



## CHAPTER 11

### ADMINISTRATIVE AND DECISION-MAKING PROCEDURES

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## 11.00.00      **GENERALLY**

### 11.00.01      **Purpose and Intent**

This chapter sets forth the procedures for receiving, reviewing, and rendering decisions on applications for development approval, including local development orders, development permits, amendments to this LDC, and amendments to local development orders. Procedures for appealing decisions and seeking variation from the standards of this LDC are set forth in Chapter 10. It is the City's intent that the procedures set forth in Chapter 11 shall be followed in order to seek approval for any development. As used in this section "site plan" means any site plan, whether or not such site plan is for development subject to supplemental standards or a PUD.

### 11.00.02      **Local Development Orders and Development Permits Required**

- A. A local development order shall be issued to indicate approval of any site plan, subdivision plat, variance, and rezoning.
- B. A local development order shall be required prior to the issuance of any development permit to authorize construction, reconstruction, site improvements, installation of improvements, establishment of a temporary or accessory use or structure, or other modifications to the land or water on a site, except that a local development order shall not be required prior to issuance of a permit for installation or construction of a telecommunications tower.
- C. A development permit shall be required as set forth in Section 11.03.07.
- D. Any person who commences any work on land, or a building, structure, or sign, or an electrical, gas, mechanical, or plumbing system before obtaining the necessary permits, shall be subject to a penalty as described in Section 11.08.00.
- E. An amended local development order shall not be required when:
  1. There is no increase in the amount of impervious surface within the development;
  2. The number of dwelling units does not change by five (5) percent or more;
  3. There is no change in the floor area ratio;
  4. There is no modification in the original design concept, such as a change in housing types, building scale, or compatibility factors;
  5. There is no change in the land use categories on the approved site plan;
  6. There is no increase in traffic volume, flow, or points of ingress or egress;
  7. There is no reduction of required setbacks;
  8. There is no reduction in the number of parking spaces;
  9. There is no change in parking lot design; or
  10. There is no reduction in landscaping or buffering.

### 11.00.03      **Exemptions**

Exemptions from the provisions of this LDC are identified in Section 1.03.02.

### 11.00.04      **Expiration of Local Development Orders and Development Permits**

- A. A local development order shall expire twelve (12) months after the date of issuance unless a longer period is specifically provided.
- B. A development permit shall expire six (6) months after the date of issuance, unless work has commenced and is continuing in good faith, pursuant to all provisions of the permit.
- C. Prior to expiration of a local development order or a development permit, the local development order or development permit may be extended for a period not to exceed six (6) months, subject to the following:
  1. A written request for an extension shall be submitted to the City.

2. Applicable fees for extension shall be paid.
  3. No more than two (2) such six (6) month extensions shall be issued.
- D. Local Development Orders for which subsequent approvals are required (for example, FDEP approval for coastal construction, TRC site plan approval, or HDC design approval) shall be considered valid beyond the twelve (12) month expiration, provided the applicant can demonstrate proof of due diligence to obtain such approvals during the initial approval period. The applicant must provide a request in writing and any extension, if issued, shall be granted in six (6) month increments.

**11.00.05 Local Development Orders for a Change of Use**

- A. A change of use occurs when an existing use, as listed in Table 2.03.02 is replaced by a different use, as listed in Table 2.03.02. A proposed change of use shall be subject to the pre-application conference as set forth in Section 11.01.02.
- B. A change of use shall not require a local development order when all of the following conditions are met:
1. The existing use conforms to the comprehensive plan and this LDC;
  2. The proposed use conforms to the comprehensive plan and this LDC;
  3. The proposed increase does not increase density;
  4. Any proposed modifications to an existing building are only to the facade or interior of the building;
  5. The proposed use does not require a greater number of parking spaces than the existing use;
  6. The proposed use does not require a greater number of parking spaces than are currently available on the site;
  7. 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 addition to paved areas for any purpose; and
  8. All applicable development permits are obtained.
- C. The determination that a proposed use or development constitutes a change of use is an administrative decision subject to appeal as set forth in Section 11.07.00.
- D. 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.

**11.00.06 Effect of This LDC on Lots Combined for Development Purposes**  
(Reserved)

**11.00.07 Fees Required**

A fee shall be required for all applications for final local development orders and development permits. Fees are set forth in the schedule of fees. No action shall be taken on an application until all applicable fees are paid.

**11.00.08 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, according to the schedule of fees.

**11.00.09 Certificate of Occupancy**

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. When

a change of use occurs, as set forth in Section 11.00.05, 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 11.00.05.

**11.00.10 Overall Revisions to the Land Development Code**

Overall revisions to the Land Development Code shall be conducted as follows:

Stage 1: The City Commission and the consultant, staff, or Planning Advisory Board develops the proposed revisions to the Land Development Code.

Stage 2: After completion of stage 1, the proposed revisions are referred to the Planning Advisory Board for discussion and public hearings.

Stage 3: The Planning Advisory Board sends the revisions and their recommendations back to the City Commission for review, public hearings, and final adoption.

This process shall apply to overall revisions to the Land Development Code only.

**11.01.00 APPLICATION REQUIREMENTS**

**11.01.01 Applications for Local Development Orders**

A. Table 11.01.01 contains a list of the types of applications for local development and the entity responsible for reviewing and rendering decisions on each type of application.

**Table 11.01.01 Types of Applications and Responsible Entities for Final Review and Decision-Making**

Type of Application	Entity Responsible for Final Review and Decision-Making				
	City Manager	Planning Advisory Board	Board of Adjustment	City Commission	HDC
Change of use determination	X				
Minor Subdivision	X				
Minor amendments to local development orders	X				
Administrative waivers	X				
Site plans for all development	X				

Type of Application	Entity Responsible for Final Review and Decision-Making				
	City Manager	Planning Advisory Board	Board of Adjustment	City Commission	HDC
Variance			X		X
Appeal of administrative decisions			X		
Permits for telecommunication towers		X			
Tree removal permits	X			X	
Certificate of appropriateness	X				X
Preliminary and final subdivision plats				X	
Rezoning				X	
Amendment to the LDC				X	
Major amendments to local development orders (Consideration of major amendments to local development orders follows the same procedure as for the initial application.)	X		X	X	X

- B. Applications shall not be accepted for a period of twelve (12) months following denial of an application, when the new application is for the same property and submitted by the same applicant as the denied application.

**11.01.02 Pre-Application Conference**

- A. A pre-application conference is a meeting between an applicant and the City Manager for the purposes of:
  1. Exchanging information on the potential development of a site;
  2. Providing information on permissible uses of the site proposed for development;
  3. Providing information to an applicant regarding the design standards set forth in this LDC that are applicable to a potential application;
  4. Providing information to an applicant regarding standards of regional, state, or federal agencies that may be applicable to a potential application;
  5. Determining the need and requirements for supporting plans, documents, and studies;
  6. Providing information to an applicant regarding infrastructure requirements and the construction of required improvements; and
  7. Providing information to an applicant regarding the appropriate procedures and schedules for receiving and reviewing applications and rendering decisions regarding a potential application.
- B. It is the City’s intent that all requirements be identified during the pre-application conference. However, no person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal, made by a

- participant at the pre-application conference, as a representation or implication that the proposal will be ultimately approved or rejected in any form.
- C. Prior to the submission of an application for a local development order, an applicant shall submit a written request for a pre-application conference.
  - D. A pre-application conference shall be held not more than two (2) weeks following the date of submission of the written request for such conference.
  - E. A pre-application conference shall be held not more than six (6) months prior to submission of an application.
  - F. The pre-application conference shall include representatives of City departments responsible for reviewing applications and independent reviewers hired by the City, and may include representatives of regional, State, or federal agencies with authority over specific aspects of the proposed development.

#### **11.01.03 Requirements for All Board Applications**

- A. Each application is due no later than 30 days prior to the scheduled public hearing dated for which the application will be considered and at a minimum include the following information:
  - 1. At least one (1) pre-application meeting with Planning Department Staff prior to submittal of an application.
  - 2. A completed application form available from the City.
  - 3. The name, address, telephone number, facsimile number, email address, and signature of the property owner.
  - 4. When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.
  - 5. A property survey containing the legal description, land area, and existing improvements on the site. The survey shall be signed by a surveyor licensed in the State and shall have been performed not more than two (2) years prior to the date of application. The City is exempt from having to provide a property survey when the City files an application.
  - 6. Payment of applicable fees.
- B. An application regarding development within or affecting environmentally sensitive lands (see Chapter 3) shall include proof of receipt of applicable permits or exemptions from regional, State, or federal agencies with permitting authority for wetlands.
- C. All site plans and drawings for an application shall be prepared at the same scale. The sheet size shall not be less than eleven inches by seventeen inches (11 x 17) and shall not be more than by thirty-six inches by forty-eight inches (36 x 48). An electronic version may be required.
- D. The number of copies of the application materials shall be as specified by the City Manager.
- E. Any development application for development proposed within the Airport Overlay Zone established for the Fernandina Beach Municipal Airport shall provide confirmation of notification to the FAA as required by Title 14, Code of Federal Regulations, Part 77 Subpart C. Comments by the FAA shall be included as part of the submittal.

#### **11.01.04 Requirements for All Site Plans**

- A. In addition to the information required in Section 11.01.03, all applications for site plan approval shall contain the following information:

1. The names, address, telephone number, facsimile number, and email address of the person preparing the plan.
2. The date of preparation and date(s) of any modifications, a north arrow, and a written and graphic scale.
3. The legal description of the property, consistent with the required survey.
4. A vicinity map showing the location of the property.
5. The location of streams, bodies of water, natural features, roads, rights-of-way, street intersections, and paved areas within the boundaries of the property.
6. The location of streams, bodies of water, dunes and dune systems, and other natural features within 250 feet of the boundaries of the property.
7. The location of the mean high water line, if such line is within the boundaries of the property.
8. A topographic survey, soils report, grading plan, and an erosion control plan.
9. A general floodplain map indicating areas subject to inundation and high groundwater levels up to a 100-year flood classification.
10. A statement indicating the distances to schools and public safety facilities intended to serve the proposed development.
11. The name, plat book, and page number of any recorded subdivision comprising all or part of the site.
12. The location and use of any existing and proposed principal or accessory buildings and structures, showing proposed setbacks, building heights, and other dimensional requirements of the zoning district in which the property is located.
13. Elevations of all proposed structures.
14. The access points, driveway design, on-site parking, including required parking lot landscaping, internal circulation, sidewalks, and bicycle facilities.
15. The location of existing and proposed utilities, utility services, and easements.
16. A tree survey showing protected trees, proposed replacement trees, if required, and landscaping and buffering. (See Section 4.05.00.)
17. A soil erosion and sediment control plan compliant with Section 3.01.04.
18. For a PUD site plan, a detailed, written list and explanation of how the proposed PUD differs from any provision of this LDC applicable to the underlying zoning district.
19. For site plans and PUD site plans where development is proposed in phases, the plans shall include phase lines and the following supporting information:
  - a. Timeline for the development; and
  - b. Benchmarks for monitoring the progress of construction of each phase regarding land clearing, soil stabilization and erosion control, installation of infrastructure, and installation of landscaping.
20. A summary block containing:
  - a. Land use category from the Future Land Use Map in the comprehensive plan;
  - b. Zoning district;
  - c. Total acreage;
  - d. Total square footage for non-residential uses;
  - e. Total density and number of units, proposed and permissible, for residential uses;
  - f. Impervious surface ratio calculation, proposed and permissible;
  - g. Floor area ratio calculation, proposed and permissible;
  - h. Total number of parking spaces, required and provided; and
  - i. Number of trees required to be protected, number of trees remaining on the site, and number of trees to be planted.



- B. Additional plans, documents, or reports that are necessary to support the application shall be submitted. Such plans, documents, or reports may include, but are not limited to, concurrency analysis, traffic analysis reports, parking studies, stormwater management plans, or environmental impact studies.
- C. Concurrency analysis reports shall contain the information set forth in Section 7.04.00. Requirements for traffic analysis reports are set forth in Section 11.01.06. Requirements for parking studies are set forth in Section 7.01.04. Requirements for stormwater management plans are set forth in Section 7.03.00. Requirements for environmental impact studies are set forth by regional, State, and federal agencies with jurisdiction and in Chapter 3 of this LDC.

**11.01.05 Requirements for Subdivision Plats (Preliminary and Final)**

- A. A preliminary subdivision plat shall be required when new streets, water lines, and sewer lines are required; when three or more residential lots are created; and where one nonresidential lot is created or proposed for development. Where new streets, water lines, and sewer lines are not required, the preliminary and final plat may be combined into a single submittal. A preliminary plat provides for a complete review of technical data and preliminary engineering drawings prior to completion of the final plat for recording.
- B. In addition to the information required in Section 11.01.03, all applications for preliminary subdivision plat approval shall contain the following information:
  - 1. The name, address, telephone number, facsimile number, and email address of the person preparing the plat.
  - 2. The date of preparation and date(s) of any modifications, a north arrow, and a written and graphic scale.
  - 3. The proposed name of the subdivision.
  - 4. Development specifications for the tract: area, proposed number and layout of lots and blocks, location, names, and widths of proposed roadways, consistent with this LDC and the Future Transportation Circulation Map of the Comprehensive Plan.
  - 5. All contiguous properties shall be identified by subdivision title, plat book and page, or, if un-platted, the land shall be so designated, and otherwise identified.
  - 6. Location of land to be dedicated or reserved for public use for rights-of-way, streets, sidewalks, bike trails, pedestrian trails, easements, schools, parks, open spaces, or other public uses. Proposed street names shall be included.
  - 7. Locations of utilities, utility service, connections to existing utility facilities, and easements necessary to provide access to the utility facilities for maintenance or other activity.
  - 8. Location of the nearest available public water supply and wastewater disposal system.
  - 9. A topographic survey, soils report, grading plan, and an erosion control plan.
  - 10. Existing surface water bodies, wetlands, streams, and canals, including the location of the mean high water line for each feature.
  - 11. A preliminary surface drainage plan showing direction of flow and methods of stormwater retention.
  - 12. A floodplain map indicating areas subject to inundation and high groundwater levels up to a 100-year flood classification, and establishing a base flood elevation for all proposed lots within the subdivision.
  - 13. A tree survey showing protected trees, proposed replacement trees, if required, and landscaping and buffering.

- C. An improvements plan shall be submitted with a preliminary plat application. The improvements plan shall include the following information:
1. A stormwater management plan showing the complete drainage system in compliance with the requirements set forth in Section 7.03.00.
  2. Soils map, soil infiltration test locations, results of test borings, and subsurface conditions, providing at least one (1) test per drainage retention or detention area.
  3. Paving and drainage plans and profiles showing existing and proposed elevations and grades of all paved and open areas, including the size, location, and type of facilities.
  4. Water distribution and wastewater collection plans and proposed profiles.
  5. Proposed locations for electric, telephone, cable lines, and any supporting facilities.
  6. Typical roadway and drainage sections and a summary of quantities to include a driveway apron and culvert schedule with typical sections.
  7. Profile sheet showing special situations such as intersections or waterways.
  8. Plans showing existing and proposed improvements to waterways, lakes, streams, channels, ditches, bridges, culverts, seawalls, bulkheads, and retaining walls.
  9. A street lighting plan, showing approval of the appropriate utility authority.
  10. Landscaping plan, demonstrating compliance with Section 4.05.00.
  11. Construction details for all proposed improvements described on the improvements plan, demonstrating compliance with the requirements set forth in the Public Works Manual.
  12. Written specifications demonstrating compliance with all applicable design standards for site improvements.
- D. Additional plans, documents, or reports that are necessary to support the application shall be submitted. Such plans, documents, or reports, identified during the pre-application conference, may include, but are not limited to, concurrency analysis, traffic analysis reports, parking studies, or environmental impact studies. Concurrency analysis reports shall contain the information set forth in Section 7.04.00. Requirements for traffic analysis reports are set forth in Section 11.01.06. Requirements for parking studies are set forth in Section 7.01.04. Requirements for environmental impact studies are set forth by regional, State, and federal agencies with jurisdiction and in Chapter 3 of this LDC.
- E. The final plat shall meet the following requirements:
1. The final plat shall conform to the approved preliminary plat in all respects, except that minor variations in dimensions and alignment resulting from more precise final computations may be accepted.
  2. The final plat shall be drawn at the same scale, using the same sheet size, as for the associated preliminary plat and improvements plan.
  3. The subdivision shall be given a name by which it shall be legally known. The name shall not be the same as any other recorded subdivision name, except where the subdivision is an additional unit or section of an existing subdivision.
    - a. Lots and blocks shall be numbered or lettered consecutively.
    - b. Excluded parcels shall be clearly indicated and labeled.
  4. Acknowledgements, dedications, notifications, notes, and declarations shall be on the first sheet, and extended to following sheets if necessary.
  5. All areas reserved for use by residents of the subdivision shall be so indicated. All areas reserved for public use, such as parks, rights-of-way, easements, drainage areas, and other public areas, shall be dedicated by the owner of the land at the

- time the final plat is recorded. All streets shall be named. Dimensions, purpose, and reservation of easements shall be indicated.
6. The mortgagee's consent and approval of dedications shall be required on all plats where mortgages encumber the land to be platted. The signature(s) of the mortgagee(s) shall be witnessed.
  7. Restrictive covenants pertaining to use of improvements, land, and water shall be submitted with the final plat for recording.
  8. The final plat shall be prepared by a professional surveyor, licensed in the State, who shall certify on the plat that the plat is a true and correct representation of the lands surveyed, and that the survey data complies with all requirements of Chapter 177, F.S., this LDC, and that permanent reference monuments have been set in compliance with the *Florida Statutes*. The certification shall bear the signature, registration number, and official seal of the surveyor.
  9. Signature blocks shall be provided for all appropriate officials, together with the name and title of the officials.
  10. A certificate of ownership shall be dated not more than sixty (60) days prior to the recording date of the final plat. The certificate shall be an attorney's opinion of title or a title company certificate.
  11. The final plat shall include a legal description of the lands subdivided.
  12. When two (2) or more sheets are necessary to accurately portray subdivided lands, an index sheet shall be provided showing the entire subdivision as well as the sheet layout. Sheets shall be numbered.
  13. Upon approval by the City Commission, a print on cloth and a photographic copy on mylar shall be provided to the City Clerk for signature. The applicant shall record the final plat with the clerk of the circuit court and provide a copy of the recorded final plat to the City Clerk.
- F. Specific requirements for minor subdivisions
1. A minor subdivision is an alteration of a common property boundary between two (2) platted lots (also called a lot line adjustment); the division of a parcel into two (2) lots; or the combining of two (2) or more lots into one (1) lot.
  2. A lot line adjustment may increase or decrease the lot areas, but shall not result in a lot that does not comply with the density, dimension, or other design requirements of this LDC.
  3. A lot line adjustment shall not create a nonconforming situation with regard to a lot or any structures located on a lot.
  4. Lot combinations and creation of two (2) lot subdivision shall comply with density, dimension, and other design requirements of this LDC.
  5. A minor subdivision is exempt from the platting requirements set forth for preliminary and final plats in this section.
  6. An application for a minor subdivision shall include the following information in addition to the information required in Section 11.01.03:
    - a. Existing and proposed legal descriptions, including existing easements and rights-of-way;
    - b. Proposed points of ingress and egress to each lot;
    - c. Existing and proposed dimensions of the lots; and
    - d. Applicable zoning district and site design requirements pursuant to this LDC.

**11.01.06 Requirements for Traffic Analysis Reports**

- A. Traffic analysis reports shall be prepared by a licensed traffic engineer.
- B. As part of the pre-application conference, the City and the applicant shall determine the area of impact, including streets, street segments, and intersections, for the traffic analysis, based on accepted traffic planning principles and practices.
- C. The analysis shall consider both on-site and off-site traffic impacts, including:
  - 1. The existing average daily traffic on adjacent streets and streets impacted by the proposed development. Where traffic counts conducted within the previous six (6) months are not available, the applicant shall conduct traffic counts.
  - 2. The total trips generated by the project and the distribution of the trips onto adjacent streets. Institute of Traffic Engineers (ITE) trip generation rates shall be used as the basis for trip generation calculations. An alternative source of data may be used, where specifically approved by the City in advance.
  - 3. Level of service calculations at each project access point for both the a.m. and p.m. peak hours, both existing and with the proposed development.
  - 4. Level of service calculations at impacted intersections for both the a.m. and p.m. peak hours, both existing and with the proposed development.
  - 5. Analysis of the need for turning lanes or additional lanes on impacted roadways.
  - 6. Analysis of the need for intersection improvements.
  - 7. Analysis of the need for traffic signals or other traffic control devices.
  - 8. Other transportation factors based upon generally accepted traffic engineering practices.
- D. The report shall include a statement of the assumptions used in conducting the analysis, including the following:
  - 1. Type and intensity or density of development.
  - 2. Projected population of a residential development.
  - 3. Proposed timing and phases of development.
  - 4. Proposed design of streets, access points, driveways, alleys, sidewalks, and other components of the transportation system.

**11.01.07 Requirements for Amendments to the Zoning Map**

- A. In addition to the information required in Section 11.01.03, all applications for amendments to the Zoning Map (rezoning) shall include the information set forth in this section.
  - 1. The application shall include a map of the area indicating the proposed zoning district designation for the subject property. The map shall show the current zoning district designations and land use categories from the Future Land Use Map in the comprehensive plan for the subject property and all adjacent properties.
  - 2. A detailed statement shall be provided including the following information:
    - a. The consistency of the proposed zoning district with the land use category on the Future Land Use Map in the comprehensive plan.
    - b. A justification for the proposed zoning district.
- B. A site plan shall not be considered simultaneously with the application for rezoning.

**11.01.08 Requirements for Amendments to the Land Development Code**

- In addition to the information required in Section 11.01.03, all applications for amendments to this LDC shall include the information set forth in this section.
- A. A description of the proposed amendment, with specific citations to the section(s) proposed for amendment, shall be provided.
  - B. A detailed statement shall be provided containing the following information:
    - 1. Consistency of the proposed amendment with the comprehensive plan; and

2. Justification for the proposed amendment.

**11.02.00 NOTICE REQUIREMENTS**

**11.02.01 Generally**

- A. Notices shall comply with the requirements set forth in the *Florida Statutes* and City established policies, as may be amended from time to time.
- B. Notice shall be required for the following board reviewed applications:

Application Type	Reviewing Entity	Posted Sign	Posted Agenda	Mailed	Published
Certificate of Appropriateness (COA)	Historic District Council	x	x	x	
Variances	Board of Adjustment or Historic District Council	x	x	x	
Appeals of Administrative Decisions	Board of Adjustment	x	x		
Comprehensive Plan Text Amendments	Planning Advisory Board		x		x
Land Development Code Text Amendments	Planning Advisory Board		x		x
Annexation	Planning Advisory Board	x	x	x	x
Future Land Use Map Amendment (FLUM) Small Scale (less than 10 acres) or Large Scale (greater than 10 acres)	Planning Advisory Board	x	x	x	x
Zoning Map Change or Planned Unit Development (PUD) Request	Planning Advisory Board	x	x	x	x
Preliminary or Final Plat	Planning Advisory Board	x	x	x	
Vacation of Right-of-Way (ROW)	Planning Advisory Board	x	x	x	x

**11.02.02 Posted Notice Requirements**

- A. The City shall post a sign on a property that is the subject of a board reviewed application for a minimum of 10 days prior to a scheduled public hearing. The sign shall be located in a manner to ensure that it is clearly visible on each portion of the subject property that fronts on a roadway. Failure to place, maintain, or replace the sign shall not affect the jurisdiction of the reviewing board or decision-making entity to consider the application or the validity of any resulting decision.
- B. The City shall post an agenda notice of a scheduled public hearing for the property subject to a board application in a conspicuous place at City Hall and on the City's website for a minimum of 5 days prior to a scheduled public hearing.
- C. The posted sign and agenda notices shall contain the following information:
  - 1. The name of the applicant;
  - 2. The location of property for which approval is sought;
  - 3. The nature of the approval sought by the applicant; and

4. The date, time, and place of any and all applicable public hearings on the application.

**11.02.03. Mailed Notice Requirements**

- A. Mailed notice of a required public hearing shall be prepared by the City for board reviewed applications.
- B. All mailed notices shall be sent at least 10 days in advance of a scheduled meeting date by regular mail to all owners of real property located within 300 feet of the exterior lot lines of a property which is subject to the application.
- C. The mailed notice shall contain the following information:
  1. The name of the applicant;
  2. The location of property for which approval is sought;
  3. The nature of the approval sought by the applicant; and
  4. The date, time, and place of any and all applicable public hearing on the application.
- D. The names and addresses of such property owners shall be determined by reference to the latest ad valorem tax records for Nassau County, Florida.

**11.02.04. Published Notice Requirements**

- A. notice shall be published in a newspaper of general circulation in Fernandina Beach for applications requiring published notice as directed by Florida Statutes.
- B. Applications requiring published notice per applicable State laws shall comply with all statutory requirements pertaining to size and placement in the newspaper.

**11.03.00 PROCEDURES FOR REVIEW AND DECISION-MAKING**

**11.03.01 Determination of Completeness & Sufficiency**

- A. Determination of Completeness:
  1. All applications are subject to a determination of completeness.
  2. A determination of completeness is a determination that all required documents and plans has been submitted in sufficient number, and whether all fees have been paid. A determination of completeness is not a determination of compliance with substantive standards and criteria.
  3. The City Manager shall issue a determination of completeness to the applicant, within five (5) days of receipt of an application. When the application is not complete, the determination shall specifically identify the missing documents and/or plans.
  4. The applicant shall have thirty (30) days from the date of determination to correct the deficiencies. The application shall not be processed until deficiencies are corrected and the application is determined to be complete. If the applicant fails to correct the deficiencies within the thirty (30) day period, the application shall be deemed withdrawn.
  5. A determination of completeness is an administrative decision subject to appeal as set forth in Section 11.07.00.
- B. Determination of Sufficiency:
  1. All citizen-initiated Comprehensive Plan Amendments and Amendments to the land development Code are subject to a determination of sufficiency.
  2. A determination of sufficiency shall be made after an application is determined to be complete. The Planning Department and the City Attorney will review the application to determine whether the application is consistent with the

Comprehensive Plan. This review is also designed to prevent the application from unnecessary delays in the process.

3. A sufficiency determination shall be made within thirty (30) days of receipt of the application from the City Manager. If the application is deemed insufficient by either the Planning Department or the City Attorney, the Planning Department will notify the applicant, which notification shall specify any and all laws, rules, codes and/or regulations which the application fails to comply with.
4. The applicant shall have thirty (30) days from the date the application is deemed insufficient to bring the application into compliance with all applicable laws, rules, codes and regulations. The application shall not be processed until the application is deemed sufficient by the Planning Department. If the applicant fails to correct the application within the thirty (30) day period, the application shall be deemed withdrawn.
5. The applicant may appeal a determination of insufficiency in accordance with Section 11.07.00 within 30 days of receipt of the written decision by the City Attorney and/or the Planning Department.
6. When an application is deemed sufficient by the Planning Department, the application shall be assigned a number and processed for review and action in accordance with the procedures set forth below.

C. Material Changes to an Application:

A determination by the Planning Department or the City Attorney that the Applicant has made material changes to an application, not proposed by and/or approved by the Planning Advisory Board, will require a new Determination of Completeness and Determination of Sufficiency including the assignment of a new number for review and action in accordance with the procedures set forth below.

**11.03.02 Review and Compliance Report by the Technical Review Committee**

All applications for site plans, preliminary subdivision plats, final subdivision plats, minor subdivisions, and amendments to previously issued local development orders, change of use, and nonresidential building expansions shall be reviewed by the Technical Review Committee (TRC). The City Manager may assign review responsibility for other types of applications to the TRC.

- A. Within three (3) days following the determination that an application is complete, the application shall be sent to all TRC members.
- B. TRC members shall provide written comments to the TRC chair who shall be responsible for preparing a preliminary compliance report. The preliminary compliance report shall be provided to the applicant at least seven (7) days prior to the scheduled TRC meeting.
- C. When an application is for property within the Historic District Overlay, the application shall also be sent to the Historic District Council (HDC) for review and recommendation. The HDC shall hold a properly noticed quasi-judicial hearing as set forth in the published meeting schedule. The HDC shall make findings regarding compliance of the application with Section 4.03.02 and shall provide a written report regarding such compliance to the City for inclusion in the compliance report prepared by the TRC.
- D. When an application is for property within the Airport Overlay, the application shall also be sent to the Airport Advisory Commission for review and recommendation.
- E. If the application fails to comply with the standards and criteria of this LDC, the compliance report shall specifically identify the manner in which the application is deficient, including a citation of applicable sections of this LDC.

- F. Where the application includes a request for an administrative waiver, as set forth in Section 10.03.00, the compliance report shall include documentation of the compliance of the requested waiver with standards applicable to the requested waiver and the action taken on the requested waiver.
- G. The TRC shall hold a public meeting for consideration of the preliminary compliance report and proposed revisions to the application provided by the applicant.
- H. The applicant may request extensions of up to thirty (30) days for correction of deficiencies identified in the preliminary compliance report. Such request shall be in writing. The application will be rescheduled for a TRC meeting at the end of the thirty (30) day extension.
- I. Within fifteen (15) days following receipt of a revised application, the TRC shall revise the compliance report, as needed, to evaluate additional information from the applicant for correction of deficiencies.
- J. For matters to be considered by the BOA, Planning Advisory Board, or City Commission, the compliance report shall contain proposed findings, proposed conclusions, and a recommendation for approval, approval with conditions, or denial. When the recommendation is for approval with conditions, proposed conditions shall be provided.
- K. For matters to be decided by the TRC, the compliance report shall contain proposed findings for consideration by the TRC when it renders a decision regarding the application.
- L. The compliance report, including a written report from the HDC or Airport Advisory Commission where required, and the application materials shall be forwarded to the City Commission for action as set forth in Section 11.03.04.
- M. Applications for minor subdivisions shall be reviewed for compliance with the site design requirements applicable to the zoning district in which the lots are located. Where the application demonstrates compliance with all such requirements, the TRC shall provide a notice of intent as set forth in Section 11.02.01(C) and (F). Following the notice period, the TRC shall issue a written order and approve the proposed boundary survey. The survey shall be recorded by the applicant.

#### **11.03.03 Procedures for Action by the Planning Advisory Board**

Consideration of applications by the Planning Advisory Board shall be for the purpose of making a recommendation to the City Commission.

- A. When a determination of an application's completeness has been made by the City as set forth in Section 11.03.01, the application shall be scheduled for consideration by the Planning Advisory Board according to the published meeting schedule.
- B. Notice shall be provided in compliance with the requirements of Section 11.02.00.
- C. The Planning Advisory Board shall recommend to the City Commission that the application be approved, approved with conditions, or denied.

#### **11.03.04 Procedures for Action by the City Commission**

- A. The City Commission shall consider applications for preliminary subdivision plat approval, final subdivision plat approval, rezoning, and amendments to this LDC at a public hearing.
- B. Notice shall be provided in compliance with the requirements of Section 11.02.00.
- C. A quasi-judicial hearing shall be held for consideration of applications for preliminary and final plats and, when required, rezoning.
- D. The City Commission shall approve, approve with conditions, or deny the application.
- E. The City Commission shall issue a written local development order for approval or a written notice of denial.



- F. The local development order shall not be final and enforceable until signed by the Mayor.

#### **11.03.05 Requests for Continuation of a Public Hearing**

- A. An applicant may request, in writing, a continuance of the public hearing regarding a specific application.
- B. If the City Manager 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 shall be limited to one (1) such automatic continuance.
- C. If the City Manager 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. If an applicant receives a continuance, the applicant shall reimburse the City for all advertising costs associated with rescheduling the public hearing for the application. The public hearing will not be rescheduled until such payment is received.
- E. If a public hearing is continued on the record, at the scheduled public hearing, to a date and time certain, no additional notice shall be required.

#### **11.03.06 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 City Manager.
- B. If the City Manager 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 submitting the same or substantially same application for the subject property for a period of twelve (12) months.

#### **11.03.07 Procedures and Requirements for Development Permits**

- A. 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 of the Florida Building Code. In addition, the following requirements shall be met:
  - 1. When a permit is issued for construction of a sign, a decal containing the permit number shall be issued. The decal shall be attached to the sign or the sign structure and shall be clearly visible from the public right-of-way or public areas on the site.
  - 2. A permit for a sign within the Historic District Overlay shall not be issued until a certificate of appropriateness has been issued by the HDC.
  - 3. Within those areas of the City designated as special flood hazard areas, all building permit applications for the construction or substantial improvement of residential and nonresidential structures shall be accompanied by a survey, signed and sealed by a professional surveyor licensed in the State, which specifically designates the elevation of the graded or final building pad of the site and of the proposed first floor of construction of the new structure or substantial improvement to existing structures. The survey shall be attached to the building permit and shall be approved as meeting the requirements of Chapter 3 with regard to floodplain protection prior to the issuance of a building permit.

- B. Permits are required for electrical, plumbing, heating and air conditioning, gas, or swimming pool installation, subject to the procedures set forth in the Florida Building Code.
- C. Permits required from Nassau County, subject to the requirements established by the County, include: driveway connection permits and right-of-way utilization permits.
- D. Permits that may be required from State and regional agencies, subject to the requirements established by each agency, include: driveway connection permits from FDOT and environmental resource permits from SJRWMD or FDEP.
- E. The following types of permits are required from the City, subject to the requirements established in the manuals adopted by reference in Chapter 1: stormwater permits, sewer connection permits, potable water connection permits, street construction permits, sidewalk permits, paving permits, and land clearing permits.
- F. A permit shall be required for the removal of protected trees. When a site plan or subdivision plat is under consideration for a site, the permit shall be included as part of the application and review for site plan approval or subdivision plat approval. In all other situations, a separate tree removal permit shall be required. The following information is required for tree removal permits:
  - 1. Applications shall be submitted as set forth in Section 11.01.03;
  - 2. In addition, a tree survey shall be provided. When the application is for the removal of three (3) or fewer trees, the survey does not need to be certified, but must contain the location and identification of the trees requested to be removed. When the application is for the removal of four (4) or more trees, the survey shall be certified and shall show 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 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 provided in Section 4.05.08; and
    - d. Proposed grade changes that might adversely affect or endanger the trees, with specifications on how to maintain the trees.
  - 3. 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 4.05.08.
  - 4. 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.
  - 5. Applications, except applications described in Section 11.03.07(F) (7) shall be reviewed by the City Manager for compliance with the requirements set forth in Section 4.05.08. A decision shall be rendered within thirty (30) days to approve, approve with conditions, or deny the application. Posted notice of the decision to approve or approve with conditions shall be provided as set forth in Section 11.02.02 for a period of ten (10) days.
  - 6. A decision regarding issuance of a tree permit is an administrative decision subject to appeal as set forth in Section 11.07.00.
  - 7. When an application for a tree removal permit involves the following situations, the findings by the City Manager shall be advisory. The City Commission shall take final action:
    - a. Removal of a heritage tree; or
    - b. Removal of protected trees on public property, except trees within the right-of-way.

8. A tree removal permit shall be issued only upon agreement in writing by the applicant to comply with the criteria set forth in Section 4.05.08
- G. The establishment of a temporary use or structure requires a temporary use permit, subject to the following requirements:
  1. Applications shall be submitted as set forth in Section 11.01.03.
  2. In addition, 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 provisions of this LDC.
  3. Applications shall be reviewed by the City Manager for compliance with the requirements set forth in Section 5.02.00. A decision shall be rendered within thirty (30) days to approve, approve with conditions, or deny the application. Posted notice of the decision to approve or approve with conditions shall be provided as set forth in Section 11.02.02 for a period of ten (10) days.
  4. Temporary use permits shall be valid for thirty (30) days and may be renewed for one (1) thirty (30) day period.
  5. A decision regarding issuance of a temporary use permit is an administrative decision subject to appeal as set forth in Section 11.07.00.
- H. A permit shall be required for the construction of a telecommunications tower. The application shall be submitted as set forth in Section 11.01.03.1. The following additional information shall be submitted:
  - a. Evidence of proper Federal Communications Commission licensure.
  - b. 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.
  - c. Certification 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.
  - d. Certification as to compliance with, or exemption from, any federal or State regulations applicable to siting.
  - e. 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.
  - f. Description of liability insurance or binding for the device.
  - g. 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.
  - h. 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 user and has been advised that such user does not anticipate requiring any additional support structure capacity at that site in the future.

- i. 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 user; and
    2. The capacity for which the applicant has been requested to reserve future loading capacity.
  - j. The applicant shall identify all additional capacity which will be available for future collocation use at the proposed structure beyond the collocation users identified in Section 11.03.07(H)(1)(g) through (i) above.
  - k. A full set of engineering drawings, which drawings shall be sealed by a professional engineer licensed in the State, specifying the dimensions of all structural members and mounting facilities to be incorporated into the support structure for all loading identified in Sections 11.03.07(H) (1) (g) through (i) 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 engineer shall certify compliance with both the then-current EIA/TIA 222 standard as well as the applicable provisions of the Florida Building Code, which includes a 120-mph wind load, as defined by the American Society of Civil Engineers, Publication No. 7 of 1993 (ASCE 7-93).
2. An estimate of the cost to remove all structures in the event that the structure is abandoned or discontinued. The cost estimate shall be signed and certified by a general contractor licensed in the State.
  3. The Planning Advisory Board shall evaluate the permit application and render a decision within ninety (90) days after the date on which the application is determined to be complete.
  4. If the Planning Advisory Board fails to act within the time-frame mandated by Section 11.03.07(H) (2), the application shall be deemed automatically approved, and the applicant may proceed with placement of the facility without interference or penalty by the City.
  5. The applicant may voluntarily waive the time frames set forth in this section.
  6. The City may require a one-time waiver in the case of a declared local, State, or federal emergency that directly affects the administration of the City's permitting activities. 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.
- I. An application for the collocation of an antenna facility, which increases the height of the existing structure, shall meet the requirements of Section 11.03.07(H) (1) above. However, the Planning Advisory Board shall render its decision within thirty-five (35) working days after the date on which the application is determined to be complete.
  - J. An applicant who seeks approval to collocate an antenna on an above-ground structure, and any related equipment to service the antenna, is not required to obtain a separate development permit, provided the height of the existing structure is not increased. Rather, the applicant shall apply for a construction permit in accordance with the requirements of the Florida Building Code.

#### **11.03.08 Specific Procedures Regarding Affordable Housing Agreements**

- A. This section is provided to ensure and verify affordability and compliance over time for any affordable housing project. All affordable units proposed for development on substandard lots shall be the subject of a land use restriction agreement (LURA) or a home ownership affordability agreement (HOAA).

- B. All affordable units proposed for home ownership shall be bound by the terms of a HOAA. The City shall identify specific conditions in the LURA or HOAA that shall ensure that the respective unit becomes an affordable unit. Prior to approving a LURA/HOAA, the city shall render a finding that any units intended to be included in a LURA or HOAA are:
  - 1. Compliant with applicable building codes and land development regulations; and
  - 2. Compliant with all associated financial, tax, or other similar public or private obligations.
- C. The City shall not approve a LURA or HOAA unless a finding is rendered that any units intended to be included in a LURA/HOAA are compliant with U.S. Housing and Urban Development Housing Quality Standards (HUD-HQS).

#### 11.04.00 QUASI-JUDICIAL HEARINGS

##### 11.04.01 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, any affected party; 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, any affected party, 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.
- 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.
- I. The decision-making entity may question the applicant, other parties, witnesses, and the City staff at any time during the hearing.
- J. The decision-making entity may approve, approve with conditions, or deny the matters under consideration. The decision shall be based upon competent substantial evidence presented during the hearing.
- K. The decision-making entity shall enter a written order which contains findings of fact and conclusions of law in support of its decision.
- L. The decision-making entity's written order shall be transmitted and filed with the City Clerk as part of the official records of the City.

#### **11.04.02 Conduct of Quasi-Judicial Hearings**

All quasi-judicial hearings shall be conducted in the following order:

- A. The chairperson of the decision-making entity shall call the hearing to order at the time specified on the public notice.
- B. The City Manager 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. The City Manager shall present the compliance report regarding 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 the City Manager, any affected party, and the applicant.
- I. Conclusion of the evidentiary portion of the hearing.
- J. Closing arguments by the City Manager, any affected party, and the applicant.
- K. Deliberation by the decision-making entity.

#### **11.05.00 CONSTRUCTION AND IMPROVEMENTS**

##### **11.05.01 Compliance with Local Development Orders and Development Permits**

- A. All construction of buildings, structures, and systems shall comply with the construction or installation permit and the procedures and requirements of the Florida Building Code.
- 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 development permits (other than permits issues pursuant to the Florida Building Code).
- C. Any deviation from the local development order and subsequent development permits shall require additional review of the change to the plans by the City and shall receive approval prior to commencement of work. (See Section 11.06.00 regarding amendments to approved local development orders.)
- D. Upon completion of improvements, the applicant shall provide record drawings sealed by an engineer, licensed in the State, certifying that the actual construction conforms to the approved site plan(s), subdivision plats, or improvements plans.
- E. All improvements required by this LDC shall be designed, installed, and paid for by the developer. Such improvements may include, but are not limited to, transportation facilities, potable water facilities, sewer facilities, stormwater and drainage facilities, and recreation facilities. Improvements shall be guaranteed as set forth in Section 11.05.02.
- F. All improvements as approved through either a Local Development Order or an official building permit shall be inspected by the City. The applicant shall notify the City of commencement and completion of the following, for purposes of scheduling and conducting inspections:
  1. Clearing and grubbing;
  2. All utilities prior to backfilling;
  3. All concrete structures when steel is in place, prior to pouring;
  4. Stabilized sub-grade;
  5. Curb and concrete work;
  6. Roadway or parking lot base;
  7. Wearing surface during application; and

8. The water and hydrant system.
- G. In cases of construction of facilities dedicated to the public, the owner shall be responsible for maintenance for a period of two (2) years following completion of the construction and approval of the construction by the City. Upon completion of the maintenance period, the owner shall advise the City in writing requesting final inspection for perpetual maintenance by the City. Final acceptance shall not be given until all necessary repairs have been completed and an engineer, licensed in the State, provides a final certificate of completion to the City.
- H. Acceptance of a final plat shall be deemed acceptance by the City of the public improvements and public areas dedicated to the City. The final plat shall not be accepted by the City Commission until all required performance and maintenance guarantees as set forth herein have been posted by the Developer. The acceptance of dedications for public purpose shall be permanently affixed to the face of the final plat (See Section 11.01.05.)
- I. Upon completion of construction of the improvements, the applicant shall provide the following:
  1. A letter stipulating that the construction of the improvements has been completed and requesting final inspection and approval;
  2. The testing reports and certificates of compliance from material suppliers;
  3. As-built construction plans; and
  4. Certification from a professional engineer, licensed in the State, that the improvements have been constructed in conformity with the approved construction plans and specifications.
- J. Upon receipt and review of the items listed in Section 11.05.01(I) above, and after satisfactory final inspection, a certificate of completion shall be issued by the City Manager.
- K. Grading, fill, or tree removal permits may not be issued prior to the issuance of a Local Development Order or building permit, whichever occurs first.

#### **11.05.02 Performance Agreements, Guarantees, and Sureties**

A performance agreement shall meet the following requirements:

- A. The term shall not exceed two (2) years from the date of issuance of the local development order.
- B. The agreement shall include:
  1. The projected total cost for each improvement determined either by an estimate prepared and provided by the applicant or a copy of an executed construction contract provided by the applicant.
  2. Specification of improvements to be made and dedicated together with a timetable for completing such improvements.
  3. Stipulation that, upon failure of the applicant to make required improvements according to the timetable, the City shall utilize the security provided under the agreement to complete the improvements.
  4. Provision of the amount and type of security provided to insure performance as set forth herein.
- C. The security specified in the performance agreement shall be approved as sufficient by the City Manager. The amount of security shall be 125 percent of the estimated or contracted improvements costs.
- D. Security requirements may be met by:
  1. Bank check;
  2. Certified check;
  3. Irrevocable letter of credit; or

4. Surety bond executed by an approved surety company, licensed to do business in the State of Florida and otherwise acceptable to the City.

**11.05.03 Installation and Maintenance Guarantees for Landscaping, Irrigation, and Replacement Trees**

A maintenance guarantee shall be provided to ensure that required landscaping, and 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 insure such protection 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.

**11.05.04 Maintenance Guarantees for Stormwater Facilities**

The property owner or other entity approved by the City shall be responsible for maintenance of all stormwater facilities installed on private property. Maintenance shall be perpetual or for a time period specified in the local development order. At any time during the maintenance period, or after in cases where adverse impacts to public stormwater facilities are believed to be occurring due to the action of a private property owner, the City reserves the right to enter, following advance notice, upon that property for purposes of visual inspection. Property owners shall be notified in writing of the results of any such inspection and its results.

**11.05.05 Installation and Maintenance Guarantees for Water and Sanitary Sewer Facilities, Streets, Sidewalks and other Infrastructure Elements**

A maintenance guarantee shall be provided to ensure that all required stormwater facilities, water and sanitary sewer facilities, streets, sidewalks and other infrastructure elements shall be maintained by the developer according to the following requirements:

1. The maintenance period shall be a minimum of two (2) years;
2. The maintenance period shall begin with the acceptance by the city of the construction of the improvements.
3. The security shall be in the amount of fifty (50%) percent of the cost of improvements.

**11.05.06 Facilities Not Dedicated to the City**

- A. Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the city, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.
- B. No final development approval or certificate of occupancy shall be issued for a development for which a condominium association or homeowners association is required until all required documents establishing such association have been approved by the City Manager and proof of recording documents has been provided to the City Manager.

**11.06.00 AMENDMENTS TO LOCAL DEVELOPMENT ORDERS**

When a local development order has been issued and an applicant wishes to modify a site plan or subdivision plat to which the local development order applies, the procedures of this section shall apply. (Amendments to development permits shall be governed by the applicable building or technical codes, or City permit procedures.)



### 11.06.01 Minor Amendments

Minor amendments include the following:

- A. Changes in the types and locations of landscaping materials, provided that:
  - 1. Such changes do not reduce total amount of landscaping material;
  - 2. Any required buffer area complies with the standards of this LDC; and
  - 3. The proposed landscaping materials comply with the specifications of this LDC.
- B. A minor adjustment in the location of dumpsters, sidewalks, bicycle facilities, sheds, or other accessory buildings, provided that:
  - 1. The adjustment does not deviate from the approved location more than one (1) foot in any direction;
  - 2. Such adjustment does not encroach into any required buffer or stormwater management area;
  - 3. Such adjustment does not increase the approved impervious surface ratio for the project; and
  - 4. The location continues to comply with all standards of this LDC, including, but not limited to, setbacks, landscaping, and buffer requirements.
- C. A minor adjustment in the location and design of parking lots and access drives, provided that:
  - 1. Such adjustment does not encroach into any required buffer or other landscaped area;
  - 2. Such adjustment does not increase the approved impervious surface ratio for the project;
  - 3. Such adjustment does not reduce the number of parking spaces; and
  - 4. Such adjustment continues to comply with all standards of this LDC and the Public Works Manual.

### 11.06.02 Procedures for Minor Amendments

- A. The applicant shall submit one (1) copy of the approved site plan or subdivision plat indicating the proposed minor amendments.
- B. The City Manager shall determine that the amendment is consistent with:
  - 1. The requirements of Section 11.06.01; and
  - 2. The standards and criteria of the LDC.
- C. When an application is proposed to be approved or approved with conditions, a notice of intent shall be provided as set forth in Section 11.02.01(C) and (F).
- D. The City Manager shall approve or deny the application for a minor amendment and issue a written order to modify the local development order.
- E. A minor amendment for development within the Historic District Overlay shall not be approved until such amendment has been considered by the HDC at a regular meeting and a recommendation of approval provided by the HDC.

### 11.06.03 Major Amendments

Any proposed change to an approved local development order that is not a minor amendment as described in Section 11.06.01 shall be considered a major amendment. Major amendments are processed in the same manner as the original application.

## 11.07.00 APPEALS OF ADMINISTRATIVE ACTIONS

### 11.07.01 Applicability

- A. A person adversely affected by any administrative decision may appeal such decision to the BOA. Statements, proposed findings, evaluations, and conclusions contained in a compliance report or other report issued by the City Manager for consideration by

- a board or commission, or the City Commission shall not be construed as an administrative decision and shall not be subject to appeal.
- B. The following administrative decisions are subject to appeal as set forth herein:
1. Tree permits;
  2. Temporary use permits;
  3. Lot line adjustments;
  4. Minor amendments to local development orders;
  5. Administrative waivers;
  6. Determination regarding change of use; and
  7. Written interpretations regarding use or zoning district boundaries when such interpretations are not contained within a compliance report.
  8. Determination of Sufficiency and Completeness as required by LDC Section 11.03.01 (B).

#### **11.07.02 Time for Filing Administrative Appeal**

An application for consideration of an appeal of an administrative decision shall be filed with the City Manager within thirty (30) days of such decision.

#### **11.07.03 Stay of Proceedings**

An appeal to the BOA stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the City Manager certifies to the BOA that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property.

#### **11.07.04 Hearing before the Board of Adjustment**

- A. A public hearing before the BOA shall be scheduled according to the published schedule for hearings.
- B. The City Manager shall prepare a report containing an evaluation of the appeal, including consistency of the administrative decision with the requirements of this LDC and the comprehensive plan.
- C. Notice shall be provided as set forth in Section 11.02.00.
- D. The BOA shall conduct a quasi-judicial hearing, pursuant to the requirements of Section 11.04.00.
- E. Any party may appear in person or be represented by an agent or attorney.
- F. The BOA shall hear the appeal and shall determine whether 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.
- G. The concurring vote of five (5) members of the BOA shall be necessary to reverse any administrative decision.
- H. The decision shall be in writing and shall contain findings of fact and conclusions of law.

### **11.08.00 VIOLATIONS**

#### **11.08.01 Generally**

It shall be a violation of this LDC to:

- A. Use or develop property without a local development order or development permit required by this LDC for such use or development;
- B. Use or develop any property for use that is not permissible in the applicable zoning district;

- C. Use or develop property in violation of the conditions and limitations for such use or development set forth in this LDC;
- D. Use or develop property in violation of the conditions set forth in the applicable local development order;
- E. Violate the terms or conditions of any development permit issued under or pursuant to this LDC; or
- F. Construct or move any structure in violation of the applicable provisions of this LDC.

#### **11.08.02 Enforcement**

- A. The City Manager shall be responsible for enforcement of the provisions of this LDC.
- B. The City Manager shall provide a written notice of an alleged violation of this LDC to the property owner. The written notice shall indicate the nature of the violation and the necessary action to correct or abate the violation.
- C. The City Manager, or where required by the Florida Building Code, the Building Official, may order discontinuance of the use of land or buildings; removal of trees; removal of buildings, building additions, or building alterations; removal of structures; discontinuance of work in progress; application to any court for injunctive relief; filing liens against assets of a violator; revocation of any building permit or certificate of occupancy; or any or all other action necessary to correct violations and obtain compliance with all the provisions of this LDC.

#### **11.08.03 Penalties**

- A. Except as otherwise specifically provided herein, any person, property owner, or any agency or representative thereof who violates the provisions of this LDC shall be punished by a penalty not exceeding \$500.00 per violation, imprisonment for a term not to exceed sixty (60) days, or both fine and imprisonment.
- B. Each day that a violation shall continue to exist shall be considered a separate violation and may be prosecuted as such.
- C. No further City permits shall be issued or inspections provided until all violations of this LDC are corrected and accepted by the City Manager.
- D. No certificate of occupancy shall be granted unless and until the all corrective actions have been completed or a performance bond satisfactory to the City is submitted and approved.

#### **11.08.04 Specific Penalties for Violation of Tree Permit Requirements**

- A. When unauthorized removal of trees has occurred, the owner shall submit a restoration plan within thirty (30) days after being cited for the violation. At a minimum, the owner or developer shall replace, "one for one" (one (1) inch for every inch of DBH), any and all trees that are removed without authorization. No preservation credits shall be applicable for the unauthorized removal of trees. Failure to submit a restoration plan within thirty (30) days shall result in a double fine. In the event that an insufficient trunk of the removed tree exists to determine replacement requirements, including the size and number of required replacement trees, these facts shall be determined by the City Manager based upon any available information, including photographs or a survey of trees of the same species existing within the City. In making such determinations, the opinion of the City Manager shall control. If the City Manager cannot determine with reasonable certainty the number of protected trees removed, the violation shall be corrected by paying a civil fine of up to one dollar (\$1.00) per square foot of land cleared. All amounts received by the City pursuant to this section shall be deposited in the Tree Replacement Fund.
- B. In evaluating a proposed restoration plan, the City shall consider the following:

1. The cross-sectional area of trunk(s) removed;
  2. The specific aesthetic character of the tree removed;
  3. Any special function the tree carried out as a screen or buffer;
  4. Amount of other trees preserved on the site, and the opportunities for planting additional trees;
  5. Any short-term or long-term negative environmental impacts from the unauthorized tree removal, including, but not limited to, erosion, siltation, impacts on listed plant and/or animal species, water circulation patterns, water quality standards, and floodplain capacity or conveyance (including, but not limited to, swales or overland sheet flow, where pertinent).
- C. The City Manager shall review the proposed restoration plan. The City Manager may require any bonding or other guarantees deemed necessary to insure the performance and completion of the restoration plan, and/or the maintenance and survival of the implemented restoration plan. If a bond is required, the bond amount shall be one dollar (\$1.00) for every square foot of land cleared in violation of this section, or \$12,500 if a heritage tree has been removed.
- D. The City Manager shall, within 30 days of submission of a restoration plan, either:
1. Approve the restoration plan after rendering a finding that implementation of the restoration plan, will ensure restoration of the quality and screening functions previously provided on site, according to the criteria set forth herein by the removed or otherwise destroyed trees; or
  2. Deny the restoration plan and levy appropriate fines based on a finding that said restoration plan, upon implementation, cannot restore the quality and screening functions previously provided by the removed or otherwise destroyed trees; or
  3. Deny said plan and inform the owner or developer of what the City requires in order to approve said restoration plan. Such plans shall be resubmitted within thirty (30) days of the denial. Failure to resubmit or appeal within this time period shall subject the property owner to a fine of \$100.00 per day.
- E. If the City Manager determines that implementation of a restoration plan cannot replace the quality and screening functions of the trees removed or otherwise destroyed then the City Manager may assess the following fines for the unauthorized removal of trees in addition to any other fines required pursuant to other City ordinances or by state or federal rules and laws:
1. \$125.00 per inch DBH for each tree removed that was not located in a designated wetland, coastal upland protection zone, approved upland landscaped buffer areas or conservation easement, tract or similarly designated area; and
  2. \$250.00 per inch DBH for each tree removed that was located within a designated wetlands, coastal upland protection zone, approved landscape buffer areas or conservation easement, tract or similarly designated area. This shall include landscape buffer areas previously required as part of an approved landscape plan or other development plan or order, upland buffers around wetlands and habitat or riparian protection zones; and
  3. \$12,500.00 for each heritage tree removed.
- F. No further City permits for the subject property or project shall be issued or inspections provided until all violations of this article are corrected or a restoration plan has been accepted by the City Manager. No certificate of occupancy shall be granted unless and until the restoration plan is implemented or a performance bond satisfactory to the City and its attorney is submitted and approved by the City.