

Chapter 10. Application, Review and Decision-Making Procedures

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10.01.00 GENERALLY

10.01.01 Purpose and Intent

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

10.01.02 Local Development Orders and Building Permits Required

- A. A **Local Development Order** shall be issued to indicate approval of any **Site Plan, Subdivision Plat, Variance, Rezoning**, or expansion, enlargement or modification of **Non-Conforming Development** or **Use**.
- B. Except as provided in section 10.01.03 or 10.01.05, a valid and current **Local Development Order** shall be required prior to the issuance of any **Building Permit** to authorize **Development** or a **Change of Use**.
- C. No **Development** or **Change of Use** shall be made or continued without a lawful **Building Permit**.
(Ord. # 1304, 3/27/14)
- D. No development permit shall be issued when an amendment to this Code is pending before the City Council or Planning Board, which amendment, if adopted, would make nonconforming the development authorized by the development order or permit.
(Ord. # 1396, 12/8/16)

10.01.03 Applicability to Development and Exceptions

- A. The applicability of the provisions of the **LDC** to **Development** and exemptions from those provisions are set forth in Chapter 1. In addition, the following proposed **Development**, if otherwise qualified, may obtain a **Building Permit** without a **Local Development Order**:
 1. The construction of a **Single Family Dwelling** or a duplex within a district designated for **Residential Use**.
 2. The construction of **Accessory Structures** within a district designated for **Residential Use**.
 3. Modifications to the interior of a legal conforming structure, when such modifications are not associated with a change in **Use**.
 4. Modifications to the façade of a legal conforming structure, when such structure is not in a designated historical district.
 5. Expansion of a legal conforming non-residential structure by less than 300 square feet.

6. Any **Residential Development** for which a **Site Plan** is not required.

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

10.01.04 Expiration of Local Development Orders and Building Permits

A. A **Local Development Order** shall expire automatically after six (6) months of issuance unless a longer period of time is specifically provided in the **Local Development Order** or **Building Permit**.

B. Prior to its expiration, a **Local Development Order** or **Building Permit** shall be extended once for an additional three (3) months, provided that:

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

2. Payment of the extension fee is submitted with the written request.

(Ord. #1254, 11/14/13)

10.01.05 Applicability to a Change of Use and Exceptions

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

1. The proposed **Use** conforms to the requirements of the Comprehensive Plan and this **LDC**;

2. The proposed **Use** does not increase density;

3. Any proposed modifications to an existing **Building** are only to the façade or interior of the **Building**;

4. The proposed **Use** does not require a greater number of **Parking Spaces** than the existing **Use**;

5. The proposed **Use** does not require a greater number of **Parking Spaces** than are currently available on the site.

6. The proposed **Use** does not increase the amount of **Impervious Surface**, whether due to expansion of an existing **Building**, proposed construction of additional **Buildings** or an addition to paved areas for any purpose; and

7. All required **Building Permits** are obtained.

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- B. When a **Local Development Order** is required due to a proposed **Change of Use**, all standards and procedures of the Comprehensive Plan and this **LDC** shall apply to the proposed new **Use**.

10.01.06 Fees Required

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

10.01.07 Fees for Independent Review of Applications

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

10.01.08 Certificate of Occupancy

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

10.01.09 Computation of Time

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

(Ord. #1254, 11/14/13)

10.02.00 APPLICATION REQUIREMENTS

10.02.01 Submittal Requirements for All Applications

- A. Submittal requirements necessarily contemplate a wide variety of circumstances and it is understood that some information may be unnecessarily burdensome to produce. The City Manager may alter submittal requirements on a case by case basis for good cause shown, to tailor the application to the specific request being made, provided that the alteration will not materially affect the ability to evaluate compliance with the LDC. Unless waived by the **City Manager**, each application shall contain the following information:

1. A completed form provided by the Building and Planning Department;

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2. Name, address, telephone number, facsimile number, email address and signature of the property owners;
3. When the applicant is a representative of the property owner, a statement acknowledged by the owners before a notary public authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures;
4. A sketch obtained no more than two (2) years prior to the filing of the application, containing the legal description, land area and existing improvements located on the site;
5. Written documentation that the property owner, has or will comply with all applicable notice requirements of this LDC; and
6. Payment of the required application fee.

B. The **City Manager** may waive any submittal requirement that the **City Manager** determines to be unnecessary for a particular application.

(Ord. #1254, 11/14/13)

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

A. Each application for a ***Lot Split, Site Plan, Subdivision Plat, PUD Master Plan, PUD Final Development Plan, Telecommunications Tower, Telecommunication Antenna*** or ***Conditional Use*** shall contain the following information:

1. All information required pursuant to section 10.02.01;
2. Name, address, telephone number and facsimile number of the plan or ***Plat*** preparer;
3. Date of preparation and date(s) of any modifications, north arrow and written and graphic scale;
4. Legal description of the property, consistent with the survey, if a survey is required;
5. A vicinity map showing the location of the property;
6. Future Land Use Map designation for the property;
7. Zoning designation for the property;
8. Additional plans, documents and reports as deemed necessary by the **City Manager**; and

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9. Information required for the specific type of application, as specified in sections 10.02.03 through 10.02.07, as applicable.

B. All **Site Plans, Plats** and sketches of a **Lot Split** shall be drawn to a scale approved by the City Manager.

(Ord. # 1253, 12-13-12)

10.02.03 Additional Submittal Requirements for Site Plans

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

- A.** All information required pursuant to section 10.02.02.
- B.** Location and **Use** of any existing and proposed, principal or **Accessory Buildings** and structures, including **Setbacks**, required **Yards, Building Heights** and other dimensional requirements of the **LDC**.
- C.** Pedestrian **Access** Plan showing the proposed vehicular **Access** points, **Driveway** design, on-site parking, internal circulation, **Crosswalk** or **Pedestrian Crossover** and sidewalks.
- D.** Location of utilities, utility service and easements.
- E.** Topographic survey, soil report and a grading, drainage and erosion control plan.
- F.** Proposed buffer and landscaping plan.
- G.** Location of significant natural features and habitats.
- H.** Habitat Management Plan and wetlands (for those areas identified in the Comprehensive Plan).
- I.** Delineation of proposed phases.
- J.** Summary block containing:
 - (a) Total acreage;
 - (b) Total square footage;
 - (c) Impervious area calculation;
 - (d) Floor area ratio;
 - (e) Total number of **Parking Spaces**, required and provided; and
 - (f) Total number of **Dwellings**/rooms.
- K.** Infrastructure impact reports, if required by this LDC.
- L.** Stormwater Management Plan which meets the requirements of Chapter 3 of this LDC.

(Ord. #1254, 11/14/13)

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

- A. Each application for a preliminary or final ***Subdivision Plat*** shall contain all of the following information.
1. All information required pursuant to section 10.02.02.
 2. *Development* specifications: area of the tract, proposed number and layout of ***Lots*** and blocks, location, names and widths of proposed roadways and easements.
 3. Location of land to be dedicated or reserved for *Public Use* for rights-of-way, easements, schools, ***Open Spaces*** or other ***Public Uses***.
 4. Locations of utilities, utility service and connections.
 5. Location of all ***Protected Trees*** pursuant to section 4.06.06.
 6. Topographic survey, soil report and a grading, drainage and erosion control plan.
 7. Location of significant natural features and habitats.
 8. Environmental impact report.
 9. When required elsewhere by this ***LDC***, infrastructure impact reports.
 10. Stormwater Management Plan which meets the requirements of Chapter 3 of the ***LDC***.
 11. A boundary survey of the subject property obtained, prepared under the responsible direction and supervision of a profession surveyor and mapper, and prepared not later than two years prior to submittal of the application.
 12. A title opinion of an attorney at law licensed in Florida or a certification by a title company licensed in Florida to issue title insurance, demonstrating that all parties with an interest of record in the subject property have appropriately joined in the dedication of the ***Plat***. The opinion or certification shall be made by reference to the legal description shown on the plat and submitted pursuant to the application, and shall be dated, or updated, no less than 60 days prior to final approval of the ***Plat***.
 13. If the ***Plat*** dedicates or otherwise proposes any improvements or utility facilities designated or intended for ***Public Use***, then either (i) evidence that the construction of those items has been completed, that they are not encumbered and that they have been approved by the City Engineer, or (ii) a fully executed performance agreement and security therefor satisfying the requirements of section 10.19.04.

(Ord. # 1308, 3/27/14)

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- B.** Each application for a **Lot Split** shall contain all of the following information, unless determined by the **City Manager** to be inapplicable or an undue hardship based upon circumstances unique to the particular *Lot* in question:
1. All information required pursuant to section 10.02.02.
 2. Development specifications: area of the tract, proposed number and layout of Lots and blocks, location, names and widths of proposed roadways and easements.
 3. Location of land to be dedicated or reserved for **Public Use** for rights-of-way, easements, schools, **Open Spaces** or other **Public Uses**.
 4. Locations of utilities, utility service and connections.
 5. Location of all Protected Trees pursuant to section 4.06.06.
 6. Stormwater Management Plan which meets the requirements of Chapter 3 of the **LDC**.
 7. A sketch to scale of the described *Lots, Parcels*, tracts, etc., showing the assessor's property identification numbers for contiguous parcels, the metes and bounds along the property lines, and the approximate locations of rights of way and easements located within or abutting said lots, parcels, tracts, etc. The sketch shall have been obtained no more than thirty (30) days prior to the filing of the application.

(Ord. # 1253, 12-13-12)

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

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

- A.** All information required pursuant to section 10.02.02.
- B.** A statement of objectives describing the general purpose and character of the proposed **Development**, including type of structures, **Uses**, **Lot** sizes and **Setbacks**.
- C.** A boundary survey.
- D.** Perimeter buffering and landscaping.
- E.** General location and size of **Land Uses**.
- F.** Type of zoning districts and existing **Uses** abutting the proposed **Development** boundaries.
- G.** A detailed, written list and complete explanation of how the proposed **Development** differs from any provision of the **LDC**, including a comparison with the **Lot** and **Building** standards of the underlying zoning district. If the master plan is approved, any such difference not listed or explained shall not be recognized or permitted and no such difference shall be implied or inferred.

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- H. A detailed explanation of the public benefit which justifies allowing the property owner to deviate from otherwise applicable minimum requirements of the **LDC**.
- I. A timeline for the **Development**, which addresses the following items:
 - 1. **Development** phases, if applicable and benchmarks for monitoring the progress of construction of each phase. Wherever applicable, the benchmarks shall include:
 - (a) Land clearing;
 - (b) Soil stabilization;
 - (c) Construction of each landscaping element of horizontal infrastructure, including, but not limited to, roads, utilities and drainage; and
 - (d) Vertical infrastructure and improvements.
 - 2. The Final Development Plan shall be submitted within one (1) year of master plan approval. The timeline shall show that construction of the horizontal improvements will be commenced and substantially completed within one (1) year and two (2) years, respectively, after approval of the final development plan; provided that in the event the **Development** is divided into phases, the timeline shall show that construction of Phase I horizontal improvements will be commenced and substantially completed within one (1) year and two (2) years, respectively, after approval of the first final development plan and that the horizontal infrastructure for all remaining phases will be substantially completed within four (4) years after approval of the final development plan.
 - 3. The timeline shall provide that ninety (90) percent of the land area of the **Development**, excluding horizontal infrastructure, will be built-out to its intended, final **Use** within ten (10) years of approval of the master plan.
 - 4. Proposed dates for the submittal of progress reports.
- J. Other applicable information as required on the application for **Development** master plan or which the applicant may desire to submit to demonstrate satisfaction of the conditions set forth in this **LDC**.
- K. This section shall not be construed so as to require detailed engineering or **Site Plan** drawings as a prerequisite to approval by the Planning Board. An applicant may provide a concept plan showing the general types and locations of proposed **Development, Open Space**, conservation areas, etc. (bubble plan); however, detailed drawings and information consistent with the approved master plan will be required prior to approval of a final development plan for any phase(s) of **Development**. In the event that the master plan contains no provision for a particular matter that is regulated in the underlying zoning district or the prior zoning district in the case of a PUD generally, then the final development plan approval shall be consistent with both the approved Master Plan and all regulations applicable within the underlying or prior zoning district.

(Ord. #1254, 11/14/13)

- L. The applicant must provide evidence of its hosting of a **Community Meeting** regarding the proposed application in accordance with section 10.03.06. (Ord. #1508, 2/13/20; Ord #1542, 2/11/21)

10.02.06 Additional Submittal Requirements for PUD Final Development Plans

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

- A. All information required pursuant to section 10.02.02.
- B. A boundary survey.
- C. The location of all proposed **Building** sites, including height of structures and **Setbacks** indicating the distance from:
 - 1. Property lines;
 - 2. Proposed and existing **Streets**;
 - 3. Other **Buildings**; and
 - 4. Other man-made or natural features that would be affected by the **Building** encroachment.
- D. A table showing the acreage for each **Land Use** category and the average **Residential** density.
- E. **Lot** sizes.
- F. Common **Open Spaces** that are **Useable** and operated by the developer or dedicated to a homeowners association or similar group. Common **Open Space** may contain such **Recreational** structures and improvements as are desirable and appropriate for the common benefit and enjoyment of the residents of the **PUD**.
- G. A utility service plan, including sanitary sewer, storm drainage and potable water.
- H. A statement indicating the type of legal instruments that will be created to provide for management of common areas.
- I. Boundaries of each phase shall be indicated, if the project is to be phased.
- J. Identification of the public benefit that was approved in the **PUD** Master Plan.
- K. A plan graphically depicting location, height, density, intensity and massing of all **Buildings**. The plan shall additionally depict the location of all parking areas, **Access** points, points of connectivity to surrounding neighborhoods and similar areas that will be utilized for any purpose other than landscaping.
- L. Infrastructure impact reports.

10.02.07 Additional Submittal Requirements for Telecommunications Towers and Antennas.

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

- A. All information required pursuant to section 10.02.02.
- B. Evidence of proper Federal Communications Commission licensure.
- C. A statement of intent that collocators will be permitted in cases where devices are required or proposed to accommodate more than one (1) provider. The positions of anticipated collocator **Antennas** on the mount and the space provided for collocator equipment shelters shall be shown on all **Site Plans** and elevations.
- D. Certification by the Naval Support Activity – Panama City and the Airport Authority that, as proposed, the device should not cause harmful electrical interference with any **City**-operated radio frequency devices in existence at the time of the application and certification that the applicant acknowledges its obligation to take all steps necessary to resolve any interference that actually occurs.
- E. Certification as to compliance with or exemption from, any Federal or State regulations applicable to siting.
- F. Certification that the proposed mount complies with regulations administered by the FAA, FCC and any State reviewing authority or that the mount is exempt from those regulations.
- G. Description of liability insurance or binding for the device.
- H. Identification of all existing users (including the applicant) on the support structure to be replaced. This listing shall include existing **Antennas**, types of support structure and mounting positions for each such **User** and shall identify the FCC radio service for each such facility. The applicant shall also identify the proposed location for each such **Antenna** as well as any additional facilities which such **User** intends to place upon the proposed replacement structure.
- I. For each such existing user, the applicant shall identify any future loading for which it has been requested to reserve capacity for future **Use**. For any such users for which the applicant is not reserving future space, the applicant shall certify that it has contacted each such users and has been advised that such users does not anticipate requiring any additional support structure capacity at that site in the future.
- J. The applicant shall identify all prospective users of the support structure, not identified above, for which it has either entered into negotiations or agreed to provide space on the support structure. The applicant shall identify:
 - 1. The proposed mounting location for each **Antenna** to be utilized by each such prospective users; and

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2. The capacity for which the applicant has been requested to reserve future loading capacity.
- K.** The applicant shall identify all additional capacity that will be available for future **Collocation Use** at the proposed structure beyond the **Collocation** users identified in section 10.02.07B-J.
- L.** A full set of engineering drawings, which drawings shall be stamped by a registered Florida engineer, specifying the dimensions of all structural members and mounting facilities to be incorporated into the support structure for all loading identified in sections 10.02.07H-K and shall expressly identify each such **Antenna** as having been incorporated into the support structure design. These drawings shall also include the foundation design for the proposed structure. In addition, the registered Florida engineer shall certify compliance with both the then-current EIA/TIA 222 standard as well as the applicable provisions of the Standard Building Code, which include a 120-mph wind load, as defined by the American Society of Civil Engineers, Publication No. 7 of 1993 (ASCE 7-93) and the 1997 Standard Building Code or its then-current replacement. Where conflicting standards are set forth in those documents, the more stringent standard shall be utilized in the design.
- M.** An estimate of the cost to remove all structures in the event that the structure is abandoned or discontinued, and a bond guaranteeing the costs of removal. The cost estimate shall be signed and certified by a general contractor licensed in Florida.

10.02.08 Submittal Requirements for Protected Tree Removal Permit

- A.** Applications shall be submitted to the **Building** and Planning Department. In addition to the submittal requirements of section 10.02.01, the following information is required for a tree removal permit:
1. If the application is for the removal of three (3) or fewer trees, a tree survey which contains the location and identification of the trees requested to be removed.
 2. If the application is for the removal of four (4) or more trees, a certified tree survey which shows the following:
 - (a) Location of all trees, identifying their species;
 - (b) Location, including footprint, of all proposed and **Existing Structures** and other planned improvements which require the removal of the **Protected Trees**;
 - (c) Indication of trees to be retained, trees to be removed, diseased trees, trees endangered by motor **Vehicle** ingress and egress to rights-of-way and the location of protective barriers as required by section 4.06.06; and

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- (d) Proposed grade changes that might adversely affect or endanger the trees, with specifications on how to maintain the trees.
- B.** A tree replacement and replanting plan shall be submitted, showing the location and specification of all replacement trees pursuant to and consistent with the tree replacement and relocation standards in section 4.06.06E.
- C.** The **City Manager** shall conduct a field check of the tree removal application. The applicant shall physically mark each tree on the site to be removed with flagging tape or a similar device.
- D.** Applications shall be reviewed by the **City Manager** for compliance with the requirements of section 4.06.06.
- E.** Except for applications that are included as part of the application and review for **Site Plan** approval or **Subdivision Plat** approval, applications shall be reviewed and processed in accordance with the requirements of section 10.14.01F, G and H.

10.02.09 Submittal Requirements for Petitions for Voluntary Annexation

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

- A.** All information required pursuant to section 10.02.02.
- B.** The applicant shall submit an analysis of the annexation criteria set forth in Chapter 171, *Florida Statutes*.
- C.** The signatures of all owners of the property proposed to be annexed.
- D.** Title evidence demonstrating that the Petition of Voluntary Annexation bears the signatures of all owners of the property proposed to be annexed.
- E.** A boundary survey of the property proposed to be annexed.
- F.** A complete legal description of the property proposed to be annexed.
- G.** An excerpt of the **City's Official Zoning Map**, with the property proposed to be annexed depicted.
- H.** Stormwater acknowledgement consent.

10.02.10 Submittal Requirements for Rezoning

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

- A.** All information requested in section 10.02.02.
- B.** A boundary survey of the property proposed to be annexed.
- C.** The current and proposed zoning district classification for the property for which the amendment is sought.

- D. An analysis of the consistency of the proposed amendment with all requirements of the Comprehensive Plan and the **LDC**.

(Ord. #1254, 11/14/13)

10.02.11 Submittal Requirements for Land Clearing Permit

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

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

10.02.12 Submittal Requirements for Requests for Variances

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

- A. All information required pursuant to section 10.02.02.
- B. A statement setting forth:
 - 1. All facts and circumstances upon which the applicant intends to rely for the requested **Variance**; and
 - 2. An analysis of each of the criteria set forth in section 9.03.03A.

(Ord. #1254, 11/14/13)

10.02.13 Requirements for Infrastructure Impact Reports

- A. Traffic impact reports shall be prepared by a registered Florida engineer and shall contain an analysis of on-site and off-site traffic impacts, including:
 - 1. Existing average daily traffic;
 - 2. Existing level of service for adjacent and affected roadways;
 - 3. Post **Development** average daily traffic;
 - 4. Post **Development** level of service;
 - 5. Potential conflicts with pedestrian and bicycle traffic;

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

10.02.14 Additional Submittal Requirements for Requests for Conditional Uses

- A.** All information required pursuant to section 10.02.02.
- B.** An analysis of the proposed request using the general and **Use** specific criteria of section 5.06.00.
- C.** Applicants of Conditional Uses involving any **Parcel** or combination of **Parcels** encompassing more than three(3) acres of land (a "Large Conditional Use") must provide evidence of its hosting of a **Community Meeting** regarding the proposed application in accordance with section 10.03.06.

(Ord. #1254, 11/14/13; Ord. #1542, 2/11/21)

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

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

10.02.16 Additional Submittal Requirements for Requests for Expansion, Enlargement or Modification of Non-Conforming Development or Uses

- A. All information required pursuant to section 10.02.02.
- B. An analysis of the proposed request using the general and specific criteria of section 9.02.02.
(Ord. # 1304, 3/27/14)

10.03.00 NOTICE REQUIREMENTS

10.03.01 Generally

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

10.03.02 Neighborhood Notice

- A. When required by this **LDC**, the applicant shall provide **Neighborhood Notice**, by U.S. Postal Service certified mail. Within five (5) days after such **mailing**, the

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applicant shall provide sworn proof of **Mailing** to the **Building** and Planning Department.

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

10.03.03 Posted Notice

- A.** When required by this **LDC**, the **Building** and Planning Department, or the Engineering Department in the case of a **Subdivision Plat**, shall post a sign on the property that is the subject of an application. The sign shall be located in a manner to ensure that it is visible on each portion of the subject property that fronts on a roadway.
- B.** The sign shall contain a copy of the notice required by section 10.03.01.
- C.** Failure to maintain or replace a sign properly posted shall not affect the jurisdiction of the decision-making entity to consider the application or the validity of such entity's decision.
- D.** **Posted Notice** may be removed after conclusion of the hearing of which notice is given or as specified or if neither of the forgoing apply, thirty (30) days after it is first posted.

(Ord. #1254, 11/14/13)

10.03.04 Published Notice

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

10.03.05 Mailed Notice

A. When **notice** by **mail** is permitted or required by this **LDC**, the **notice** shall be **mailed** with the US Postal Service Certified Mail. Unless otherwise specified in this **LDC**, notice shall be mailed by the **Building** and Planning Department.

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

(Ord. # 1324, 11-13-14)

10.03.06 Notice by Community Meeting

When Notice by meeting with the surrounding community (a "**Community Meeting**") is permitted or required by the LDC, the **Community Meeting** shall be held as follows:

A. **Proof of Community Meeting.** Applications requiring notice by **Community Meeting** shall provide evidence of its hosting of a **Community Meeting** regarding the proposed application in the form of notice, sign-up sheet and meeting summary, which meeting and documentation shall conform to the requirements of this section. Evidence of a meeting held more than five (5) months prior to the applicant's submission of an application shall be deemed insufficient to meet this requirement.

B. **Reasonable Time and Place.** If scheduled other than during a regularly scheduled Association meeting, the meeting shall commence between the hours of 9:00 am and 7:30 pm. The meeting shall be held within the City limits in a facility that will accommodate the attendance and participation of all noticed parties.

C. **Notice.** Notice of the meeting shall be provided by the applicant as required by section 10.03.02 to all owners of surrounding property lying in whole or in part within 300 feet of the boundary of the subject property. The Developer may include notice of the **Community Meeting** in the same Neighborhood Notice of the public hearing before the Planning Board required by section 10.10.01B. The Notice shall also provide information on the creation of availability of the meeting summary as required by paragraph E of this section.

D. **Agenda.** Topics covered in the **Community Meeting** shall include, but are not limited to: the specific site plan to be considered by the City that shall be available for review by attendees, proposed uses of the property, consistency with the general conditional use criteria in section 5.06.01, consistency with the use specific conditional use criteria in section 5.06.00, scale, density, intensity, building heights, setbacks, potential traffic impacts, stormwater management, lighting, hours of operation, and noise.

E. **Summary.** The applicant shall prepare or cause to be prepared a written summary of the meeting, which summary shall memorialize the names and interests of persons participating in the meeting; the length of the meeting; the specific concerns raised by attendees; and any assurances made by the applicant or his or her agents in that meeting regarding the proposed application or development. The written summary shall be created and made available to the City Planning Department, attendees, and interested parties included in paragraph C of this section no less than seven (7) days prior to public hearing before the Planning Board on the application. If timely provided to the City

Planning Department, the applicant may meet the requirements of this section by posting on the City's website.

- F. Physical Attendance by the Applicant Mandatory.** The applicant or applicant's agent of record must be physically present at the meeting to facilitate the presentation of the proposed application and discussion of its impacts. This shall not be construed to prohibit the telephonic or electronic attendance by a person or entity retained by the applicant.

(Ord. #1542, 2-11-21)

10.04.00 CLASSIFICATION OF APPLICATIONS

10.04.01 Generally

There are six (6) different categories of applications: Type I, Type II, Type III, Type IV, Type V or Type VI. An application will be reviewed based upon the category to which it is assigned by the Building and Planning Department in accordance with sections 10.04.02-10.04.07.

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

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

- A.** A *Site Plan* approval;
- B.** A *Land Clearing Permit* or a *Tree Removal Permit*;
- C.** Administrative approval of a preliminary *Subdivision Plat* to confirm compliance of the subject lands, lots, *Streets* and other features with the substantive requirements of this LDC;
- D.** A planned unit development *Final Development Plan*;
- E.** A traditional neighborhood overlay district *Final Development Plan*;
- F.** A Front Beach Overlay District Large Site Development Final Development Plan;
- G.** Approval of a *Lot Split*;
- H.** Approval of a Request for Expansion, Enlargement or Modification of a *Non-Conforming Development* or *Use*; and
- I.** Approval of any local development order not classified elsewhere in this LDC.
(Ord. # 1253, 12-13-12; Ord. #1254, 11/14/13; Ord. # 1304, 3/27/14; Ord. # 1443, 2/8/18)

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

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

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- A. Statutorily required approval of final **Subdivision Plats** for compliance as to form with state law and review for compliance with additional requirements, if any, imposed by this LDC on the form of **Subdivision Plats**;
- B. A Zoning or **Rezoning** which does not involve one or more **Lots** of land that in the aggregate are so large as to affect the community as a whole and accordingly constitute a legislative and not a quasi-judicial action;
- C. Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing more than three (3) acres of land (a large conditional **Use**); and
- D. City Council rehearing of decisions of the Planning Board pursuant to section 10.17.00.

(Ord. # 1304, 3/27/14)

10.04.04 Applications Subject to Type III Review – Legislative Proceedings

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

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

- B. Any annexation; and

- C. Comprehensive Plan Amendment

(Ord. # 1254, 11/14/13; Ord. # 1271, 4-25-13; Ord. # 1304, 3/27/14)

10.04.05 Applications Subject to Type IV Review - Telecommunications Proceedings

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

- A. Telecommunications Tower or Antenna;

- B. Reserved

10.04.06 Applications Subject to Type V Review – Planning Board Proceedings

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

- A. Planned unit development Master Plan;

- B. Traditional Neighborhood Overlay Development Master Plan (**TNOD**);

- C. **Large Site Development** (subject to section 7.02.03P);

- D. Conditional **Uses** involving any **Parcel** or combination of contiguous **Parcels** encompassing three (3) or less acres of land (small conditional **Uses**);

- E. Application to expand, enlarge or modify Non-Conforming Development or Uses pursuant to section 9.02.02.

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(Ord. # 1271, 4-25-13; Ord. # 1304, 3/27/14; Ord. #1410, 4-13-17; Ord. # 1443, 2-8-18)

10.04.07 Applications Subject to Type VI Review

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

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

10.05.00 GENERAL PROCEDURES

10.05.01 Determination of Completeness and Consistency with Regulations

- A. The **Building** and Planning Department and the Engineering Department shall each provide notice by mail to the applicant within thirty (30) days (except as provided below) of receipt of an application stating that the application is complete and that the proposed action complies with the applicable provisions of the Comprehensive Plan and **LDC** or stating with specificity any deficiencies which, if cured, would make the application properly completed and in compliance with applicable regulations. Failure to timely provide such notices shall not be deemed an acknowledgement of completeness and consistency with applicable regulations. Notwithstanding the forgoing, such notice shall be provided with respect to any wireless communication facility application within twenty (20) business days of receipt. FS 365.172(11)(d)(3)(2005).
- B. The applicant shall have forty-five (45) days from the date of each notice to correct the deficiencies. Until the applicant corrects the deficiencies, the Departments will take no further action for processing the application. If the applicant fails to correct the deficiencies within the forty-five (45) day period, the application shall be deemed withdrawn.
- C. Plans submitted in response to a notice specifying deficiencies shall be processed according to 10.05.01(A). The applicant shall then respond to any further notice by the Departments according to 10.05.01(B).
- D. The **Building** and Planning Department and the Engineering Department shall each process the application for review and action in accordance with the procedures applicable to that type of application as established by the respective Department.

10.06.00 TYPE I PROCEDURES – NOTICE OF INTENT PROCEEDINGS

10.06.01 Generally

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

10.06.02 Procedures After Completeness Determination

A. When the **Building** and Planning Department and the Engineering Department determine that the application is consistent with the requirements of the Comprehensive Plan and the **LDC**, the **Building** and Planning Department shall issue a Notice of Intent to issue a **Local Development Order, Large Site Development, PUD, or TNOD Final Development Plan** approval or preliminary **Plat** approval. The Notice of Intent shall contain the following information:

1. The information required in section 10.03.01;
2. A statement notifying affected parties of their right to file a written request for a public hearing before the Planning Board;
3. The requirements for such a written request; and
4. The deadline for filing such a written request.

(Ord #1443, 2-8-18)

B. As soon as practicable after issuance, the Notice of Intent shall be **mailed** to the applicant and noticed by **Publication**.

C. An **Adversely Affected Person** may file a written request for a hearing with the **Building** and Planning Department within five (5) days of **Publication** of the Notice of Intent. The written request for a hearing shall identify the specific sections of the Comprehensive Plan and/or the **LDC** that the application violates and describe how such sections are not met. Amendments to the written request for a hearing may be made no less than ten (10) days prior to the Planning Board's public hearing on the application.

(Ord. # 1328, 2/12/15)

D. If a written request for a hearing has not been filed within five (5) days of **Publication** of the Notice of Intent, the **Building** and Planning Department shall issue the **Local Development Order, Large Site Development, PUD, or TNOD Final Development Plan** approval or **Building Permit** for which application was made.

(Ord #1443, 2-8-18)

E. If a written request for a hearing has been filed within five (5) days of **Publication** of the Notice of Intent, the **Building** and Planning Department shall schedule a quasi-judicial hearing on the application before the Planning Board.

F. In the event the **Building** and Planning Department or the Engineering Department determine that the application is complete but that the proposed action fails to comply with the requirements of the Comprehensive Plan and the **LDC**, the **Building**

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and Planning Department shall issue a notice of intent to deny the application which shall be subject to the notice and appeal procedures provided in this section, except that if a request for a hearing is not timely and properly made by an **Adversely Affected Person**, the application for the **Local Development Order, Large Site Development, PUD, or TNOD Final Development Plan** approval or **Building Permit** shall be deemed denied upon expiration of the time for requesting a hearing without the necessity of further action by the **Building** and Planning Department.

(Ord. #1254, 11/14/13; Ord #1443, 2-8-18)

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

A. The **Building** and Planning Department and the Engineering Department shall prepare a written report to the Planning Board setting forth the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.

(Ord. #1254, 11/14/13)

B. The hearing shall be conducted under the procedures for Administrative Appeals and City Council rehearings specified in sections 10.16.00 and 10.17.00.

10.07.00 TYPE II PROCEDURES – QUASI-JUDICIAL PROCEEDINGS

10.07.01 Generally

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

10.07.02 Procedures After Completeness Determination

A. Final Subdivision Plats

1. Within thirty (30) days of the Building and Planning Department's, the Engineering Department's and the City Attorney's determination that the final plat application is complete, the Building Department shall schedule a public hearing on the proposed plat before the City Council.
2. The **Building** and Planning Department and the Engineering Department shall each prepare a written report to the City Council regarding the respective Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the City Council's public hearing on the plat
3. The City Council shall conduct a quasi-judicial hearing on the application and determine whether to approve or deny the plat. In addition to notice of hearing by *Publication* as required by the Florida Statutes, notice of the City Council hearing shall be by *Posted Notice*.

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4. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.

B. Zoning, Rezoning, Large Conditional Use, and New Wireless Tower or Antenna (no Colocation)

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

(Ord. # 1253, 12-13-12; Ord. #1367, 11/12/15)

10.08.00 TYPE III REVIEW PROCEDURES- LEGISLATIVE PROCEEDINGS

10.08.01 Generally

The procedures set forth in this section are applicable to all applications subject to Type III review, which are listed in section 10.04.00.

10.08.02 Procedures After Completeness Determination

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

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- D. Public Notice of the Planning Board public hearing shall be provided by **posting, Publication and Neighborhood Notice** (300 feet).
- E. The City Council shall conduct a public hearing on the application and determine whether to approve, approve with conditions or deny the application.
- F. In addition to notice of hearing by **Publication** as required by the Florida Statutes, notice of the City Council hearing shall be by **posting**.
(Ord. # 1271, 4-25-13; Ord. #1254, 11/14/13)

10.09.00 TYPE IV PROCEDURES – TELECOMMUNICATIONS PROCEEDINGS

10.09.01 Generally

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

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

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

- A. If the **Building** and Planning Department determines that the application is complete, the application shall be processed in accordance with the requirements of section 10.07.02B.
(Ord. #1367, 11/12/15)
- B. The City Council shall render its decision within ninety (90) business days after the date on which the applicant submits a properly completed application to the **City**. See section 365.172(11)(d), Florida Statutes.
- C. If the City Council fails to act within the ninety (90) business day time-frame mandated by section 10.09.02B, the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the **City**.

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

- A. An application for the **Collocation** of a wireless communications facility, which increases the height of the **Existing Structure**, shall be processed pursuant to the

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requirements of section 10.09.02, except the time-frame for the City Council to render its decision is forty-five (45) business days after the date on which the applicant submits a properly completed application to the **City**. See section 365.172(11)(d), Florida Statutes.

- B. If the City Council fails to act within the forty-five (45) business day time-frame mandated by section 10.09.03A, the application shall be deemed automatically approved and the applicant may proceed with placement of the facility without interference or penalty by the **City**.

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

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

10.10.00 TYPE V PROCEDURES – PLANNING BOARD PROCEEDINGS

10.10.01 Generally

- A. The procedures set forth in this section are applicable to all applications subject to Type V review, which are listed in section 10.04.06.
- B. Notice of the Planning Board quasi-judicial hearings shall be provided by **Neighborhood Notice** (300 feet), **Posting** and **Publication**, except that Neighborhood Notice shall not be required for applications to expand, enlarge or modify Non-Conforming Development or Uses pursuant to Section 9.02.02.
- C. All quasi-judicial hearings shall be conducted pursuant to the requirements of section 10.13.00.
- D. A property owner has no legal right for approval of a Master Plan. Rather, the **City** shall approve a Master Plan only when it has determined that the applicant has demonstrated, to the satisfaction of the **City**, that the FBO district **Large Site Development** Master Plan, **PUD** Master Plan, or the **TNOD** Master Plan provides a sufficient public benefit to justify allowing the property owner to deviate from otherwise applicable minimum requirements of the **LDC**.
- E. For approval of a **TNOD** Master Plan, the Planning Board shall follow the requirements of Section 7.02.02.
- F. For approval of a **PUD** Master Plan, the Planning Board shall follow the requirements of section 4.02.05.
- G. For approval of a **FBO** district **Large Site Development** Master Plan, the Planning Board shall follow the requirements of section 7.02.03.

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(Ord. #1254, 11/14/13; Ord. # 1304, 3/27/14; Ord# 1410, 4/13/17; Ord #1443, 2-8-18)

10.10.02 Procedures After Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
 - B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
 - C. The Planning Board shall conduct a quasi-judicial hearing on the application and determine whether the following conditions (among others it deems appropriate) are met by the applicant:
 - 1. For all Type V applications, the **Development** is planned under unified ownership and control rather than as an aggregation of individual and unrelated **Buildings** and **Uses**;
 - 2. For **FBO** district **Large Site Development, PUD, or TNOD** Master Plans, the applicant has met the intent of the applicable sections;
 - 3. For all Type V applications, the applicant is providing sufficient public benefit to allow the applicant to deviate from the regulations applicable within the underlying zoning district generally;
 - 4. For Conditional use applications, the applicant meets the Conditional use criteria set forth in Section 5.06.00. and
 - 5. For applications to expand, enlarge, or modify Non-Conforming Development, the application meets the criteria set forth in section 9.02.02.
- (Ord. #1254, 11/14/13 Ord. #1367, 11/12/15; Ord #1443, 2-8-18)
- D. At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.
 - E. Notice of the proposed order shall be mailed to the applicant and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.
 - F. Within ten (10) days after mailing the notice of proposed order, the **City**, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council. The written request for a rehearing shall set forth the specific grounds for such request. Any amendments to the written request

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for a rehearing may be made no less than ten (10) days prior to the City Council's public hearing on the application.

(Ord. # 1328, 2/12/15)

G. If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.

(Ord #1443, 2-8-18)

H. If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.

(Ord #1443, 2-8-18)

10.10.03 Revisions to Master Plan

Any revisions to an approved Master Plan shall be submitted to the Planning Board for approval with the same procedures and formality as approval of the original Master Plan except as authorized by section 10.15.00 for non-substantial deviations.

(Ord. # 1271, 4-25-13; Ord #1443, 2-8-18)

10.10.04 Progress Report to Planning Board

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

10.10.05 Invalidation of Master Plan

A. Within thirty (30) days of the Building and Planning Department's determination that there has been a failure to complete a benchmark by the time specified in the Master Plan timeline, the Department shall schedule a hearing on that matter before the Planning Board, which may result in the invalidation of the Master Plan and Final **Development** Plan by written order of the Planning Board.

B. Upon invalidation of the Master Plan, all land **Development** regulations in effect prior to the approval of the Master Plan, as applicable shall apply to the property which was the subject of the Master Plan.

C. Property subject to an invalidated TNOD Master Plan shall be subject to the underlying zoning district regulations.

D. Property subject to an invalidated PUD Master Plan shall be subject to the regulations for the zoning district in effect prior to approval of the PUD zoning

E. Property subject to an invalidated FBO district Master Plan shall be Subject to the applicable FBO district regulations.

(Ord #1443, 2-8-18; Ord. #1450, 6-14-18)

10.11.00 TYPE VI PROCEDURES – VARIANCE PROCEEDINGS

10.11.01 Generally

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

10.11.02 Procedures after Completeness Determination

- A. Within thirty (30) days of the **Building** and Planning Department's determination that the application is complete, the Department shall schedule a public hearing on the application before the Planning Board.
- B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding the Department's analysis of the pending application. The report shall be available to the applicant and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.
- C. The Planning Board shall conduct a quasi-judicial hearing on the application.
- D. At the conclusion of the quasi-judicial hearing or within 30 days thereafter, the Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.
- E. Notice of the proposed order shall be mailed or hand-delivered to the applicant, the City Manager, the Mayor, each member of the City Council, and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal, and a statement of the appeal procedures set forth in this section.

(Ord. #1486, 1/10/19)

- F. Within fifteen (15) days after mailing or hand delivery of the notice of proposed order, the City Manager, the Mayor, any member of the City Council, the applicant or an **Adversely Affected Person** who appeared at the hearing shall be entitled to file with the secretary of the Planning Board a written request for a rehearing before the City Council. Except for a request by the Mayor or member of the City Council, the written request for a rehearing shall identify the specific grounds for such request. Any amendments to the written request for a rehearing

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may be made no less than ten (10) days prior to the City Council's public hearing on the application.

(Ord. # 1328, 2/12/15; Ord. #1486, 1/10/19)

- G.** If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- H.** If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.

10.12.00 MODIFICATIONS, CONTINUANCES and WITHDRAWAL OF PENDING APPLICATIONS

10.12.01 Modification to Pending Applications

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

10.12.02 Request for Continuance of Public Hearing

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

10.12.03 Withdrawal of Pending Applications

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

10.13.00 QUASI-JUDICIAL HEARINGS

10.13.01 Generally

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

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- H. Members of the general public may provide comment during the hearing. If a member of the general public desires his or her testimony to be considered as potential competent substantial evidence, such person shall be placed under oath and subject to cross-examination. For final **Subdivision Plat** approval testimony and action on the application shall be limited to issues of compliance with chapter 177 FS and this LDC.
- I. The deliberations of the decision-making entity shall be guided by Robert's Rules of Order and such other rules and procedures as may be adopted by the decision-making entity. The decision-making entity may question the applicant, other parties, witnesses and the **City** staff at any time during the hearing.
- J. The decision-making entity may approve, approve with conditions, deny, or where required, make its recommendation upon the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.
(Ord. #1254, 11/14/13)
- K. The decision-making entity shall enter a written order which contains findings of fact and conclusions of law in support of its decision.
- L. The decision-making entity's written order shall be filed with the Clerk of that entity.

10.13.02 Procedures

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

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

10.13.03 Denial of Application

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

10.14.00 PROCEDURES AND REQUIREMENTS FOR BUILDING PERMITS AND TEMPORARY USE PERMITS

10.14.01 Generally

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

(Ord. #1254, 11/14/13; Ord. # 1328, 2/12/15)

10.14.02 Temporary Use Permits

The establishment of a temporary **Use** or structure requires a temporary **Use** permit, subject to the following requirements:

- A. Applications shall be submitted to the **Building** and Planning Department. In addition to the submittal requirements of section 10.02.00 et seq, the application shall include a drawing and drawing notes to show the proposed location and site features for the temporary **Use** or structure, demonstrating compliance with the requirements of this **LDC**.
- B. Applications shall be reviewed by the **City Manager** for compliance with the requirements of section 5.03.00.
- C. Applications shall be reviewed and processed in accordance with the requirements of Section 10.14.01F and 10.14.01H.
- D. Reserved.
(Ord. # 1239, 9-13-12; Ord. # 12509, 12-13-12)
- E. In addition to all other requirements of section 10.14.02, an information copy of an application to establish a temporary **Use** or structure as part of a **Special Event** as defined and regulated in Article II of Chapter 4 of the City of Panama City Beach **Code of Ordinances** must be furnished to the Chief of Police or his designee, to ensure compliance with that Article.

10.15.00 PROCEDURES AND REQUIREMENTS TO AMEND LOCAL DEVELOPMENT ORDERS

10.15.01 Generally

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

10.15.02 Non-Substantial Deviations

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

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

10.15.03 Procedural Requirements for Non-Substantial Deviations

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

10.15.04 Substantial Deviations

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

10.16.00 ADMINISTRATIVE APPEALS

10.16.01 Applicability

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

10.16.02 Time for Filing Administrative Appeal and Submittal Requirements

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

- A. All information required pursuant to section 10.02.01, which has not been previously provided in the pending application.
- B. A copy of the decision order or ruling from which the administrative appeal is taken.
- C. The date of the decision order or ruling which is the subject of the administrative appeal.
- D. The grounds for the administrative appeal, including a summary of any argument in support thereof which the applicant wishes to advance to the Planning Board. Amendments to the grounds for appeal may be made in writing no less than ten (10) days prior to the Planning Board's public hearing on the appeal.

(Ord. # 1328, 2/12/15)

10.16.03 Stay of Proceedings

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

10.16.04 Hearing Before the Planning Board

A. Time

1. A hearing before the Planning Board on an Administrative Appeal shall be scheduled and held within forty-five (45) days of the filing of the Administrative Appeal, not counting the day of receipt and not counting any Saturday, Sunday or legal holiday which falls upon the forty-fifth (45th) day.
2. With respect to any appeal from the denial in whole or in part of an application made under the **Sign Code** (herein a "**Sign Application Appeal**"), if the Board fails to meet and commence the hearing within such forty-five (45) day period, the appeal will be deemed denied and the decision of the City Manager or designee regarding the sign application will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The Board shall render a written decision on a **Sign Application Appeal** within ten (10) days following the commencement of the hearing, failing which the appeal shall be deemed denied and the decision of the City Manager or designee will be deemed a final decision subject to immediate appeal to a court of competent jurisdiction. The applicant may waive or extend these deadlines and proceed to a hearing before the Board.

B. The **Building** and Planning Department shall prepare a written report to the Planning Board regarding Department's analysis of the pending Administrative Appeal. The report shall be available to the person filing the Administrative Appeal and the general public no less than five (5) days prior to the Planning Board's public hearing on the application.

C. The Planning Board shall conduct a quasi-judicial hearing, pursuant to the requirements of section 10.13.00 on the Administrative Appeal.

D. Notice of the quasi-judicial hearing shall be provided by **Posting** and **Publication**.

E. At the conclusion of the quasi-judicial hearing or within thirty (30) days thereafter, the Planning Board shall issue a proposed order to:

1. Reverse, wholly or partly, the administrative decision that is the subject of the Administrative Appeal;
2. Affirm, wholly or partly, the administrative decision that is the subject of the Administrative Appeal; or
3. Modify the administrative decision that is the subject of the Administrative Appeal.

F. The Planning Board's decision shall be reduced to a proposed, written order containing conclusions of applicable law, findings of relevant fact and signed by the chairman or vice-chairman and attested by the Board's secretary.

G. Notice of the proposed order shall be mailed to the party who invoked the jurisdiction of the Planning Board and any person who shall have requested a copy during or at the conclusion of the public hearing. A sign-up sheet for such

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notice requests shall be provided and announced at the public hearing. Such notice shall include a copy of the proposed order, a description of the persons entitled to appeal and a statement of the appeal procedures set forth in this section.

- H. Within ten (10) days after mailing the notice of proposed order, the **City**, the party who invoked the jurisdiction of the Planning Board or an **Adversely Affected Person** who attended the hearing shall be entitled to file with the secretary of the Planning Board a request for rehearing before the City Council. The written request for a rehearing shall identify the specific grounds for the request. Any amendments to the written request for a rehearing may be made no less than ten (10) days prior to the City Council's public hearing on the application.

(Ord. # 1328, 2/12/15)

- I. If no such request is timely filed, the Planning Board's proposed order shall become final and the City Council shall have no jurisdiction in the matter.
- J. If such a request is timely filed, the Planning Board's proposed order shall be superseded by the City Council's final action on the request pursuant to section 10.17.00.
- K. Once an administrative decision concerning a **Sign** is appealed, the City Manager or designee shall take no further action on the matter pending the Board's decision, except for unsafe **Signs** which present an immediate danger to the public in which event the **City** may pursue any legal remedy available to it.
- L. In the case of a hearing concerning an interpretation of the **Sign Code** or the denial in whole or in part of an application made under the **Sign Code**, the person who invoked the jurisdiction of the Board and any **Adversely Affected Party** who attended the hearing and is aggrieved by a decision of the Planning Board, including the **City**, may elect to request a rehearing before the City Council as provided above or, alternatively, the applicant may elect to seek judicial review in a court of competent jurisdiction in which case the City Council shall have no further jurisdiction until the judicial review is completed.

10.17.00 CITY COUNCIL REHEARING OF DECISIONS OF THE PLANNING BOARD

10.17.01 Scheduling of Rehearing Before the City Council

Within ten (10) days of the filing of a timely and authorized request for rehearing of a decision of the Planning Board, the **City Manager** shall schedule the rehearing within forty-five (45) days of the receipt of the request for rehearing, unless all parties consent to additional time.

(Ord. #1254, 11/14/13; Ord. # 1304, 3/27/14)

10.17.02 Notice

- A. Notice of the rehearing before the City Council shall be provided by **posting** and **Publication**.

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- B.** In addition to the notice provided pursuant to paragraph A, a minimum of fifteen (15) days' written notice shall be provided to:
1. The party who invoked the jurisdiction of the Board;
 2. The party requesting the rehearing; and
 3. Any person who provided his name and address to the Board below during the Board's hearing on the matter for which a request for a rehearing has been filed and requested notice of any rehearing.

(Ord. #1254, 11/14/13)

10.17.03 Stay of the Board's Decision

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

10.17.04 Rehearing Before the City Council

- A.** The City Council shall conduct a quasi-judicial hearing in accordance with the requirements of section 10.13.00.
- B.** When a rehearing has been requested by a purported **Adversely Affected Person**, before accepting evidence on the merits the **Council** shall inquire, accept evidence and make a determination of whether the person is in fact and law **Adversely Affected**. If no party with standing has requested the hearing, the **City Council** shall dismiss the request for lack of jurisdiction without considering the merits. The **Council** may take into consideration but shall not be bound by a prior determination of the **Planning Board** in the same matter that a person is an **Adversely Affected Person**.

(Ord. # 1304, 3/27/14)

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

10.17.05 Final Decision

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

- C. The order of the Board, as affirmed, clarified, modified or reversed by the City Council, shall be the final decision of the **City**.

10.18.00 CONSTRUCTION OF IMPROVEMENTS

10.18.01 Compliance with Local Development Orders and Building Permits

- A. All construction of **Buildings**, structures and systems shall comply with the construction or installation permit and the procedures and requirements of the **FBC**.
- B. Construction of facilities and improvements described in a **Local Development Order** shall be performed in strict compliance with the approved **Local Development Order** and any **Building Permits**.
- C. Any deviation for the **Local Development Order** and subsequent **Building Permit(s)** shall require additional review of the change to the plans by the **City** and must be approved prior to commencement of work.
- D. Upon completion of improvements, the applicant shall provide to the City Engineer record drawings sealed by a professional engineer, licensed in Florida, certifying that the actual construction conforms to the approved **Site Plan(s)** and/or **Subdivision Plat(s)**.
- E. All improvements shall be inspected by the **City**. For the purposes of scheduling and conducting inspections, the applicant shall notify the **City** of commencement and completion of the following:
 - 1. Clearing and grubbing;
 - 2. All utilities prior to backfilling;
 - 3. All concrete structures when steel is in place, prior to pouring;
 - 4. Stabilized subgrade;
 - 5. Curb and concrete work;
 - 6. Roadway or **Parking Lot** base;
 - 7. Wearing surface during application; and
 - 8. The water and hydrant system.
- F. Upon completion of the improvements, the applicant shall provide to the City Engineer the following:
 - 1. A letter stating that the construction of the improvements has been completed and requesting final inspection and approval;
 - 2. The testing reports and certificates of compliance from material suppliers;

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3. As-built construction plans; and
 4. Certification from a professional engineer, licensed in Florida, that the improvements have been constructed in conformity with the approved construction plans and specifications.
- G.** Upon receipt and review of the items listed in section 10.18.01E and after satisfactory final inspection by the City Engineer, the **City Manager** shall issue a certificate of completion.
- H.** All improvements required by this **LDC** shall be designed, installed and paid for by the developer. Such improvements include, but are not limited to, transportation facilities, potable water facilities, sewer facilities, stormwater and drainage facilities and **Recreation** facilities. Improvements required by this **LDC** shall be guaranteed as set forth in section 10.19.00.

10.19.00 INFRASTRUCTURE CONSTRUCTION, ACCEPTANCE AND MAINTENANCE

10.19.01 **Developments Proposed with Public Improvements**

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

10.19.02 **Construction Phasing Plan Required**

The following **Developments** to be constructed by private parties shall require a written statement describing the date for commencement and completion of construction, by phase and a chart indicating the approximate construction period for each of the utilities and public and private roadway improvements, whether designated or intended for **Public Use** or not, prior to approval of the utilities plan and public and private roadway improvements:

- A. Subdivision Plats;**
- B. Site Plans;** and
- C. PUD Master Plans.**
(Ord. # 1304, 3-27-14)

10.19.03 **Construction of Improvements or Installation of Utility Facilities**

- A.** The property owner shall notify the City Engineer a minimum of three (3) days prior to starting the private construction of improvements (including installation of utility facilities) designated or intended for **Public Use**.

- B.** Construction or installation by private parties of utility facilities that are designated or intended for **Public Use** shall not commence or continue until and unless all the following obtain:
1. A current and valid **Local Development Order** issued by the **City**;
 2. The City Engineer has approved all construction plans and construction proceeds according to the approved plans; and
 3. Where the improvements or utility facilities are being constructed on property owned or controlled by the **City**, a performance agreement between the **City** and the third party meeting the requirements of Section 10.19.04.

(Ord. # 1304, 3-27-14)

10.19.04 Performance Agreements and Security

- A.** Before the City will consider a performance agreement, the developer or property owner shall submit to the City Engineer a cost estimate prepared by a licensed Florida civil engineer for construction of private improvements designated for **Public Use** based on normal construction practices and procedures. In lieu of an engineer's cost estimate, a property owner may provide bid contracts and other documentation sufficiently illustrating the owner's costs to have the improvements installed by a third party.
- B.** Construction of such improvements and completion of the performance agreement shall be ensured by one of the following:
1. An irrevocable and unconditional letter of credit in a form approved by the City Attorney in an amount of money sufficient to pay 110 percent of the costs of construction of all public improvements and public utilities. The City Engineer shall confirm that the amount is adequate. The City Manager shall approve the credit worthiness of the issuer of the letter of credit.
 2. A cash deposit agreement with the **City** in form approved by the City Attorney in an amount of money sufficient to pay 110 percent of the cost of the improvements. The City Engineer shall approve the amount of deposit. Upon approval, the City Engineer shall arrange for filing of the cash deposit with the **City** finance department. At the developer's request, the cash escrow shall bear interest at the locally prevailing pass book rate under the developer's tax identification number.
 3. A performance and completion bond issued by a surety licensed to do business in the state of Florida in a form approved by the City Attorney and in an amount sufficient to pay 110 percent of the costs of construction of all public improvements and public utilities. The City Engineer shall confirm that the amount is adequate. The City Manager shall approve the credit-worthiness of the surety.
- C.** The performance agreement shall provide that no funds shall be released, nor shall the amount of the letter of credit be reduced, until all improvements have been installed by the developer and accepted by the **City**.

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- D.** If the property owner intends to have any part of the improvements installed by contractors or subcontractors, copies of the contracts, along with copies of performance and payment bonds naming the property owner as obligee, shall be submitted to the City Engineer and the City Attorney for approval. Approval shall be limited to the terms of performance.
- E.** The **City** may use all available deposited funds, draw the full amount of the letter of credit or make demand upon the surety to complete the required improvements when, in the opinion of the City Engineer, the following two (2) conditions are met:
1. No substantial work on the improvements has been accomplished for a period of eighty (80) days (in the absence of inclement weather conditions, intentional shutdowns, work stoppages, etc.); and
 2. It is in the public interest to complete the required public improvements.
- F.** Prior to using available deposit funds or drawing upon the letter of credit, the City Engineer shall serve upon the property owner, by certified mail, return receipt requested, a letter requiring the property owner to resume work on the required improvement or show good cause in writing within thirty (30) days why the work on the required improvements has ceased. If the property owner resumes work and makes substantial progress on the required public improvements within thirty (30) days, the City Engineer shall not begin the work using the escrow funds or funds drawn under the credit. If the property owner does not respond to the notice to show cause or if the reasons cited by the property owner for failure to make progress are not deemed by the City Engineer to be sufficient or if the property owner resumes work but does not make substantial progress on the required improvements in the City Engineer's opinion, the owner's right to complete the improvements shall be waived and the **City** shall use the escrow funds or funds drawn under the credit to complete the required improvements. The City Engineer shall promptly notify the property owner of the **City's** intent to complete the improvements. The performance agreement shall provide (i) that failure of the City to comply with the notice or opportunity to cure provisions of this section shall not be asserted by any person or court to delay, prevent, enjoin or interfere with the City's use of the escrowed funds or the City's drawing and using funds available under the unconditional and irrevocable letter of credit, and (ii) that the owner's or developer's sole remedy the city's for wrongful use, draw or notice to the surety shall be an action at law for damages, injunctive relief being expressly waived in the public interest.
- G.** If applicable, upon acceptance of the improvements, the balance upon deposit with the city shall be returned to the developer with any interest earned thereon, or the city shall release the letter of credit.

(Ord. # 1304, 3-27-14)

10.19.05 Responsibility for Maintenance

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

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

10.19.06 Acceptance of Improvements

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

- A. Fulfillment of the requirements for responsibility for maintenance as outlined by this part;
- B. An opinion by the City Attorney that satisfactory and proper conveyances have been made by the applicant to the **City**;
- C. Improvements have been completed and are in good repair in accordance with approved plans and specifications reviewed by the City Engineer;
- D. As-built drawings dated, certified and stamped by a registered Florida surveyor have been submitted to and accepted by the City Engineer, in a form acceptable to the **City**;
- E. All monuments have been placed; and
- F. Except when a **Development** is approved as a phased **Development**, a **Development** shall not be recommended for acceptance by the City Engineer or accepted by the City Council in part. A **Development** shall be accepted only as a whole as indicated in the Final **Plat** or **Local Development Order** and approved engineering drawings.

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

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

Amendments to the LDC

Ordinance Number	Change	Date Adopted
1239	Address temporary uses and parking lot vendors.	9/13/12
1241	Dissolve the Board of Adjustment.	9/13/12
1232A	Eliminate certain height and setback standards for animated signs.	12/13/12
1244	Impose limitations on banners and prohibit digital light shows.	12/13/12
1246	Establish penalty for violations of the LDC.	12/13/12
1247	Establish Naval Support Activity Overlay.	12/13/12
1248	Set height incentives for civil support space.	12/13/12
1249	Define Cause and process for dismissal of board members.	12/13/12
1250	Establish entertainment marketing and parking lot vending standards.	12/13/12
1252	Enable bike parking to reduce certain motor vehicle parking.	12/13/12
1253	Clarify lot split and final plat requirements.	12/13/12
1257	Provide for expiration of conditional use approvals.	1/10/13
1261	Establish rules for development of primary and accessory uses on lots in multiple districts.	2/14/13
1268	Establish rules for temporary uses and structures and parking lot vending.	2/25/13
1270	Modify rules for placement of street trees and reduce the minimum planting area for medium and large trees.	4/25/13
1271	Provide for a type III review of certain conditional uses, type V review of conditional uses on small parcels and eliminating references to quasi-judicial hearings for type III legislative processes.	4/25/13
1272	Establish the Breakfast Point Overlay District, defining a one-story structure that permits accessory living space and establishing limitations on the design and use of such space.	5/9/13
1285	Clarify the definition of a projecting sign.	8/22/13
1292	Amend the front setbacks for the FBO district along Panama City Beach Parkway and adjacent to R-1 zoned property.	10/10/13
1254	Glitch Bill to clean up initial draft.	11/14/13
1295	Defining and establishing rules for portable chemical toilets.	2/13/14
1300	Requiring grandfathered uses to be within a permanent building within any commercial or industrial district.	2/27/14
1304	Clarifying procedures related to non-conforming status, applications subject to type II or quasi-judicial review, and rehearings.	3/27/14
1308	Clarifying the definition of public use, authorizing completion and performance bonds for completion of improvement, and clarifying rules related to completion of improvements.	3/27/14
1324	Amending procedural notice requirements and deleting requirement that notices be sent "return receipt requested."	11/13/14

Ordinance Number	Change	Date Adopted
1317	Clarifying that political messages shall be permitted on vehicle signs to the same extent as permitted commercial messages.	12/11/14
1331	Permitting the use of alternative paving materials in vehicular use areas without regard to whether such areas are also used for heavy equipment storage.	12/26/14
1329	Correcting scrivener's error in table setting forth setbacks for group C building front types in the FBO districts.	1/8/15
1330	Amending the definition of flag to clarify that such signs shall be made of pliable material.	1/8/15
1332	Revising site design footnote to eliminate inference that multi-dwelling units in the R2 district must be contained within one building.	1/8/15
1334	Providing that the finished sides of fences shall face outward when running adjacent to a street and that fence surfaces shall prevent glare and other nuisances; and providing a cross-reference to fence standards governed by section 7.02.03G.	1/8/15
1328	Modifying the review and decision-making procedures to require adversely affected parties who request appeals or rehearings to provide any amendments to the request no fewer than ten days prior to the hearing.	2/12/15
1335	Reclassifying the commercial use of front yards from a conditional use to a supplemental use.	2/26/15
1340	Clarifying the site design and development standards for existing residential lots in the FBO districts, providing for the modification of setbacks to accommodate portes cochere, increasing side setbacks in the FBO-3 and FBO-4 districts for portions of buildings exceeding 10 stories, and defining related terms.	4/9/15
1333	Providing that swimming pools may be enclosed with screening subject to setbacks.	11/12/15
1351	Relating to rented two-wheeled motor scooters and three or four-wheeled motor scooters.	11/12/15
1364	Relating to supplemental standards for duplexes, triplexes and quadplexes addressing setbacks and densities.	11/12/15
1365	Clarifying the maximum height for amusements.	11/12/15
1366	Clarifying standards for front yards, façades, flooring, design, lighting, fencing, glazing and furniture standards for multi-family, mixed-use and non-residential uses in Front Beach Overlay districts.	11/12/15
1367	Amending procedures for large conditional uses, new stand-alone wireless towers or antennas and referencing applicable conditional use standards.	11/12/15
1369	Permitting short-term rentals of single family dwellings south of Front Beach Road in R-1C zoning districts.	12/10/15

Ordinance Number	Change	Date Adopted
1370	Establishing height limitations and exceptions for amusements and a beach ball drop structure in the Pier Park Overlay district.	12/10/15
1368	Amending and restating flood management ordinance, designating a Floodplain Administrator, and establishing procedures and criteria for development in flood hazard areas.	4/14/16
1396	Providing that permits shall not be issued when an amendment to one of those codes is pending before the city council which would make illegal or nonconforming the use or activity to be authorized by the permit.	12/8/16
1398	Providing for definitions and regulations related to Low Speed Vehicle Rental Businesses .	2-23-17
1405	Revising parking standards for development within an FBO district.	3-9-17
1406	Amending the definitions of Building and Modular Home , and clarifying the standards addressing permanent buildings intended for human occupancy.	3-9-17
1410	Amending provisions related to the expansion, enlargement or modification of Non-Conforming Development , sites and Uses , the occupancy thereof and requiring Planning Board approval of expansions, enlargements or modification of such Development , sites or Uses .	4-13-17
1413	Defining and establishing standards for Cannabis Dispensing Facilities .	5-25-17
1416	Prohibiting Motor Scooter Rentals after September 8, 2020 and extinguishing motor scooter rentals as non-conforming uses.	6-8-17
1425	Amending commercial use of Front Yards in the FBO districts related to outdoor display areas for large buildings and buildings containing multiple business establishments.	8-24-17
1428	Amending the Sign Code to ensure consistency with recent judicial decisions.	9-14-17
1430	Amending the definitions and provisions related to Small Wireless Facilities and Small Wireless Poles .	10-12-17
1429	Revise the setback requirements for residential dwelling constructed with a front lawn in an FBO district and increase the setbacks for certain developments providing driveways serving multiple dwellings.	10-26-17
1426	Clarify podium standards and their applicability in the FBO-1 district.	11-9-17
1437	Allowing for front or side yard parking in the FBO-4 district subject to provision of a decorative wall or hedge.	11-9-17
1441	Amending the definition of Accessory Structure and addressing setbacks and windows for Accessory Structures used for Dwellings .	1-4-18

Ordinance Number	Change	Date Adopted
1443	Pertaining to Large Site Development applications, providing that modifications to FBO requirements may be considered by the Planning Board and related procedures.	2-8-18
1446	Replacing the term “low density residential” with the term “single family residential.”	2-22-18
1449	Providing that parking lots shall be designed to reduce glare from vehicle lights onto properties used for residential purposes.	4-12-18
1450	Amending section 4.02.05F to conform with section 10.10.03, confirming the Planning Board’s authority to amend a PUD Master Plan.	6-14-18
1454	Amending the definition of Window Signs.	6-14-18
1456	Providing that a Conditional Use shall be deemed Abandoned if discontinued for 180 days or more.	6-14-18
1457	Relaxing the landscaping requirements for Vehicular Use Areas for Non-Conforming Development.	6-14-18
1458	Amending definitions related to Transient Residential Rentals and amending the Sign Code provisions related to Real Estate Signs and signs for Transient Residential Rentals.	6-14-18
1464	Amending the Sign Code to prohibit signs on the sandy gulf beach intended to exclude recreational use of any portion of the sandy gulf beach.	9/27/18
1474	Amending definition of Scenic Corridors, Access Class 3 roads, Access Class 5 roads, and Tourist Corridor, as well as the applicability of certain sign provisions.	10/25/18
1475	Repealing the availability of height incentives; requiring provision of lighting, entryway, skyline and base architectural amenities; amending tables establishing maximum heights; providing that maximum height in Front Beach Overlay District cannot be modified; repealing ordinance 1470.	12/13/18
1477	Related to underground utilities in scenic corridors; providing than no utilities permitted above ground in portion of City ROW; clarifying exemptions related to work in ROWs.	12/13/18
1479	Amending traditional overlay districts to permit them on parcels of 3 acres or more in residential districts.	12/13/18
1485	Increasing the number of spaces for single family dwellings in FBO-1 districts and for multi-family dwellings and condominiums City-wide.	1/10/19
1486	Clarifying the officers of the City who may appeal a variance and modifying the time to appeal a variance.	1/10/19
1491	Reorganizing regulations concerning hospitals, spacing, buffering, screening and parking requirements.	5/23/19

Ordinance Number	Change	Date Adopted
1490	Eliminating the pacing requirement between small wireless poles to ensure consistency with state law; and waiving <i>LDC</i> location requirements for small wireless poles that are designed and spaced like CRA-style light poles with certain conditions.	6/13/19
1492	Repealing ordinance 1413 addressing the establishment of cannabis dispensing facilities.	7/11/19
1496	Prohibiting illicit discharge into the municipal storm drain system; and establishing exemptions, enforcement and penalties.	9/12/19
1502	Providing that subdivisions of land involving 3 or more acres of land for residential use shall include a neighborhood park space; and setting standards for neighborhood parks.	12/12/19
1507	Relating to temporary uses and structures; establishing criteria for the placement of inflatable amusements on the Sandy Gulf Beach.	1/9/20
1508	Requiring applicants to submit evidence of a community meeting regarding time, place and content.	2/13/20
1514	Modifying rear setbacks in R-3 districts.	2/13/20
1515	Modifying heights in FBO-3 districts.	2/13/20
1518	Modifying the height limitation in the NSAPC land Use and Anti-Terrorism Force Protection Military Influence Area	7/23/20
1537	Relating to the regulation of portable storage units	10/8/20
1538	Amending the distance limitations for adult businesses and repealing unique sign and appearance standards for body altering businesses	10/8/20
1539	Repealing the sign and appearance standards for Low Speed Vehicle Rentals.	10/8/20
1542	Amending submittal requirements for <i>Conditional Uses</i> encompassing more than three acres to include notice by <i>Community Meeting</i>	2/11/21
1546	Amending PUD Master Plan standards for open space, traffic impacts and environmental features	4/8/21
1551	Amending the procedure for removal of a Planning Board member	6/24/21
1560	Creating additional site design standards on development of vacant lots in neighborhoods without a stormwater master plan.	8/26/21
1552	Amending the Sign Code to define public art and place additional requirements for submittal and approval of the placement of public art in the City.	9/9/21

Amendments to the Zoning Map

Ordinance Number	Change	Date Adopted
1259	Barta/Stephani Rezoning	2/14/13
1262	Henry Avenue RZ (Map glitch)	2/28/13
1263	City Pier Park Triangle RX (map glitch)	2/28/13
1264	Hughes Resort RZ (map glitch)	2/28/13
1265	C&P LLC RZ (map glitch)	2/28/13
1266	Ibis Lake Triangle RZ (map glitch)	2/28/13
1269	Adopting Map of Overlay Dists.	4/11/13
1272	Breakfast Point Overlay District	5/9/2013
1291	Breakfast Point Zoning	10/10/13
1342	0.69 acres at 17561 Front Beach Road from FBO-2 to FBO-4	4/9/15
1344	1.26 acres located at 190 Cobb Road from R-1A to CH	5/26/2015
1375	4.43 acres at 8752 Thomas Drive and 3011 Joan Avenue to CH	1/14/16
1386	0.833 acres at 19942 Panama City Beach Parkway to CL	6/23/16
1421	13 acres adjacent to the northern City limits and east of SR 79 from Country Village Center to Public Facilities	10/26/17
1423	39.82 acres east of Glades Trail (parcel 34810-000-000 from Recreation to Residential R-1B	10/26/17
1473	1.3 acres at 314, 316, 318, 320, and 322 Sundial Street from R-1A to CL	9/27/18
1481	14.97 acres east side of Griffin Blvd. north of its intersection with Beach Park Trail from Agricultural (AG) to Light Industrial (M-1)	2/28/19
1504	One 6.57 acre parcel located at 11220 Hutchison Boulevard	1/9/20
1510	28.074 acres on the west side of Hill Road south of Panama City Beach Parkway (parcel 33750-020-000) from Townhouse (RTH) to Commercial High Intensity (CH)	3/12/20
1512	81.9 acres on the west side of Highway 79 at the Northern City boundary, a portion of parcel ID 32720-001-000 from R1-A to Planned Unit Development	7/9/20
1545	0.573 acres at 285 Poinsettia Drive, Parcel ID 33962-000-000 from Single Family Residential (R1c) to Commercial Low Intensity (CL)	6/10/21