

Board of County Commission Agenda Request

Date of Meeting: June 21, 2016

Date Submitted: June 7, 2016

To: Honorable Chairperson and Members of the Board

From: Robert M. Presnell, County Administrator
Allara Mills Gutcher, Planning and Community Development Director

Subject: **PUBLIC HEARING (Legislative)** – Consideration of Adoption of Ordinance 2016-009 for an Amendment to Chapter 1 (Administration and Enforcement), and Chapter 7 (Development Orders, Development Permits, and Development Agreements) of the Gadsden County Land Development Code

Statement of Issue:

This hearing is for the adoption of Ordinance 2016-009 (Attachment 1) for an amendment to Chapter 1 (Administration and Enforcement), and Chapter 7 (Development Orders, Development Permits, and Development Agreements) of the Gadsden County Land Development Code.

Background:

The Planning Division has been working on amendments to the Land Development Code to align with the Comprehensive Plan, Florida Statutes, and to streamline the regulations. These amendments were initiated to clarify the process for legislative and quasi-judicial hearing processes, provide better procedure for vacation of rights-of-way and easements, in addition to clarifying the Citizens Bill of Rights (CBOR) meeting requirements. Also, at the request of the County Attorney, Section 7700 was amended to be more concise.

These amendments were first introduced to the Planning Commission at the April 14, 2016 hearing. Portions of Section 7001.1 (CBOR) were tabled for vote at the May 12, 2016 hearing. At the April 14, 2016 meeting, the Planning Commission made a motion to amend the CBOR section of the Code to remove the supermajority vote requirement currently located in Chapter 7, Section 7001.1.D. All other proposed amendments were moved for adoption at that meeting as well. At the May 12 hearing, the CBOR language was further amended to require the developer to submit a CBOR meeting report to staff for transmittal to the Planning Commission and the BOCC. These changes are reflected in the drafted ordinance.

Analysis:

Planning staff, with the County Attorney, proposed changes to the Land Development Code to clarify the intent and use language that is currently defined and used elsewhere in the Code. The

update to Chapter 1 was made regarding some minor adjustments to the timing of some of the hearing processes. It was realized that the timing laid out in the hearing processes was not practical (Subsections 1302 and 1304). In addition, the Citizens Bill of Rights (CBOR) section was moved from Chapter 7, which is the Chapter which pertains to “Development Orders, Development Permits, and Development Agreements” since the CBOR applies to more than development orders, and does not apply to development permits or development agreements. The Administration and Enforcement chapter is the best fit for this regulation. Amendments were made to the CBOR to clear up the intent. Finally, Section 7400, 7500 and 7700 were amended at the request of the County Attorney.

Any amendments to the section of the Code pertaining to the Citizens Bill of Rights requires a 4-1 vote as a requirement of current Section 7001.1.D (Ordinance 2010-005).

Planning Commission Recommendation:

At their May 12, 2106 public hearing, the Planning Commission recommended by a 6-1 vote that these amendments should be adopted by ordinance.

Options:

1. Adopt Ordinance 2016-009 to amend Chapter 1 and Chapter 7 of the Land Development Code and authorize the Chairperson to sign.
2. Do not adopt Ordinance 2016-009 to amend Chapter 1 and Chapter 7 of the Land Development Code.
3. Board Direction.

County Administrator’s Recommendation:

Option 3

Attachments:

1. Ordinance 2016-009 with Exhibits A and B.
2. Legal advertisement.
3. Clean copy of the Sections.

Attachment 1 – Ordinance with Exhibits

ORDINANCE 2016 - 009

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING THE GADSDEN COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT, AND CHAPTER 7, DEVELOPMENT ORDERS, DEVELOPMENT PERMITS, AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING, AND CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, establishes the right and power of counties to provide for the health, welfare and safety of existing and future residents of the county by enacting and enforcing regulations concerning the use of property necessary for the protection for the public; and

WHEREAS, the Board of County Commissioners of Gadsden County has adopted the Gadsden County Land Development Code, as required pursuant to §163.3202, Florida Statutes; and

WHEREAS, The Gadsden County Planning Commission, acting as the local planning agency, reviewed these amendments and made a recommendation to the Board of County Commissioners; and

WHEREAS, duly noticed public hearings were conducted on such proposed amendments on May 12, 2016 by the Gadsden County Planning Commission and on June 21, 2016 by the Board of County Commissioners.

WHEREAS, words with underline type shall constitute addition and ~~striketrough~~ shall constitute deletions to the original text from the language existing prior to adoption of this Ordinance.

Now therefore, be it ordained by the Board of County Commissioners of Gadsden County, Florida, that:

SECTION I: Approval and Adoption of Amendments.

The amendments to the Gadsden County Land Development Code as attached hereto as Exhibit "A" and Exhibit "B" are hereby adopted and approved.

SECTION II: Repeal

Those parts of Chapter 1 and Chapter 7 of the Gadsden County Land Development Code in conflict herewith are hereby repealed and superseded to the extent of such conflict and shall have no further effect whatsoever.

SECTION III: Severability

If any phrase or portion of this Ordinance, or the particular application thereof, shall be held invalid or unconstitutional by any court, administrative agency or other body with appropriate

jurisdiction, the remaining section, subsection, sentences, clauses, or phrases and their application shall not be affected thereby.

SECTION IV: Inclusion in the Land Development Code

This Ordinance shall be codified in the Gadsden County Land Development Code as set forth in Exhibit "A" and Exhibit "B".

SECTION V: Modification

It is the intent of the Board of County Commissioners that the provisions of this Ordinance, including the amendments attached hereto as Exhibit "A" and Exhibit "B" may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk.

Section VI: Scrivener's Errors

The County Attorney may correct any scrivener's errors found in this Ordinance by filing a corrected copy of the Ordinance with the Clerk.

Section VII: Effective Date

This Ordinance shall become effective as provided by law.

The above and foregoing Ordinance was read and approved at a duly convened public hearing at a regular meeting of the Board of County Commissioners of Gadsden County, Florida, this 21st day of June, 2016.

BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA

By: _____

Brenda Holt, Chairperson

Nicholas Thomas
Clerk of the Circuit Court

CHAPTER 1

ADMINISTRATION AND ENFORCEMENT

SECTION 1300. DECISION MAKING PROCEDURES. It is the intent of the Board of County Commissioners that any person affected by actions taken as a result of this Code shall be afforded due process of law. Public hearing and notice requirements are set forth in this section.

Subsection 1301. Legislative Actions. The following actions by the Board of County Commissioners shall be legislative:

- A. Any Comprehensive Plan amendment, including all amendments to the Future Land Use Map.
- B. All amendments to the text of this Code.
- C. Vacation of rights-of-way, easements, and other property interests.

Subsection 1302. Legislative Hearing Procedures. The following procedures shall apply to legislative actions:

- A. A request for legislative action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt of the request, the Planning Official, or ~~their~~ designee, shall determine if the application is complete and notify the applicant of the determination of completeness in writing, either electronically or by U.S. mail.
- C. There shall be at minimum two public hearings to consider any legislative action. Any meeting required pursuant to Subsection 1700 of this Code must be completed prior to the first public hearing. The first public hearing shall be conducted at a meeting of the Planning Commission. ~~The second public hearing shall be conducted at a meeting of the Board of County Commissioners. All additional meetings, hearings, or procedures required by this Code or by law for consideration of the request must be completed before the Planning Commission meeting is held.~~
- D. The Planning Official, or designee, shall provide notice of the public hearings on legislative actions s as follows:
 - 1. Notice shall be provided as set forth in §125.66, Florida Statutes and §163.3184, Florida Statutes, as applicable. In addition, all legislative hearings shall require the following:

- a) Notification shall be made in each local newspaper of general circulation in Gadsden County at least ten (10) days prior to the ~~Planning Commission~~ first public hearing, and again at least ten (10) days prior to the Board of County Commissioners hearing where the item is considered for adoption, unless said hearing was tabled or continued from a previous hearing to a date certain.
 - i. The substance of the newspaper advertisement shall include the date, time, and location of the hearing; and, if applicable, a location map of the subject parcel(s), and the postal address if one is assigned, or alternatively the parcel ID number(s) of the subject parcel(s).

- b) In addition to part 1. above, all proposed amendments to the Future Land Use Map shall have additional requirements which include:
 - i. At least ~~thirtyten (310)~~ but not more than fourteen (14) days prior to the first public hearing ~~before the Planning Commission~~, Gadsden County shall provide by mail written notice of the proposed Future Land Use Map amendment to all property owners within one thousand (1,000) feet of the nearest boundary of the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date and location of the public hearing, and ~~description with~~ a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the ~~Gadsden County Clerk's office~~ Planning Division office.
 - ii. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

Subsection 1304. Quasi-Judicial Hearing Procedures. The following procedures shall apply to quasi-judicial actions:

- A. A request for quasi-judicial action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt, the Planning Official, or ~~their~~ designee, shall determine whether or not the application is complete and notify the applicant of the determination of completeness in writing, either

electronically or by U.S. mail.

C. There shall be at minimum two public hearings to consider any quasi-judicial action. ~~Any meeting required pursuant to Subsection 1700 of this Code must be completed prior to the first public hearing.~~ The first public hearing shall be conducted at a meeting of the Planning Commission, ~~which shall be scheduled not less than thirty (30) days after notification of a complete application has been sent to the applicant. The second public hearing shall be conducted at a meeting of the Board of County Commissioners. All additional meetings, hearings, or procedures required by this Code or by law for consideration of the request must be completed before the Planning Commission meeting occurs.~~

D. The Planning Official, or designee, shall provide notice of the public hearings on quasi-judicial actions as follows:

1. At least ten (10), but no more than fourteen (14) calendar days, prior to the first public hearing, Gadsden County shall provide by mail written notice of the request ~~noting the time, date location, and description with a map of the request subject to public hearing. This notice shall be made~~ to all property owners within one thousand (1,000) feet of the nearest parcel boundary of the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date, and location of the public hearing, and a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the ~~Gadsden County Clerk's~~ Planning Division office.
2. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

SECTION 1500. VARIANCE PROCEDURES. The purpose of this section is to provide a method for relief ~~for conditions from these regulations~~ where literal application of the provisions of this Code would ~~inflict result in~~ a specific hardship to a particular property or site that is uncommon to ~~other~~ properties with similar characteristics in Gadsden County, due to the natural conditions of the site. ~~Under these provisions, e~~Only an area variance may be granted to the bulk regulations of this Code. An area variance is defined as:

- A. Regulatory controls such as lot size, floor area ratio, lot coverage (also known as impervious surface), open space, and yard setbacks that deal with the placement of a septic tank system, structure or structures on a site and/or the building envelope. The height of a structure is excluded as part of this definition.

However, in no instance shall a variance to the requirements of this Code be issued within

any designated floodway if the result is an increase in flood levels within the floodway.

Subsection 1501. Variance Relief Procedures. So long as any issued variance will not be contrary to the public interest, the following procedures shall outline the process for consideration of a variance from a requirement of this Code.

- A. A property owner of the land, or their authorized agent, may apply for a variance from the requirements of this Code. Variance requests must be submitted on forms or applications provided by the Planning Division, and must accompany any applicable fees prior to consideration.
- B. It is the burden of the applicant to demonstrate that a variance is needed to allow reasonable use of the property on which the variance is sought. The applicant must address each standard of review, as listed in this subsection.
- C. The Planning Official, or ~~their~~ designee, shall review the variance application and provide a staff report to be submitted to the Planning Commission. The application must be submitted to the Planning Official at least thirty (30) days prior to hearing at the Planning Commission.
- D. ~~Variance~~Decisions on variance requests shall be ~~considered~~ a quasi-judicial ~~procedure~~action, and such subject to the hearing and notice requirements ~~set forth~~outlined in Subsection 1304 of this Code.
- E. ~~The Planning Official, or their designee, shall prepare the staff report with an analysis of the standards of review. A variance from the requirements of this Code may be granted if all of the following standards are satisfied: The standards of review for issuance of a variance are as follows:~~
 - 1. Special conditions and circumstances exist which are peculiar to the land ~~and~~ which are not applicable to other land in the same land use category.
 - 2. The special conditions and circumstances that exist do not result from the actions of the applicant or a self-imposed hardship, nor could the condition or circumstances be corrected or avoided by the applicant. As such, the issuance of the variance shall not confer on the petitioner the grant of a special privilege.
 - 3. The relief granted is the minimum degree of relief necessary to make possible the reasonable use of the land in compliance with all other applicable regulations.
 - 4. Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same area or land use category under the terms of this Code or would render the enforcement of this Code impractical.

5. The grant of the relief will not violate the general intent and purpose of this Code nor the goals, objectives, or policies of the Comprehensive Plan.
 6. The issuance of any variance will not create unsafe conditions nor other detriments to the public health, safety or welfare beyond the normal effects of development otherwise allowed.
 7. The issuance of any variance will not alter the essential character of the area surrounding the site.
- F. The burden of proof for the above standards shall be upon the applicant. The variance request must meet all seven standards, as listed above, in order for a grant of relief from this Code.
- G. The Planning Commission may recommend, and the Board of County Commissioners may impose reasonable conditions and/or limitations on variance approvals.
- H. The Board of County Commissioners shall approve or deny the variance request, or approve the request with reasonable conditions, at a regularly scheduled public hearing.

Subsection 1502. Variance Exceptions. In ~~conjunction accordance~~ with the vesting rights in Policy 1.3.5 of the Comprehensive Plan, ~~the requirement to property owners shall not be required to obtain a variance from the setback standards is waived for the placement for the placement~~ of on-site sewage treatment systems on parcels that allow for residential use and were created prior to November 26, 1991 so long as the on-site sewage treatment system setback standards are met to the greatest extent possible.

NOTE: in the section below yellow highlights are added text from the text moved from Chapter 7 to discern the added language.

SECTION 1700 CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS This section establisheds additional requirements for Comprehensive Plan Future Land Use Map amendments, Major Land-Development Orders, Reviews including but not limited to variances, and special exceptions, major Site Plans and major Subdivision in Gadsden County.

All small scale and large scale applicants for Comprehensive Plan Future Land Use Map Amendments, and Major Land-Development Orders Reviews, variances, and special exceptions shall comply with the following requirements:

- A. Mandated Citizen Participation plan Meeting--developers Applicant(s) must

prepare hold a citizen participation plan meeting at least fifteen (15), but no more than forty-five (45) calendar days prior to the first public hearing. A written record of the meeting shall be kept, and all issues raised at the meeting shall be submitted as a report to the Planning Division. The report shall then be transmitted to the Planning Commission and Board of County Commissioners at those respective meetings. Prior to the citizen participation meeting, the applicant(s) must follow these procedures:

1. Property owners within one half (1/2) mile of the nearest boundary of the subject site shall be notified by mail at least ten (10) days prior to the meeting.
2. The mailed notice shall include the time, date, and location of the meeting, and shall also include a location map and parcel ID number(s) of the subject parcel(s), and a postal address if one is available.
3. The notice shall be mailed to the address shown in the Property Appraiser's database.
4. A notice shall be published in at least one of the general circulation newspapers that are distributed within Gadsden County, at least ten (10) days prior to the citizen participation meeting.

and notify by mail and newspaper impacted property owners and neighborhood associations within one half mile of the development site property boundaries. The Growth Management Department must verify that proper notification has occurred. The developer shall conduct workshops with citizens impacted to identify all issues of concern prior to any public hearing. The developer must present to the Planning Commission and Board of County Commissioners a list of all issues raised, and indicate if and how they were resolved. Unresolved issues then become the focus of P & Z and BOCC discussion.

B. Neighborhood Participation—Gadsden County's Department of Planning Division and Community Development Department (Department) must compile a list of all valid neighborhood associations (with contact person) operating within the unincorporated areas. Within ten (10) business days of the filing of any applications or proposals filed for comprehensive plan amendments or land development regulations, the Department Planning Division shall notify potentially impacted the neighborhood associations in which the subject parcel(s) are located, if any, of the application for a comprehensive plan amendment, Major Development Order, variance, or special exception of such filings. prior to submittal to DCA, of plan amendments that would change Future Land Use Map a community or neighborhood meeting must be held 30 calendar days before the application is filed and the application must verify that the meeting was held. A second Community or Neighborhood meeting must be held 15 business days before the amendment adoption hearing after review by DCA.

C. Seven Day "Cooling Off" Period--Plan amendments Applications for

~~Comprehensive Plan Future Land Use Map amendments, Major Development Orders, variances, and special exceptions cannot be changed in the seven (7) business days prior to the advertised Planning Commission public hearing. This will allow the citizens, commissioners, and others to fairly evaluate the document application. If the plan amendment application is revised within that period, the hearing will be postponed unless all affected parties agree otherwise no citizens, commissioners, or others object to conducting the hearing. Any material changes to proposed plan amendments must be submitted and made available to the public at least five (5) business days prior to the hearing at the adoption stage.~~

~~D. "Super Majority"--Votes for all Comprehensive Plan amendments, and Major Land Development Reviews including but not limited to variances, special exceptions, major site plans and major subdivision shall require a "super majority" vote of the BOCC. A super majority vote of the BOCC is required to amend or repeal this ordinance.~~

~~E. D. All Comprehensive Plan Future Land Use Map changes amendments and site development applications shall protect Gadsden County Environmental Resources as identified in and in compliance with the adopted those resources identified in the Comprehensive Plan Conservation Element requirements and and Land Development Code.~~

~~F. "No Free Density"--The conversion of rural and agricultural land to urban density in the form of compact, walkable, mixed use communities in appropriate locations--shall only be undertaken where land for significant public benefit is offered in fair and equitable exchange. This shall include the permanent preservation of natural and agricultural lands and open spaces;~~

~~G. "Establish Reasonable Urban Service Boundaries"--County government will work with the municipalities and other appropriate parties to establish reasonable urban services boundaries within the DCA mandated timeframe of 2014.~~

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)~~

~~SECTION 7001.1 CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS~~

~~This section established additional requirements for Comprehensive Plan Amendments and Major Land Development Reviews including but not limited to variances, special Exceptions, major Site Plans and major Subdivision in Gadsden County. All small scale and large scale Comprehensive Plan Amendments and Major Land Development Reviews shall comply with the following requirements:~~

~~A. Mandated Citizen Participation Plan—Developers must prepare a citizen participation plan and notify by mail and newspaper impacted property owners and neighborhood associations within one half mile of the development site property boundaries. The Growth Management Department must verify that proper notification has occurred. The Developer shall conduct workshops with citizens impacted to identify all issues of concern prior to any public hearing. The developer must present to the Planning Commission and Board of County Commissioners a list of all issues raised, and indicate if and how they were resolved. Unresolved issues then become the focus of P & Z and BOCC discussion.~~

~~B. Neighborhood Participation—Gadsden County's Department of Planning and Community Development Department (Department) must compile a list of all valid neighborhood associations (with contact person) operating within the unincorporated areas. Within 10 business days of the filing of any applications or proposals filed for comprehensive plan amendments or land development regulations, the Department shall notify potentially impacted neighborhood associations of such filings. Prior to submittal to DCA of plan amendments that would change future land use map a Community or neighborhood meeting must be held 30 calendar days before the application is filed and the application must verify that the meeting was held. A second Community or Neighborhood meeting must be held 15 business days before the amendment adoption hearing after review by DCA.~~

~~C. Seven Day "Cooling Off" Period—Plan amendments cannot be changed in the~~

~~seven (7) business days prior to the advertised public hearing. This will allow the citizens, commissioners, and others to fairly evaluate the document. If the plan amendment is revised within that period, the hearing will be postponed unless all affected parties agree otherwise. Any material changes to proposed plan amendments must be submitted and made available to the public at least five (5) business days prior to the hearing at the adoption stage.~~

- ~~D. "Super Majority"--Votes for ALL COMPREHENSIVE PLAN amendments, and Major Land Development Reviews including but not limited to variances, special exceptions, major site plans and major subdivision shall require a "super majority" vote of the BOCC. A super majority vote of the BOCC is required to amend or repeal this ordinance.~~
- ~~E. All comprehensive land use map changes and site development applications shall protect Gadsden County Environmental Resources as identified in and in compliance with the adopted Comprehensive Plan requirements and Land Development Code.~~
- ~~F. "No Free Density"--The conversion of rural and agricultural land to urban density in the form of compact, walkable, mixed use communities in appropriate locations shall only be undertaken where land for significant public benefit is offered in fair and equitable exchange. This shall include the permanent preservation of natural and agricultural lands and open spaces;~~
- ~~G. "Establish Reasonable Urban Service Boundaries"--County government will work with the municipalities and other appropriate parties to establish reasonable urban services boundaries within the DCA mandated timeframe of 2014.
(Ord. #2010-005, 05-04-10)~~

Subsection 7002. Development Orders Required.

- ~~A. No development allowed by this Code, including accessory and temporary uses, may be established or changed; or use of property shall occur, and 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 has been recorded or a development order has been issued 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 the Gadsden County Comprehensive Plan or 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 (DRG); 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.~~

GA. Exemptions. The following exemptions are from the requirements of this Code to obtain a development order only, and are not exemptions from the requirement to obtain any other necessary permits. A development order is not required for the following:

- ~~1. Single-family, duplex, triplex, and quadraplex 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. dwellings not exceeding 5,000 square feet in impervious area:~~
- ~~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.~~
 - ~~b2. 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.~~
 - ~~c3. Pole or column-supported roofs subject to the following:~~
 - ~~ia. The proposed roof is over an existing impervious surface.~~
 - ~~ii. b The roof addition is less than fifty percent (50%) of the existing roof structure, but no greater than four hundred (400) square feet.~~
 - ~~iii. c. The roof addition is not for the purpose of conducting a separate business on the site.~~
 - ~~d. Pole or column-supported roofs used for bona-fide agricultural uses.~~
 - ~~d4. De Minimis Development: Alterations which result in anthe 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 calculation shall include more than one (1) all structures located on athe single parcel.~~

35. A change of use that does not include or require 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 7300. SPECIAL EXCEPTION USES.

Subsection 7301. Standards for Special Exception Uses. The approval of a special exception use does not create precedent ~~ee~~ 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 competent 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 ~~i~~ensure 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 ~~shall expire within~~ twelve (12) months from the date of ~~grant~~issuance, unless an extension is granted by filing an appeal ~~to~~with 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~~is 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~~Decisions made for special exception uses shall be ~~considered at a quasi-judicial hearing~~actions, subject to the hearing and notice and shall adhere to the requirements ~~of~~set forth in Subsections 1304 and 1305.

SECTION 7400. VACATION AND ABANDONMENT OF RIGHTS-OF-WAY, EASEMENTS, AND OTHER PROPERTY INTERESTS.

Subsection 7401. ~~Vacation of Rights-Of-Way and Public Easements.~~ Procedure.

~~A. Vacation Criteria: A proposal~~Decisions to vacate and abandon a right-of-way, ~~or~~ easement or other public ~~place~~property interest shall be ~~conducted under the Type IV procedure with supplements or modifications required to comply with State law.~~legislative actions subject to the hearing and notice requirements set forth in Subsection 1302 of this Code, as supplemented or modified to comply with state law. A proposal to vacate and abandon a right-of-way, easement or other public ~~place~~property interest shall be filed on the appropriate application ~~to~~with the ~~Board of County Commissioners~~Planning Division.

A. Criteria: The County ~~Commission~~ shall ~~make affirmative findings on the~~

following criteria if the vacation is to be granted: may, in its sole discretion, vacate and abandon a right-of-way, easement or other property interest only if all of the following criteria are satisfied:

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 shall not be substantially reduced without the consent of the owners of the affected abutting properties, or unless provisions have been made to pay damages.
- B. Conditions Attached to a Vacation: The following reservations 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.

SECTION 74007500. DEVELOPMENT PERMITS REQUIRED. Building Ppermits shall be required for any construction, unless exempted by the Florida Building Code 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, conducted pursuant to BMP's ~~and/or is otherwise exempt activities from this Code.~~ 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 Planning Division.

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.C. All building permit applications shall be ~~accompanied by a certified~~ submitted to the Building Department with a 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.D. 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.E. Permits for temporary signs may be approved by the Building Official upon application to the Building Inspections Department.

I.F. 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.~~

SECTION 7500. RESERVED.

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, the Florida Local Government Development Agreement Act, as set forth in Chapter 163,~~ 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 7704. Public notice and hearing requirements. ~~Decisions on application for Development Agreements are quasi-judicial actions, subject to the Public notice and hearing requirements set forth in Subsection 1304, as supplemented and modified by shall be as specified in §163.3225, Florida Statutes, as amended. 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.~~

**Gadsden County Board of
County Commissioners
NOTICE OF INTENT**

NOTICE IS HEREBY GIVEN to all concerned that the Gadsden County Board of County Commissioners will hold a regularly scheduled meeting on **Tuesday, June 21, 2016, at 6:00 p.m.** in the Board of County Commission Chambers located at 7 East Jefferson Street, Quincy, FL. The proposed agenda will include the following public hearings:

PUBLIC HEARING (Legislative) - Consideration of Ordinance # 2016-009 to Chapter 1, Administration and Enforcement and Chapter 7, Development Orders, Development Permit and Development Agreements of the Land Development Code.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING THE GADSDEN COUNTY LAND DEVELOPMENT CODE, AMENDING CHAPTER 1, ADMINISTRATION AND ENFORCEMENT AND CHAPTER 7, DEVELOPMENT ORDERS DEVELOPMENT PERMIT AND DEVELOPMENT AGREEMENTS; PROVIDING FOR REPEAL, SEVERABILITY, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

Persons wishing to review the ordinance and/or files on the above projects may do so on the County website at www.gadsdencountyfl.gov or at the Gadsden County Planning and Community Development Department located at 1-B East Jefferson Street, Quincy, FL between the hours of 8:00am to 5:00pm. In accordance with the Americans with Disabilities Act, persons needing assistance in obtaining any information from the County or attending the public hearing should contact the County by calling 850-875-8665 or 850-510-7842, at least 48 hours prior to the hearing.

Interested parties may appear at the meeting and be heard with respect to the noticed agenda items. If any person decides to appeal any decision made with respect to any matter considered at such public hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be used.

CHAPTER 1

ADMINISTRATION AND ENFORCEMENT

SECTION 1300. DECISION MAKING PROCEDURES. It is the intent of the Board of County Commissioners that any person affected by actions taken as a result of this Code shall be afforded due process of law. Public hearing and notice requirements are set forth in this section.

Subsection 1301. Legislative Actions. The following actions by the Board of County Commissioners shall be legislative:

- A. Any Comprehensive Plan amendment, including all amendments to the Future Land Use Map.
- B. All amendments to the text of this Code.
- C. Vacation of rights-of-way, easements, and other property interests.

Subsection 1302. Legislative Hearing Procedures. The following procedures shall apply to legislative actions:

- A. A request for legislative action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt of the request, the Planning Official, or designee, shall determine if the application is complete and notify the applicant of the determination of completeness in writing, either electronically or by U.S. mail.
- C. There shall be at minimum two public hearings to consider any legislative action. Any meeting required pursuant to Subsection 1700 of this Code must be completed prior to the first public hearing. The first public hearing shall be conducted at a meeting of the Planning Commission.
- D. The Planning Official, or designee, shall provide notice of the public hearings on legislative actions as follows:
 - 1. Notice shall be provided as set forth in §125.66, Florida Statutes and §163.3184, Florida Statutes, as applicable. In addition, all legislative hearings shall require the following:
 - a) Notification shall be made in each local newspaper of general circulation in Gadsden County at least ten (10) days prior to the first public hearing, and again at least ten (10) days prior to the Board of

County Commissioners hearing where the item is considered for adoption, unless said hearing was tabled or continued from a previous hearing to a date certain.

- i. The substance of the newspaper advertisement shall include the date, time, and location of the hearing; and, if applicable, a location map of the subject parcel(s), and the postal address if one is assigned, or alternatively the parcel ID number(s) of the subject parcel(s).
- b) In addition to part 1. above, all proposed amendments to the Future Land Use Map shall have additional requirements which include:
- i. At least ten (10) but not more than fourteen (14) days prior to the first public hearing, Gadsden County shall provide by mail written notice of the proposed Future Land Use Map amendment to all property owners within one thousand (1,000) feet of the nearest boundary of the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date and location of the public hearing, and a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the Planning Division office.
 - ii. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

Subsection 1304. Quasi-Judicial Hearing Procedures. The following procedures shall apply to quasi-judicial actions:

- A. A request for quasi-judicial action shall be made by application on a form provided by Gadsden County no less than thirty (30) days prior to the first public hearing that will be scheduled for the request.
- B. Within seven (7) calendar days of receipt, the Planning Official, or designee, shall determine whether or not the application is complete and notify the applicant of the determination of completeness in writing, either electronically or by U.S. mail.
- C. There shall be at minimum two public hearings to consider any quasi-judicial action. Any meeting required pursuant to Subsection 1700 of this Code must be completed prior to the first public hearing. The first public hearing shall be

conducted at a meeting of the Planning Commission.

- D. The Planning Official, or designee, shall provide notice of the public hearing on quasi-judicial actions as follows:
1. At least ten (10), but no more than fourteen (14) calendar days, prior to the first public hearing, Gadsden County shall provide by mail written notice of the request to all property owners within one thousand (1,000) feet of the nearest parcel boundary of the subject parcel(s). The notice shall be mailed to the address shown on the Property Appraiser's website and shall include the time, date, and location of the public hearing, and a location map of the subject parcel(s). In addition, if one is available, the postal address or the parcel ID number(s) of the subject parcel(s) shall also be included in the notice. A copy of the notice shall be available for public inspection during regular business hours at the Planning Division office.
 2. At least ten (10), but no more than fourteen (14) calendar days prior to the first public hearing, Gadsden County shall place a notice sign on the subject parcel in a location that is visible from the most vehicular traveled public right-of-way.

SECTION 1500. VARIANCE PROCEDURES. The purpose of this section is to provide a method for relief from these regulations where literal application of the provisions of this Code would result in a specific hardship to a particular property or site that is uncommon to properties with similar characteristics in Gadsden County, due to the natural conditions of the site. Only an area variance may be granted to the bulk regulations of this Code. An area variance is defined as:

- A. Regulatory controls such as lot size, floor area ratio, lot coverage (also known as impervious surface), open space, and yard setbacks that deal with the placement of a septic tank system, structure or structures on a site and/or the building envelope. The height of a structure is excluded as part of this definition.

However, in no instance shall a variance to the requirements of this Code be issued within any designated floodway if the result is an increase in flood levels within the floodway.

Subsection 1501. Variance Relief Procedures. So long as any issued variance will not be contrary to the public interest, the following procedures shall outline the process for consideration of a variance from a requirement of this Code.

- A. A property owner of the land, or their authorized agent, may apply for a variance from the requirements of this Code. Variance requests must be submitted on forms or applications provided by the Planning Division, and must accompany any applicable fees prior to consideration.
- B. It is the burden of the applicant to demonstrate that a variance is needed to

allow reasonable use of the property on which the variance is sought. The applicant must address each standard of review, as listed in this subsection.

- C. The Planning Official, or designee, shall review the variance application and provide a staff report to be submitted to the Planning Commission. The application must be submitted to the Planning Official at least thirty (30) days prior to hearing at the Planning Commission.
- D. Decisions on variance requests shall be a quasi-judicial action, subject to the hearing and notice requirements set forth in Subsection 1304 of this Code.
- E. A variance from the requirements of this Code may be granted if all of the following standards are satisfied:
 - 1. Special conditions and circumstances exist which are peculiar to the land which are not applicable to other land in the same land use category.
 - 2. The special conditions and circumstances that exist do not result from the actions of the applicant or a self-imposed hardship, nor could the condition or circumstances be corrected or avoided by the applicant. As such, the issuance of the variance shall not confer on the petitioner the grant of a special privilege.
 - 3. The relief granted is the minimum degree of relief necessary to make possible the reasonable use of the land in compliance with all other applicable regulations.
 - 4. Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same area or land use category under the terms of this Code or would render the enforcement of this Code impractical.
 - 5. The grant of the relief will not violate the general intent and purpose of this Code nor the goals, objectives, or policies of the Comprehensive Plan.
 - 6. The issuance of any variance will not create unsafe conditions nor other detriments to the public health, safety or welfare beyond the normal effects of development otherwise allowed.
 - 7. The issuance of any variance will not alter the essential character of the area surrounding the site.
- F. The burden of proof for the above standards shall be upon the applicant. The variance request must meet all seven standards, as listed above, in order for a grant of relief from this Code.

- G. The Planning Commission may recommend, and the Board of County Commissioners may impose reasonable conditions and/or limitations on variance approvals.
- H. The Board of County Commissioners shall approve or deny the variance request, or approve the request with reasonable conditions, at a regularly scheduled public hearing.

Subsection 1502. Variance Exceptions. In accordance with the vesting rights in Policy 1.3.5 of the Comprehensive Plan, property owners shall not be required to obtain a variance from the setback standards for the placement of on-site sewage treatment systems on parcels that allow for residential use and were created prior to November 26, 1991 so long as the on-site sewage treatment system setback standards are met to the greatest extent possible.

SECTION 1700 CITIZENS GROWTH MANAGEMENT AND PLANNING BILL OF RIGHTS This section establishes additional requirements for Comprehensive Plan Future Land Use Map amendments, Major Development Orders, variances, and special exceptions.

All applicants for Comprehensive Plan Future Land Use Map Amendments, Major Development Orders, variances, and special exceptions shall comply with the following requirements:

- A. Mandated Citizen Participation Meeting - Applicant(s) must hold a citizen participation meeting at least fifteen (15), but no more than forty-five (45) calendar days prior to the first public hearing. A written record of the meeting shall be kept, and all issues raised at the meeting shall be submitted as a report to the Planning Division. The report shall then be transmitted to the Planning Commission and Board of County Commissioners at those respected meetings. Prior to the citizen participation meeting, the applicant(s) must follow these procedures:
 - 1. Property owners within one half (1/2) mile of the nearest boundary of the subject site shall be notified by mail at least ten (10) days prior to the meeting.
 - 2. The mailed notice shall include the time, date, and location of the meeting, and shall also include a location map and parcel ID number(s) of the subject parcel(s), and a postal address if one is available.
 - 3. The notice shall be mailed to the address shown in the Property Appraiser's database.
 - 4. A notice shall be published in at least one of the general circulation newspapers that are distributed within Gadsden County, at least ten (10) days prior to the citizen participation meeting.

- B. Neighborhood Participation—Gadsden County’s Planning Division must compile a list of all valid neighborhood associations (with contact person) operating within the unincorporated areas. Within ten (10) business days of the filing of an application, the Planning Division shall notify the neighborhood associations in which the subject parcel(s) are located, if any, of the application prior to submittal to the Department of Economic Opportunity (DEO).
- C. Seven Day "Cooling Off" Period- Applications for Comprehensive Plan Future Land Use Map amendments, Major Development Orders, variances, and special exceptions cannot be changed in the seven (7) business days prior to the Planning Commission hearing. This will allow the citizens, commissioners, and others to fairly evaluate the application. If the application is revised within that period, the hearing will be postponed unless no citizens, commissioners, or others object to conducting the hearing.
- D. All Comprehensive Plan Future Land Use Map amendments and site development applications shall protect those resources identified in the Comprehensive Plan Conservation Element and Land Development Code.

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.

Subsection 7002. Development Orders Required. No development or use of property shall occur, and 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 has been recorded or 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 the Gadsden County Comprehensive Plan or this Code or other applicable law.

- A. Exemptions. The following exemptions are from the requirements of this Code to obtain a development order only, and are not exemptions from the requirement to obtain any other necessary permits. A development order is not required for the following:
1. Single-family, duplex, triplex, and quadraplex dwellings not exceeding 5,000 square feet in impervious area:
 2. 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.
 3. Pole or column-supported roofs subject to the following:
 - a. The proposed roof is over an existing impervious surface.
 - b. The roof addition is less than fifty percent (50%) of the existing roof structure, but no greater than four hundred (400) square feet.
 - c. The roof addition is not for the purpose of conducting a separate business on the site.
 - d. Pole or column-supported roofs used for bona-fide agricultural uses.
 4. De Minimis Development: Alterations which result in the addition of ten percent (10%) or less of the gross floor area (GFA) of the existing structure(s). The GFA calculation shall include all structures located on the parcel.
 5. A change of use that does not include or require an increase in the parking standards required for the new use, as determined by a study of the parking requirements shown in this Code, and is an allowable use within the land use category in which it is located.

SECTION 7300. SPECIAL EXCEPTION USES.

Subsection 7301. Standards for Special Exception Uses. The approval of a special exception use does not create precedent 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 competent 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 ensure 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 issued for the special exception use shall expire twelve (12) months from the date of

issuance, unless an extension is granted by filing an appeal with 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 is 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. Decisions made for special exception uses shall be quasi-judicial actions, subject to the hearing and notice requirements set forth in Subsections 1304 and 1305.

SECTION 7400. VACATION AND ABANDONMENT OF RIGHTS-OF-WAY, EASEMENTS, AND OTHER PROPERTY INTERESTS.

Subsection 7401. Procedure. Decisions to vacate and abandon a right-of-way, easement or other public property interest shall be legislative actions subject to the hearing and notice requirements set forth in Subsection 1302 of this Code, as supplemented or modified to comply with state law. A proposal to vacate and abandon a right-of-way, easement or other public property interest shall be filed on the appropriate application with the Planning Division.

- A. Criteria: The County may, in its sole discretion, vacate and abandon a right-of-way, easement or other property interest only if all of the following criteria are satisfied:
 - 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 shall not be substantially reduced without the consent of the owners of the abutting properties, or unless provisions have been made to pay damages.
- B. Conditions Attached to a Vacation: The following reservations 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.

SECTION 7500. PERMITS REQUIRED. Building permits shall be required for any construction, unless exempted by the Florida Building 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 trees when the removal is part of a bona fide Silviculture activity, conducted pursuant to BMP's or is otherwise exempt from this Code. 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 Planning Division.
- 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. All building permit applications shall be submitted to the Building Department with a copy of the Development Order issued for the use or site being developed.
- D. Applications for building permits and other installations shall be filed with the Building Inspections Department which shall be responsible for verifying compliance with all applicable standards.
- E. Permits for temporary signs may be approved by the Building Official upon application to the Building Inspections Department.
- F. Building permits shall be administered in accordance with the Florida Building Code and the Florida Administrative Code.

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 the Florida Local Government Development Agreement Act, as set forth in Chapter 163, Florida Statutes, must be met. 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 7704. Public notice and hearing requirements. Decisions on application for Development Agreements are quasi-judicial actions, subject to the notice and hearing requirements set forth in Subsection 1304, as supplemented and modified by §163.3225, Florida Statutes, as amended.