

## CHAPTER 7

### DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS

#### SECTION 7000. DEVELOPMENT ORDERS

**Subsection 7001. Purpose.** This chapter sets forth the application and review procedures required for obtaining a Development Order (DO) and certain types of permits.

A hierarchy of reviews is described. Level I is the sequence of steps to be followed prior to formal application submittal as outlined in Subsection 7102; Level II (Subsection 7103) takes effect once an application is deemed complete. Such applications in turn are subjected to reviews of varying depth and complexity (review Types I through IV, described in Subsections 7201 through 7204).

(Ord. # 2003-006, 8-19-03; Ord. # 2015-12, 10-20-15; Ord. #2020-005, 02-02-21)

#### **Subsection 7002. Development Orders Required.**

- A. No development allowed by this Code, including accessory and temporary uses, may be established or changed; no structure shall be erected, constructed, reconstructed, or altered with respect to its use after the effective adoption date of this Code until a final site plan or preliminary subdivision plat is on file and approved for such premises and a Development Order has been issued. Nothing herein shall relieve any applicant of the additional responsibility of seeking a permit required by any applicable statute, ordinance or regulation in compliance with all of the terms of this Code or other applicable law.
- B. A Development Order shall be issued under only one of the following conditions:
  - 1. The parcel of land to be developed is a lawful lot of record, either platted or described by metes and bounds and established prior to November 26, 1991; or
  - 2. The parcel of land to be developed has been platted and such plat has been approved under the provisions of the Land Development Code. Such approval includes approval by the Development Review Committee (DRC); or
  - 3. A site plan for commercial or residential development has been submitted and been approved under the Type I or Type II review procedure.
- C. Exemptions.
  - 1. Single-family developments which meet the provisions of Subsection

5104, "Residential Infill Development," are exempted from the Development Order process. This does not exempt single-family and duplex dwellings from acquiring building and other permits as required by law. All single-family infill development shall be in conformance with the provisions of § 163.3202(2)(g), F.S. Development permits are described in Subsection 7600.

2. Certain types of alterations are exempt from securing a Development Order. This exemption does not apply to building and other permits.
  - a. All residential interior alterations.
  - b. All non-residential interior alterations, as long as such alterations continue in the same category of use and in the same intensity of use as measured by its trip generation rate.
  - c. Pole or column-supported roofs subject to the following:
    - i. The proposed roof is over an existing impervious surface.
    - ii. The roof addition is less than fifty percent (50%) of the existing roof structure, but no greater than four hundred (400) square feet.
    - iii. The roof addition is not for the purpose of conducting a separate business on the site.
  - d. De Minimis Development: Alterations which result in an addition of ten percent (10%) or less of the gross floor area (GFA) of the existing structure(s). The GFA must be under one (1) ownership and may include more than one (1) structure on a single parcel.
3. A change of use that does not include an increase in the parking standards required for the new use, as determined by a study of the parking requirements shown in the this Code, and is an allowable use within the land use category in which it is located.

(Ord. # 2003-006, 8-19-03; Ord. #2014-006, 10-07-14)

## **SECTION 7100. APPLICATIONS FOR DEVELOPMENT ORDERS**

### **Subsection 7101. Review Sequence.**

Reviews of Development Order applications are processed in two (2) stages. Prior to formal acceptance, an initial review (Level I) is conducted to inform the applicant of the overall merit of the application. The applicant will also be informed at this time of changes, if any, are necessary to ensure that the application will be consistent with the adopted Comprehensive Plan and will meet the requirements of this Code and other applicable regulations. The formal application process (Level II) is initiated upon completion of Level I approval of the project and must be completed as a necessary prerequisite for the issuance of a Development Order (DO).

## **Subsection 7102. Level I, Pre-application Requirements.**

- A. Reviews. Specific issues to be considered in the Level I Review of the application include, but are not limited to:
1. Land use determination;
  2. Design review;
  3. Concurrency determination;
  4. Compatibility assessment;
  5. Site plan issues; and
  6. Compliance with other necessary portions of this Code.
- B. Pre-application Conference. Level I of the review process begins with a pre-application conference. An applicant or the applicant's authorized representative shall request a pre-application conference, unless the applicant and the Director of Growth Management agree that it is not needed. The conference shall be scheduled within fifteen (15) calendar days of the request. This pre-application conference will be scheduled at the agreement of the applicant and the Growth Management Director. The purpose of this conference shall be to acquaint the applicant with the applicable substantive and procedural requirements, to arrange such technical and design assistance as will aid the applicant in the interpretation of requirements and to otherwise identify policies and regulations that create opportunities or pose significant constraints for the proposed development. A determination will be made at the pre-application meeting as to the necessity for subsurface soils and environmental surveys and other information to be provided as part of the application.
- C. Conceptual Submission Requirements.
1. For residential and non-residential site plan applications refer to Subsection 5207 for minimum conceptual plan requirements.
  2. For subdivisions of parcels creating two to five (2 - 5) lots refer to Subsection 6003.A. for minimum Minor Subdivision requirements.
  3. For subdivisions of parcels creating more than five (5) lots refer to Subsection 6003.B. for minimum conceptual plat requirements.
- D. Level of Service Determination. A determination will be made of any impacts to public facilities (water, sewer, solid waste, roads, recreation and open space) based on the information provided in the concurrency portion of the subdivision or site development application, or as determined by a review of the plans submitted.
- E. Staff response to Level I Reviews. Level I pre-application procedures are concluded with the initial review of the project by the DRC. Prior to making a recommendation on the application, the DRC will circulate the submittal to all

County Departments for reviews and comments. Applications shall be submitted to various local governments and state agencies for projects which affect certain jurisdictions, if determined necessary. Class I or Class II land use determinations shall be made at this time.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03)

### **Subsection 7103. Level II Application Procedures.**

The filing of a formal application for a Development Order initiates the Level II application procedure outlined in detail in Subsections 7103 through 7107 and Section 7200. Application shall include the completed Application for Major Subdivision by the owner(s) of the property upon which the construction or alteration is to take place (or by the owner's designated representative). FDOT Rule 14-96, entitled "State Highway Connection Permit Administrative Process," is hereby incorporated into this Code by reference and is made part of Level II site plan reviews. The following basic information shall be submitted before an application will be considered complete and formally accepted.

- A. The County's development application forms shall be completed and signed by all property owners of the subject property. Signatures by other parties will be accepted only with proof of authorization. In the case of a corporate ownership, the authorized signatures shall be accompanied by a notation of signer's position of the corporation and embossed with the corporate seal.
  1. Upon receipt of an application that is deemed incomplete, the Planning Department shall notify the applicant within ten (10) working days of receipt that the application is missing necessary information. The department shall inform the applicant as to which information is needed to complete the application. If the applicant does not provide the missing information within thirty (30) days, the application is to be rejected. Additional time may be granted to the applicant to respond to the request for additional information upon approval in writing by the Planning Director.  
Rejection based on this revision shall not prohibit the applicant from re-filing an application for Level II review of the same development at any later date. If re-application is made within thirty (30) days of notification, the application fee shall be waived.
  2. Answers, responses, comments and statements made by applicants concerning the application will be consistent. If inconsistencies exist, the applicant shall be notified of the nature of the inconsistency and provided an opportunity to resolve them. If the applicant does not respond to the department's request for additional information within thirty (30) days of notification and additional time is not granted for a response, the application will be considered incomplete, and the procedure for addressing incomplete applications will be implemented.

- B. The application fee shall be paid in full accordance with the current fee schedule. Checks shall be made out to the Gadsden County Board of County Commissioners.
- C. A copy of the certificate of title to the subject property shall be provided by the applicant. This requirement shall be satisfied by a copy of the recorded deed, title insurance policy or similar document which adequately certifies ownership and bears a specific legal description of the property. This legal description shall be checked against those provided on the application and survey.
- D. An up-to-date legal survey is required, to include the following information:
  - 1. Legal description of the subject property which should be consistent with the description found on the certificate of title;
  - 2. All recorded public and private easements and rights-of-ways within and adjacent to the parcel, labeled as to type;
  - 3. Total area of subject property in acres; and
  - 4. Signature and seal of registered professional land surveyor.
- E. A surface soils survey and/or subsurface boring result, if the need for such was identified at the pre-application conference. These surveys shall include discussion of necessary mitigative measures to be taken to overcome soils constraints on-site and potential negative impacts off-site.
- F. Drawings and/or plats as required in Subsections 7102, 7104 or 7105 provided: 1) such drawings and/or plats have been reviewed by the DRC; 2) a determination that the County public facilities LOS will not be degraded below the acceptable standards as adopted in the Gadsden County Comprehensive Plan.
- G. If applicable, a copy of the completed FDOT Rule 14-96, "Connection Permit Application," shall be submitted to the Planning Department at the same time as the preliminary site plan or preliminary plat submittal to the County.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03)

#### **Subsection 7104. Submission Requirements.**

- A. Requirements for submission of residential and non-residential Site Development plans is fully described in Chapter 5 of this Code.
- B. Application requirements for a Development Order for the division of land into two (2) or more separate parcels and/ or the placement of two (2) or more

dwelling units in one (1) calendar year are described fully in Chapter 6 of this Code. Refer to Chapter 6 for additional subdivision requirements. This includes preliminary and final subdivision requirements.

(Ord. # 2003-006, 8-19-03)

### **Subsection 7105. Processing Applications.**

- A. **Coordination Process:** The Planning Director shall be responsible for the coordination of Development Order application reviews and decision making procedures with the in-house County departments as well as the various affected state and regional agencies. A Development Order shall be issued to an applicant whose application and proposed development is found, upon review, to be in compliance with all applicable provisions of this Code.
- B. **Submission of Application:** Materials shall be submitted to the Planning Department which shall indicate a submission date on each copy of the materials submitted.

Completeness of the submission shall be determined within ten (10) working days. The applicant shall be notified if the application is incomplete or otherwise does not meet the submission requirements. An application may be resubmitted after revisions.

If the Development Order application is complete and in conformance with the submission provisions of this Code, the Planning Director or his/her designee shall accept the application, note the date and notify the applicant of the official actions needed for granting the order. The date of acceptance is the official date of the application.

- C. **Determination of Review Type:** Applications submitted for a Development Order shall be processed in accordance with one (1) of the two (2) types of reviews described in Section 7200. The review type shall be indicated upon all applications and required supporting information upon receipt. Processing shall be carried out for the entire application under the highest review required for any portion of the proposal. Should any question arise as to the appropriate process, the higher type of review shall be required. The DRC shall have the authority to process an application at a higher review type when it has been determined that normal review type fails to adequately protect the public interest.
- D. **Referral and Review of Application:** Within five (5) working days after the date of acceptance, the Planning Director or his/her designee shall do the following:
  - 1. Transmit one (1) copy of the application or appropriate parts of the application, to each reviewing department and/or referral agency for

review and comment, including those responsible for determination of compliance with State and Federal requirements.

2. Whenever feasible, actions on multiple applications relating to the same project shall be reviewed concurrently.

E. Development Order Decision:

1. Action shall be taken as follows for Type I or Type II Review.

- a. The Development Order shall be granted within fifteen (15) working days of receiving comments from each referral agency, provided all applicable standards of this Code are met. Approvals shall be based upon the application, compliance with standards, an affirmative capacity to serve determination, other evidence submitted, and comments from referral agencies and approvals required by others. Where a referral agency specifies conditions to be met during the actual development, it shall be noted on the Development Order that the Certificate of Occupancy shall be withheld until compliance is verified.
- b. The Development Order may be denied when the proposed development does not comply with all applicable standards of this Code. In the event that applications may qualify for consideration under variance procedures, the applicant will be advised of the additional processes and criteria in Subsections 7203 and 7300. Such action shall be taken within fifteen (15) working days following the review period in Subsection 7107.D. below. When required approvals are not referral agencies, Development Order approvals may be withheld.
- c. A conditional approval shall be granted when the proposed development meets all applicable standards of this code but lacks a procedural requirement. Action shall be taken within fifteen (15) working days following the review period specified in Subsection 7107.D. However, the Development Order itself, shall not be issued until the specified conditions have been satisfied. Conditional approvals expire forty (40) working days after notice if the applicant fails to satisfy the conditions; notice of denial of the Development Order shall then be issued.
- d. A Development Order shall be issued within ten (10) working days following approval by the Board of County Commissioners or the required subsequent procedures shall be initiated based upon the Board of County Commissioners actions.
- e. The applicant shall be notified of an unfavorable decision within ten

(10) working days following denial by the Board of County Commissioners. The right to appeal is described in Chapter 1 of this Code.

2. Referral agencies and any other agencies or individuals entitled to notice shall be informed of the nature of the application. Such notification shall include the date that the decision becomes effective and shall describe the appeal process procedures of Chapter 1.
3. When an appeal is filed in a timely manner by an aggrieved person other than the applicant, the Development Order shall not be released until a decision is rendered on the appeal.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03 and Ord # 2015-012, 10-20-15)

**Subsection 7106. Re-submission of a Denied Application or a Conditional Approval.** Applicants requesting development order approvals shall have the right to make appropriate alterations, or otherwise show evidence of meeting specified conditions within forty (40) working days following a notice of conditional approval of a development order. Re-submission or providing information to meet conditions shall not require payment of fees (unless re-submission requires separate applications, such as platting). Any submittal which does not meet the forty (40) day deadline shall not be considered and the application shall become void.

(Ord. # 2003-006, 8-19-03 and Ord. # 2015-012, 10-20-15)

**Subsection 7107. Cancellation of Development Orders.**

- A. Failure of an applicant, his/her authorized agent, or by the holder of a Development Order to comply with or honor any express requirement of this Code or express representation contained within the site plan or Development Order either before or after commencement of construction, shall constitute grounds upon which the County may:
  1. Deny or refuse initial or subsequent building permits;
  2. Discontinue utility service; and
  3. Refuse further process of any permit or Certificate of Occupancy in connection with the Development Order.
- B. If a conceptual plat or concept plan is required for a particular premises, building or structure in compliance with the requirements of this Code, the preliminary plat or preliminary site plan shall be submitted within one hundred and eighty (180) days after approval of the concept plat or plan. A conceptual plat or concept plan shall be deemed automatically canceled after one hundred and eighty (180) days and a new concept plan shall be required

prior to consideration of a site plan. No person shall rely upon, nor shall the County be obligated, to grant further approvals based on a previously approved concept or site plan which has expired due to failure of the applicant or agent to comply with this subsection. Existing qualified or unqualified County Commission or Planning Commission approval is automatically declared null and void unless such conceptual plat or concept plan shall, within one hundred and eighty (180) days of adoption of this Code, comply fully with the requirements of this subsection.

C. Effective Period of Development Orders;

1. **Site Development Orders:** After a Development Order is obtained, construction shall commence within six (6) months and shall continue uninterrupted to completion. A Development Order may be canceled by the Growth Management Director or Building Official unless construction is substantially commenced in accordance with an approved site plan as evidenced by poured footers, slab foundations or road-base construction within six (6) months after such approval becomes effective. Notice of the cancellation shall be sent to the holder of the Development Order and a reasonable opportunity to be heard shall be afforded the holder. The Development Order may also be canceled by the Planning Director or Building Official upon evidence of six (6) months or more of construction interruption on the development site, after due notice to the holder of the Development Order and after a reasonable opportunity to be heard has been afforded the holder. Interruption is evidenced by six (6) months or more of construction inactivity on the development site.
2. **Subdivision Development Orders:** Upon approval of a Preliminary Plat per Subsection 6006, a developer shall have obtained a Development Order within nine (9) months. The Subdivision or Phase I of the Subdivision shall have been constructed, approved and submitted for Final Plat approval within eighteen (18) months from the effective date of Preliminary Plat approval. If after eighteen (18) months, the Final Plat is not submitted for approval or bonded, the D.O. shall be rescinded.
3. **Subsequent Phases** may be initiated at anytime after the issue of the Phase I Development Order. Development Orders do not constitute Development agreements and subsequent phases submitted over seven (7) years after Preliminary Plat approval shall be subjected to secondary review according to the then current Land Development Code and Comprehensive Plan. The Planning Commission may recommend to the Board of County Commissioners that the prior Plat Approvals for un-constructed portions of the plat be revised if there have been significant revisions to County subdivision policy.
4. Houses of worship, due to their long term fund raising horizons, are

exempted from development order time period limits.

D. Effective Date and Period;

1. The effective date of a Development Order shall be the date of issue. The effective period of a Development Order shall commence on the effective date.
2. A building permit for the start of construction issued subsequent to obtaining a Development Order, shall be issued for Site Development within six (6) months of the effective date and shall run according to the Florida Building Code.

E. In the event of cancellation pursuant to this subsection, the premises affected shall not be used or occupied without first applying for and obtaining approval of a new Development Order in accordance with this Chapter.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03)

**SECTION 7200. REVIEW PROCEDURES.** This section outlines the specific review procedures for Level II Reviews. These procedures are initiated once the application is deemed complete pursuant to Section 7100.

**Subsection 7201. Type I Procedures.**

A. An application for a Development Order that qualifies as a Type I application shall be administratively processed and a decision rendered on the application without a public hearing or notification of adjacent property owners. Unless reclassified by the DRC due to impacts generated by the proposed use, the following Development Order applications shall be considered Type I:

1. Minor subdivision plat for all residential development with five (5) lots or less without requiring dedication of public right-of-way.
2. Multi-family development with five (5) or less dwelling units in the USA land use category served by central water and sewer.
3. Conceptual subdivision plat review.
4. Non-residential site plan for developments unless specifically exempted from site plan review or specifically requiring Type II site plan review.
5. Minor building expansions. See Subsection 7002.C.
6. Home occupations. See Subsection 5205.

7. Other permits. Any permits such as renewal of alcoholic beverage licenses requiring reviews by the Planning Director.
8. Special Residential Uses. Class I Special Residential uses. (See Subsection 5105.B. and C.)
9. Site plan review of a camouflaged tower and of telecommunication towers located on Public Lands.
10. Location and site plan approval for Class I land use activities.
11. Subsidiary development to a previously approved project not exceeding de minimis thresholds or as otherwise limited in this code.
12. A change of use that results in the need for additional parking spaces per this Code.

B. The DRC may reclassify an application for a Development Order that would otherwise qualify as a Type I application due to impacts generated by the proposed use that will be realized within an actual area of influence.

(Ord. # 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03; Ord # 2014-006, 10-07-04; Ord. # 2015-012, 10-20-15; Ord. #2016-015, 11-15-16; Ord. #2021-002, 4-6-2021)

### **Subsection 7202. Type II Procedures.**

- A. Decisions on applications for Development Orders that qualify as a Type II applications shall be quasi-judicial action, subject to the hearing and notice requirements set forth in Chapter 1 of this Code. The following Development Order applications shall be considered Type II:
1. Preliminary and Final major subdivision plat approval.
  2. Location and site plan approval for a Manufactured (Mobile) Home Park.
  3. Location and site plan approval for multi-family developments with five (5) or more units. See Subsection 5103.C. of this Code.
  4. Site Plan for restaurants serving alcohol and drive-thru restaurants in the Neighborhood Commercial future land use.
  5. Recreational vehicle (RV) Parks and commercial campgrounds.
  6. Location and site plan approval for condominium developments with five (5) or more units.

7. Development of Regional Impact approvals or Notices of Proposed Change to a DRI.
8. Location and site plan approval for an Adult Congregate Living Facility (ACLF) or Day Care Center.
9. Location and site plan approval for all adult entertainment uses.
10. Location and site plan approval for Class II land use activities.
11. Special Exception Use approvals and the extension or discontinuance.
12. Solar Power Generation Facilities (Farms).
13. Site plan review of telecommunication towers (antenna support structures) and towers requiring deviations as indicated in Section 5800 of this Code.

(Ord. # 2003-006, 8-19-03; Ord. #2015-006; Ord. # 2015-012, 10-20-15; Ord. #2016-015, 11-15-16, Ord. #2016-019, 09-06-16; Ord. #2021-002, 4-6-2021)

**Subsection 7203. (Reserved).**

**Subsection 7204. Type IV Procedures.**

- A. The Type IV procedure is for use with legislative action and policy change as described in Section 7400. Under the Type IV procedure, the Planning Director shall schedule a public hearing(s) pursuant to Subsection 7203 and this Subsection before the Planning Commission and the Board of County Commissioners. Notice format and necessary recipients are as required by Subsections 7501 and 7502 of this Code.

At the public hearing before the Planning Commission, the Staff and interested persons may present testimony directed to whether the proposal does or does not meet appropriate criteria and standards in this Code or the Comprehensive Plan. Proposals for modification necessary for approval may be submitted at this time. A finding for each applicable standard shall be made, which includes the proposal's conformance with the Goals, Objectives and Policies of the Comprehensive Plan and this Code. A written report and recommendation shall be submitted to the County Commission by the Planning Commission.

- B. If the Planning Commission has recommended against a proposal, or has passed a proposal on without a recommendation, the Board of County Commissioners may terminate further consideration of the request. The Board of County Commissioners shall conduct a public hearing pursuant to Section 7500 for a proposal on which the Planning Commission has made a favorable recommendation and for other proposals that have not been

terminated. The Planning Director shall set a date for the Public Hearing. Notice format and necessary recipients are as required in Subsections 7501 and 7502 and of this Code. At the public hearing, the Board shall review the report of the Planning Commission and provide any other pertinent information. Interested persons shall be given the opportunity to present new testimony and information as to why the matter should or should not be approved.

(Ord. 1996-005, 7-2-96; Ord. # 2003-006, 8-19-03)

## **SECTION 7300. SPECIAL EXCEPTION USES.**

**Subsection 7301. Standards for Special Exception Uses.** The approval of a special exception use does not create precedence as each use is considered on a case-by-case basis. Due to the nature of special exception uses, criteria shall be applied to ensure compatibility of the proposed use with adjacent and nearby uses and developments. The burden is on the applicant to prove by substantial evidence that the granting of the special exception is in the public interest.

- A. Required Information. At minimum, the following information must be provided in writing and on a site plan, as applicable, as part of the application in order for consideration of the request:
1. Describe the proposed special exception use;
  2. The physical factors by which the environmental impacts of the project on the site and adjacent sites can be assessed;
  3. The scale and character of the proposed special exception use in relationship to adjacent and nearby uses and structures;
  4. Setbacks required and proposed to insure compatibility;
  5. Transportation impacts, access and location;
  6. The location of available utilities;
  7. The location, dimensions, and lighting of signage;
  8. The location of off-street parking and loading areas where required and screening detail, if applicable;
  9. The exterior lighting detail with reference to glare, traffic safety and compatibility with surrounding properties;

10. The location of refuse and service areas, with particular reference to location and screening in relation to adjacent uses;
  11. Buffering and screening detail at 1.5 times the buffer requirements including type, dimensions and materials;
  12. Days and hours of operation;
  13. Number, frequency, and duration of special events annually;
  14. Measures to insure compatibility including but not limited to those listed in Subsection 5002.B, Compatibility of the Land Development Code.
- B. Criteria for approval. The following criteria shall be used in the determination of the issuance of the special exception use:
1. Compatibility of the proposed special exception use with adjacent and nearby uses in terms of use, scale, character, height, setbacks, and open space;
  2. General compatibility with adjacent and nearby properties;
  3. The noise, glare or odor effects of the use on surrounding areas;
  4. The impacts of refuse and service areas, with particular reference to location and screening in relation to adjacent uses;
  5. The impacts of off-street parking and loading areas on adjacent uses;
  6. The impacts of signs and proposed exterior lighting if any with reference to glare, traffic safety and compatibility with adjacent and nearby properties;
  7. The impacts of transportation access and location with respect to abutting transportation facilities particularly in reference to automotive, bicycle, pedestrian, public service and fire safety, convenience, traffic flow and control;
  8. Utilities, with reference to location and availability;
  9. The adequacy of buffers with reference to type, dimensions and character;
  10. The impacts of hours of operation and the frequency and duration of special events;
  11. The adequacy of setbacks and buffers in screening and insuring compatibility with adjacent properties;

12. Compliance with supplemental requirements set forth in the Land Development Code for the particular use involved.

- C. Conditions and Safeguards. In granting a special exception, the Board of County Commissioners may prescribe specific conditions to address the criteria listed in Part B above as a condition of the approval of a special exception use.
- D. Expiration, Extension and Revocation. A development order shall be issued for the special exception use within twelve (12) months from the date of grant, unless an extension is granted by filing an appeal to the Planning Official. The extension request must demonstrate that the use is being actively pursued by evidence of an application for building permit, preliminary site or development plan, preliminary plat, state permit or other evidence satisfactory to the Board. The extension shall not exceed six (6) months from the expiration of the special exception approval. No more than one (1) extension may be granted  
Noncompliance with the terms of the special exception shall be deemed a violation of the special exception approval and shall be resolved within 90 consecutive days or the special exception use shall be revoked.
- E. Discontinuance. Unless an extension is approved by the Board of County Commissioners within two (2) years of the discontinuance of the use for which the special exception was granted, the special exception use shall expire. An application for extension shall be filed with the Planning Division and be supported with evidence demonstrating that the use was being actively pursued, such as but not limited to the continuation of electrical services, an active real estate contract, a contract to buy or sell the use, building permits, etc. No more than one (1) extension may be granted.
- F. Quasi-Judicial. A special exception use shall be considered at a quasi-judicial hearing and shall adhere to the requirements of Subsection 1304.

(Ord. # 2015-012, 10-15-2015)

## **SECTION 7400. VACATION OF RIGHTS-OF-WAY.**

### **Subsection 7401. Vacation of Rights-Of-Way and Public Easements.**

- A. Vacation Criteria: A proposal to vacate a right-of-way, or easement or other public place shall be conducted under the Type IV procedure with supplements or modifications required to comply with State law. A proposal to vacate a right-of-way, easement or other public place shall be filed on the appropriate application to the Board of County Commissioners. The County Commission shall make affirmative findings on the following criteria if the vacation is to be granted:

1. The proposal is consistent with the Comprehensive Plan.

2. The public interest will not be compromised by the vacation.
  3. The vacation will not prevent any property from having access to a public right-of-way.
  4. The market value of abutting properties may not be substantially reduced without the consent of the owners of the affected properties, or unless provisions have been made to pay damages.
- B. Conditions Attached to a Vacation: The following reservation or conditions may be attached to the approval of the vacation:
1. Retention of an easement for a public utility or other public service facility and limitations on the use of the area adjacent to such facility.
  2. Construction or removal of a County or other public service utility.
  3. Re-platting in or abutting the area to be vacated.
  4. Other matters related to any of the following:
    - a. The area to be vacated.
    - b. A remaining or relocated street area within or adjacent to the vacated property.
    - c. An area dedicated or reserved as a condition of the vacation.

(Ord. # 1996-005, 7-2-06)

**SECTION 7500. DEVELOPMENT PERMITS.** Permits shall be required for any construction, reconstruction, installation of pools, signs or other items covered by the technical codes listed in Section 3100 of this Code. Required permits for development include, but are not necessarily limited to:

- A. Environmental Management Permit. Prior to engaging in any development activity, and prior to removing, damaging, or destroying any protected tree, the person proposing to engage in such activity and the owner of the land on which such activity is proposed to occur shall first apply for and obtain an Environmental Management permit. Applications for tree removal shall not be necessary for the removal of any trees when the removal is part of a bona fide Silviculture activity, pursuant to BMP's and other exempt activities. Responsibility for monitoring tree and vegetation removals on developed land and for enforcement of the standards of Subsections 5404 and 5406 shall rest with the Department of Planning.

- B. Stormwater Management Permit. Subsequent to construction of a stormwater retention or detention facility, a stormwater management permit shall be obtained from the Florida Department of Environmental Protection, Gadsden County and any other applicable agencies.
- C. Right-of-Way Placement Permit. Utility work or other construction of improvements undertaken in an existing public right-of-way may be permitted. Work is to be performed in a manner consistent with the requirements of the Gadsden County Department of Public Works.
- D. Other Permits. Every permit issued pursuant to this Code is issued with the condition that the applicant procure and comply with all other necessary federal, state and local agency permits.
- E. All permit applications shall be accompanied by a certified copy of the Development Order issued for the use or site being developed.
- F. Applications for subsidiary developments shall be filed with the Planning Department. Subsidiary developments in most cases are processed as a Type I Review. The Planning Department shall be responsible for verifying compliance with applicable standards in this Code concerning subsidiary development.
- G. Applications for building and/or construction permits, permits for signs, pools and other installations shall be filed with the Building Inspections Department which shall be responsible for verifying compliance with all applicable standards.
- H. Permits for temporary signs may be approved by the Building Official upon application to the Building Inspections Department.
- I. Building permits shall be administered in accordance with the Florida Building Code and its relevant chapters of the Florida Administrative Code as adopted.
- J. Clearing Permits;
  - a. Clearing of any deciduous trees greater than eight inches (8") in diameter in the front buffer zone along corridor roads. This shall apply to all residential, commercial, urban service, public and industrial lands.
  - b. Clearing prior to development shall only occur with a valid letter of permission from the Planning Department for sites that are in the final stages of development approval and shall require an approved clearing or landscaping plan and shall have appropriate barricades and erosion control measures approved prior to clearing operations.

(Ord. # 2003, 8-19-03)

## **SECTION 7600 RESERVED.**

## **SECTION 7700. DEVELOPMENT AGREEMENTS**

**Subsection 7701. Applicability.** Gadsden County may enter into a development agreement with any person having a legal or equitable interest in real property located within the unincorporated portion of the County. All requirements of Sections 163.3220 – 163.3243, Florida Statutes, must be met. However, a development agreement may not be written to delegate the Board of County Commissioners' power to reclassify a land use category for any parcel or rezone any parcel at a future time.

**Subsection 7702. Submittal requirements.** An application for a development agreement must include the following information.

- A. Legal description of the lands subject to the agreement;
- B. The persons, firms, or corporation having a legal or equitable interest in the land;
- C. The desired duration of the development agreement, but not exceeding thirty (30) years;
- D. The development uses permitted on the land including population densities and building intensity and heights;
- E. A description of all existing and proposed public facilities that will serve the land, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of development;
- F. A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;
- G. A description of any reservation or dedication of land for public purposes;
- H. A description of all local development permits approved or needed to be approved for the development of the land;
- I. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens;
- J. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements,

conditions, term, or restriction.

- K. A description of all environmentally sensitive lands, Florida Department of Environmental Protection (DEP) jurisdictional wetlands, lands which are considered environmentally sensitive pursuant to the Gadsden County Comprehensive Plan, and land subject to the jurisdiction and regulations of the Northwest Florida Water Management District shall be shown on a survey of the property.

**Subsection 7703. Contents of Development Agreement.** At minimum, the following must be addressed in the development agreement:

- A. Relevant findings, including those items as described Subsection 7702 of this Code and Section §163.3227, Florida Statutes.
- B. Definitions which apply to the terms and conditions used within the Agreement. The local regulatory stability or relief the developer is seeking throughout the term of the Agreement.
- C. A Regulating Plan or Master Plan, attached as an exhibit to the Agreement, which will be used to determine impacts of future development to Gadsden County infrastructure and services.
- D. Identified public benefits pursuant to the Agreement.
- E. A dispute resolution process.

**Subsection 7704. Public notice and hearing requirements.** Public notice and hearing requirements shall be as specified in §163.3225. In addition:

- A. The Notice of Intent to consider the development agreement shall be mailed to all subject property owners and owners of property within a 1,000 foot radius of the subject parcel(s) no more than thirty (30) calendar days or less than ten (10) calendar days of the first scheduled public hearing.
- B. The date, time and place of the second public hearing shall be announced at the first public hearing.
- C. The first public hearing shall be held before the Planning Commission. The Planning Commission shall make a recommendation to the Board of County Commissioners to approve, don't approve, or approve with recommended changes the application for the development agreement.
- D. The second public hearing shall be held before the Board of County Commissioners.

(Ord. #2014-006, 10-07-14)