

These regulations shall be effective in the City of Wewahitchka upon adoption on February 23, 1993. and revised November 25, 1996.

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## **ARTICLE II DEVELOPMENT REVIEW**

### **2.00.00 GENERALLY**

#### **2.00.01 Purpose**

This Article sets forth the application and review procedures required for obtaining development orders, and certain types of permits.

#### **2.00.02 Withdrawal Of Applications**

An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing.

#### **2.00.03 Definitions**

**DEVELOPER:** Any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

**DEVELOPMENT ORDER:** An order granting, denying, or granting with conditions an application for approval of a development activity. A distinction is made between a development order and a building permit. A development order is the City authorization of a proposed development project. Such authorization must be granted by the City prior to issuance of a building permit by the County as defined for purposes of these regulations. (The development order authorizes the project, whereas, the building permit authorizes specific components of the

project, such as building construction, sign installation, and the like.) For purposes of these regulations, the development plan approval or preliminary plat approval is the development order.

**DEVELOPMENT PERMIT:** For purposes of this Code a development permit is that official City document which authorizes the commencement of construction or land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, mechanical, and so forth, in addition to the building permit itself), septic tank permits, sign permits, demolition permits, etc.

**LOT OF RECORD:** A designated parcel, tract or area of land established in the County's Official Record Books, Miscellaneous Map File Book, by recorded plat, by unrecorded plat on file in the Gulf County HRS Public Health Unit, or as otherwise allowed by law.

**MINOR REPLAT:** The subdivision of a single lot or parcel of land into five (5) to nine (9) lots or parcels, and where the resultant lots comply with the standards of this Code and where no new street or rights of way are included. Approval for minor replats is the responsibility for the City Manager or Designee.

**OWNER:** A person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, an authorized agent, attorney, executor, personal representative or trustee) has legal or equitable title to any property in questions, or a tenant, if the tenancy is chargeable under his lease for the maintenance of the property.

**PARCEL:** A unit of land within legal established property lines.

## **2.01.00 AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR TO UNDERTAKING ANY DEVELOPMENT ACTIVITY.**

### **2.01.01 Generally**

No development activity may be undertaken unless the activity is authorized by a development permit or is specifically exempted by Section 2.01.03.

### **2.01.02 Prerequisites To Issuance Of Development Permit**

Except as provided in Section 2.01.03 below, a development permit may not be issued unless the proposed development activity.

A. Is authorized by a Development Order issued pursuant to this Code; and

B. Conforms to the Technical Construction Standards adopted by reference in Article I of this Code.

### **2.01.03 Exemptions To Requirement Of A Development Order**

A development permit may be issued for the following development activities in the absence of a

development order issued pursuant to this Code. Unless otherwise specifically provided, the development activity shall conform to this Code and the Technical Construction Standards.

- A. Development activity necessary to implement a valid site plan or development plan on which the start of construction took place prior to the adoption of this Code and has continued in good faith. (Nothing in this Section shall be construed as to exempt future development phases).
- B. The construction or alteration of a one or two family dwelling on a lot of record prior to the adoption of this Code, provided development complies with the minimum requirements of other permitting agencies.
- C. The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site.
- D. The re-surfacing of a vehicle use area that conforms to all requirements of this Code.
- E. A Minor Replat granted pursuant to the procedures in Section 2.03.00 of this Article.
- F. Accessory use permits, such as those for erection of signs, constructions of tennis courts, swimming pools, and similar uses.

#### **2.01.04 Post-Permit Changes**

After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the City Manager's Office.

### **2.02.00 PROCEDURE FOR REVIEW OF DEVELOPMENT PLANS**

#### **2.02.01 Pre-Application Conference**

Prior to filing for development plan review, the developer shall meet with the City Manager to discuss the development review process, to be informed of which staff members to confer with about the application, and to discuss the general concept of the proposed development. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

#### **2.02.02 Designation Of Plans As Minor Or Major Developments**

##### **A. Generally**

For purposes of these review procedures, all development plans shall be designated by the City Manager as either a Minor Development or Major Development according to the following criteria. Before submitting a development plan for

review, the developer shall provide the City Manager with sufficient information to make this determination.

## **B. Major Development**

A development plan shall be designated as a Major Development if it satisfies one or more of the following criteria:

1. The development is a residential project of three (3) or more dwelling units.
2. The development involves five thousand (5,000) square feet or more of non-residential gross floor area.
3. Any development that the City Manager designates as a Major Development Project because:
  - a. The proposed development is part of a larger parcel for which additional development is anticipated that when aggregated with the project in question exceeds the limits of 1 or 2 above; or
  - b. The proposed development should be more thoroughly and publicly reviewed because of its complexity, hazardousness, or location.

## **C. Minor Development**

A development plan shall be designated as a Minor Development if it is neither a Major Development nor a development exempt under Section 2.01.03 of this Article from the requirement of a development order.

### **2.02.03 Review Of Development Plans For Minor Developments**

#### **A. General Procedures**

1. The developer of a proposed Minor Development shall submit a Development Plan and appropriate application fees to the City Manager.
  - a. Minor Development Application Fees shall be a minimum of \$25.00.
2. Within five (5) working days of receipt of a Plan, the City Manager shall:
  - a. Determine that the Plan is complete and proceed with the procedures below; or
  - b. Determine that the information is incomplete and inform the developer of the

deficiencies. The developer may submit an amended Plan within thirty (30) working days without payment of a reapplication fee, but, if more than thirty (30) days have elapsed, must thereafter re-initiate the review process and pay an additional fee.

3. Within twenty (20) working days of the determination that the Plan is complete, the City Manager shall:

- a. send a copy of compliance to the Building Inspector for constructions permits to be reviewed and permitted under the guideline required by this code.
- b. Issue a Development Order complying with Section 2.02.06 below; or
- c. Refuse to issue a Development Order based on it being impossible for the proposed development, even with reasonable modifications, to meet the requirements of this Code.

4. The developer or any adversely affected person may appeal any decision of the City Manager by filing an appeal with City Clerk who shall place the appeal on the next available agenda for the Planning and Development Review Board. The PDRB shall make the final decision regarding any appeals related to a minor development.

#### **2.02.04 Review of Development Plans for Major Developments**

##### **A. Determination of Level of Proposed Major Development**

The Technical Advisory Committee (TAC) shall review all submittals related to a major development proposal and shall determine whether the proposal is a Level 1 or Level 2 major development, based on overall size, anticipated impacts, and the complexity, location, or potential for hazardousness. All proposed developments which involve the subdivision of land shall be considered Level 2 major developments. If the proposal is determined to be a Level 1 major development, the Technical Advisory Committee shall be the approval authority, i.e., the entity with responsibility for approving or denying the development plan, as outlined in (B) below. If the development is a Level 2 major development, the review of the preliminary development plan shall be completed by the Technical Advisory Committee, and findings presented to the Board of City Commissioners for review. Approval of the development plan shall be the responsibility of the Board of City Commissioners, as outlined in (C) below.

##### **B. Review of Level 1 Major Development Plans**

1. The developer shall submit a Development Plan and appropriate applications fees to the City Clerk.

- a. Level 1, Major Development Review Fees shall be minimum \$50.00.

2. Within ten (10) working days of receipt of a Development Plan, the City Manager shall:

- a. Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plan within thirty (30) days without payment of an additional fee, but, if more than thirty (30) days have elapsed, must thereafter initiate a new application and pay a new fee; or

- b. Determine that the plan is complete and proceed with the following procedures.

3. The City Manager shall send a copy of the Development Plan to each member of the Technical Advisory Committee and set a meeting date that allows for an adequate review and sufficient time for discussion.

4. The Technical Advisory Committee shall:

- a. Issue a Development Order complying with Section 2.02.06 below, or
  - b. Refuse to issue a Development Order based on it being impossible for the proposed development, even with reasonable modifications, to meet the requirements of this Code.

#### **C. Review Of Development Plans For Level 2 Major Development**

1. The developer shall submit a Development Plan and appropriate application fees to the City Clerk.

- a. Level 2, Major Development Review Fees shall be minimum of \$100.00.

2. Within ten (10) working days of receipt of a Development Plan, the City Manager shall:

- a. Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plan within one hundred eighty (180) days without payment of an additional fee, but, if more than one hundred eighty (180) days have elapsed, must thereafter initiate a new application and pay a new fee; or (Changed to 180 days - November 25 1996 by City of Wewahitchka).

- b. Determine that the plan is complete and proceed with following procedures.

3. The Technical Advisory Committee shall review the Development Plan and recommend to the Board of City Commissioners that they:

- a. Issue a Development Order complying with Section 2.02.06 below; or
  - b. Refuse to issue a Development Order based it being impossible for the proposed development, even with reasonable modifications, to meet the

requirements of this Code.

- c. For proposed subdivisions, the Technical Advisory Committee shall refer the proposed development plan to the Planning and Development Review Board for review and recommendation to the City Commission.
4. Upon review by the T.A.C. (and PDRB if applicable), the City Manager shall place the proposed development plan on the agenda of the next City Commission meeting that allows for adequate public notice.
5. If the proposed development includes the subdivision land, issuance of a development order by the Wewahitchka City Commission shall constitute preliminary plat approval.

#### **2.02.05 Project Phasing**

A Master Plan for the entire development site must be approved for a Major Development that is to be developed in phases. The Master Plan shall be submitted simultaneously with an application for review of the Development Plan for the first phase of the development and must be approved as a condition of approval for the Development Plan for the first phase. A Development Plan must be approved for each phase of the development under the procedures for development review prescribed above. Each phase shall include a proportionate share of the proposed recreational and open space, and other site and building amenities of the entire development, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases.

#### **2.02.06 Required And Optional Contents Of Development Orders**

##### **A. Required Contents**

A Development Order shall contain the following:

1. A specific time period during which the development order is valid and during which time development shall commence. A Development Order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval.
2. Notice that a final concurrency determination will be required prior to the issuance of a Building Permit.
3. A commitment by the City to the following:
  - a. The necessary facilities shall not be deferred or deleted from the Capital Improvements Element or the adopted one-year capital budget unless the subject development order expires or is rescinded prior to the issuance of a certificate of occupancy.
  - b. Contracts shall provide that construction of necessary facilities must proceed to



completion with no unreasonable delay or interruption.

## **B. Option Contents**

A Development Order may contain:

1. A schedule of construction phasing consistent with availability of capacity of one or more services and/or facilities.
2. A schedule of services or facilities to be provided or contracted for construction by the applicant prior to the issuance of any certificate of occupancy or within specified time periods.
3. Any alternate service impact mitigation measure to which the applicant has committed in a recordable written instrument.
4. Sureties and guarantees as well as agreements related to maintenance of public facilities, as required by Section 2.02.10, Guarantees and Sureties.
5. Such other conditions as may be required to ensure compliance with the concurrency requirement.

## **2.02.07 Submittals**

### **A. Application**

Applications for development review shall be available from the City Manager. A completed application shall be signed by all owners or their agent, of the property subject to the proposal and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation and embossed with the corporate seal.

### **B. General Development Plan Requirements**

All Development Plans submitted pursuant to this Code shall conform to the following standards:

1. All site plans shall be drawn to a scale of one (1) inch equals one hundred (100) feet unless the City Manager determines that a different scale is sufficient or necessary for proper review of the proposal.
2. The trim line sheet size shall be twenty-four (24) inches by thirty-six (36) inches. A three-quarter (3/4) inch margin shall be provided on all sides except for the left binding side where a two (2) inch margin shall be provided.
3. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each sheet.

4. The front cover sheet of each plan shall include:
- a. A general vicinity and/or location map showing the position of the proposed development in the section (s), township and range, together with the principal roads, city limits, and/or other pertinent orientation information.
  - b. A complete legal description of the property including tax reference number.
  - c. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president of the entity shall be shown.
  - d. The name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).
  - e. Each sheet shall contain a title block with the name of the development, a stated and graphic scale, a north arrow and date.
  - f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter-section or subdivision name and lot number(s).
5. The following number of copies shall be submitted based on the required level of review.

Three (3) sets for any proposed minor development activity (to be reviewed by the City Manager).

Five (5) sets for any proposed Level 1 major development activity (to be reviewed by the Technical Advisory Committee (TAC)).

Seven (7) sets for any proposed Level 2 major development activity (to be reviewed by City Commission).

6. Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.

### **C. Development Plan**

In addition to the general development plan requirements, a Development Plan shall include or provide the following information where determined applicable by Building Inspector.

#### **1. Existing Conditions**

- a. A recent aerial photograph encompassing the project area and identifying the project area and total land area. The scale shall be no smaller than one inch

equals 800 feet.

- b. A soils map of the site (existing US Soil Conservation service maps are acceptable).
- c. A generalized map of vegetative cover including the location, height, and identity by common name of all trees. Groups of trees may be designated as "clusters" with the estimated total number height and identity noted.
- d. A topographic map of the site clearly showing the location, identification, and elevation of bench marks, including at least one bench mark for each major water control structure.
- e. Existing surface water bodies, wetlands, streams and canals within the proposed development site.
- f. A detailed overall project area map showing existing hydrology and runoff patterns, to include drainage basins and/or watershed boundaries.
- g. A depiction of the site, and all land within two hundred (200) feet of any property line of the site, showing the locations of Protected Environmentally Sensitive Zones and Wellhead Protection Zones.
- h. The location of any underground or overhead utilities, culverts and drains on the property and within one hundred (100) feet of the proposed development boundary.
- i. Location, names, widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public spaces and similar facts regarding adjacent property.
- j. The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year floodplain for all parts of the proposed development.

## **2. Proposed Development Activities and Design**

### **a. Generally**

- 1) Area and percentage of total site area to be covered by an impervious surface.
- 2) Grading plans specifically including perimeter grading.
- 3) Construction phase lines.

### **b. Building and Other Structures**

- 1) Building plan showing the location, dimensions, gross floor area, and proposed use of buildings.
- 2) Front, rear and side architectural elevations of all buildings.
- 3) Building, setback distances from property lines, setback from abutting right-of

- way, and all adjacent buildings and structures.
- 4) Minimum floor elevations of buildings within any 100-year floodplain.
  - 5) The location, dimensions, type, composition, and intended use of all other structures.

**c. Potable Water and Wastewater Systems**

- 1) Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
- 2) The boundaries of proposed utility easements.
- 3) Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
- 4) Exact locations of on-site and nearby existing and proposed fire hydrants.

**d. Streets, Parking and Loading**

- 1) All street-related submittal requirements listed in Article VIII, Subdivision Regulations.
- 2) A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for handicapped parking, loading areas, proposed ingress and egress (including proposed public street modifications), and projected on-site traffic flow.
- 3) For developments which would generate 500 or more new trips per day, a traffic impact study which includes, at a minimum, the area of impact, the projected demand (based on Trip Generation, 5th Edition, Institute of Transportation Engineers), and the distribution of trips onto the impacted roadways.

**e. Vegetated Buffer Zones**

- 1) Location and dimensions of proposed buffer zones and vegetated areas.
- 2) Description of plan materials existing and to be planted in buffer zones.

**f. Stormwater Management**

- 1) An erosion and sedimentation control plan that describes the type and location of control measures, the stage of development at which they will be put into place or used, and maintenance provisions.
- 2) A description of the proposed stormwater management system, including:
  - a) Channel, direction, flow rate, and volume of stormwater that will be conveyed from the site with a comparison to natural or existing conditions.

- b) Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of surface water quality changes.
  - c) Areas of the site to be used or reserved for percolation including an assessment of the impact on groundwater quality.
  - d) Location of all water bodies to be included in the surface water management system (natural and artificial) with details of hydrography, side slopes, depths, and water-surface elevations or hydrographs.
  - e) Linkages with existing or planned stormwater management systems.
  - f) On and off-site right-of-ways and easements for the system including locations and a statement of the nature of the reservation for all areas to be reserved as part of the Stormwater Management System.
  - g) The entity or agency responsible for the operation and maintenance of the Stormwater Management System.
- 3) The location of off-site water resource facilities such as works, surface water management systems, wells or well fields, that will be incorporated into or used by the proposed project, showing the names and addresses of the owners of the facilities.
  - 4) Runoff calculations shall be in accord with standard engineering practices.

**g. Environmentally Sensitive Lands**

- 1) The exact sites and specifications for all proposed drainage, filling, grading dredging, and vegetation removal activities, including estimated quantities of excavation or fill materials computed from cross sections, proposed within a Protected Environmentally Sensitive Zone.
- 2) Detailed statement or other materials showing the following:
  - a) The percentage of the land surface of the site that is covered with natural vegetation and the percentage of natural vegetation that will be removed by development.
  - b) The distances between development activities and the boundaries of the Protected Environmentally Sensitive Zones.
- 3) The manner in which habitats of endangered threatened species are protected.

**h. Signs**

- 1) For regulated ground signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly the location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas and other existing ground signs on the parcel.
- 2) For regulated building signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly:

- a) The location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas, buildings and structures on the parcel.
- b) The number, size, type, and location of all existing signs on the same parcel, except a single business unit in a multiple occupancy complex shall not be required to delineate the signs of the business units.

**i. Subdivision**

Proposed number, minimum area and location of lots, if development involves a subdivision of land. Additional submittals related to subdivisions are contained in Article VIII, Subdivision Regulations.

**j. Land Use and Dedications**

- 1) Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations, and the like.
- 2) The total number, type, and density of residential units.

**k. Wellfield Protection**

Location of on-site wells, and wells within two hundred (200) feet of any property line, supplying water for public consumption.

**1. Historic And Archaeologic Sites**

**D. Master Plan**

A Master Plan is required for a Major Development which is developed in phases. A Master Plan shall provide the following information for the entire development:

1. A Concept Plan for the entire Master Plan area.
2. A development Plan for the first phase or phases for which approval is sought.
3. A development phasing schedule including the sequence for each phase, approximate size of the area in each phase, and proposed phasing of construction of public recreation and common open space areas and facilities.
4. Total acreage in each phase and gross intensity (non-residential) and gross density (residential) of each phase.
5. Number, height and type of residential units.
6. Floor area, height and types of office, commercial, industrial and other proposed uses.
7. Total land area, and approximate location and amount of open space included in each

residential, office, commercial, and industrial area.

8. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress.
9. Approximate location and acreage of any proposed public use such as parks, school sites, and similar public or semi-public uses.
10. A vicinity map of the area within one thousand (1000) feet surrounding the site showing:
  - a. Land use designations and boundaries.
  - b. Traffic circulation systems
  - c. Major public facilities
  - d. Municipal boundary lines
11. Other documentation necessary to permit satisfactory review under the requirements of this Code and other applicable law as required by special circumstances in the determination of the City Manager.

(NOTE: A Master Plan is required whenever a Major Development is to be implemented in phases. The required information allows the Building Department, the Technical Advisory Committee, the Planning and Development Review Board and interested citizens to review each phase independently and in the context of an overall development plan. The purpose is to assure that adequate consideration is made of all effects of the component parts on each other, the completed project and the affected community.)

## **2.02.09 Guarantees and Sureties**

### **A. Applicability**

1. The provisions of this section apply to all proposed developments in the City involving public improvements and/or common ownership and maintenance of facilities.
2. Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in Article VII of this Code.
3. This section does not modify existing agreements between a developer and the City for subdivisions platted and final development orders granted prior to the effective date of this Code, providing such agreements are current as to all conditions and terms thereof.

### **B. Improvements Agreement Required**

The approval of any development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways water and sewer lines, shall be satisfactorily constructed according to the approved development plan. The following information

shall be provided.

1. Agreement that all improvements, whether required by this Code or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.
2. The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five (5) years from the recording of the plat or thirty percent (30%) occupancy of the development, whichever comes first.
3. The projected total cost for each improvement. Cost for construction shall be determined by either of the following:
  - a. Estimate prepared and provided by the applicant's engineer.
  - b. A copy of the executed construction contract provided.
4. Specification of the public improvements to be made and dedicated together with the timetable for making improvements.
5. Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making those improvements, the City shall utilize the security provided in connection with the agreement.
6. Provision of the amount and type of security provided to ensure performance.
7. Provision that the amount of the security may be reduced periodically, subsequent to the completion, inspection and acceptance of improvements by the City.

**C. Amount And Type Of Security**

1. The amount of the security listed in the improvement agreement shall be approved as adequate by the City Manager.
2. Security requirements may be met by, but are not limited to, the following:
  - a. Cashiers check
  - b. Certified check
  - c. Developer/Lender/City Agreement
  - d. Interest Bearing Certificate of Deposit
  - e. Irrevocable Letters of Credit
  - f. Surety Bond
3. The amount and type of security shall be established by the City Commission
4. The amount of security may be reduced commensurate with the completion and final acceptance of required improvements.



#### **D. Completion of Improvements**

1. When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before final acceptance is recommended by City Staff. A recommendation for final acceptance shall be made upon receipt of a certification of project completion and one (1) copy of all test results.
2. As required improvements are completed and accepted, the developer may apply for release of all/or a portion of the bond consistent with the requirement in Section 2.02.10.C.3 above.

#### **E. Maintenance of Improvements**

1. A maintenance agreement and security shall be provided to assure the City that all required improvements shall be maintained by the developer according to the following requirements:
  - a. The period of maintenance shall be specified in the development order.
  - b. The maintenance period shall begin with the acceptance by the City of the construction of the improvements.
  - c. The security amount shall be established by the City Commission.
  - d. The original agreement shall be maintained by the City Manager.
2. 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.
  - a. When the proposed development is to be organized as a condominium under the provisions of Ch. 718, Florida Statutes, common facilities and property shall be conveyed to the condominium's association pursuant to that law.
  - b. When no condominium is to be organized, an owners association shall be created, and all common facilities and property shall be conveyed to that association.
  - c. No development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the City Attorney.
3. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the City shall be created by covenants running with the land.

#### **2.03.00 PROCEDURE FOR OBTAINING A MINOR REPLAT**

### **2.03.01 Review by City Manager**

#### **A. Generally**

The City Manager may approve a Minor Replat that conforms to the requirements of this part.

#### **B. Submittals**

The City Manager shall consider a proposed Minor Replat upon the submittal of the following materials:

1. An application form provided by the City.
2. Two (2) paper copies of the proposed Minor Replat;
3. A statement indicating whether water and/or sanitary sewer service is available to the property; and
4. Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the State of Florida. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.

#### **C. Review Procedure**

If the proposed Minor Replat meets the conditions of this section and otherwise complies with all applicable laws and ordinances, the City Manager shall approve the Minor Replat by signing the application form.

#### **D. Recordation**

Upon approval of the Minor Replat, the City Manager shall record the replat on the appropriate maps and documents, and shall, at the developer's expense, record the replat in the official County records.

### **2.03.02 Standards and Restrictions**

#### **A. Standards**

All Minor Replats shall conform to the following standards:

1. Each proposed lot must conform to the requirements of this Code.
2. Each lot shall abut a public or private street (except as hereinafter provided).
3. If any lot abuts a street right-of-way that does not conform to the design

specifications provided in this Code, the owner may be required to dedicate one-half the right-of-way width necessary to meet the minimum design requirements.

4. If roadways within the confines of the minor replat fail to meet the minimum requirements for City of Wewahitchka roadways, a statement must be placed on face of the minor replat and on each and an individual deeds that City of Wewahitchka will not accept ownership of roadways or maintain roadways until said roadways conform to the latest city regulations for secondary roadways.

#### **B. Restriction**

No further division of an approved Minor Replat is permitted under this section, unless a development plan is prepared and submitted in accordance with this Article.

### **2.04.00 PROCEDURE FOR OBTAINING DEVELOPMENT PERMITS**

#### **2.04.01 Application**

Application for a Development Permit shall be made to the office of the City Manager on a form provided by the City Manager and may be acted upon by the City Manager without public hearing or notice.

#### **2.04.02 Review and Issuance by Department**

The City Manager shall review all applications for development permits and shall issue such permits upon a determination of conformance with adopted Technical Construction Standards and any other applicable codes, and upon a final concurrency determination as described in the Concurrency Management Procedures Manual.

### **2.05.00 DUTIES OF VARIOUS INDIVIDUALS, BOARDS AND AGENCIES ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS**

#### **2.05.01 City Manager**

The City Manager or his designee shall be responsible for receiving requests for concurrency determinations, informing applicants of required information, and issuing a concurrency certificate.

The City Manager shall act as Chairman of the Technical Advisory Committee, setting meetings and distributing applications for development proposals to committee members for review.

The City Manager may approve exemptions from the requirements of these regulations as deemed appropriate in emergency situations, as provided for in Section 2.05.10

#### **2.05.02 Planning/Building Department**

The Planning/Building Department shall be responsible for administration and application of land development regulations as set forth herein. Responsibilities include the following:

- Determine whether a proposed development activity is consistent with the Future Land Use Map contained in the adopted comprehensive plan.
- Receive applications for development approval and determine whether the development activity is a minor or major development.
- Review applications for minor development and approve permit issuance.
- Refer applications which require review by the Planning and Development Review Board for review and action.
- Receive requests for special exceptions and variances and refer these to the Planning and Development Review Board.
- Receive requests for amendments to the land development regulations or the comprehensive plan and refer these to the Planning and Development Review Board.
- Upon determination of compliance with the Land Development Regulations, the Building Inspector shall authorize the issuance of a building permit.
- Decisions of the Planning/Building Department may be appealed to the Planning and Development Review Board as provided for in Section 2.06.08 of this Article. Development Review Board regarding development permit or development order decisions, except indirectly through regulatory changes.

#### **2.05.03 Technical Advisory Committee**

The Technical Advisory Committee is composed of City staff knowledgeable in areas of land development, building, zoning, public works and/or planning, and is appointed by the Building Inspector. The City Manager shall act as Chairman of the Technical Review Committee.

The Technical Advisory Committee (TAC) is responsible for development review and development order approval for all level 1 major development activity. Development order approval is issued based upon a determination by the TAC that the proposed development activity conforms to the requirements of these land development regulations.

The Technical Advisory Committee acts in an advisory role for development activity which requires review by the Planning and Development Review Board and approval by the City Commission and may be called upon to confer with the Planning and Development Review Board regarding requests for special exceptions and variances.

All minutes of the Technical Review Committee meeting shall be filed with the Building Department.

#### **2.05.04 Planning and Development Review Board**

##### **A. Establishment and Procedures:**

A Planning and Development Review Board (PDRB) shall be established within 45 days of the effective date of this Ordinance by motion of City Commission.

The PDRB shall consist of five members to be appointed by the City Commission, each for staggered terms of two years. Members of the Planning and Development Review Board may be removed from office by the City Commission regular board action. Vacancies shall be filled by the City Commission for the unexpired term of the member affected.

**B. Proceedings of the Planning and Development Review Board:**

The Planning and Development Review Board shall adopt rules necessary to conduct its affairs and in keeping with the provisions of these regulations. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. A majority of the membership for the PDRB shall constitute a quorum.

The Planning and Development Review Board shall keep minutes of its proceedings showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the City Clerk.

**C. Powers and Duties of the Planning and Development Review Board.**

**The Planning and Development Review Board shall have the following powers and duties:**

1. **Administrative Review:** To hear and decide appeals where it is alleged there is error in any order, requirements, decision or determination made by any board, department or committee in the administration and application of these regulations. Decisions rendered by City Commission shall not be appealed to the Planning and Development Review Board.
2. **Special exceptions:** To hear and decide only such special exceptions as the Planning and Development Review Board is specifically authorized to consider by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations or to deny special exceptions when not in harmony with the purpose and intent of these regulations.
3. **Variances:** To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.
4. **Powers of Planning/Building Department on Appeals:** In exercising the above mentioned powers, the Planning and Development Review Board may, so long as such an action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination

appealed from and may make such order, requirement, decision or determinations as ought to be made, and to that end shall have the power of the Planning/Building Department from whom the appeal is taken.

The concurring vote of a majority of the Planning and Development Review Board shall be necessary to reverse any order, requirement, decisions, or determination of the Planning/Building Department, Technical Advisory Committee, or other administrative official; or to decide in favor of the applicant on any matters upon which it is required to decide in the application of these regulations.

5. Review and recommend preliminary and final subdivision plats for approval by the City Commission.
6. Review and recommend level 2 major development for approval by the City Commission.
7. Review and recommend updating and amendment of the comprehensive plan and land development regulations. All plan amendments and revised regulations shall require Planning and Development Review Board review and recommendation prior to approval by City Commission.

All subdivision plats shall require review and recommendation by the City Planning and Development Review Board prior to action by the City Commission.

#### **2.05.05 City Commission**

For the purposes of these land development regulations, the City Commission of Wewahitchka is responsible for review and approval of preliminary and final subdivision plats, and fore review and approval of all level 2 major development proposals.

#### **2.05.06 SPECIAL EXCEPTIONS - Requirements and Procedures:**

A special exception shall not be granted by the Planning and Development Review Board unless and until the following requirements and procedures are met:

- A. A written application for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is required.
- B. Notice shall be given at least 15 days in advance of the public hearing. The owner of the property for which special exception is sought or his agent and the owners of abutting spot on the property for which special exception is sought, at City Hall and in one other public place at least 15 days prior to the public hearing. Required fees as set forth in Section 2.05.10 of the Article shall be deposited with the City Clerk to cover the cost of posting notices and notification by mail.

- C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.
- D. The Planning and Development Review Board shall make a finding that it is empowered under the section of these regulations described in the application to grant the special exception, and provided that the granting of the special exception will not adversely affect the public interest. The Planning and Development Review Board shall confer with appropriate representatives of boards and/or committee having development review responsibility or specific knowledge regarding the special exception.
- E. Before any special exception shall be issued, the Planning and Development Review Board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following where applicable.
  - 1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and to convenience, traffic flow and control, and access in case of fire or catastrophe;
  - 2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
  - 3. Refuse and service areas, with particular reference to the items in (1) and (2) above;
  - 4. Utilities, with reference to location, availability and compatibility;
  - 5. Screening and buffering with reference to type, dimensions, and character;
  - 6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
  - 7. Required yards and other open space;
  - 8. General compatibility with adjacent properties and other property in the district.
- F. Any restrictions imposed as a condition of granting the special exception, such as limitations on size or square footage, including future expansions, shall be specified at the time the special exception is granted.

#### **2.05.07 VARIANCES - Requirements and Procedures:**

A variance from the terms of these regulations shall not be granted by the Planning and Development Review Board unless and until the following requirements or procedures are met:

- A. A written application for a variance (hardship relief) is submitted to the Planning/ Building Department demonstrating that a hardship exists based on one of the following conditions:
  - 1. That special conditions and circumstances exist which are peculiar to the land, structure or buildings involved and which are not applicable to other lands,

- structures or buildings in the same district;
2. That literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations;
  3. That the special conditions and circumstances do not result from the actions of the applicant; or
  4. That granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures or buildings in the same district.

No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

- B. Notice of public hearing shall be given in accordance with provisions specified under "Special Exceptions" and a public hearing shall be held. Any party may appear in person, or by agent or by attorney.
- C. The Planning and Development Review Board shall make a finding that the requirements regarding hardship relief have been met by the applicant for a variance, that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- D. The Planning and Development Review Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.
- E. In granting any variance, the Planning and Development Review Board may prescribe appropriate conditions and safeguards in conformity with this Code. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under Section 2.05.09.
- F. The Planning and Development Review Board shall prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the prescribed time limit shall render the variance null and void.
- G. Under no circumstances shall the Planning and Development Review Board grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or may use expressly or by implication prohibited by the terms of these regulations in said district; however, as provided for in these regulations, the Planning and Development Review Board may make a "substantially similar use" determination upon request by the development approval authority.

## **2.06.08 APPEALS - Appeals to Planning and Development Review Board**

- A. Appeals to the Planning and Development Review Board concerning the interpretation or administration of these regulations may be taken by any person aggrieved or by any officer



or bureau of the governing body of City of Wewahitchka affected by any decision of the Building Department, Technical Advisory Committee, or any administrative official or board. (Decisions rendered by City Commission shall not be appealed to the Planning and Development Review Board.) Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Building Department a notice of appeal specifying the grounds thereof. The Building Department shall forthwith transmit to the Planning and Development Review Board and the City Commission all papers constituting the record upon which the action appealed from was taken.

The Planning and Development Review Board shall fix a time, not to exceed 30 days from the date the appeal was filed, for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and render their decision at the hearing. At the hearing, any party may appear in person or by agent or attorney.

An appeal stays all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken, certifies to the Planning and Development Review Board, after notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. Such case proceedings shall not be stayed other than by a restraining order which may be granted by the Planning and Development Review Board or by injunction granted by the circuit court on notice to the official from whom the appeal is taken and on due cause shown.

#### **B. Judicial Review of Decisions**

1. Any taxpayer, or any officer, department, board or bureau of the governing body, or any person or persons, jointly or severally, having standing to do so, may seek review of a final quasi-judicial decision of the Planning and Development Review Board by Petition for Writ of Common-law Certiorari to the Circuit Court in and for the Gulf County, pursuant to Florida law.
2. Any taxpayer, or any officer, department, board or bureau of the governing body, or any person or persons, jointly or severally, having standing to do so, may seek review of a final quasi-judicial decision of the City Commission by Petition for Writ of Common-law Certiorari to the Circuit Court in and for Gulf County, pursuant to Florida law.

#### **2.06.09 ENFORCEMENT AND PENALTIES - Administration and Enforcement**

The Code Enforcement Officer of City of Wewahitchka shall enforce these regulations, If he finds that any of the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violating and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

##### **Expiration of Permit**

If the work described in any building permit has not begun within six months from the date of issuance thereof, said permit shall expire, and written notice thereof shall be given to the persons

affected. Request for extensions shall be acted upon by the City Manager.

### **Construction and Use to be as Provided in Applications, Plans, Permits**

Building permits issued on the basis of plans and applications approved by the development approval authority authorize only the use, arrangement and construction set forth in such approved plans and applications, and not other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of these regulations, and shall be punishable as provided below.

### **Code Enforcement Board**

The Code Enforcement Board of City of Wewahitchka functions to hear alleged Code violations, issue findings of fact, based on evidence of record and conclusions of law, and issue orders affording proper relief. The Board is authorized to impose fines for non-compliance with these regulations and to impose liens against real property.

### **Penalties**

In case any building or structure is erected, constructed, reconstructed, altered, repaired or maintained, or any building, structure, land or water is used in violation of these regulations or any ordinance, the property local authorities of City of Wewahitchka, in addition to other remedies, may institute any appropriate action or proceeding in a civil action in the Circuit Court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, and to restrain, correct, or abate such violation, to prevent the occupancy of said building, land, structure, or water, and to prevent any illegal act, conduct or business, or use in and about such premises.

Any violation of these regulations is declared to be unlawful and whenever these regulations require the doing of any act, failure to do the act is declared to be unlawful. Violations shall be punishable by a fine not exceeding \$500, or imprisonment for a term not exceeding six months or by both such fine and imprisonment. Each day any violation of any provision of these regulations shall continue shall constitute a separate offense.

## **2.06.10 EMERGENCY EXEMPTIONS**

These regulations shall not be construed to prevent any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire, or hazards resulting from violent storms or hurricanes or when the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of life or property.

A report of any such emergency action shall be made to the City Manager by the owner or person in control of the property upon which the emergency action was taken as soon as practicable, but no later than ten days following such action. Remedial action may be required by the City Manager subject to appeal to the City Commission in the event of dispute.

## **2.06.11 PROJECTS REQUIRING AN AMENDMENT TO THE CITY'S COMPREHENSIVE PLAN**

Applications for Development Approval (ADA) may only be considered if the proposed development is consistent with the adopted comprehensive plan. There is a presumption of general consistency with the comprehensive plan if the requirements of these regulations are met.

Upon receipt of an ADA, the Planning/Building Department shall make a determination of consistency of the proposed development activity with the adopted Future Land Use Map of the Comprehensive Plan. Applicants for the proposed development which are not consistent with the adopted Plan may apply to the City Manager to consider a proposed plan amendment, which if approved must be reviewed by the Florida Department of Community Affairs in accordance with 163.3187 F.S.

## **2.06.12 SCHEDULE OF FEES, CHARGES AND EXPENSES**

The City Commission shall establish by resolution of a schedule of fees, charges and expenses for development review, review of technical construction plans, issuance of building permits, appeals, variances, special exceptions, and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the Building Department, and may be altered or amended only by resolution adopted by the City Commission. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on application or appeal. A collection procedure shall be established by the Building Department.

## **2.06.00 CITY OF WEWAHITCHKA COMPREHENSIVE PLAN GUIDELINES FOR VESTING DETERMINATIONS**

The Comprehensive Plan was officially adopted on July 10, 1990. As of that date, densities and land uses were regulated for the first time in City of Wewahitchka. From that date forward, all subdivisions of land, including through metes and bounds, are required to be consistent with the densities established in the Comprehensive Plan (i.e., number of units allowed per acre).

Although certain emergency actions were taken by City of Wewahitchka to repeal the Plan for a period of time, such action has since been revoked, and is assumed to have no effect on the issue of vesting in City of Wewahitchka. In the event that a question arises regarding this issue, it is recommended that City Staff seek a legal opinion from the City Attorney.

Enforceable means of determining whether a property is "vested" at a density not consistent with the adopted plan, is by verifying through the County's Official Records Books; plats recorded in the property appraiser's office; or metes and bounds plats on file with the HRS City of Wewahitchka Public Health Unit, that a lot, parcel, or subdivision of specific dimensions existed as of a given date prior to July 10, 1990. The City Building Official will determine such vesting. In the event that such lot or parcel is established as vested, such lot or parcel would be considered non-conforming as to lot size. It is not necessary to obtain a Comprehensive Plan Amendment for a vested development which is non-conforming as to land use density. It should be noted that although a non-conforming lot size is vested, all other Comprehensive Plan requirements must be met.

It is recognized that prior to Comprehensive Plan Adoption in 1990, land development in Gulf

County often occurred without plats being officially recorded. Because of this, a procedure by which a landowner can appeal a vesting determination by the Building Official is recommended. The appeal should be heard by City Commission, who should consider and act upon the appeal based on evidence submitted by the landowner pursuant to Florida Statutes regarding common law vesting. For example, the landowner must establish that a plan of development was in effect for this subject property and proceeded in good faith prior to Comprehensive Plan adoption. It is recommended that City Commission obtain a legal opinion regarding such appeals.

It should be noted that specific vesting provisions were included in the Stipulated Settlement Agreement with the Department of Community Affairs, regarding densities and setbacks in the coastal areas. Coastal area densities from July 10, 1990, to January 14, 1992, are required to conform to the Plan as adopted in July, 1990. Any issues related to the previously noted emergency repeal of the Comprehensive Plan should be referred for a legal opinion. Densities and setbacks approved after January 14, 1992, must conform to the Settlement Agreement Provisions. Again, the Building Official will rely on evidence contained in the Official Record Books, property appraisers recorded plats maps, and the HRS Public Health Unit records regarding subdivisions of land to make a vesting determination. Appeals should be addressed to the Wewahitchka City Commission, with evidence submitted and legal opinion provided as previously discussed.

#### **A. Concurrency**

The Comprehensive Plan was developed and all data and analyses reflect that no properties in City of Wewahitchka are vested for purposes of concurrency. In other words, prior to issuing a development order or building permit for any proposed development, an evaluation must be conducted to determine that adequate public facilities will be available at the time of development impact, to serve the development without degrading levels of service below adopted standards. Specific comprehensive plan requirements must be met for the evaluation, as indicated in the Concurrency Management Procedures Manual. The concurrency requirement must be met regardless of whether a property is vested for consistency with the Future Land Use Map. (See Article VII, Land Development Regulations).

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