collected by the clerk shall be turned over to the city finance department.

(Ord. No. 434, § 14.5, 5-7-2002)

- **Secs. 46-196—46-220. - Reserved.**
- **ARTICLE VIII. - AMENDMENTS**^[5]

- **Sec. 46-221. - Authority to amend.**

These land development regulations, and zoning map, and other material as set out may from time to time be amended, supplemented, changed, or repealed. The procedures for these amendments shall be as provided in this article.

- **Sec. 46-222. - Initiation of amendments.**

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(a)

A land development regulation amendment may be proposed by:

(1)

City council;

(2)

Planning and zoning commission;

(3)

Board of adjustment and code enforcement;

(4)

Any department or board of the city;

(5)

Any person other than those listed in subsections (a)(1)—(4) of this section; provided, however, that no such person shall propose an amendment for the rezoning of property which he does not own except as agent or attorney for an owner.

(b)

All proposals for land development regulation amendments shall be submitted in writing to the office of the land development regulations administrator accompanied by all pertinent information which may be required by the planning and zoning commission for proper consideration of the matter, along with, for persons under subsection (a)(5) of this section, the payment of such fees and charges as have been established by the city council (see [chapter 44](#)). In the case of a petition for the rezoning of land, the land development regulations administrator shall post a sign advertising the petition for rezoning on a prominent position on said land and clearly usable to the public in conformance with article VI of this chapter.

(Ord. No. 434, § 15.1, 5-7-2002)

- **Sec. 46-223. - Planning and zoning commission report.**

modified

(a)

Procedure. It is the intent of these land development regulations that all proposed amendments shall be heard in the first instance by the planning and zoning commission. Within a reasonable time after a proposed amendment is filed, the planning and zoning commission shall submit its report and recommendation concerning the proposed amendment to the city council. Before making a recommendation concerning the proposed amendment, the planning and zoning commission shall hold a public hearing to consider the proposed zoning amendment in conformance with article VI of this chapter.

(b)

Nature and requirements of planning and zoning commission report. When pertaining to the rezoning of land, the report and recommendation of the planning and zoning commission to the city council required by subsection (a) of this section shall show that

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the planning and zoning commission has considered the proposed change in relation to the following, where necessary:

- (1) Conformity with the comprehensive plan and the effects upon the comprehensive plan.
- (2) The existing land use pattern.
- (3) The creation of an isolated district unrelated to adjacent and nearby districts.
- (4) The impact of the proposed change upon population density pattern and the load on public facilities such as schools, utilities, streets, etc.
- (5) The existing district boundaries in relation to existing conditions on the property proposed for change.
- (6) Changed or changing conditions which justify the recommended action on the proposed amendment.
- (7) The impact of the proposed change upon living conditions in the neighborhood.
- (8) The impact of the proposed change upon traffic with particular regard to congestion or other public safety matters.
- (9) The impact of the proposed change upon drainage.
- (10) The impact of the proposed change upon light and air to adjacent areas.
- (11) The impact of the proposed change upon property values in the adjacent area.
- (12) The impact of the proposed change upon the improvement or development of adjacent property in accordance with existing regulations.
- (13) The granting of special privilege to an individual owner as contrasted with the needs of the overall public welfare.
- (14) Substantial reasons why, if any, the property cannot be used in accordance with existing zoning.
- (15) The impact of the proposed change with regard to the scale of needs of the neighborhood or the city.

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(16)

The availability of alternate adequate sites in the city in districts already permitting such use.

(c)

Factors of consideration. When pertaining to other proposed amendments of these land development regulations, the planning and zoning commission shall consider:

(1)

The need and justification for the change.

(2)

The relationship of the proposed amendment to the purposes and objectives of the comprehensive planning program and to the comprehensive plan, with appropriate consideration as to whether the proposed change will further the purposes of these land development regulations and other ordinances, regulations, and actions designed to implement the comprehensive plan.

(d)

Status of planning and zoning commission report and recommendations. The report and recommendation of the planning and zoning commission required by this section shall be advisory only and shall not be binding upon the city council.

(Ord. No. 434, § 15.2, 5-7-2002)

• **Sec. 46-224. - City council action on planning and zoning commission report.**

Within a reasonable time after receiving the planning and zoning commission report and recommendation on a proposed zoning amendment, the city council shall hold a public hearing to consider the proposed zoning amendment in conformance with article VI of this chapter.

The city council shall take final action on the proposed land development regulation amendment by either approving or denying the proposed amendment.

(Ord. No. 434, § 15.3, 5-7-2002)

• **Sec. 46-225. - Relationship of amendments to comprehensive plan.**

If the amendment requires the prior amendment of the comprehensive plan adopted pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. §§ 163.3161—163.3215), action on an amendment to the comprehensive plan shall be taken prior to final action on such land development regulation amendment. However, this provision shall not prohibit the concurrent review and consideration of a comprehensive plan amendment and land development regulation amendment.

(Ord. No. 434, § 15.4, 5-7-2002)

• **Sec. 46-226. - Limitation on subsequent application.**

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No application by an owner of real property for an amendment to the zoning map for a particular parcel of property, or part thereof, shall be received by the building and zoning official until the expiration of 12 calendar months from the date of denial of an application for an amendment to the zoning map for such property, or part thereof, unless the city council specifically waives said waiting period based upon a consideration of the following factors:

(1)

The new application constitutes a proposed zoning classification different from the one proposed in the denied application.

(2)

Failure to waive said 12-month waiting period constitutes a hardship to the applicant resulting from mistake, inadvertence, or newly discovered matters of consideration.

(Ord. No. 434, § 15.5, 5-7-2002)