AGENDA
LOCAL PLANNING AGENCY
THURSDAY, JANUARY 6, 2022
5:30 PM
DESTIN CITY HALL ANNEX CHAMBERS

1. **CALL TO ORDER**
2. **ROLL CALL/PLEDGE OF ALLEGIANCE**
3. **AGENDA APPROVAL**
4. **APPROVAL OF MINUTES**
   - A. **December 2, 2021**
5. **SPECIAL PRESENTATION/ANNOUNCEMENTS**
6. **PUBLIC COMMENTS** (Comments from the public on any matters considered at the meeting, or on any matters not on the agenda)
7. **OLD BUSINESS**
8. **NEW BUSINESS**
   - A. **Planning Areas and Planning Area Intent Statements**
   - B. **Land Development Code Articles I & II Discussion/Workshop**
9. **BOARD MEMBERS COMMENTS/QUESTIONS**
   - A. **James T. Wood, Jr.**
   - B. **Corey Ledbetter**
   - C. **Bekah Manley**
   - D. **Karen Hudson**
   - E. **Marcie Bell**
   - F. **Jason Klosterman**
10. **NEXT MEETING DATE: January 27, 2022**
11. **ADJOURNMENT**

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the City Clerk at (850) 837-4242 at least 48 hours prior

to the hearing. If a person decides to appeal any decision made with respect to any matter considered at such meeting, such person will need a record of the proceeding and for such purpose may need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence upon which the appeal is to be based. (Sec. 286.0105, Florida Statutes)

LOCAL PLANNING AGENCY
MEETING MINUTES
DECEMBER 2, 2021 - 5:30 P.M.
DESTIN CITY HALL BOARDROOM

1. CALL TO ORDER:

Chairman Wood called the Local Planning Agency Meeting to order on Thursday, December 2, 2021, at 5:30 p.m., in the Destin City Hall Boardroom; with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Members Present	***Staff Members Present***
James T. Wood, Jr.	Kim Montgomery City Clerk
Marcie Bell	Steve O'Connor Principal Planner
Karen Hudson	Daniel Butler Senior Planner
Jason Klosterman	Tunazzina Alam
Corey Ledbetter	Saee More
	Louis Zunguze CD Director
	Kim Kopp (remote)

3. AGENDA APPROVAL:

Chairman Wood moved to move up items F & E up to the A & B section of the agenda to be heard first, with Agency member Bell providing the second. A roll call vote of 5-0 was taken and the motion passed.

4. APPROVAL OF MINUTES:

September 23, 2021

Motion by Agency member Hudson, seconded by Agency member Bell to approve the September 23, 2021, minutes as written. The motion passed 5-0.

5. PUBLIC COMMENT:

There was no public in attendance for comment.

6. NEW BUSINESS:

- **Jenkins Engineering, Inc., on behalf of Oldacre McDonald LLC, is requesting a Conditional Use (21-33-CU) approval for a 66-unit townhome complex to be located along Palm Street and 98 Palms Boulevard. The existing site is 5.59 acres. The associated Parcel IDs are 00-2S-22-0098-0000-001A, 00-2S-22-6401-0000-0040, and 00- 2S-22-0000-0013-0000.**

Senior Planner Daniel Butler provided the members with the background information for this request. Adding that this is a Conditional Use only and the Major Subdivision and Major Development Order are still under TRC review. Adding that once approved by the TRC, it will then go before City Council for final approval. And lastly, staff reviewed the request with the required criteria for a Conditional Use and determined that the request is consistent and meets all the requirements and recommends approval.

Mr. Jamie Eubanks of Jenkins Engineering explained that he is available for any questions.

Agency member Bell asked what the amenities would be, are they going to be long or short term rentals and is there a plan for a swimming pool. According to Mr. Eubanks, at this time there is not any plans for a pool but if they do decide to have one, it would be located on the northwest side of the property. And they will be long term rentals only.

Agency member Bell moved for the Local Planning Agency to recommend City Council approve Conditional Use 21-33-CU pending the issuance and approval of the subject Major Development Order, Major Subdivision, and all applicable City and State permits. With Agency member Hudson providing the second. The motion passed 5-0.

- **Barks and Bubbles, LLC is requesting a Conditional Use (21-35-CU) approval for a pet grooming and pet daycare business to be located at 981 Airport Road. The existing site is 0.08 acres and is located within the Harbor Breeze Office Plaza. The associated Parcel ID is 00-2S-22-1021-0000-0010.**

Senior Planner Daniel Butler provided the members with the background information on this request. Adding that this use is in line with the intent of the zoning district as well as meeting all the criteria of Article 7 in the Land Development Code (LDC), it is consistent with the standards in the LDC and the Comprehensive Plan policies. And based on these findings, staff recommends approval of the requested Conditional Use.

Agency member Bell asked if the applicant plans to have a run area in the daycare portion of the business for the dogs, and how do they plan to handle the waste. According to the applicant Rachael Hodges, on the plans, the run is separate from the lobby area but in the middle of the building. In regards to the waste disposal, there will be an indoor artificial turf area with a septic type holding tank where it collects and is disposed of in the indoor plumbing. Agency member Bell then asked how many animals they can take at a time. According to Mrs. Hodges, that would vary by breed and size and is not a question that she could readily answer, but no more than 20 dogs max.

Motion by Agency member Bell, seconded by Agency member that the Local Planning Agency recommend City Council approve Conditional Use 21-35-CU, with Agency member Klosterman providing the second. The motion passed 5-0.

- **Nomination of Vice-Chair for Local Planning Agency**

Agency member Klosterman made the motion to nominate Cory Ledbetter as Vice Chairman of the Local Planning Agency. Agency member Bell provided the second. Wtih Agency member Ledbetter accepted the nomination, the motion passed 5-0.

- **Proposed Ordinance 21-21-CC - Required Inspections After Certificate of Occupancy**

The Land Use Attorney read the ordinance by title into the record:

ORDINANCE NO. 21-21-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, PROVIDING FOR AMENDMENTS TO THE CODE OF ORDINANCES TO REQUIRE POST-OCCUPANCY INSPECTIONS FOR THRESHOLD BUILDINGS; DEFINING "THRESHOLD BUILDINGS"; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The Building Official Noelle Bell informed the Agency members that after the collapse of the structure in south Florida this past year, City Council directed staff to create an ordinance to follow up on periodic inspections of similar properties every 10-years.

Chairman Wood opened the hearing to the public for comment. With no one in the audience, he closed the public portion and turned the discussion over to the Agency members.

The Chairman asked for clarification that the inspections will not be preformed by a city staff member but by a company chosen by the condominiums based on a city requirement.

According to the Land Use Attorney, the reports are to be sent to the city, to be reviewed by a consultant, with their resulting comments sent to the condominium management company with any corrections that need to be made. Additionally, if they are not made then the city has health safety rules that have to be followed to compel the corrective work to be done to the structure. And if it's still not corrected withing a certain timeframe, then Code Compliance Action will be taken and they could be taken before the Special Magistrate.

Agency member Hudson asked how long does the structures have to get into compliance. According to the Building Official, the way the ordinance is written, the first post inspection is required by Jan 1, 2023. And if they have already had one done, they can provide an inspection report by January 2023. Mr. Zunguze added that it would also depend on the gravity of the situation and if it's a serious health issue, then it would be sped up.

Agency member Bell asked if staff felt that the older buildings shouldn't be inspected sooner then 10-years. According to the Building Official, depending on what comes down from the State Legislation and whatever they mandate, this ordinance can be amended.

Agency member Klosterman spoke of his experience with working on boats and how the older wooden boats are inspected by the Coast Guard more often than the new boats. And how this would most likely be the case for the older buildings.

Agency member Bell asked if they should add verbiage to their motion so that they revisit this after what comes down from the State Legislation.

According to Mr. Zunguze, they can certainly make that a part of their recommendation to City Council. With the building Official stating that was their intention to bring any amendments that need to be made from the State.

Chairman Wood moved to the Local Planning Agency recommends approval of proposed ordinance, 21-21-CC, with the addition of staff bringing it back to the Local Planning Agency after the closure of the upcoming legislative session, if anything is passed that should affect this ordinance that should be further discussed and then make a recommendation for approval by City Council. With Agency member Bell providing the second, the motion passed 5-0.

- **Proposed Ordinance 21-15-PC Property Rights Element.**

The Land Use Attorney read the ordinance by title into the record.

ORDINANCE NO. 21-15-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, CREATING A NEW CHAPTER OF THE CITY OF DESTIN'S COMPREHENSIVE PLAN, "PROPERTY RIGHTS ELEMENT" PURSUANT TO STATE LAW; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR TITLE AND JURISDICTION; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCORPORATION INTO THE COMPRHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

According to the Land Use Attorney, this ordinance is required by law to be created because of a statute that was recently passed by the State of Florida. Adding that it went before City Council as a discussion item and City Council directed staff to prepare it and add in the statutory language in the Policy under number 3, "Subject to State Law" for local ordinances.

Chairman Wood opened the public portion of the hearing. With no one in the audience, he closed the public portion of the meeting.

The Chairman spoke of not being agreeable to this ordinance and planned to vote no but was informed by the LUA that it has to be passed by State Law and included into the Comprehensive Plan.

Agency member Bell asked what exactly this ordinance is about.

According to the LUA, the Legislator is trying to protect private property rights in general. And although it is subjective, this ordinance is a minimum to recognize private property rights. Adding that the city is not changing any requirements, just recognizing a right that is already there.

Agency member Ledbetter asked why this is coming up now and does it change anything for property owners.

According to the LUA, it does not change anything. Adding that when an ordinance is created, private property rights are always considered. They may not explicitly discuss them, but there is always a balance under the law when anything is regulated, especially private property rights and police powers. As well as the powers to protect the health, safety and public welfare are always taken into consideration to achieve a balance. Additionally, this is not going to change their processes at all. And if this was not passed, then the city would not be in compliance with the State's Laws and would not be able to pass any other Comprehensive Plan amendments, until this is put into place.

Agency member Klosterman asked if this language will be added to all future considerations that come before them to recommend to City Council.

According to the LUA, no, since private property rights are already in place and although they may not always be articulated, there is never an application that comes before them or City Council where the rights of the applicant or the property owner are not considered. This is just putting into place what is already being done in a review process.

Motion by Agency member Bell to recommend approval of Ordinance 21-15-PC by City Council, with Agency member Ledbetter providing the second. A roll call vote of 5-0 was taken and the motion passed unanimously.

- **Proposed Ordinances 21-24-PC and 21-25-LC - Amending the Future Land Use Map (FLUM) and rezoning properties located at 2942 & 2970 Scenic Highway 98.**

The Land Use Attorney read the ordinance by title into the record.

ORDINANCE NO. 21-24-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCELS DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM CRYSTAL BEACH RESORT (CBR) AND CRYSTAL BEACH NEIGHBORHOOD (CBN) TO RECREATION (REC); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND

PROVIDING FOR AN EFFECTIVE DATE. (Parcel ID Numbers: 00-2S-22-0590-0000-00CA AND 00-2S-22-0584-0000-0030).

ORDINANCE NO. 21-25-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A)2 ZONING MAPS TO INCLUDE A CHANGE IN THE ZONING DESIGNATIONS OF THE PARCELS DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM CRYSTAL BEACH RESORT (CBR) AND CRYSTAL BEACH NEIGHBORHOOD (CBN) TO RECREATION (REC); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Parcel ID Numbers: 00-2S-22-0590-0000- 00CA AND 00-2S-22-0584-0000-0030).

According to Mr. O'Connor, these two ordinances are a result of the beach property parcels that City Council directed staff to acquire in order to meet the Strategic Goal to increase public access to the beach. And as a result, the two parcels were acquired in a 50/50 partnership with Okaloosa County and they both need to be redesignated on the FLUM and the Zoning Map to Recreation, to bring them into compliance with one another.

Chairman Wood opened the hearing to the public for comments. With no one in the audience, he closed the public portion of the hearing and asked the members for any additional comments.

Agency member Bell asked that if these are co-owned by the city and the county, why does the deeds not show the county as owners as well. And asked if at any time, can the County supersede what the city wants to use the property for. Referencing the mobile building as an example that has been sitting at the park for the TDC's use.

According to Mr. Zunguze as part of the funding arrangement that the city has with the county, the only requirements is to have them listed on the agreement and not necessarily the deed itself. And as far as the use of the property, it will be governed by the city laws. Adding that the operational use of the building would need to be discussed with the City Manager's Office.

Motion by Agency member Ledbetter, second by Agency member Hudson for the LPA to recommend approval of proposed Ordinance 21-24-PC proposed Ordinance 21-25-LC by City Council. The motion passed with a unanimous vote of 5-0.

6. DIRECTORS REPORT: None

7. ADJOURNMENT:

Having no further discussion at this time, the meeting adjourned at 6:15 p.m.

Adopted and approved this _____ day of _____ 2021.

_____ _____

James Wood, Jr. Chairman Kim Montgomery, Destin City Clerk

ITEM # 2021-4744

CITY OF DESTIN – COMMUNITY DEVELOPMENT

AGENDA ITEM

MEETING DATE: January 6, 2022
BOARD/COMMITTEE: Local Planning Agency
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 8.A.

TO: Local Planning Agency

THRU: Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Steve O'Connor, Principal Planner

DATE: December 15, 2021

SUBJECT: Planning Areas and Planning Area Intent Statements

I. BACKGROUND: As part of the extensive Land Development Code (LDC) rewrite effort, Staff has begun to evaluate the Comprehensive Plan, specifically reviewing the Future Land Use Map (FLUM) and its impacts on development with a view to establishing clear, manageable, and up to date policies. In addition, as part of this review, Staff embraced the concept of Planning Areas, an effort which was commenced in the last Comprehensive Plan Update but was not completed. The concept behind Planning Areas is that, rather than assigning specific future land use designations, it encompasses a much broader vision. This vision will help facilitate the development of thoughtful guiding policies for the various unique areas of the city.

The Planning Areas will focus on planning efforts to develop that broader vision and also on the Comprehensive Plan and FLUM to help guide policies and decisions concerning growth within Destin. The Planning Areas will also allow for objective analysis for compatibility by area and neighborhoods rather than specific lots.

Staff held a work session with the Local Planning Agency on September 23, 2021. Following the workshop, Staff also sought input from the Parks & Recreation Committee on October 26, 2021. Based on The LPA's and the Parks & Recreation Committee's feedback, Staff refined the Planning Area intent statements and are bringing them back to the LPA for recommendation to City Council.

II. DISCUSSION:

A. Staff is proposing eight (8) total planning areas across the City of Destin. Each

presents its own varying uniqueness, challenges, and opportunities. These eight areas are:

1. **The Village**
2. **The Harbor**
3. **Holiday Isle**
4. **Gulf Resort**
5. **Town Center Commons**
6. **Crystal Beach**
7. **Henderson Beach**
8. **The Airport**

B. The following proposed Planning Area intent statements help create the broad vision to guide policy and decision-makers.

The Village

The Village Planning Area (the "Village") intends to primarily provide a low-density, healthy, safe, family-friendly environment that promotes a high quality of life. The Village should be where residents and visitors enjoy the activities and amenities associated with living in Destin through a connected network of multi-modal streets and paths leading to destinations within and outside the Village. To accomplish this, the City shall; establish development standards such as appropriate dwelling density maximums based on current development patterns and needs of future growth, ensure an orderly transition from low-density uses to higher density residential uses, and encourage limited commercial uses that support the neighborhoods within the Village. Also, the Village shall maintain, improve, and protect existing neighborhoods, parks, beautiful white sand beaches, emerald-green waters, and other natural resources.

The Harbor

As the Western gateway to the city, **The Harbor Planning Area (the "Harbor")** intends to support a festive marketplace that fits the City's moniker as the "World's luckiest fishing village." The appropriate commercial, mixed-use, and residential uses shall support the Destin fishing and recreation industries to draw visitors and residents alike. Public pedestrian shoreline and harbor boardwalk access shall be planned, encouraged, and developed to foster a free-flowing festive feel of the area that benefits all users of the Harbor. Efforts to implement and grow a connected and safe multi-modal transportation network within and to the Harbor Planning area shall continue through innovative transportation options and creative urban design.

Holiday Isle

The **Holiday Isle Planning Area** intends to support and maintain a mix of residential accommodations for residents and visitors alike, with low to high-density residential and mixed uses. The range of densities found in Holiday Isle presents a perfect opportunity for the city to cultivate and implement a safe and accessible multi-modal transportation system connected to the rest of Destin. Also, due to the unique water-based recreational opportunities of Holiday Isle, the City shall protect, preserve, and expand, when possible, existing natural and recreational resources.

Gulf Resort

The **Gulf Resort Planning Area** intends to be a World-class resort district with uses ranging from small condominium complexes to resorts and supporting dining, commercial and retail services. Development within the Gulf Resort area should provide residents and visitors the ability to come and experience everything Destin offers through a well-developed and connected multi-modal network without having to predominately rely on their personal automobile to get around. In addition, design standards should be developed to focus on providing a sense of place deserving of a renowned residential and resort destination. The City should also develop programs or incentives to increase public beaches and access in this area.

Town Center Commons

The **Town Center Commons Planning Area** intends to be the City's and region's residential, cultural, institutional, and services center. The residents and employees of Destin should be able to conduct all their daily business here while also finding a place for relaxation and recreation. The Town Center Commons shall also afford residents and visitors alike the ability to attend events and activities that showcase the local arts, culture, and community values. To accomplish this, the Town Center Commons shall provide a range of uses from higher-density residential, to mixed-use development, and gathering places for residents and visitors, while also being pedestrian-scaled with accessible multi-modal corridors leading to the City's surrounding areas. In addition, the City shall collaborate with Okaloosa County to align future development in the areas directly adjacent to the City's jurisdiction.

Crystal Beach

As the Eastern gateway to the city, the **Crystal Beach Planning Area** intends to highlight all that Destin has to offer, from the quality commercial corridor along HWY 98, through the family-friendly vacation destination and single-family neighborhoods, to the White Sand Beaches of Crystal Beach. Given the inherent conflict between long-term residents and short-term visitors the City shall strive to balance the needs of these evolving and prevailing uses of Crystal Beach. Therefore, the City shall preserve and promote the single-family character of the established neighborhoods while providing the residents and visitors access to amenities needed for everyday living. To accomplish this, the City should ensure the Crystal Beach area is supported by low-intensity mixed-use development at appropriate intersections of streets along Scenic HWY 98, while keeping commercial development focused on properties directly adjacent to or accessible from HWY 98 and protect the long-term single-family residential zones in the area. The City shall also develop and incentivize all efforts to expand public beach and access by encouraging low-intensity commercial and mixed-use development and redevelopment of single or multi-family units south of Scenic HWY 98. Developing pedestrian scale multi-modal infrastructure should also be a priority of the city to reduce the vehicle and pedestrian conflicts along the streets within Crystal Beach.

Henderson Beach

The **Henderson Beach Planning Area** intends to preserve and highlight the natural ecosystem of the Emerald Coast while also protecting the largest public access beach in the Destin area. The city should take all efforts to maintain and preserve the ecosystem to mitigate impacts upon the park. A partnership between Park Staff and the City should be fostered to help City Staff and the development community understand how external impacts affect the park and the species it supports. The partnership should focus on

maintaining, expanding when possible, and protecting the flora and fauna of Destin's last undeveloped area. Staff coordinated with the Florida Division of Recreation and Parks Staff to develop this statement.

The Airport
The Airport Planning Area intends to provide and facilitate the continued use of General Aviation at the Destin Executive Airport at current and projected use levels while planning for future airport growth within its present boundaries. To accomplish this, The Airport Planning Area should align with the Destin Executive Airport's "Airport Layout Plan" as adopted and periodically updated. In addition, a collaborative program between airport staff, city staff, the development community, and residents should be developed, encouraged, and maintained to mitigate encroachment issues from development upon the airport and aviation uses upon the surrounding neighborhoods and other areas. Staff coordinated with Okaloosa County Airport Staff to develop this statement.

C. COMPREHENSIVE PLAN POLICY ELEMENTS:
If adopted, the Planning Areas will update the current Future Land Use Map to align with the Proposed Planning Areas as depicted in Attachment "A."

D. LAND DEVELOPMENT CODE/ZONING ELEMENTS:
The LDC rewrite will be guided by the adopted Planning Areas and their respective intent statements along with existing Comprehensive Plan policies when evaluating current zones and developing new or combined zones.

A. Link to Strategic Goals / Objectives: #2. A green and sustainable environment

#4. Enhanced quality of life and safety for families
#5. Economic development and revitalization

B. Effect on Budget (EOB): Included as part of the current approved Land Development Code Rewrite Project Budget.

C. Level of Service (LOS): Develop and implement processes for consistent and streamlined application of codes and procedures.

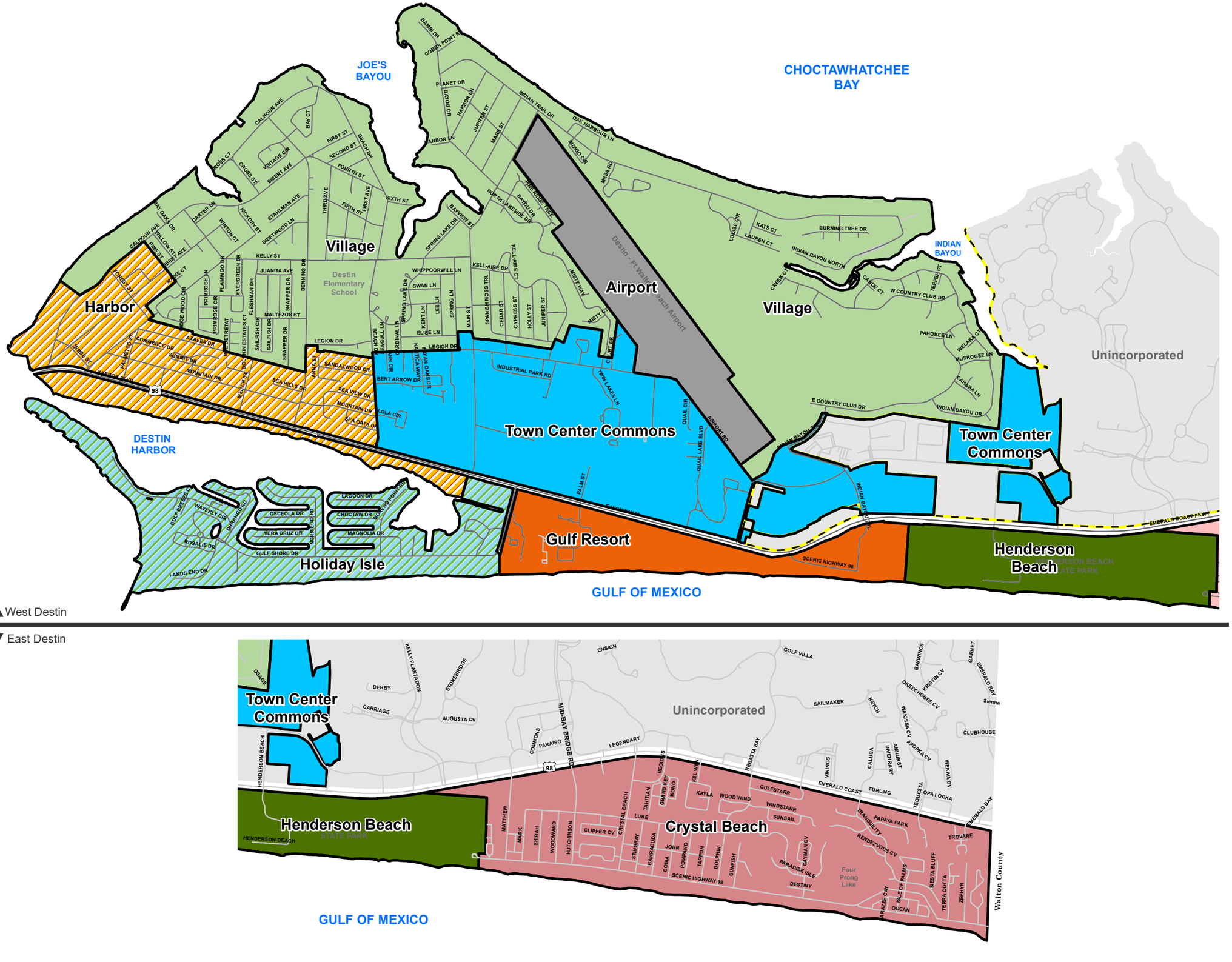
III. CONCLUSION: City Council approval of updating the Comprehensive Plan and FLUM for the City of Destin, along with the proposed Planning areas, will provide clear direction on development policies. The policies and guidance will help develop a well-balanced and useable Land Development Code that works for today's and future needs aimed at creating the desired community the residents of Destin envision.

IV. RECOMMENDED MOTION: I recommend the Local Planning Agency to forward a positive recommendation to City Council to approve the proposed Planning Areas for incorporation into the Comprehensive Plan and Future Land Use Map, as presented by Staff.

ALTERNATE MOTION: I move the Local Planning Agency to recommend with conditions/ recommend with modifications/ recommend denial, of the proposed Planning Areas for incorporation into the Comprehensive Plan and Future Land Use Map.

Attachments:

1. Proposed Planning Areas Map 2021
2. Ordinance 22-02-PC



Proposed City of Destin Planning Areas

NORTH

Scale 1" = 2000'

- City Limits
- Okaloosa County

Proposed Planning Areas

- Airport
- Crystal Beach
- Gulf Resort
- Harbor
- Henderson
- Holiday Isle
- Town Center Commons
- Village

The City of Destin assumes no responsibility and/or liability for the information contained herein.

Produced 07/12/21 by the City of Destin GIS Manager

ORDINANCE 22-02-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING ITS COMPREHENSIVE PLAN: 2020; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR TITLE; PROVIDING FOR JURISDICTION; PROVIDING FOR INTENT; AMENDING CHAPTER 1 - FUTURE LAND USE ELEMENT; ESTABLISHING THE FOLLOWING PLANNING AREAS WITHIN THE CITY OF DESTIN: AIRPORT, CRYSTAL BEACH, GULF RESORT, HARBOR, HENDERSON BEACH, HOLIDAY ISLE, TOWN CENTER COMMONS, AND VILLAGE PLANNING AREAS, AS GENERALLY DEPICTED ON THE MAP ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR GOALS, POLICIES AND OBJECTIVES RELATING TO SUCH PLANNING AREAS; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article 1, Section l.0l (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Part II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, Section 163.3167(2), Florida Statutes, requires that each local government maintain a comprehensive plan in compliance with the Community Planning Act; and

WHEREAS, pursuant to Chapter 163, Part II, Florida Statutes, the City of Destin, Florida, proposes to amend the City's Comprehensive Plan to adopt a Property Rights Element as set forth herein; and

WHEREAS, pursuant to Section 163.3177, Florida Statutes, the comprehensive plan, through required and optional elements, shall provide principles, guidelines, standards, and strategies for the orderly and balanced future economic, social, physical, environmental, and fiscal development of the area that reflects community commitments to implement the plan and its elements; and

WHEREAS, the not the intent of Section 163.3177 to require the inclusion of implementing regulations in the Comprehensive Plan, but the Comprehensive Plan will identify those programs, activities, and land development regulations that will be a part of the strategy for implementing the principles, policies and objectives of the Comprehensive Plan; and

WHEREAS, the comprehensive plan shall establish meaningful and predictable standards for the

use and development of land and provide meaningful guidelines for the content of more detailed land development and use regulations;

WHEREAS, the City of Destin's Comprehensive Plan was adopted, pursuant to Section 163.3177, consisting of the following elements: Future Land Use, Transportation, Housing; Public Facilities, Conservation, Coastal Management, Recreation and Open Space, Intergovernmental Coordination, Capital Improvements, Economic Development, and Public School Facilities; and,

WHEREAS, the Florida Legislature changed statutory provisions of Chapter 163, Florida Statutes effective on July 1, 2021 to ensure that private property rights are considered in local decision making and required the adoption of a Property Rights Element into the Comprehensive Plan; and

WHEREAS, the City Council desires to update the Comprehensive Plan consistent with such statutory changes by adopting a "Property Rights Element"; and

WHEREAS, the City Council recognizes and respects judicially acknowledged and constitutionally protected private property rights; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, <u>underline language</u> is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol * represents sections of the Comprehensive Plan that have been skipped and remain unchanged.**

<u>SECTION 3:</u> <u>TITLE</u>.

These comprehensive plan amendments are referred to as "Chapter 1A – Property Rights Element - of the City of Destin's Comprehensive Plan – Goals, Objectives and Policies: 2020".

<u>SECTION 4</u>: <u>JURISDICTION</u>.

The lands subject to this Ordinance shall include all areas within the corporate limits of the City of Destin, Florida.

<u>SECTION 5</u>: AMENDMENTS TO FUTURE LAND USE ELEMENT:

FUTURE LAND USE ELEMENT

***

OBJECTIVE 1-1.3: COMMERCIAL AND MIXED USE DEVELOPMENT. Commercial and Mixed Use Development should be primarily organized in large and small walkable centers that are easily accessible to residents and visitors by multiple modes of transportation. The FLUM (Map 1-1) assigns commercial and mixed use development to sites that generally are concentrated in strategically located areas having characteristics that best accommodate specific site location, access, public facility needs, and market requirements of respective uses.

Amendments to the FLUM (Map 1-1) shall consider the established pattern of land use and, while accommodating market demands, shall continue to promote stable residential areas. Such amendments to the FLUM (Map 1-1) shall also consider consumer demand, location, and space requirements of commercial and mixed use activities and potential fiscal and environmental impacts as well as the need to protect and preserve the quality of Destin's residential areas. Major activity centers intended to accommodate commercial and mixed use development shall include the ~~South~~ Harbor Planning Area, ~~the North Harbor Planning Area,~~ the ~~proposed~~ Town Center Commons Planning Area, ~~within the Community Redevelopment Area~~, the Crystal Beach Planning Area, Holiday Isle ~~Mixed Use~~ Planning Area, and the Gulf Resort Planning Area.

***

Policy 1-1.3.3: ~~Major Mixed Use and Resort~~ Planning Areas. ~~Within one year from Plan adoption,~~ The LDC shall include ~~special~~ design criteria to achieve the identity, form, and function established for these areas as stated below and in Section 1-2 of this Comprehensive Plan. ~~Major commercial and mixed use activity centers~~ The Planning Areas are described below:

The Village Planning Area (the "Village") intends to primarily provide a low-density, healthy, safe, family-friendly environment that promotes a high quality of life. The Village should be where residents and visitors enjoy the activities and amenities associated with living in Destin through a connected network of multi-modal streets and paths leading to destinations within and outside the Village. To accomplish this, the City shall; establish development standards such as appropriate dwelling density maximums based on current development patterns and needs of future growth, ensure an orderly transition from low-density uses to higher density residential uses, and encourage limited commercial uses that support the neighborhoods within the Village. Also, the Village shall maintain, improve, and protect existing neighborhoods, parks, beautiful white sand beaches, emerald-green waters, and other natural resources.

The Harbor Planning Area (the "Harbor"), as the Western gateway to the city, intends to support a festive marketplace that fits the City's moniker as the "World's luckiest fishing village." The appropriate commercial, mixed-use, and residential uses shall support the Destin fishing and recreation industries to draw visitors and residents alike. Public pedestrian shoreline and harbor

boardwalk access shall be planned, encouraged, and developed to foster a free-flowing festive feel of the area that benefits all users of the Harbor. Efforts to implement and grow a connected and safe multi-modal transportation network within and to the Harbor Planning area shall continue through innovative transportation options and creative urban design.

The Holiday Isle Planning Area intends to support and maintain a mix of residential accommodations for residents and visitors alike, with low to high-density residential and mixed uses. The range of densities found in Holiday Isle presents a perfect opportunity for the city to cultivate and implement a safe and accessible multi-modal transportation system connected to the rest of Destin. Also, due to the unique water-based recreational opportunities of Holiday Isle, the City shall protect, preserve, and expand, when possible, existing natural and recreational resources.

The Gulf Resort Planning Area intends to be a World-class resort district with uses ranging from small condominium complexes to resorts and supporting dining, commercial and retail services. Development within the Gulf Resort area should provide residents and visitors the ability to come and experience everything Destin offers through a well-developed and connected multi-modal network without having to predominately rely on their personal automobile to get around. In addition, design standards should be developed to focus on providing a sense of place deserving of a renowned residential and resort destination. The City should also develop programs or incentives to increase public beaches and access in this area.

The Town Center Commons Planning Area intends to be the City's and region's residential, cultural, institutional, and services center. The residents and employees of Destin should be able to conduct all their daily business here while also finding a place for relaxation and recreation. The Town Center Commons shall also afford residents and visitors alike the ability to attend events and activities that showcase the local arts, culture, and community values. To accomplish this, the Town Center Commons shall provide a range of uses from higher-density residential, to mixed-use development, and gathering places for residents and visitors, while also being pedestrian-scaled with accessible multi-modal corridors leading to the City's surrounding areas. In addition, the City shall collaborate with Okaloosa County to align future development in the areas directly adjacent to the City's jurisdiction.

The Crystal Beach Planning Area, as the Eastern gateway to the city, the intends to highlight all that Destin has to offer, from the quality commercial corridor along HWY 98, through the family-friendly vacation destination and single-family neighborhoods, to the White Sand Beaches of Crystal Beach. Given the inherent conflict between long-term residents and short-term visitors the City shall strive to balance the needs of these evolving and prevailing uses of Crystal Beach. Therefore, the City shall preserve and promote the single-family character of the established neighborhoods while providing the residents and visitors access to amenities needed for everyday living. To accomplish this, the City should ensure the Crystal Beach area is supported by low-intensity mixed-use development at appropriate intersections of streets along Scenic HWY 98,

while keeping commercial development focused on properties directly adjacent to or accessible from HWY 98 and protect the long-term single-family residential zones in the area. The City shall also develop and incentivize all efforts to expand public beach and access by encouraging low-intensity commercial and mixed-use development and redevelopment of single or multi-family units south of Scenic HWY 98. Developing pedestrian scale multi-modal infrastructure should also be a priority of the city to reduce the vehicle and pedestrian conflicts along the streets within Crystal Beach.

The Henderson Beach Planning Area intends to preserve and highlight the natural ecosystem of the Emerald Coast while also protecting the largest public access beach in the Destin area. The city should take all efforts to maintain and preserve the ecosystem to mitigate impacts upon the park. A partnership between Park Staff and the City should be fostered to help City Staff and the development community understand how external impacts affect the park and the species it supports. The partnership should focus on maintaining, expanding when possible, and protecting the flora and fauna of Destin's last undeveloped area.

The Airport Planning Area intends to provide and facilitate the continued use of General Aviation at the Destin Executive Airport at current and projected use levels while planning for future airport growth within its present boundaries. To accomplish this, The Airport Planning Area should align with the Destin Executive Airport's "Airport Layout Plan" as adopted and periodically updated. In addition, a collaborative program between airport staff, city staff, the development community, and residents should be developed, encouraged, and maintained to mitigate encroachment issues from development upon the airport and aviation uses upon the surrounding neighborhoods and other areas.

~~**Harbor Planning Area.** The South Harbor Planning Area (SHPA) is that area generally extending along the north shoreline of the Harbor as depicted on (Map 1-1a). Development along this segment of the Harbor's north shoreline shall accommodate a "festive market place" environment, as defined in the Glossary, to include tourist commercial and mixed use development that shall be planned and designed to encourage public access to waterfront views, foster a free flowing pedestrian-oriented environment that does not wall off access to the shoreline, promote convenient public access to the planned Harbor boardwalk, and reinforce the identity of the Harbor as a world-class fishing village that is open to the public.~~

~~The North Harbor Planning Area (NHPA) is that area bounded generally on the south by Harbor Boulevard and on the west by Calhoun Avenue as depicted on (Map 1-1a).~~

~~The "NHPA" shall complement the "SHPA". The NHPA shall promote those uses permitted in the SHPA, as well as encourage long-term residential uses. Design criteria shall include a multi modal transportation system and strategic pedestrian accessways that link the NHPA and SHPA areas (cross-reference Policy 1-2.4.3.) The continuing Comprehensive Planning process and the revisions to the LDC shall use the Destin Harbor Area Master Plan as a technical support document for implementing Harbor Area Redevelopment and Policy 1-2.4.3.~~

~~The adopted future land use plan concepts for the Harbor Community Redevelopment Area (Harbor CRA) have been integrated into the Comprehensive Plan and have been incorporated into the FLUM (Map 1-1). In addition, the Transportation Element has incorporated street and transit improvements that reinforce CRA Plan Goals, Objectives, and Policies. The Harbor Planning Area, as delineated on Map 1-1a, has been designated as a focal point for reinvestment in a community mixed use commercial center anchored by the Harbor Blvd. Corridor.~~

~~The City has adopted the Harbor Redevelopment Plan, which includes the following major objectives within the Harbor CRA:~~

~~a.Improve the function and form of Harbor Boulevard within the Harbor CRA by creating a safe pedestrian environment and a corridor that safely accommodates both pedestrian and vehicular traffic, including appropriately designed crosswalks, effective pedestrian signalization, lighting, and quality landscape design and signage.~~

~~b.Preserve water dependent uses as defined in the Glossary of the Comprehensive Plan. The intent is to preserve fishing fleet activity that is open to the public and prevent the walling-off of the Harbor shoreline.~~

~~c.Preclude permanent residential facilities along the Harbor waterfront, unless such residential facilities are in the form of site specific mixed use development that incorporates commercial retail components that foster and encourage access by the public to the Harbor Boardwalk. Long-term residential uses without a commercial component tend to restrict public access to the Harbor and water dependent activities along the waterfront.~~

~~d.Incorporate design criteria that shall assist in enhancing the identity, function, form, design, and vitality of the Harbor CRA, which provides a unique mixed use waterfront activity center within the western core area of the City.~~

~~e.Implement, monitor, and enhance performance standards ensuring that land development, resource conservation, and infrastructure issues within the harbor area are managed in a manner consistent with accepted best management principles and practices. The "SHPA" regulations should encourage a variety of opportunities for recreation, tourist commercial living accommodations and facilities, including but not limited to such activities as restaurants, specialty shops, fishing and marina related goods and services, and facilities supporting pedestrian linkages. The "SHPA" regulations shall protect property rights, and the environment, and foster compatible uses.~~

~~f.Preserve clusters of canopy trees and other special native trees due to their size, age, historical, aesthetic, or cultural significance, as prescribed in the LDC.~~

~~2.**Town Center CRA and Main Street.** The City shall promote the image, function, and design of the Town Center CRA and Town Center Mixed Use area, a planned pedestrian-oriented mixed use center of employment, commerce, city center living, as well as civic and cultural enrichment. As part of this initiative the City shall continue to implement the adopted Community~~

~~Redevelopment Plan, including the tax increment finance program and a regulatory program that assists in implementing:~~

~~a.Grid street system that enhances access to and with the Town Center and sub-areas of the CRA.~~

~~b.Design criteria that incorporate pedestrian and streetscape amenities, criteria for achieving the form, function, and design promoted in the adopted Community Redevelopment Plan.~~

~~c.Transit system that links the Town Center with the Harbor area, major center of activity along the Emerald Coast Parkway corridor, and other activity centers that generate patrons who seek the Town Center and Harbor areas for leisure activities, shopping, and/or employment.~~

~~Prior to the next EAR, the City shall develop a Comprehensive Master Development Plan for all or a substantial portion of the Town Center CRA. This plan shall provide a design, street, and phasing framework for the redevelopment of the Town Center. The plan shall include detailed site and building development standards. The plan shall include an implementation plan that may use concepts such as transfer of development rights to obtain necessary community elements such as community open space within the CRA.~~

~~The adopted future land use plan concepts for the Community Redevelopment Area (CRA) have been integrated into the Comprehensive Plan. After such time as the Comprehensive Master Plan has been developed the FLUM (Map 1-1) may be amended accordingly. The City Council shall implement the adopted CRA Plan after duly scheduled public hearings, including consideration of specific program designs and alternatives required to achieve redevelopment objectives within the designated Community Redevelopment Area and available funding resources.~~

~~3.**Crystal Beach Planning Area (Map 1-1a).** Sub areas within the Crystal Beach Planning Area shall promote commercial and mixed use development. Such areas include the Danny Wuerffel Way and Emerald Coast Parkway intersection, which is a principal point of entry to the City of Destin east side. Prior to the next EAR, the City shall establish a preservation overlay zone within the Crystal Beach Planning Area. The intent of the overlay is to protect established single-family residential neighborhoods with a low-intensity character from encroachment by more intense development. The City shall establish standards for this neighborhood preservation overlay district which shall be primarily located within CBN. The City shall designate maximum densities and intensities based on established patterns of residential development. Development in the overlay shall be of a primarily single-family residential character.~~

~~4.**Holiday Isle Planning Area (HIPA) (Map 1-1a).** The Holiday Isle Planning Area consists of several subareas. The Holiday Isle Mixed Use is a land use district within HIPA intended to be developed with a mix of commercial, short and long term residential, commercial transient living accommodations and yacht club/marina uses. The area is largely built out and in the future this area is anticipated to undergo limited infill development. Within HIPA there are also areas that consist of residential uses. Prior to the next EAR the city shall study whether a preservation overlay with additional protections is appropriate for areas within LDR within the Holiday Isle~~

~~Planning Area to preserve the single-family residential character of this area or some subset of this area.~~

~~5.**Gulf Resort Mixed Use Area (Map 1-1a).** The Gulf Resort Mixed Use area is a major mixed use tourist destination that is the City's most intensely developed area for short and long term residential, commercial transient living accommodations, and commercial uses. The area is largely built out and in the future this area is anticipated to undergo infill and redevelopment. Incentives shall be developed to encourage provision of public beach access where possible (See Policy 1-3.2.5).~~

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Policy 1-2.2.2: Low Density Residential (LDR). Areas designated "LDR" shall be developed, redeveloped and/or maintained and conserved as single-family (SF) long-term residential uses. Lots and parcels in the Village Planning Area (VPA) or the ~~East~~ Harbor Planning Area (~~E~~HPA) (Map 1-1a) that are designated "LDR" shall not be allowed to develop or redevelop short-term residential uses or nonresidential uses. However, lots and parcels designated "LDR" within the Holiday Isle Planning Area (HIPA) shall be allowed to develop and/or be maintained as short-term residential uses, but nonresidential uses shall be prohibited. The "LDR" designation includes lots and parcels that may be developed up to the following maximum development standards:

***

Policy 1-2.2.3: Medium Density Residential (MDR). Areas designated "MDR" shall be developed, redeveloped and/or maintained and conserved as stable single-family (SF) or multiple-family (MF) long-term residential uses. Land designated "MDR" within the Village Planning Area (VPA) and the CRA, shall not be allowed to develop or redevelop short-term residential uses or nonresidential uses. However, lots and parcels designated "MDR" that are located within the Holiday Isle Planning Area (HIPA) shall be allowed to develop and/or maintain short-term residential uses, but not nonresidential uses. Based on established patterns of residential development within the Village~~,~~ and Holiday Isle, ~~and the CRA (except the Town Center)~~ Planning Areas, the following maximum development standards shall be applied to future development within "MDR" designated areas:

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Policy 1-2.4.3: Mixed Use (MU). The "MU" designation provides an intense mix of residential and nonresidential uses within the Town Center, Calhoun, North and South Harbor, Gulf Resort, Bay Resort, and a small area within the Holiday Isle FLUM designations ~~Planning Areas~~. The intent of the "MU" designation is to promote innovative arrangements of development types in strategically located areas of the City that have or are planned to accommodate a mixture of residential and commercial activities in close proximity to each other, achieve compact development, and reduce total trips on the roadway system.

The "MU" FLUM designation allows an intense mixture of residential and commercial activity. Residential uses shall include long-term and short-term residential uses. The LDC shall describe a comprehensive list of other allowable nonresidential uses, such as medical related facilities, retail establishments, general commercial uses, offices, commercial hotels, motels, bed and breakfast establishments, other commercial transient living accommodations, and recreational uses. The following policies shall apply to the respective mixed use areas identified below:

***

OBJECTIVE 1-3.4: ENCOURAGE REDEVELOPMENT AND RENEWAL. In addition to Community Redevelopment Agency effort identified in Objective 1-3.3 and in the Policies that implement Objective 1-3.3, the City of Destin shall pursue redevelopment in other areas, such as the ~~North and South~~ Harbor Planning Area~~s~~ that have a unique history, style, and look that the City seeks to preserve. The City shall maximize the use of what already exists by protecting, restoring and enhancing the existing assets, including the ~~North and South~~ Harbor Planning Area~~s~~. The City shall provide for the redevelopment and renewal of blighted, under-utilized, or depreciating areas through the implementation of the following Policies.

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SECTION 6: ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by establishing the following Planning Areas, which areas of land are generally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

Village Planning Area (approx. 1898 acres)
Harbor Planning Area (approx. 367 acres)
Holiday Isle Planning Area (approx. 353 acres)
Gulf Resort Planning Area (approx. 209 acres)
Town Center Commons Planning Area (approx. 752 acres)
Crystal Beach Planning Area (approx. 651 acres)
Henderson Beach Planning Area (approx. 213 acres)
Airport Planning Area (approx. 225 acres)

***

SECTION 7: TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted comprehensive plan amendment to the State Planning Agency, in accordance with the Community Planning Act.

SECTION 8: INCORPORATION INTO COMPREHENSIVE PLAN.

Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

All prior inconsistent ordinances and resolutions adopted by the City of Destin City Council, or parts of ordinances or resolutions in conflict herewith, are hereby repealed to the extent of the conflict.

SECTION 9: SEVERABILITY.

If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 10: EFFECTIVE DATE.

The comprehensive plan amendment shall not become effective until 31 days after the State Planning agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date that the Administration Commission enters a final order determining the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it has become effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS ___ DAY OF _____ 2022.

BY: _____
Gary Jarvis, Mayor

ATTEST:

_____
Lance Johnson, City Manager

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney for the City of Destin, only.

_____	_____
Rey Bailey, City Clerk	Kimberly Romano Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

ITEM # 2021-4756

CITY OF DESTIN – COMMUNITY DEVELOPMENT

AGENDA ITEM

MEETING DATE: January 6, 2022
BOARD/COMMITTEE: Local Planning Agency
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 8.B.

TO: Local Planning Agency

THRU: Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Steve O'Connor, Principal Planner

DATE: December 28, 2021

SUBJECT: Land Development Code Articles I & II Discussion/Workshop

I. BACKGROUND: Over the past three (3) years, the City has diligently and judiciously undertaken the task of updating and aligning the City's Comprehensive Plan with the Future Land Use Map and the Zoning Map. That task is now complete. The City now needs to update and align the City's Land Development Code (LDC) with the recent changes to the Comprehensive Plan.

To accomplish this task, on April 5, 2021, Staff brought the Scope of Work and Budget to completely rewrite the Land Development Code for approval to the City Council, both of which were approved unanimously. Since that time, Staff has worked with the consultants of 3TP Ventures, Inc., to diligently and systematically move forward with the drafting of the new LDC. In order to provide overall context to both the LPA and City Council, regarding the Staff's approach of the LDC rewrite, Staff would like to take this opportunity to provide both a framework, as well as methodology for the LDC update. The discussion tonight seeks input and direction from the LPA on the annotations from 3TP Ventures, Inc below. Staff intends to incorporate LPA input and bring these Articles back to LPA for formal recommendation to the City Council.

Framework:
First, the updated Code will include only the regulations necessary to implement the City's Comprehensive Plan and meet Florida Statutes. As such, all design related requirements will be provided in a **"Design Manual"** to be developed as part of the LDC rewrite.

Second, the regulations will be grouped by zoning district and the Planning Areas will be the guiding elements of the new regulations.

In addition, the LDC rewrite will involve rearranging the existing language into a new format. The new Articles will be annotated to include notes, actions, and terms that need further input or direction. There are two types of annotations in the articles:

1. Annotations that include proposed text changes, notes and actions based on an analysis of the Comprehensive Plan, Florida Statutes, and current City practices.
2. Annotations that require input or direction from the City Council. The strikethrough and underlined items are necessary text edits.

Methodology:
The first two Articles(Articles I & II) are attached for your review. The breakdown below provides the methodology behind the format of these two Articles and the major issues or comments that have been identified as requiring special attention.

Article I: General Provisions and Legal

The two existing Articles "General Provisions" and "Legal" in the LDC are being combined to create one new Article. This is being done to reduce redundancy (repetitive or very similar information within the two Articles). The language will be condensed and simplified in the new LDC.

Article II: Administration

The Administration Article is intended to serve as the **"User Guide"** for the LDC. The idea is that a staff member, design professional or citizen will be able to find all the procedural information needed in one location within the LDC. As such, the new Article will consolidate all existing Administrative procedures and requirements relating to development review. This has led to the new Administration Article being much larger and more comprehensive than the existing one.

II. <u>DISCUSSION</u>: The annotations below, *italicized,* are recommendations from 3TP Ventures, Inc. However, they were highlighted as important topics for discussion and direction. Staff has discussed the recommendations internally and now seeks discussion and input from the LPA tonight on these annotations:

1. 2.05.02.C.4 - It is recommended that Final Action for major subdivisions is the Local Planning Agency.

Staff Recommendation: Major Subdivisions should be an LPA recommendation to City Council for Final Decision. The City Council's final Decision can be a Consent Agenda item, or it can be pulled off for discussion at the Council Hearing.

2. 2.05.03.B - It is recommended that final action for all major developments, except those which also have Conditional Uses or are also Planned Unit Developments (PUD), is changed to the Local Planning Agency. If the development includes a Conditional Use or PUD, the LPA will provide a recommendation to City Council.

Staff Recommendation: Staff has the same recommendation as 3TP Ventures, Inc.

3. 2.05.03.D - It is recommended that final action for major deviations to existing development orders is by the Local Planning Agency, unless one or more of the

following conditions exist:

1. A proposed change to a condition imposed by the City Council
2. Attached to a conditional use
3. A proposed change to a PUD, or
4. A proposed change that the City Manager determines should be reviewed by the City Council due to the community impact of the proposed change.

If one of the above conditions exists, the LPA will provide a recommendation to City Council.

Staff Recommendation: Yes, but if these conditions don't exist, they are minor deviations and final decision would be by Staff (Community Development Director). Also #4 should read: A proposed change that the City Manager determines should be reviewed by the City Council due to the community impact or compatibility of the proposed change.

4. 2.05.04 - There are several revisions to the Planned Unit Development section needed in order to be consistent with the Comprehensive Plan. Will there be a PUD design manual or chapter within the manual? The following requirements are needed in order for the LDC to be consistent with the Comprehensive Plan:

Staff Recommendation: No. There will not be a PUD Design Manual. However, the regulations for a PUD need to clarify what can and cannot be a PUD and be beefed up to require more public benefits.

5. 2.05.04 - Additionally, it is recommended that certain requirements be unable to be deviated from, such as lot size minimums, and landscaping requirements.

Staff Recommendation: The PUD process should be a creative process. The values of the community and the Comprehensive Plan should be reviewed to set a minimum of what can and cannot be deviated from, and then develop detailed PUD minimum requirements.

6. 2.05.06.B - It is recommended this section include specific criteria related to the extension of a development order (hardships related to permits, contractors, etc.) What type of criteria would be acceptable to the City to extend a DO? Delete the section related to special economic conditions – the deadline has passed.

Staff Recommendation: Staff is researching other municipalities' regulations for DO extensions. What extension criteria would the LPA recommend for DO extensions?

7. 2.06.02.G & 2.06.04 - It is recommended that marine construction is reviewed solely through the building permit process unless the proposal includes a marina (commercial or residential) with 10 or more slips. In that case, the application will be required to be reviewed by the Harbor and Waterways Board and City Council.

Staff Recommendation: Any self-certification from FDEP (state) level is staff level approval. Residential docks, not qualifying for self-certification or with 4-9 slips, or

require U.S. Army Corps of Engineering Approval, requires Harbor and Waterways Board (HWB) recommendation to City Council for a consent agenda item. Any residential dock with 10 slips or more requires HWB recommendation and a public hearing before City Council. All Commercial docks require HWB recommendation with a public hearing before City Council.

A. Link to Strategic Goals / Objectives: #2 A green and sustainable environment; **#3** Improve mobility and connectivity; **#4** Enhanced quality of life and safety for families; **#5** Economic development and revitalization; **#6** Effective, efficient, and aesthetically pleasing infrastructure.

B. Effect on Budget (EOB): N/A

C. Level of Service (LOS): N/A

III. CONCLUSION: Staff is seeking input from the LPA on the annotations from the Draft LDC Articles I & II. Based on the discussions tonight, Staff will incorporate LPA input and bring these Articles back to the LPA for formal recommendations to the City Council.

IV. RECOMMENDED MOTION: N/A

Attachments:

1. 1_General_Provisions_Legal
2. 2_Administration

ARTICLE I. GENERAL PROVISIONS/LEGAL

Section 1.01 Legal

It is recommended that this section be reviewed by the City's Land Use Attorney for legal sufficiency.

Whereas, the Florida Legislature has enacted the Local Government Comprehensive Planning and Land Development Regulation Act (F.S. § 163.3161 et seq.) which mandates the preparation of comprehensive plans and unified land development codes for all units of local government; and

Whereas, the City Council of the City of Destin, Florida, has determined that the Comprehensive Plan, 2000, is compatible with and furthers the state comprehensive plan, the West Florida Comprehensive Regional Policy Plan and the Okaloosa County Comprehensive Plan; and

Whereas, the adoption of a unified land development code is required to implement the comprehensive plan; and

Whereas, F.S. § 163.3194(1)(b) requires that land development regulations be consistent with the comprehensive plan and F.S. § 163.3202 details the minimum requirements for content of the city's land development code (LDC); and

Whereas, the City Council of the City of Destin finds that the regulations contained within this Code are necessary to protect the public health, safety, general welfare, natural environment and economic vitality of the city; now

Therefore be it ordered by the City Council of Destin, Florida, that this ordinance is hereby adopted in conformance with F.S. ch. 163, and provides an effective date and repeals all provisions of ordinances or resolutions in conflict herewith.

The code (LDC) is developed pursuant to F.S. § 163.3202, the current Destin Comprehensive Plan, the city Charter and the general powers provided local government in F.S. ch. 166.

Section 1.02 Title

This Code shall be known as the "Destin Land Development Code" and may be referred to also as the "Code" or "LDC."

~~It follows in structure and format the current Destin Comprehensive Plan.~~

The above sentence will be removed, as the new format of the Land Development Code does not entirely follow the Comprehensive Plan in structure and format.

Section 1.03 Jurisdiction

The lands subject to this Code shall include all areas within the corporate limits of the City of Destin (and, as applicable, any areas to which the City provides municipal services).

Section 1.04 Intent

This Code provides public policy mechanisms and regulations for growth management (development and redevelopment) in order to serve the residents and property owners of Destin and maintain and improve the quality of life for all citizens of the city. This Code is intended to implement the Destin comprehensive

plan and, toward that end, is to be construed liberally in favor of the goals, objectives and policies of the plan.

Section 1.05 Applicability

The provisions of this Code apply to all development in Destin. It takes precedence over any other ordinance, resolution or procedure affecting land use and no development may be undertaken without prior authorization pursuant to this Code.

1.05.01. Exceptions.

A. Previous development permits. Neither this Code nor amendments thereto shall affect the validity of a lawfully issued development permit if the following conditions are effective:

1. The permitted development activity has commenced prior to the effective date of this Code or any amendment thereto, or will be commenced after the effective date of this Code but within six months of issuance of the building permit; and

2. The development activity continues without interruption until the development is complete. If the development permit expires, any further development on that site shall occur only in conformance with the requirements of this Code or amendment thereto.

B. Consistency with plan. Nothing in this section shall be construed to authorize development that is inconsistent with the adopted comprehensive plan.

Section 1.06 Conflicting Ordinances, Plans, Regulations, or other Language

Should the requirements of this Code conflict with those of any other regulation or ordinance of the city, the regulation or ordinance requiring the higher standard shall prevail. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements.

Section 1.07 Abrogation

This Code is not intended to repeal, abrogate or interfere with any existing easements, covenants or deed restrictions duly recorded in the public records of the City or Okaloosa County.

Section 1.08 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Code is for any reason held by any court of competent jurisdiction to be unconstitutional or otherwise invalid, the validity of the remaining portions of this Code shall continue in full force and effect.

ARTICLE II - ADMINISTRATION

Section 2.01 Administrator

A. The City Manager or his or her designee shall administer and enforce this Code.

B. It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the City Manager or his or her designee, and that recourse from the decisions of the City Manager or his or her designee shall be to the Board of Adjustment.

Section 2.02 General Administration Procedures

This article sets forth application and review procedures required for obtaining development orders and permits as may be required. Procedures for appealing decisions also are provided.

Section 2.03 Guide for Users

Unified land development regulations. This Code was enacted to provide a consolidated reference source for land development regulations of the City of Destin. It replaces and updates certain ordinances that are outdated or redundant. In other cases, it supplements ordinances previously enacted pertaining to land development. Where no regulatory instruction mandated by the Comprehensive Planning Act of 1985 has been previously addressed or codified by city ordinance, this Code provides the requirements in accordance with the current Comprehensive Plan. In all cases, therefore, where there may be a conflict between this Code and existing ordinances, the LDC (this Code) shall take precedence. In summary, the code establishes a single set of site design criteria and provides procedures for the expeditious processing of development projects and permit applications.

This section will be updated with project type classifications and the criteria for those project types (development orders, deviations, subdivisions, exemptions, permits), as well as a table directing the user to the code section which describes the procedure for that project type. The preliminary layout of the table is:

Project Type	*Size*	*DO Issued*	*Project Classification*	*Criteria and Procedures*
Nonresidential addition	*Over 10,000 sq. ft.*	*Yes*	*Major Deviation to a Development Order*	*Section XX.XX*

Section 2.04 Procedures for Ordinance and Zoning Map Amendments

The regulations, restrictions, and zoning district boundaries set forth in the land development code may be amended, supplemented, or changed. Proposed changes may be suggested by the City Council, the City Manager or designee, by a single property owner, or by petition of the owners of 51 percent or more of an area involved in the proposed change. Applications for an ordinance or rezoning amendment must be submitted to the Community Development Department. The Community Development Department will then review and forward the application and a staff report with a recommendation for approval, approval with conditions, or denial to the Local Planning Agency (LPA) for its review. The LPA, after a public hearing and due public notice, will then forward its staff report and recommendation to the City Council for approval, approval with conditions, or denial. The City Council shall then approve, approve with conditions, or deny the application. If an application for an ordinance or rezoning amendment is

disapproved by the City Council, the applicant shall not reapply for the same ordinance or rezoning amendment for a period of one year from the date of disapproval by the City Council.

Section 2.05 Procedures for Subdivision, Development, and Planned Unit Development Review

Section 2.05.01 Authorization for Development Permit, Development Classification and Pre-Application Procedures

A. Authorization for a Development Permit. No development activity may be commenced without a final development order.

B. Prerequisites to issuance of a development permit. No development order or permit shall be issued unless the proposed development activity:
   1. Is authorized by a development order issued pursuant to this Code; and
   2. Conforms to the Florida building codes and fire codes as adopted by the City; and
   3. Conforms to the engineering standards labeled "TECHNICAL CONSTRUCTION STANDARDS" and any other engineering standard for stormwater, sewage, water, streets, traffic and other engineering concerns as may be adopted by the City of Destin.

C. Exceptions to the requirements for a development order. A construction permit may be issued without a development order if any of the following conditions apply:
   1. Construction has begun of was approved prior to the adoption of this ordinance

      This is no longer relevant and will be removed.

   2. Alterations to existing improved properties that will not alter gross floor area, use of structure or land, or change/add to the impervious surface of the site;
   3. The construction or alternation of a one or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this Code;

      The inconsistency between residential types in the LDC and Comprehensive Plan (Policy 1-2.1.1) is a larger issue throughout the LDC. This section will be revised to be consistent with the Comprehensive Plan, and be changed to include construction or alteration of detached or attached single-family dwellings.

   4. The resurfacing of a vehicle use area that conforms to all requirements of this Code;
   5. A minor replat granted pursuant to procedures in Section ~~2.19.01~~ 2.05.02 of this Code;

      This will be revised to include minor subdivision and lot split as well.

   6. Clearing and grading of land:
      a. Single-family lots: the clearing and grading is limited to the proposed development area. The applicant shall submit a site plan indicating the proposed development area prior to issuance of a clearing permit.
      b. All other lots: the clearing and grading is limited to the proposed development area. The applicant shall submit:
         i. A site plan indicating the proposed development area;

ii. An existing tree survey with all trees of 12-inch diameter at breast height or greater;
iii. A landscape plan, in accordance with Section ~~12.04.07~~, which identifies the trees and landscaping to be replanted (reforestation, front perimeter, common areas, and soil erosion control) after the clearing and grading is completed;
iv. An erosion and sedimentation control plan; and
v. All applicable federal and state permits.

All items identified within the submitted landscape plan must be planted within 30 days after the completion of the clearing/grading. Clearing, grading, and replanting activities shall be completed within 90 days of the issuance of the permit. Failure to satisfy these requirements will result in a code violation and the doubling of the required tree counts for the site; and

7. Minor alterations to existing improved properties, for which a development order has not been previously issued, that will alter gross floor area, use of structure or land, or change/add to the impervious surface of the site provided that:
   a. The proposed change does not require additional parking spaces beyond those already existing on the site;
   b. The proposed change cannot increase impervious surface area beyond 750 square feet. An increase in impervious surface up to 750 square feet must meet the requirements of Section ~~10.03.02.I.2.b.;~~
   c. The proposed change does not exceed de minimis level of service standards for concurrency; and
   d. Sufficient information (site plan drawn to scale, existing versus proposed development, existing conditions, etc.) generally in accordance with Section ~~2.18.02~~. General plan requirements must be provided at the time a building permit application is submitted to the City.

      All references to checklists in item d will be removed.

   It is the intent of this subsection to exempt projects that adhere to the criteria listed in letters a, b, and c, above from the formal development order process, but not the requirements of the Land Development Code. This process moves the review of a project against the Land Development Code requirements from the Development Order stage to the Building Permit stage. A building permit cannot be issued for a project that does not meet the requirements of the Land Development Code.

Does the City want to continue to require Development Order Exemption Applications? If so, the procedures for this application type will be included in this section. If not, no procedural amendment is required and the applicant can move to permitting phase.

D. Pre-Application Procedures. Prior to filing for a formal and scheduled review of proposed development plans, if required by this Code, by the Technical Review Committee, the applicant shall request the Community Development Director, or designee, to set a time for

discussion of the proposed development. Checklists ~~set forth in Article 17~~ appropriate to the proposed development shall be provided to the applicant by the Planning Director, or designee. In addition, the applicant shall be directed to the appropriate City departments or other agencies so that the applicant may obtain information from such department(s) and/or agency(s) prior to filing for formal review, if necessary, by the City Technical Review Committee.

Note: No comment made by any persons associated with the City during any pre-application conference or discussion shall be considered either as approval or rejection of the proposed development or development plans.

E. Designation of plans as minor or major developments. Before submitting a development plan for formal review, the applicant shall provide the City with sufficient information to make a determination as to whether or not the plan will be designated a major or minor development. For purposes of these procedures, all development plans shall be designated, in writing, by the City Manager, or his designee, as either exempt from the development order process (in accordance with Section ~~2.05.02~~), a minor development, or major development according to the criteria below.

All criteria related to project type will be moved to "Guide for Users" Section.

1. Major development. A development order application shall be deemed a major development if it satisfies one or more of the following criteria:
    a. Non-residential and mixed-use development plans consisting of more than 10,000 square feet of gross floor area.
    b. Ten thousand square feet or more of "land development activity generating traffic." "Land development activity generating traffic" means (a) any change in land use, (b) any construction of buildings or structures, or (c) any change in the use of any structure, that generates vehicle trips.

    This will be revised to remove quotation marks and "traffic" will be linked to ITE manual traffic generation.

    c. Residential development plans consisting of ten or more dwelling units.
    d. Subdivisions.

    This will be revised so that only Major Subdivisions will automatically be classified as Major developments.

    e. All planned unit developments (PUDs).
2. Minor development. A development plan shall be designated as a minor development if it is neither a major development nor a development exempt under Section ~~2.05.02~~ of this Code.
3. Simple deviations to a development order. A simple deviation to a development order is a project that does not require review by the Technical Review ~~Team (TRT)~~Committee (TRC) members, but instead requires review only by City staff members involved in the development review process. Simple deviations to a final

development order shall be determined by the Community Development Director or designee using the following criteria:

a. Changes to the previously approved development plan cannot require approval by non-City staff members of the (TRC~~T~~) (e.g. Destin Water Users, Destin Fire Control District, Okaloosa Gas Company, etc…). If a proposed change triggers this requirement then the application is required to be processed according to the procedures stated in Section ~~2.07.00~~ and either Section ~~2.07.01, 2.07.02 or 2.07.03~~; and

b. The proposed changes to the development plan only include rearranging or reducing, in accordance with Code provisions, any driveways/accessways, parking, impervious surface, stormwater management facilities, or buildings on the subject property.

All references to "TRT" will be changed to "TRC".

Vending, whether permanent, temporary, or mobile, on the exterior of a developed site shall be considered a change of use and shall be processed as a simple deviation unless it does not meet the criteria listed in Subsections A. and B. listed above.

"Temporary" and "mobile" vending will be removed from being processed through the simple deviations as these are now processed through Change of Use permit.

Section 2.05.02 Procedures for Subdivision and Re-subdivision of Land

A. Generally.

1. These regulations shall be administered by the community development and engineering departments. It is the responsibility of such community development and engineering departments to carry out the provisions of this section and make recommendations as to the suitability of proposed subdivisions.
2. Except as provided by Section ~~7.08.08~~, no person shall divide any parcel of property into two or more parcels without complying with the provisions of this section.

B. Preliminary Approval.

1. Preliminary approval is not required. However, the developer is encouraged to request preliminary approval whenever the developer is not certain that the proposed subdivision will meet all requirements of applicable laws and regulations. Preliminary submittals shall consist of three copies of drawings or other data indicating the concept of the proposed subdivision. The Community Development Director or designee will return comments, if any, from the Technical Review Committee to the developer.

This section will be revised to remove the encouragement regarding uncertainty of proposal meeting laws and requirements.

2. The public hearing, after the due public notice requirement specified in Section ~~4.01.00~~ is fulfilled for any given project when advertised and held in the preliminary approval process and any later consideration on preliminary or final approval, may be considered without readvertising under old business.
3. Upon preliminary approval the developer may proceed with producing the required documents and request final approval.

4. If the proposed subdivision is disapproved upon consideration for preliminary approval, before further consideration the developer must resubmit his plans as a completely new design indicating substantial differences from the disapproved design.

C. Final Approval.

1. Final plat requirements. The developer shall submit to the community development department three copies of the mylar or other reproducible drawing of the final plat as prescribed by F.S. § 177.09~~7~~1, size 24 inches by 36 inches, duly signed as required.

The Florida Statute no longer requires three mylars or a specific size. The section will be revised to require one mylar and two paper copies of the plat, revise the Florida Statute reference, and remove mention of statutory requirements related to size.

2. Construction drawings. The developer shall submit to the community development department three copies of the final construction drawings conforming to the requirements set forth in Section ~~7.08.00~~ including specifications for drainage, streets and other improvements, and applicable laws and regulations. Final drawings and specifications shall be prepared, signed, dated and sealed by a professional engineer registered in the State of Florida. One copy of the final drawings will be returned to the developer.
3. Other approvals. Approvals by the City Engineer, Destin Water Users, Inc., and the Destin Fire Department are required. Approvals by other concerned agencies may be required.
4. Final action by City Council. Where proposed major development includes the subdivision or resubdivision of land and the dedication of right-of-way, final approval of such subdivision or resubdivision shall be made by the City Council in accordance with this Code and general law. Upon receiving the recommendation of the T~~t~~echnical R~~r~~eview C~~c~~ommittee, the City Council will consider the subdivision for approval.

It is recommended that Final Action for major subdivisions is the Local Planning Agency.

5. Recording plats. The plat will then be submitted by the developer to the office of the clerk of court for recording. After recording, one recorded mylar copy (size 24 inches by 36 inches), two paper copies of the recorded copy (size 24 inches by 36 inches), two reduced paper copies of the recorded copy (size 11 inches by 17 inches) and one copy of the recorded homeowners association documents, if applicable, shall be filed with the community development department within ten days.

The section will be revised to remove the requirement for two paper copies to be submitted to the City.

6. Disapproval. If the proposed subdivision is disapproved, upon final consideration, before further consideration, the developer must resubmit his plans as a completely new design indicating substantial differences from the disapproved design.

D. Minor Replats/Minor Subdivisions. Where development involves a minor replat or minor subdivision as defined in Article ~~3~~, the City may issue a construction permit without requiring a final development order. However, City approval of the minor replat or minor subdivision is required prior to the issuance of a construction permit. Minor replats or minor subdivisions do not follow the procedures outlined in Sections ~~2.19.02 or 2.19.03~~, but rather follow the procedures outlined in this subsection only.
    1. Submittals consisting of an application and supporting documentation (agent affidavit, proof of ownership, etc…) three copies of drawings and other data indicating the concept of the proposed subdivision shall be delivered to the Community Development Department. The City Manager or designee will return comments, if any, to the developer.
    2. Prior to approval of a minor replat or minor subdivision by the City Manager or designee, the following standards shall be met:
        a. Each proposed lot must conform to the requirements of this Code, adopted ordinances of the City, and those standards specified by F.S. chapter 177.
        b. If any lot abuts a street right-of-way that does not conform to the design specifications provided in this Code, the owner may be required to dedicate one-half the right-of-way width necessary to meet the minimum design requirements.
    3. In the case of minor replats/minor subdivisions which involve a total of three or fewer lots, one single-family residential structure shall be permitted on each lot as a matter of right, provided the minimum lot size, dimension, and setback requirements of this Code are met.
    4. After receiving City approval, the developer is required to record the minor replat or minor subdivision in the official county records at no expense to the City. After recording, one recorded mylar copy (size 24 inches by 36 inches), two paper copies of the recorded copy (size 24 inches by 36 inches), two reduced paper copies of the recorded copy (size 11 inches by 17 inches) and one copy of the recorded homeowners association documents, if applicable, shall be filed with the Community Development Department within ten days.

        This section will be revised to remove the requirement of four paper copies submitted to the City.

    5. If the proposed subdivision is disapproved, upon final consideration, before further consideration, the developer must resubmit his plans as a completely new design indicating substantial differences from the disapproved design.

E. Lot splits. The Community Development Director may grant waivers from the platting requirements of this chapter for divisions of land that constitute a lot split:
    1. For purposes of this section, the term "lot split" shall mean a division of a tract of land or lot that will result in either a lot line adjustment between two platted lots or tracts of land or the creation of exactly one (1) additional lot or tract of land provided the following conditions are met:
        a. The lot or tract of land to be split is a previously platted lot or legal description of record.

b. Each lot or tract of land created hereunder shall abut a public or approved private street, unless perpetual cross-access easements already exist on the lot to be split or are determined not to be necessary, or, if necessary, are provided by separate instrument.
c. The lot split shall in every respect meet the criteria established elsewhere in this chapter and the City Land Development Code for the category of zoning and other relevant Codes under which the property is zoned.

2. Every lot split shall be processed in the following manner:
   a. An application form provided by the community development department shall be completed and filed with the department, accompanied with the following:
      i. An application fee approved by the city council by resolution;
      ii. Three paper copies of the proposed lot split;

      This will be revised to remove this requirement, as all applications are now reviewed digitally.

      iii. A statement indicating whether new streets, water, sewer, drainage structures, or other infrastructure are required off-site to provide sufficient access and services to the subject land; and
      iv. Legal descriptions and acreage of the two proposed lots or tracts of land and a scaled drawing showing the intended division shall be prepared by a duly licensed land surveyor registered in the state. If a lot or tract of land contains any principal or accessory structures, a survey showing the structures on the lot or tract of land shall accompany the application.
   b. Upon approval of the lot split by determination of the Community Development Director, the determination shall be duly recorded in the public records of Okaloosa County and recorded on the appropriate city maps and documents.
3. No further division of an approved lot split is permitted under this section, unless a plat is prepared and approved in accordance with this chapter.

Section 2.05.03 Procedures for Development Review

A. All applications for a major or minor development order or a major or minor deviation to a development order shall be processed in a timely manner and in accordance with F.S. § 166.033. This shall entail prompt review and responses from both the applicant and the City. No property shall have more than one development order application under review by the City at any one time. The applicant shall adhere to the following procedures when seeking approval for a major or minor development order or a major or minor deviation to a development order:
   1. A pre-application meeting is required prior to the submittal of a Development Order Application. The applicant for a proposed development order shall submit a complete application package (i.e. application, development plans, applicable fees, etc. …) to the Community Development Department.

2. Within 30 working days of receipt of the application package for review, the Community Development Department shall perform an application completeness review and either:
    a. Determine that the application package is incomplete and inform the developer, in writing, of the deficiencies. The applicant shall submit an amended application package for application completeness review by the Community Development Department within 30 days. If the applicant fails to submit an amended application package within 30 calendar days, the application is considered withdrawn; or
    b. Determine that the application package is complete as received, inform the developer, in writing of completeness, or of the TRC meeting date, if such a meeting is required in the discretion of the community development director.
    c. Within 120 days after the City has deemed the application complete or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the City must approve, approve with conditions, or deny the application. Both parties may agree to a reasonable request for an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application must include written findings supporting the City's decision, which shall be reviewed by the City Land Use Attorney prior to finalization.
3. TRC Procedures. The Community Development Department shall make available to each TRC member a copy of the application package, which at a minimum shall contain all information which is pertinent to the member's functional area(s) and the TRC meeting date at which the application submittal comments will be reviewed. The TRC members shall review the proposed application package and submit comments, if any, in writing to the Community Development Department. Each TRC member shall limit their review to their area of expertise, which shall be defined at the time the TRC member's appointment is approved by the City Council. Staff shall either approve, approve with conditions, approve with modifications, or deny and shall:
    a. Determine conformity of the proposed development with the Comprehensive Plan, this Code, other applicable requirements and the items enumerated in subsection 2~~B~~. above.
    b. Hear and address concerns and desires of surrounding landowners and other affected persons.
    c. Consider any rule, objective or policy of the Comprehensive Plan or any other criterion applicable to the particular development proposals in formulating a recommendation to either approve, approve with conditions, approve with modifications or deny the application.

B. Major developments. The following procedures, in addition to those listed in Section XX, shall apply to all major development order applications:
    1. Once the application has been to the TRC meeting and each individual TRC member, as it pertains to their area of expertise, has come to the conclusion that the proposal can be approved, approved with conditions, approved with modifications or denied, the Community Development Department shall prepare and forward each TRC member's written recommendation, through the City Manager to the City Council. A

list of all pending Major developments shall be provided by the Community Development Director to the City Council, each month, prior to the first regularly scheduled Council meeting, or the tenth day of the month, whichever occurs first. In addition to the written recommendations of each TRC member, information provided to the City Council in the technical staff report shall include, but not be limited to, the following:

a. Characteristics of the site and surrounding area, including important natural and manmade features, the size and accessibility of the site and surrounding land uses.
b. Impact on concurrency requirements and level of service standards (LOS).
c. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas, if any; the preservation of natural features or protection of sensitive lands, if any; proposed parking areas; internal traffic circulation systems, if any; the approximate total ground coverage of paved areas and structures; stormwater management, and water and sewage distribution, collection and treatment systems.
d. Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.
e. Other applicable factors, rules, regulations or criteria prescribed by the Comprehensive Plan, this Code or other law.

2. Following the required public notice and hearing, the City Council shall either approve, approve with conditions, approve with modifications or deny the Community Development staff's recommendation and shall:

a. Determine conformity of the proposed development with the Comprehensive Plan, this Code, other applicable requirements and the items enumerated in A. above.
b. Hear and address concerns and desires of surrounding landowners and other affected persons.
c. Consider any rule, objective or policy of the Comprehensive Plan or any other criterion applicable to the particular development proposals in formulating its recommendation to either approve or deny the development proposal.
d. If the proposal is approved or approved with conditions, the City Council shall instruct the City Manager, or designee, to authorize the issuance of a development order that complies with Section ~~2.08.00~~
e. If the proposal is approved with modifications, a development order may be authorized by the City Manager, or his designee, once the required modifications have been completed and approved by the appropriate TRC~~T~~ members.
f. If the proposal is denied based upon the applicant's failure to meet the requirements of this Code in the proposed development plan(s), the application will become null and void, the applicant will lose in-line priority consideration for concurrency. The applicant will have to submit a new application and start the review process over in order to secure consideration for approval of the proposal.

It is recommended that final action for all major developments, except those which also have Conditional Uses or are also Planned Unit Developments, is changed to the Local Planning Agency. If the development includes a Conditional Use or PUD, the LPA will provide a recommendation to City Council.

C. Minor developments. The following procedures, in addition to those listed in Section ~~2.07.00~~, shall apply to all minor development order applications:

1. Once the application has been reviewed and each individual TRC member, as it pertains to their area of expertise, has come to the conclusion that the proposal can be approved, approved with conditions, approved with modifications, or denied, the Community Development Department shall authorize the issuance of a development order that complies with Section ~~2.08.00~~. A list of all pending Minor developments shall be provided by the Community Development Director to the City Council, each month, prior to the first regularly scheduled Council meeting, or the tenth day of the month, whichever occurs first.
2. If the proposal is approved with modifications, a development order may be authorized by the Community Development Director, or his designee, once the required modifications have been completed and approved by the appropriate TRC members.
3. If the proposal is denied based upon the applicant's failure to meet the requirements of this Code in the proposed development plan(s), the application will become null and void, the applicant will lose in-line priority consideration for concurrency. The applicant will have to submit a new application and start the review process over in order to secure consideration for approval of the proposal.

D. Major or minor deviations to a development order. Deviations to a development order may constitute either a major deviation or a minor deviation, as defined within Article ~~3~~, Definitions of this Land Development Code. The following regulations establish the procedures for processing such deviations.

1. Deviations which have been determined as a minor deviation(s) shall necessitate a formal amendment of such order. Such an amendment shall be reviewed and processed pursuant to the requirements of Sections ~~2.07.00 and 2.07.02.~~
2. Deviations which have been determined as a major deviation(s) shall necessitate a formal amendment of such order. Such an amendment shall be reviewed and processed pursuant to the following requirements:
    a. Major deviations to an existing minor development order shall be reviewed and processed pursuant to the requirements of Sections ~~2.07.00 and 2.07.02~~. However, should the deviation satisfy any of the criteria set forth in Section ~~2.06.01.A.~~, when combined with the initial approval and any other authorized deviations, the deviation shall then be reviewed and processed pursuant to the requirements of Section ~~2.07.01.~~
    b. Major deviations to an existing major development order shall be reviewed and processed pursuant to the requirements of Sections ~~2.07.00 and 2.07.01.~~

It is recommended that final action for major deviations to existing development orders is by the Local Planning Agency, unless one or more of the following conditions exist:

1. ***A proposed change to a condition imposed by City Council***
2. ***Attached to a conditional use***
3. ***A proposed change to a PUD, or***
4. ***A proposed change that the City Manager determines should be reviewed by the City Council due to the community impact of the proposed change***

If one of the above conditions exist, the LPA will provide a recommendation to City Council.

Section 2.05.04 Procedures for Planned Unit Development Review

There are several revisions to the Planned Unit Development section needed in order to be consistent with the Comprehensive Plan. Will there be a PUD design manual or chapter within the manual? The following requirements are needed in order for the LDC to be consistent with the Comprehensive Plan:

1. ***promote the dedication of public beach and dune walkovers or other dedications of land for public recreation and open space uses for access to water within private developments (Policy 7-1.1.11),***
2. ***require the provision of recreation facilities, parks and open space (Policy 7-1.4.2),***
3. ***require tree preservation due to enhanced design flexibility (Policy 1-1.1.1(3)(c)), and***
4. ***include specific guidance regarding mixed use projects and larger sites that require more sensitive planning and quality place-making (Policy 1-3.2.5(2)).***

Additionally, it is recommended that certain requirements be unable to be deviated from, such as lot size minimums, and landscaping requirements.

A. Purpose and intent. Planned unit developments are designed to provide an alternate method of land development not otherwise available within the framework of the land development code. For the purposes of this section, single-family dwellings, duplexes, townhouses, patio houses, atrium houses, multi-family dwellings, motels, and hotels, along with other forms of residential development, may be considered as planned unit developments. Specifically, this use may be assigned to land which is to be developed utilizing innovative design techniques for the purpose of achieving one or more of the following development objectives:
    1. To preserve or be otherwise sensitive to significant environmental or topographical features which exist on the site.
    2. To accommodate a mixture of uses on a single parcel of land made internally and externally compatible through use limitations, sign control, building orientation, buffering, or other techniques which may be appropriate to a particular development proposal.
    3. To accommodate a juxtapositioning of buildings with exceptional setback or separation distances made internally and/or externally compatible through strategic landscape and spatial design.
    4. To accommodate a comprehensively planned and phased development or redevelopment project involving multiple ownerships which provides for interrelated

uses, circulation patters (both vehicular and pedestrian), building orientations, parking areas, architectural motifs, signs, open spaces, vistas, amenity areas and like features which positively contribute to the area being developed or redeveloped in the city.

B. Permitted uses. A PUD is not limited as to types of land usage which may be permitted; however, proposed uses must be consistent with the zoning district which implements the future land use designation for the property.

C. Conformance. All planned unit development applications shall conform to all applicable provisions of the comprehensive plan and land development code.

D. Maximum residential densities permitted. Maximum density for any residential or mixed-use PUD shall be incompliance with the maximum density set forth in the future land use designation for the property as specified on the future land use map (map 1-1) of Comprehensive Plan: 20~~10~~2010.

E. Procedures. All PUD's shall be processed according to the provisions set forth in section ~~2.07.00~~. procedures for development plan review.

F. Specific requirements.

1. No minimum lot size shall be required within a PUD. The frontage on dedicated public or private rights-of-way shall observe a front yard setback requirement in accordance with the zoning district. For detached structures, there shall be a minimum of a five-foot side yard and rear yards shall be a minimum of ten feet. For detached single-family dwellings exceeding three stories, the side yard shall be increased by two feet for each story above the third story. Corner lots and through lots shall provide the full front setback along the street frontage to which the structure is oriented and a minimum of ten-foot setback along the other street frontage.
2. Two or more freestanding structures located on the same lot shall be a minimum of ten feet apart. Properties located in the SHMU, NHMU, and TCMU future land use designations are exempt from this provision.
3. Every dwelling unit or other use permitted in PUD developments shall have access to a public road or street, either directly or via an approved road, pedestrian way, court, or other area dedicated to public use or reserved for private use, or common element guaranteeing access.
4. Access, circulation, parking and loading shall be provided in accordance with the provisions of article ~~8~~ of this Code. For projects that are located within the TCMU designation, required parking spaces can be located on local private or public rights-of-way provided that said rights-of-way are created within the boundary of the proposed PUD.
5. All streets shall be constructed to meet or exceed all city standards, except as provided for in 6. below.
6. Private streets, as principal means of access to individually owned lots in the PUD that are required to comply with the provisions of this chapter, shall be prohibited unless the developer establishes a homeowners' association complying with state statutes. In such cases, the homeowner's association shall be responsible for construction, maintenance and control of such roadways. Private streets are required to be constructed to meet or exceed all applicable city standards. The right-of-way for private streets and cul-de-sac within the PUD may be reduced to 40 feet in width and

90 feet in diameter, respectively, provided the developer can show that all sidewalks, utilities and stormwater are provided for within the right-of-way. Alternatively, utilities and stormwater may be provided for through easements. The city shall not, however, accept a private street which fails to meet the minimum right-of-way standards of the city.

Section 2.05.05 Procedures for the Coordination of Plat and Development Plan Approval

A. This procedure applies to all projects that require plat and development plan approval. This procedure is established to ensure efficient processing of approved developments seeking building permits and will also eliminate piecemeal plat approvals.
    1. Plats and development plans may be processed simultaneously through the required approval procedures identified in Sections ~~2.07.00~~. Procedures for development plan review and ~~2.19.00~~. Procedures for subdivision or resubdivision of land.
    2. If the applicant wishes to process these items (plat and development plan) separately, approval of the plat will be required prior to the approval of the development plan.
    3. At no time will the City approve a site plan, which requires plat, prior to the plat being approved by the appropriate approving body (e.g., City Manager or City Council).
    4. Projects approved prior to the effective date of this code that, as a condition, require plat approval prior to issuance of building permits are not affected by this Code. However, any requests for amendments to active development orders will not be processed until the required plat has been approved.

Section 2.05.06 Development Orders

A. Provided the development plan meets all requirements of the Land Development Code and Code of Ordinances the City shall issue a development order to the developer within seven calendar days from the approval date of said development order application. The development order is not a construction permit. An approved development order is required prior to the City's issuance of any construction permit(s). A development order shall, as a minimum, include the following:
    1. An approved final development plan with findings and conclusions;
    2. A listing of federal, state or regional permits, if any, which must be obtained prior to the issuance of any development permit;
    3. If modifications must be made to the development plan before a development order may be issued, a listing of those modifications and the time limit for submitting a modified plan (not more than 14 calendar days);
    4. Notification that development shall commence within a 12-month period and continue until completion in accordance with terms and conditions of approval;
    5. If necessary to maintain concurrency, a schedule of construction phasing consistent with the availability of capacity of one or more services and/or facilities;
    6. If necessary or required, a schedule of public services or public facilities to be provided by the applicant, prior to the issuance of any certificate of occupancy or within specified time periods;
    7. Any alternate service impact mitigation measures to which the applicant has committed in a recordable written instrument;

8. A security in the amount of 120 percent of the cost of any public improvements required as a result of the anticipated impact of the development or as required by regulations in this Code or other law; and
9. Such other conditions as may be required to assure compliance with this Code, the comprehensive plan or other law.

B. Final Development order and extension of the commencement of construction deadline. A final development order is valid for a period of one year from the date of issuance. However, a building permit must be issued for either the construction of infrastructure or construction of the entire project and construction must commence within said one year period after which the permitted development activity may be completed provided the conditions of this section continue to be satisfied. If a building permit is not issued within one year from the date of issuance of the final development order or a building permit is issued and construction has not commenced within one year from the date of issuance of the final development order, then the development order becomes null and void. "Construction of infrastructure" shall be defined as site work, grading, or other construction activity (not including land clearing and grubbing or demolition of existing structures) related to installation of roadways, access drives, parking lots, underground utilities, stormwater or drainage facilities, or building foundations. If construction activity ceases for a period of one year after a building permit for construction of the infrastructure or construction of the entire project has been issued, the development order will be considered null and void. No extensions to this deadline shall be allowed, except as set forth in section ~~2.21.01~~.

1. Criteria for a request to extend the 12-month deadline to obtain a building permit and commence construction.
    a. An applicant who desires to extend the 12-month deadline shall submit a written request to the community development department, no less than 30 days, prior to the expiration of the 12-month deadline to obtain a building permit and commence construction.
    b. An applicant may receive only one extension, and such extension shall not exceed one year.
    c. As a condition of approval for such an extension, the applicant's project shall meet any and all applicable code requirements that were adopted subsequent to the approval of the final development order for which an extension is being requested. The applicant will have to file an application, to amend to the previously approved development order, with the City prior to the issuance of any City permit for the subject property.
    d. Special economic condition extension. An applicant who desires to extend a previously approved active final development order shall submit a written request to the community development department, no later than April 30, 2014, which extension shall be deemed automatically granted. The extension shall commence from the current expiration date of the active final development order for a period of one year. Nothing herein shall be deemed to affect any other extension otherwise allowed by either this Code or general law, except that it is expressly intended the expiration date of a final development order that has been previously extended by operation of general law may be further extended by operation of this subsection.

It is recommended this section include specific criteria related to the extension of a development order (hardships related to permits, contractors, etc.) What type of criteria would be acceptable to the City to extend a DO? Delete section related to special economic condition – deadline has passed.

2. Determination regarding request for extension. All applications for extensions, as identified in section ~~2.21.01~~, shall be reviewed by the community development director with input from the appropriate technical review committee members for approval, approval with conditions, or disapproval.
3. Establishing an application fee. The City reserves the right to establish, by resolution, an application fee, for processing and reviewing requests for extensions of time authorized by section ~~2.21.01.~~.

Section 2.05.07 Development Agreements

Recommend removing development agreements from the LDC. It doesn't appear that a new development agreement has been drafted through this process in 10+ years.

A. Definitions. For the purpose of this section, the definitions set forth in F.S. § 163.3221, are hereby adopted by reference and shall apply and control all development agreements entered into by the City of Destin.

B. Development agreement requirements.

1. All development agreements shall, at a minimum, include the following:
    a. A legal description of the land subject to the agreement.
    b. A statement identifying the legal and equitable interest of all persons having any interest in the property described in a. above. The statement of ownership interests of any joint ventures, partnerships or corporations shall reveal all principals or directors and officers, as appropriate. Such statements shall be certified by a title company or an attorney-at-law licensed to practice in the State of Florida.
    c. The duration of the agreement, which shall meet the terms set forth in subsection C. of this section.
    d. The development uses permitted on the land, including population densities, and building intensities and height.
    e. The land use designation under the City's Comprehensive Plan for all property included within the terms of the proposed agreement.
    f. The current zoning classification of the property.
    g. A description of public facilities that will service the development, including who shall provide and maintain such facilities.
    h. The date any new facilities, if needed, will be constructed.
    i. A schedule to assure public facilities are available concurrent with impacts of the development.
    j. A description of any reservations or dedications of land for public purposes.
    k. A description of all local development permits approved or needed to be approved for the development of the land.

l. A finding that the development permitted or proposed is consistent with the City's comprehensive plan and land development regulations, as required by Section 163.3231 of the Act.

m. A description of any conditions, restrictions, terms, or other requirements determined to be necessary by the City for the public health, safety or welfare of its citizens.

n. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction, shall not relieve the development of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.

2. A development agreement may provide that the entire development or any phase thereof be commenced or concluded within a specific period of time.

C. Duration of development agreements. The term of a development agreement shall not exceed five years. A development agreement may only be extended by mutual consent of the City Council and the developer, subject to public hearings in accordance with Section D. No extension shall exceed five years or such time as the Act may provide.

D. General requirements for notices and hearings.

1. Before entering into, amending, modifying, canceling, or revoking a development agreement, the City shall conduct at least two public hearings, one of which shall be held by the local planning agency prior to a final public hearing before the City Council.
2. The day, time and place at which the next scheduled public hearing will be held shall be announced at the prior public hearing.
3. Notice of intent to consider a development agreement at a scheduled public hearing shall be provided:
    a. By advertising the required notice in a newspaper of general circulation and readership in Okaloosa County approximately seven days before each public hearing on the application;
    b. By mailing no sooner than 14 calendar days prior to the first public hearing to all property owners of record as listed in the Okaloosa County Property Appraiser's office records, whose property lies within 300 feet of the subject property;
    c. In writing, to adjacent or affected local governments or their agencies pursuant to policies in the Intergovernmental Coordination Element of the Comprehensive Plan; and
    d. By posting on the property to be developed.
4. Required notice of intent to consider a development agreement shall specify:
    a. The time, place, and location of the scheduled hearings (2);
    b. The location of the land subject to the development agreement;
    c. The development uses proposed on the property, including the proposed population densities and proposed building intensities and height; and
    d. Instructions for obtaining further information, including the place(s) where a copy of the proposed agreement can be obtained.

E. Development agreement procedures.

1. Submission of development agreement packages; fees.

a. Applications requesting consideration by the City of a developer's proposed or amended development agreement shall be submitted on such forms as may be provided by the City. In addition to the information required by Subsection B. of this section, the application shall contain such information as is reasonably necessary to process and fully consider the application.
b. Application packages shall be accompanied by such fees and charges as may be imposed by the City Council by resolution for proper filing and processing.
c. Payment of application fees, submission of applications, engineering plans, surveys or any other expenditures shall not vest any rights to complete development or to obtain any requested zoning or land use classification amendments.

2. Negotiation of development agreements.
   a. The City Manager and City staff shall review the developer's application package and negotiate such further terms and conditions as the City Manager shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare.
   b. Once a tentative agreement has been reached as to the terms and conditions of a development agreement, or further negotiations are not anticipated or will not reach a consensus on the development agreements' terms or conditions, the City Manager and staff shall draft a report, including any recommendations, of the City Council consideration along with the tentative agreement.
   c. The existence of a tentative agreement, staff report or recommendation shall not be sufficient governmental acts upon which reliance may be placed, such that further expenditures by a developer would vest any right to continue development; nor shall such actions constitute partial performance entitling the owner to a continuation or extension of the development agreement.
3. Adoption, amendment, extension, modification, revocation and cancellation procedures:
   a. Following such notice and public hearings as may be otherwise required, the City Council by majority vote, may act to adopt, amend, extend, modify, revoke or cancel any proposed or existing development agreement.
   b. Where mutual consent is required by law, the City Council may act to authorize such consent prior to all other parties so doing only upon the condition that the act is not complete or official until a binding agreement is contemporaneously signed by the mayor and the representatives of all other parties.

F. Recording the development agreement.
1. Within 14 days after the City enters into, extends, amends, modifies, revokes, or cancels a development agreement, the City Clerk shall have the agreement or the action on the agreement recorded with the Clerk of the Circuit Court in the Official Records of Okaloosa County.
2. A copy of the recorded development agreement and any recorded action on the agreement shall be submitted to the State Land Planning Agency~~Florida Department of Community Affairs~~ within 14 days after the agreement is recorded.

3. Pursuant to F.S. § 163.3239, no development agreement shall be effective until 30 days after having been received by the State Land Planning Agency ~~Department of Community Affairs~~.
4. Prior to the City's review of the status of a development agreement, the developer or property owner shall, within 14 days of the City's annual review of the development agreement, submit to the City a progress report indicating all activities and achievements since the execution of the development agreement and, if applicable, since the previous periodic report.

G. Periodic review.
1. The City may review the land and progress of development subject to the development agreement at least once every 12 months to determine if there has been compliance with the terms and conditions of the development agreement during the period under review. The agreement shall continue in force as is, pending the next review.
2. If as part of its review, the City makes a finding on the basis of substantial competent evidence that there has been a failure to comply with the terms of the development agreement, the City, following the notice and hearing provisions of Subsection D., may:
    a. Modify the agreement as necessary to obtain and ensure compliance with the terms of the agreement; or
    b. Revoke the agreement in order to protect the public's interest, health, safety or welfare.

H. Amendment, modification, extension, revocations and cancellation of agreements.
1. In addition to being extended pursuant to Subsection C. development agreements may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest upon proper notice and hearing set forth in Subsection D.
2. In the event state or federal laws are enacted after the execution of a development agreement which are applicable to and preclude the parties' compliance with the terms or conditions of a development agreement, then such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws upon proper notice and hearing set forth in Subsection D.

I. Legal status of development agreements.
1. The burdens of a development agreement shall be binding upon, and the benefits of the agreement shall inure to all successors in interest to the parties to the agreement.
2. The City's regulations and policies governing the development of land in effect at the time of execution of a development agreement shall govern the development of all land specified in the development agreements for its stated duration.
3. The City may only apply subsequently adopted laws and policies to then existing development agreements if, after one duly noticed public hearing, the City determines any one of the following:
    a. That such laws and policies are specifically anticipated and provided for in a development agreement; or
    b. That such laws and policies are not in conflict with the prior laws and policies governing existing development agreements, and do not prevent

development of the land uses, intensities, or densities set forth in existing development agreements; or

c. That such laws and policies are essential to the public health, safety or welfare, and expressly state that they shall apply to existing development agreements; or

d. That substantial changes have occurred in pertinent conditions existing at the time of approval of certain development agreements; or

e. That certain development agreements were based upon substantially inaccurate information supplied by the owner/developer.

J. Enforcement.

1. The following may file an action for injunctive relief in the Circuit Court of Okaloosa County to enforce the terms of a development agreement with the provisions of F.S. §§ 163.3220—163.3242:

   a. Any aggrieved or adversely affected party as defined in F.S. § 163.3215(2); or

   b. The state land planning agency.

2. Violations of this section or a development agreement shall be subject to penalties provided in Section 1-9 of the Code of Ordinances.

Section 2.05.08 Notice

A. Written notice shall be provided to owners of property within 300 feet of land subject to all development related applications. Development related applications shall include all of the following types of applications: deed of gift, lot reconfigurations, minor replats, major and minor subdivisions, major and minor development orders, major and minor deviations to previously approved development orders, conditional uses, variances, right-of-way vacations, future land use map amendments and zoning map amendments. Notice for Harbor and Waterways Board applications need only be provided to adjacent property owners.

This will be revised to state "Notice for Harbor and Waterways Board applications need only be provided to adjacent property owners and for water bodies less than 100 feet in width, the owners of property on the opposing shore."

The written notice shall include, at a minimum, the following: the name of the owner of the property, the name of the authorized agent (if applicable), the address of the subject property or tax parcel identification number if an address has not been issued for the property, project description, location map of the subject property, and a statement informing the public of the location where the proposed application package can be viewed, unless otherwise provided in Florida Statutes. Unless otherwise provided by law, regulation or decision, addresses for a mailed notice required by this code shall be obtained from the records of the Okaloosa County Tax Collector. The failure of any person to receive notice shall not invalidate an action if a good faith effort was made to comply with the notice requirements of this code.

B. Any development related application or applicant requiring a public meeting with the Local Planning Agency or Board of Adjustment shall post a sign, meeting the following requirements, on the property:

1. The sign must be prominently placed on the development site, shall be visible from the adjacent right-of-way and shall not be located further than five feet from the

adjacent right-of-way. The required content of the sign shall be legible as viewed from the adjacent right-of-way;

2. Such sign shall be not larger than 24 inches by 36 inches and not smaller than 18 inches by 24 inches in size;
3. The sign must clearly indicate the name of the project, name of the applicant, and 24 hours a day, seven days a week emergency contact phone number of the responsible party for said development site; and
4. The sign must be continuously on the property of the development site and shall be removed from said property within five working days after the issuance of Certificate of Completion or Certificate of Occupancy (whichever applies).

Section 2.05.09 Submittals

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

B. General plan requirements. All preliminary and final development plans submitted pursuant to this code shall conform to the ~~following~~ standards outlined in the City of Destin's Development and Subdivision checklists.

All checklists will be removed from the Land Development Code.

Section 2.05.10 Guarantees and Sureties

A. Guarantees and Sureties.

1. Applicability. The provisions of this section apply to all proposed developments in the City, including, but not limited to, subdivisions, PUD's, private road subdivisions and private developments.
    a. Nothing in this section shall be construed as relieving the developer or applicant of any requirement relating to concurrency or maintenance of level of service as may be required by this Code or the comprehensive plan.
    b. Any item which may be deemed as a health, safety and welfare issue by the City Manager, or his or her designee, is not subject to the posting of security/surety.
    c. Infrastructure is the only items which are subject to the posting of a security/surety. No buildings or portions thereof shall be applicable for the posting of security/surety under this section. Securities/sureties may be posted for provisions of the landscape plan in accordance with Section ~~12.04.07.E.~~
    d. The City retains the right to refuse an applicant or developer the option of posting security/surety based upon the past performance of an applicant.
2. Improvements, agreements required. The approval of any development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines, street lights, signage, striping, parking facilities, sidewalks, open

space and recreation facilities shall be satisfactorily constructed according to the approved development plan. The following information shall be provided by applicant:

a. Agreement that all improvements, whether required by this Code or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.
b. The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five years from the recording of the plat or 30 percent occupancy of the development, whichever comes first. NOTE: Nothing in this section shall be construed to relieve the applicant of meeting any concurrency requirements applicable to the project.
c. The projected total cost for each improvement. Cost for construction shall be proposed by an estimate prepared and provided by a Florida-registered Professional Engineer (signed, sealed and dated).
d. Specification of the improvements to be made together with the time table for making improvements.
e. Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making said improvements, the City shall utilize the security/surety provided in connection with the agreement.
f. The amount and type of security/surety provided to insure performance.
g. Provisions that the amount of the security/surety may be reduced periodically as construction proceeds and improvements are made.
h. All developers upon application shall sign an agreement to indemnify and hold harmless the City, its officer, employees and agents who perform improvements not fulfilled by the developer or owner as identified in security/surety documents.
i. Developers agree to provide property access to City employees and/or their authorized agents who perform improvements not fulfilled by the developer or owner and identified in security/surety documents. Property access will be unrestricted to areas necessary to complete necessary work elements.
j. Prior to release of bond or security/surety, the City shall review the project account records for any unpaid invoices or fees due to the City. All developers and applicants agree and consent to the City recovering all unpaid invoices and fees from the security/surety prior to the release of security/surety.

3. Amount and type of security/surety:
    a. The City Manager, or his or her designee, shall be responsible for determining the adequacy of the security/surety proposed to be provided by the developer. Should the security/surety be forfeited and, for any reason, the funds from the security/surety are not sufficient to complete all required work, the developer and/or contractor shall be responsible for any fund amount above the original surety, security or any other form of guarantee.
    b. Security/Surety requirements may be met but are not limited to the following:

i. Deposit in the form of Cash, Certified Check, Cashier's Check or Money Order (required for Certificate of Occupancy);
ii. Irrevocable letter(s) of credit (Commercial/Designated Places of Assembly/Multi-Family only);
iii. Performance or surety (insurance) bond(s) issued by insurance companies licensed to do business in the State of Florida (Commercial/Designated Places of Assembly/Multi-Family, subdivision, P.U.D., Plat release only); or
iv. Certificates of Deposit issued by State or Federally licensed banks provided that the Certificate of Deposit can be converted to cash (or any other asset) only with the prior approval of the City (for Commercial/Designated Places of Assembly/Multi-Family only). NOTE: Interest earned on the Certificate of Deposit shall be retained by the applicant if the applicant completes the required improvements secured by the Certificate of Deposit within the time limits established in the Final Development Order. The City shall retain all interest earnings on the Certificate of Deposit if, for any reason, the City is required to use the Certificate of Deposit, or any portion thereof, for completion of improvements required of the applicant. Use of this technique will require evidence of agreement between the applicant, the bank issuing the Certificate of Deposit, and the City.

c. The amount of security/surety for single family residential development shall be a minimum of $1,500.00 or 120 percent, whichever is greater, of the total construction costs for the required improvements (public and private). The amount of security/surety for all other developments shall be a minimum of $5,000.00 or 200 percent, whichever is greater, of the total construction costs for the required improvements (public and private). Upon approval of the City Manager, or his or her designee, the amount of security/surety may be reduced commensurate with the completion and final acceptance of required improvements not more than once during the term of the improvements. In no case, however, shall the amount of the security/surety be reduced to less than the designated minimum, necessary for completing the remaining required improvements. The following conditions also will apply to the posting of any security/surety:
    i. Amount of security/surety which will be permitted shall not exceed 10% of the project cost provided on the building permit application.
    ii. Administrative fee of $250.00 shall be assessed and paid at the time of application and post of security/surety. The Administrative fee does not include any inspection fees.
    iii. Security/surety handling fee of ten percent of the total amount of security/surety shall be assessed and paid prior to reduction or release of said security/surety.
    iv. Inspection fees are outlined in most current fee resolution and shall be assessed and paid prior to reduction or release of security/surety.

d. Security/surety documents must reflect the names of the subdivision or planned unit development and the developer and developer's authorized agents.
e. Security/surety shall be provided prior to the issuance of the final development order.
f. Expiration of surety may be extended in time, not more than two occasions for a total of 16 months, after which the security/surety shall be forfeited in accordance with this section. Extension of time shall be based on merits of completion of bonded items as inspected and determined by the City Manager or his or her designee.

4. Inspection of improvements.
   a. Inspection of the following phases of construction may be conducted by the City Engineer. These phases shall be inspected and certified by the developer's engineer:
      i. Subgrade or stabilized subgrade;
      ii. Curbs and concrete work;
      iii. Roadway base;
      iv. Surface course;
      v. Drainage structures and systems.
   b. The developer's engineer shall provide certification(s) that all infrastructure, including potable water and wastewater systems, have been constructed in accordance with the approved development plan. Testing documentation shall be provided to the City Engineer, along with copies of DEP certification(s). Inspection by the developer's engineer will not preclude the City Engineer from inspecting any and all aspects of construction.
   c. The City Engineer shall be given 48-hour advance notification of scheduled inspections.
   d. The City Engineer shall have the authority to reject materials or suspend work when not in conformity with approved plans and specifications.
   e. If a developer does not schedule any inspections required by this section, the inspection fees for that unscheduled inspection shall be triple the usual inspection fee.

Revise language to read "The City Engineer or designee" throughout section.

5. Procedures for acceptance by the City.
   a. Preliminary acceptance. Preliminary acceptance of physical improvements is subject to:
      i. Within two weeks prior to presentation to City Council for preliminary acceptance, the City Engineer shall inspect the facilities, review all documentation, including test data, submitted by the developer and determine that the project improvements were built to approved plans and specification.
      ii. The developer has posted the required security/surety as specified in section ~~2.20.00.F.1.c~~ to insure maintenance for a period of one year from the date of preliminary acceptance by the City Council. The security/surety provided for the installation of physical improvements

as specified in Section ~~2.20.00.B~~ shall not expire until the installation of physical improvements has been preliminarily accepted by the City. Responsibility of acquiring preliminary acceptance shall be the developer's.

b. Permanent acceptance. The infrastructure will not be permanently accepted into the City's maintenance program until all defects are corrected by the developer within 60 days of notification of deficiencies by the City Engineer. In addition, failure to make required corrections specified by the City Engineer shall result in a forfeiture of securities/sureties. Responsibility for acquiring permanent acceptance shall be the developer's.

c. The City of Destin shall establish a administrative procedure for the acceptance of developments in the City. These developments shall include, but not be limited to subdivisions, planned unit developments (PUD's), private road subdivisions and private developments.

6. Maintenance of improvements (subdivisions, planned unit developments (PUD's), private road subdivisions or private developments).

a. A maintenance agreement and security/surety shall be provided for all streets to assure the City that all required improvements shall be maintained by the developer according to the requirements of this Code, including but not limited to roads, streets, stormwater drainage, sidewalks, street lights, open space and recreation areas.

i. There shall be a minimum maintenance period of one year.

ii. The maintenance period shall begin with the preliminary acceptance by the City Council of construction of the improvements. (section E. herein)

iii. During the maintenance period, the developer shall schedule bi-annual inspections to be done jointly by the City Engineer and a representative of the developer. These inspections shall be scheduled at mid-year and prior to permanent acceptance by the City Council. The City Engineer shall advise the developer, in writing, of any corrective measures to be made during the maintenance period. It shall be the developer's responsibility to make required corrections prior to the expiration of the maintenance security/surety.

iv. The security/surety shall be in an amount equal to 25 percent of the construction cost of the improvements and will be held for a period of 18 months or upon permanent acceptance, which ever is greater.

b. Whenever proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the City, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.

i. When the proposed development is to be organized as a condominium under the provisions of Chapter 718, F.S., common facilities and property shall be conveyed to the condominium association pursuant to that law.

ii. When no condominium is to be organized, an owner's association shall be created, and all common facilities and properties shall be conveyed to that association.

iii. When a development requires an owner's association, proof of the establishment of the association must be filed with the community development director prior to a development order being issued. A recorded copy of the documents must be provided to the City before preliminary acceptance.

iv. The developer shall submit a proposed infrastructure maintenance plan and budget. The proposed budget must be submitted for review by the City Engineer.

c. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the City shall be created by covenants running with the land. Such covenant shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise without first offering to dedicate the same to the City.

7. ~~Penalty. Any person who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any provisions of this article shall be punished as provided in Section 1-9 of Destin's Code of Ordinances.~~

All Citation Authority for the Land Development Code will be included in the new Citation Authority article.

B. Future improvement payment.

1. Applicability: The provisions of this section apply to all proposed developments in the City of Destin or adjacent to public rights-of-way.

a. Nothing herein shall be construed as relieving the developer or applicant of any requirement relating to concurrency or maintenance of level of service as may be required by this Code or the Comprehensive Plan.

b. This section does not modify existing agreements between a developer and the City for final development orders granted prior to the effective date of this section.

c. This section shall apply to situations when improvements can not be installed or constructed within a public right of way, easement, or City owned property within the City of Destin, due to circumstances outside of the City of Destin or the developer's immediate control. Examples of such situations include, but are not limited to improvements to and along the U.S. Highway 98 corridor, including Emerald Coast Parkway and unimproved public rights of way within the City of Destin and when a City improvement schedule coincides with an adjacent development.

2. Improvements required: The approval of any development plan shall be subject to the developer providing an assurance payment that all required improvements within a public ROW, easement, or City owned property, including, but not limited to, sidewalks, pedestrian tracks or pathways, signage other than traffic control, handrails and permanent striping will be constructed according to the approved development

plan at an undisclosed later date by the City of Destin. The following information shall be provided by the developer:

a. The projected total cost for each improvement. Cost for construction shall be proposed by a signed and sealed and dated estimate prepared and provided by the developer's Florida Professional Engineer.
b. The amount and type of payment provided to assure construction.

3. Amount and type of future improvement payment:
   a. The City Manager, or his or her designee, shall be responsible for determining the adequacy of the amount of the payment proposed to be provided by the developer.
   b. Payment requirements shall be one of the following:
      i. Certified check;
      ii. Cashiers check;
      iii. Money order; or
      iv. Cash.
   c. The amount of payment shall be 120 percent of the total construction cost for the required improvements ("future improvement payment").
   d. In addition to the future improvement payment, developer shall pay an administrative fee.
4. Future improvement payment shall be made prior to the ~~to~~ issuance of a development order for commercial projects or a building permit for residential projects.
5. Future improvement payment. At such time that the improvements can be made to the public right-of-way, easement, or City-owned property, the City shall construct such improvements and use the future improvement payment to pay for the costs of the improvements. After completion of the improvements, any unused portion of the future improvement payment shall be returned to developer. If the future improvement payment is not sufficient to pay for the improvements, developer shall pay any shortfall to the City.

Section 2.05.11 Appeals

A. When it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official or the L~~l~~ocal P~~p~~lanning A~~a~~gency in the enforcement of any requirement of this code, the Code of Ordinances or Land Development Code, now existing or to be promulgated in the future by the City, the issue in dispute shall be taken before the Board of Adjustment. Such issue may include, but it not limited to, a finding of concurrency deficiency or refusal on the part of the City to issue a final development order

B. Any appeal by any citizen must be filed in writing with the City Manager, or designee, within 30 calendar days of rendition of the decision in question, and the reasons for such appeal shall be set forth therein. The City Manager, or designee, shall arrange for an appeal hearing before the Board of Adjustment and notify the appellant in writing of the date, time and place of the hearing.

C. The appellant shall have the burden of affirmatively demonstrating that the decision in question was in error. The administrative official(s) involved, or chairman of the Planning Commission, shall have the opportunity to present information and argument to support their decision.

D. The Board of Adjustment shall base its decision on the requirements of the City's Comprehensive Plan and this Code. The Board shall make its decision based upon its usual voting procedures, the decision shall be issued in writing stating the reasoning involved, and it shall be rendered within 60 days of the close of the hearing. No further administrative appeal is available beyond this stage, though the appellant retains the right of appeal through the judicial system as provided by law.

Section 2.06 Procedures for Construction and Building Permit Review

Section 2.06.01 Construction Permits

A. After a development order has been issued, the applicant may, within 12 months of the issuance of the development order, apply for the necessary construction permits. The City shall issue the necessary construction permits if the proposed construction is consistent with and approved pursuant to the development order. If the application for a construction permit deviates from the development plan the City shall notify the applicant within five working days of the construction permit application. Warning: If the applicant has not obtained a construction permit(s) within 365 days of issuance of the development order, the development order is void and the application for plan approval must be re-initiated.

The necessary construction permits may include building permits, harbor construction permits and engineering permits.

Section 2.06.02 Building Permits

A. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefor, issued by the City Manager or his designee. No building permit shall be issued by the City Manager or his designee except in conformity with the provisions of this article, unless he receives an order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this article.

B. No permit for erection, alteration, moving or repair of any building shall be issued until an application has been reviewed and approved by the Community Development Director or his or her designee.

C. No nonconforming use shall be maintained until a certificate of zoning noncompliance shall have been issued by the City Manager or his designee. The certificate of zoning noncompliance shall state specifically wherein the nonconforming use differs from the provisions of this article; provided that, upon amendment of this article owners or occupants of nonconforming uses shall have six months to apply for certificates of zoning noncompliance. In cases where nonconforming uses existed at the time of enactment of Okaloosa County Ordinance No. 74-4 on March 11, 1974, certificates of zoning noncompliance shall be issued based upon facts stated in affidavits. Failure to make such application within six months shall be presumptive evidence that the property was in nonconforming use at the time of the enactment or amendment of such ordinance.

The entire section "C" related to certificates of zoning noncompliance will be deleted, as the deadline has passed.

D. The City Manager or his designee shall maintain a record of all certificates of zoning compliance, and a copy shall be furnished upon request to any person.

E. Upon application, the City Manager or his designee may issue a 12-month permit for the temporary parking of a construction trailer on a lot during the construction of a permanent structure on such lot; the construction trailer is to be removed within two weeks following the completion of construction. Renewal of a 12-month permit shall be at the discretion of the City Manager or his designee.

F. In addition to all other building permit requirements, all construction involving the paving or increasing of the impervious coverage of properties will require a building permit subject to City Engineer approval.

G. Building permits are required for docks, piers, boathouses, bulkheads and seawalls, which are allowed in all zoning districts except that commercial docks are allowed only in specified districts. Applications for structures shall be presented by the city manager or his designee to the City Council for final approval or disapproval. Approvals by other concerned agencies are required for all structures in the water or adjacent thereto. All new commercial marinas and additions to existing commercial marinas shall provide sanitary sewer pump-out stations.

It is recommended that marine construction is reviewed solely through the building permit process, unless the proposal includes a marina (commercial or residential) with 10 or more slips. In that case, the application will be required to be reviewed by the Harbor and Waterways Board and City Council.

H. Building permits are not required for dredging and filling. Approval by the City Council is required in the same manner as for docks. Approvals by concerned agencies are required.

Clarify application type – not listed in COMPASS.

Section 2.06.03 Application for Building Permits

A. All applications for building permits shall be accompanied by plans and a survey or plot plan in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and location on the lot of buildings or improvements already existing, if any; the location of any existing easements; and the location and dimensions of the proposed buildings or alterations. The application shall include only such other information as lawfully may be required by the City Manager or his designee, including existing or proposed uses of the building and land, the number of families, housekeeping units or rental units the building is designed to accommodate, conditions existing on the lot, and such matters as may be necessary to determine conformance with, and provide for the enforcement of, this article. The application shall be certified as correct by the applicant. Complete plans are not required for buildings which are exempt from requiring an architect's signature and seal by Florida Statutes. Architects' affidavits are required in accordance with the Standard Building Code.

B. One copy of the plans shall be returned to the applicant by the Chief Building Inspector, after he shall have marked such copy either as approved or disapproved. One copy of the plans, similarly marked, shall be retained by the City Manager or his designee for at least two years.

Section 2.06.04 Marine Construction Permits and Harbor and Waterways Board Applications

It is recommended that marine construction is reviewed solely through the building permit process, unless the proposal includes a marina (commercial or residential) with 10 or more slips. In that case, the application will be required to be reviewed by the Harbor and Waterways Board and City Council.

A. Permitting Procedures. Permitting procedures. The following procedures shall be adhered to by persons desiring to construct a new dock or add to, alter or remodel, add riprap to, or reconstruct an existing dock:
    1. Persons desiring to construct a new dock or add to, alter, remodel, add riprap to, or reconstruct an existing dock shall apply for and obtain a permit and other authorization from the City prior to construction.
    2. Each applicant shall designate the location of his property on the or waterways of Destin and attach this to the building permit application and must complete the City application form(s).
    3. Application shall be made by filing with the City, the City's permit application form and a copy of the joint application form used by the United States Army Corps of Engineers, and the Florida Department of Environmental Protection, the requirements of which are expressly adopted herein as they existed on the effective date of this Code, and as they are hereafter amended by said respective agencies.
    4. A building permit shall be obtained from the City prior to beginning construction, in accordance with City ordinances.
    5. If the dock is to have more than two slips for commercial use or for use by persons other than the owner, the applicant/owner shall supply a certified copy, from the Okaloosa County Tax Appraiser, of all names, addresses, and property I.D. numbers of the owners of adjacent waterfront property.
    6. The Harbor and Waterways Board shall review all timely received applications at the next regularly scheduled Harbor and Waterways Board meeting. The City Council shall take final action on the application within 30 days of receipt of all state and federal permits and the Board's recommendation.
    7. Marinas having ten or more slips and/or non-residential docking facilities shall require a public hearing before the City Council prior to approval.
    8. Building permits must be obtained within one year of final approval by the City Council or the approval expires and must be resubmitted for reconsideration by both the Harbor and Waterways Board and City Council. The project will be subject to all current regulations of the City.
    9. The application must be signed by the title of record owner(s) or any long-term lessee of the abutting upland property.
    10. Applications for permission for dock construction shall include scaled drawings, prepared and certified by a land surveyor or architect, if requested by the Harbors and Waterways Board at the public hearing, and said plans shall include at a minimum:
        a. Accurate measurements for depth and width in several locations in the vicinity of the proposed dock.
        b. Channels, shoals, obstructions, docks, markers, and proposed improvements.

c. Accurate location of the applicant's shoreline, and the opposing shoreline with corresponding measurements.
d. Riparian lines.
e. Other site specific information.

11. In water bodies of less than 100 feet in width, owners of property on the opposing shore to the proposed construction shall be provided with written notification of the proposed construction. Any objections received will be provided to the Harbor and Waterways Board and the City Council.
12. Where multiple slips extend from the shore and on multiple-slip docks and for any slip in a canal, aerators or circulation devices shall be required as determined by the City. Such devices shall be required where it is determined that circulation is deemed to be interfered with by the proposed facilities.
13. Shorelines shall require protection from erosion as determined by the City.
14. A net positive environmental benefit (NPEB), equal to 25 percent of the cost of construction shall be made to the City of Destin by the applicant prior to issuance of a building permit for each construction project authorized by this Article, which is located within the Destin Harbor.
15. No permit shall be issued by the City until the applicant obtains all authorizations and permits from federal and state agencies, and until the required NPEB funds are paid, if applicable.
16. All applicants shall apply to the City and must receive preliminary approval for the proposed construction prior to taking any other action. Preliminary approval shall be considered for issuance by the City Council after review and recommendations of the Harbor and Waterways Board. If the application is for joint ownership of a dock, the applicant must obtain written permission from all title of record owners and long-term lessees of the abutting upland property. Upon approval of all appropriate federal and state agencies, final approval from the City Council shall be obtained before a permit is issued.
17. The following procedures shall apply to transferring permits:
    a. The permit is not transferable without the written consent of the City, which consent shall not be unreasonably withheld. The City Manager, or his designee, shall determine transferability upon recommendation of the Board. The decision may be appealed to the City Council.
    b. Whenever, during a construction project, a permittee transfers title of record to the abutting upland property or leases that property by long-term lease, a request by the original permittee shall be made to the City to transfer the permit. Forms for this purpose may be obtained from the City. Failure to apply for such a transfer within 30 days from the date the abutting upland property is sold or conveyed by long-term lease will result in an additional fee being charged to the original permittee by the City.
    c. At the time of transfer, all construction shall be inspected for compliance with the City's minimum plumbing, electrical and structural requirements and for compliance with the conditions of the existing permit. Fees for said inspections are set forth in Article 18 of this Code. All deficiencies shall be corrected prior to final transfer of the dock.

Remove this section, as construction permits cannot be transferred, and development approvals run with the land, not the property owner or applicant.

18. All construction in the Harbor and waterways of Destin shall require a permit from the City.
19. The applicant shall be responsible for personal injury or property damage which arises from construction and use of the project to the extent provided by common law.
20. The City shall retain the right to revoke any permit issued under this Article if the health, safety or welfare of any person or property is in jeopardy, or for any other good cause. If the applicant fails to remove such structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove the same at the cost and expense of the applicant. Good cause shall include, but not be limited to, violation of any permit conditions, or any provision of this Article.
21. Upon completion of a dock, or other structure requiring a construction permit, a final inspection shall be conducted by the City. After the final inspection is complete, a certificate of occupancy will be issued which shall be a permanent permit for such dock or structure.

B. Inspection and repairs. All construction shall be inspected by the City Building Inspector for compliance with applicable building codes. The permittee shall be responsible for the condition and repair of permitted docks and failure to maintain said docks in a safe condition shall constitute grounds for revocation of the permit.

C. Permit revocation. The City reserves full right, power and authority to revoke a permit at any time for good cause. In the event that permittee fails to remove said structure within the time specified upon revocation of the permit, the City shall have the right to immediately remove same at the cost and expense of the permittee. Good cause shall include, but not be limited to, violation of any permit condition, or any provision of this ordinance.

D. Liveaboards. Except in an emergency, no person(s) shall live aboard any boat in Harbor and waterways of Destin for a period exceeding 48 hours without notifying the Environmental Officer, or other City official as designated by the City Manager, and receiving a registration permit. In cases of an emergency, such notification shall be given to the Environmental Officer within three hours after the immediate emergency situation ceases. Proof that each live-aboard boat has an operable holding tank must be furnished to the Environmental Officer at time of notification. All liveaboards must comply with all applicable regulations of the U.S. Coast Guard, Florida Marine Patrol, and City of Destin.

E. Joint ownership docks. Permits may be granted for joint ownership of a dock at the common riparian boundary, subject to the following conditions:
    1. No permits shall be granted to persons other than the title of record owner or long-term lessee of the abutting upland property.
    2. The permit application must be signed by the owner of record or long-term lessee of all abutting upland property having access to the facility.
    3. The permit shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations and conditions set forth in the permit and this ordinance.
    4. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over the common property lines.

F. Permit for maintenance and cosmetic improvements. The City Manager, or his designee, may issue permits within the Harbor and waterways of Destin for which maintenance or cosmetic improvement is accomplished to existing facilities. No permit shall be issued for facilities which do not conform to the standard Harbor drawings and the adopted marina siting requirements.

G. Registration of structures. All existing docks, seawalls and bulkheads located within the Harbor and waterways of Destin shall be registered with the City as follows:

1. The title of record or long-term lessee of all existing structures at the time of adoption of this ordinance shall register such structure with the City within 90 days after adoption of this ordinance.
2. Each structure shall be re-registered upon any change in ownership or long-term lessee of the abutting upland property.
3. The City shall be notified upon the expiration of an existing long-term lease by the title of record owner of the abutting upland property.
4. The City shall be notified by the title of record owner and long-term lessee of the abutting upland property upon the destruction of 50 percent of the replacement value of the structure. The City shall maintain a registration of all docks, seawalls and bulkheads located within the Destin Harbor.

This section will be removed as it is not currently enforced, and building permits serve as the City's record for dock construction.

H. Exceptions. Exceptions from the provisions of Section ~~11.05.01~~ are as follows:

1. The Board of Adjustment may approve an exception for docks and pilings to be extended beyond the limits allowed in paragraphs M and N of Section ~~11.05.01~~ provided that, in addition to the criteria listed in Section ~~2.25.03.G~~, the following criteria is also met:
    a. That site-specific environmental conditions would impede placement of slips near or next to the shoreline.
    b. That site specific environmental conditions exist that prohibit dredging.
    c. That the proposed layout of the dock and pilings does not create a hazard to navigation.
    d. That no additional slips are obtained than would otherwise fit into a dock of the maximum size allowed without the exception.

I. Reconstruction of existing facilities. For existing facilities which are damaged by accidents, vandalism, ordinary wear and tear or acts of God, the provisions of paragraphs F, G, M, and N of Section ~~11.05.01~~ shall not be applicable to reconstruction so long as the damaged facilities are reconstructed in the same or lesser dimensions and so long as the construction permit is applied for from the City within six months of the sustaining damage.

J. Penalties. Any person found in violation of this article shall be punished by a fine not exceeding $500.00 or imprisoned for a term not exceeding 60 days or by both such fine and imprisonment. Each day any violation of any provision of this Code continues shall constitute a separate offense.

This section will be removed as all penalty information will be included in the Citation Authority article of the new LDC.

Section 2.06.05 Post-Permit Changes

A. After a construction permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of the development order without first obtaining a deviation to the order. Similarly, except for minor field modifications as may be allowed by the building codes and associated mechanical, electrical, plumbing, gas and fire safety codes (reference article ~~7~~ and Section ~~2.05.01~~ of this Code), it shall be unlawful to change, modify, alter or otherwise deviate from the terms and conditions of the construction permit without first obtaining a City-approved modification to the permit. Note: Construction standard field changes must be made available to the City Inspector for inspection purposes consistent with the building, mechanical, electrical, plumbing, gas and fire safety codes adopted by the City.

B. Construction and Use to be as Provided in Application, Plans, Permits, and Certificates of Occupancy. Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the City Manager or his designee authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this article.

Section 2.06.06 Expiration of Building Permit

A. If the work described in any building permit has not been initiated within six months after the date of issuance thereof, such permit shall expire. No further work as described in the expired permit shall proceed unless and until a new building permit has been obtained. Additionally, if work described in the building permit issued was commenced within six months after the date of issuance thereof, then work must be substantially completed within two years from the date of issuance.

Section 2.06.07 Inspections and Certificates of Occupancy

A. Inspection requirements. The building inspector shall inspect the construction site during each phase of construction to ensure compliance with the approved site plans and applicable codes and regulations of the city.

B. Inspection procedures. Upon successful completion of the final inspection of a building or structure for which utilities are required, the building inspector will authorize the utilities to be turned on. The building inspector shall conduct an operational check of all electrical, water, sewer, gas, air conditioning and heating systems, and:

1. All units or systems that are found to be defective or inoperative shall be identified by the building inspector on a discrepancy form, with the original provided to the builder, contractor or developer, as appropriate, and a copy to the planning and inspections department.
2. The builder, contractor or developer shall correct all discrepancies noted on the discrepancy form within 14 days of notification and shall certify on the original discrepancy form that corrective action has been completed. One 14-day extension may be authorized by the planning and inspections department in cases where the discrepancy cannot be corrected due to circumstances beyond the control of the builder, contractor or developer.

3. The building inspector shall notify the planning and inspections department when the building and/or structure has received a successful final inspection, whereupon the planning and inspections department will issue a certificate of occupancy.

C. Purpose. This article establishes the requirement for builders and/or developers to obtain a "certificate of occupancy" prior to using any building or structure for business, residential or other uses in which the public health, safety and welfare are involved.

D. Certificate of occupancy requirement. A certificate of occupancy shall be obtained from the planning and inspections department for all buildings and structures for which utility service is required. No building or structure within the city for which utility service is required shall be occupied or used without first obtaining a certificate of occupancy from the city.

Section 2.06.08 Certificates of Zoning Compliance

A. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the City Manager or his designee stating that the proposed use of the building or land conforms to the requirements of this article. Failure to obtain a certificate of zoning compliance shall be a violation of this article.

This section will be deleted as there is no "certificate of zoning compliance" currently in use by the City or required prior to building occupation.

Section 2.06.09 Surveys for Certain Work

A. Foundation survey requirement. For all building projects which require construction of a foundation of 100 square feet or more, a foundation survey shall be submitted to the City Building Division prior to the dry-in inspection. Such foundation survey shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. Any work undertaken prior to submission of the foundation survey shall be done at the builder's risk.

B. As-built survey. For all building projects requiring a foundation survey, an as-built survey shall also be submitted to the City Building Division prior to the issuance of a certificate of occupancy. The as-built survey shall be prepared by or under the direct supervision of a registered land surveyor and certified by same. No certificate of occupancy shall be issued until the Building Division has received and the Planning Division has examined the survey to determine there are no violations of city code requirements. If a violation is determined to exist, no certificate of occupancy shall be issued, no permanent electric power shall be connected and the structure shall not be occupied until the violation has been remedied.

Section 2.06.10 Unsafe Building Abatement Procedures

Recommend moving this section out of the Land Development Code and into the Code of Ordinances as it doesn't pertain to development.

A. All buildings, structures, premises, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, or do not provide adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, or which are otherwise unfit for human habitation, as may be

further defined hereinbelow, are considered unsafe buildings. All such unsafe buildings, structures or premises are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of this Code or other applicable local ordinance.

B. Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Unsafe Building. Any building, structure or property that has any of the following conditions, such that life, health, property or safety of the general public or the building its occupants, either permanent or occasional, of the general public are endangered:

a. Any means of egress or portion thereof is not of adequate size, or is not arranged to provide a safe path of travel in case of fire or panic, or otherwise does not conform to the Florida Building Code or Florida Life Safety Code as related to the requirements for existing buildings or to the approved plans, if any.
b. Any means of egress or portion thereof, such as, but not limited to, fire doors, closing devices and fire resistive ratings, is in disrepair or in a dilapidated or nonworking condition such that the means of egress could be rendered unsafe in case of fire or panic.
c. The stress in any material, member or portion thereof, due to all imposed loads including dead load exceeds the stress allowed in the Florida Building Code as related to the requirements for existing buildings.
d. The building, structure or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirements established by the Florida Building Code as related to the requirements for existing buildings.
e. Any exterior appendage or portion of the building or structure is not securely fastened, attached or anchored such that it is incapable of resisting wind, seismic or similar loads as required by the Florida Building Code as related to the requirements for existing buildings.
f. If, for any reason, the building, structure or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
g. The building, structure or portion thereof as a result of damage, decay, deterioration or dilapidation is likely to fully or partially collapse.
h. The building, structure or portion thereof has been constructed or maintained in violation of a specific requirement of the Florida Building Code, was not constructed according to the approved plans, if any, or was constructed without first obtaining a building construction permit, where a building permit was required.
i. Any building, structure or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

j. Any building, structure or portion thereof that displays any of the above is in such a condition so as to constitute a public nuisance or an unsafe or dangerous attractive nuisance.

k. Any building, structure or property rendered unsafe or dangerous to human health by the presence of unlawful hazardous materials or toxic substances.

l. Any violation of Chapters 2 and 3 (except Section 309) of the Standard Housing Code, 1994 Edition, which is hereby adopted by the City for the purpose of establishing minimum rules and regulations for the use, occupancy and maintenance of buildings on residential properties; in addition to the provisions hereinabove, the provisions of such code shall be controlling as to the use, occupancy and maintenance of buildings on residential properties in the corporate limits of the City.

Update reference for the Standard Housing Code.

C. Determination of Unsafe Building. The Building Official (in consultation with and the Fire Official, where applicable) shall determine when a building is unsafe, or a portion of it may be unsafe. The Determination of Unsafe Building shall include a statement indicating the building or structure has been declared unsafe by the City and a detailed report documenting the conditions determined to have rendered the building or structure unsafe under the Code and shall be signed by the Building Official. Such determination shall be forwarded to the Code Compliance ~~Enforcement~~ Officer for further action according to the following procedures, and the procedures in Chapter 14, Article III, ~~-~~Code Enforcement Board; Special Magistrate, Destin Code of Ordinances.

D. Notice. The Code Compliance~~Enforcement~~ Officer, upon receiving a Determination of Unsafe Building from the Building Official, shall prepare with coordination from the Building Official and issue a combined Notice of Unsafe Building and Notice of Violation directed to the owner of record of the building or structure. The Notice shall be provided as required in Section 14-84, Destin Code of Ordinances and shall also be posted in a conspicuous place on or about the structure. Once posted, it shall be unlawful for any person, firm, corporation, or other entity, or any agent thereof, to remove, deface or destroy the Notice of Unsafe Building and Notice of Violation without permission, or for any person to enter or otherwise occupy the building except for the purpose of making the required repairs or demolishing the building or structure based on applicable permitting and approvals by the Building Official. The Notice shall contain, but not be limited to, the following information:

1. The street address or location on which road, if no address is assigned and the property I.D. of the structure, building or property.
2. The Determination of Unsafe Building shall be included in its entirety.
3. A statement advising that if the following required actions, as determined by the building official, are not commenced within or completed by the time specified, the matter will be referred to the Code Enforcement Board or Special Magistrate for a hearing, which may result in a finding of violation and an order imposing fine and costs and requiring that the building, structure or property will be repaired or ordered vacated and, if applicable, demolished and all costs incurred, together with any accrued fines; and that the order imposing fine and costs may be filed in the public records, and as such, thereafter will constitute a lien against the land on which

the violation exists and upon any other real or personal property owned by the violator.

a. If the building or structure is to be repaired, the notice shall require that all necessary permits be secured and the work commenced within 60 days and continue to completion within such time as allowed per code.
b. If the building or structure is to be vacated, the notice shall indicate the time within which vacation is to be completed and the building or structure secured against further occupancy, which time shall not exceed 30 days.
c. If the building or structure is to be demolished, the notice shall require that the premises be vacated within 30 days, that all required permits for demolition be secured in 60 days and completed within such time as allowed per code.

4. A statement that the Building Official has the authority to authorize disconnection of utility service to any structure where necessary to eliminate an immediate hazard to life or property or when such utility connection was made without proper authorization.
5. A statement providing notice that it is unlawful for any person, firm, corporation, or other entity, or any agent thereof, to remove, deface or destroy the Notice of Unsafe Building and Notice of Violation without the permission, or for any person to enter or otherwise occupy the building except for the purpose of making the required repairs or demolishing the building or structure based on applicable permitting and approvals by the Building Official.

E. Additional Powers and Duties of the Building and Fire Officials.

1. The Building and Fire Officials may enter any building, structure or property at all reasonable times to make an inspection or enforce this code.
   a. When entering a building, structure or property that is occupied, the officials shall first identify themselves, present proper credentials and request entry.
   b. If the building, structure or property is unoccupied, the officials shall make a reasonable effort to locate the owner or other persons having charge of the building and demand entry.
   c. If the officials are unable to obtain authorization to enter and inspect a building, structure or property, the officials may enter and inspect such building, structure or property by any other lawful means, including through the inspection warrant process as provided in Chapter 933, Florida Statutes.
2. The Building Official shall have the authority to authorize disconnection of utility service to any structure where necessary to eliminate an immediate hazard to life or property or when such utility connection is made without proper authorization. The Building Official shall notify the serving utility and, whenever possible, the owner or occupant of the structure, of the decision to disconnect such service prior to taking such action. The Building Official shall use best efforts to determine those instances where service is connected to more than one customer to avoid unintentional disconnection of utilities of innocent third parties.
3. Regardless of whether notice has been issued by the Code Enforcement Officer as provided in Section ~~20.06.03~~ hereinabove, the Building Official is authorized to take

the following emergency measures where, in the opinion of the Building Official, there is imminent danger of fire, failure, or collapse of a building or structure which endangers life, or when any portion of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the structure's occupants or those in proximity because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials:

a. Disconnection of utility service as provided hereinabove.
b. Order and require that the occupants vacate the building, structure or property immediately.
c. Posting the building, structure or property at each entrance informing all persons that it is unlawful for any person to enter the building, structure or property except for the purpose of securing the building or structure, making an inspection, making required repairs, removing the hazardous condition, cleanup or remediation of hazardous materials or toxic substances, or for demolition and removal.
d. Temporarily close or board up buildings or structures against further entry, or order the authority having jurisdiction to close sidewalks, streets, public rights-of-way, and places adjacent to such buildings, structures or property.
e. When there is an imminent danger due to the condition of the building, structure or property, order emergency work to reduce or eliminate such condition to be performed by the property owner, or if the owner fails to perform such work within such reasonable time as specified by the Building Official, take such steps as are necessary to eliminate such condition and present such costs to the Code Enforcement Board or Special Magistrate for an Order authorizing the placement of a lien to be recorded against the property for the costs of such work if the finding of imminent danger is confirmed by the code enforcement hearing.

4. The Notice of Unsafe Building shall be removed at such time as the defect or defects upon which the Notice is based have been eliminated.

F. Code Enforcement Hearing. Upon failure of the owner to comply with the remedial measures and actions as required in the Notice of Unsafe Building and Notice of Violation, the Code Enforcement Officer shall schedule the matter to be heard by the Code Enforcement Board or Special Magistrate as provided in Section 14-79, Destin Code of Ordinances. If the Code Enforcement Board or Special Magistrate determines that there is a violation and affirms the Code Compliance ~~Enforcement~~ Officer's Determination of Unsafe Building, the Board or Special Magistrate shall in its order provide a reasonable time for the owner to correct the unsafe or dangerous condition, subsequent to which the Code Enforcement Officer may be directed to take any necessary remedial measures to have the building, structure or property secured by repair, closing up all entrances, or demolition. All such costs of remedial measures incurred by the City shall be charged against the real property upon which the building or structure is located and shall be a lien upon such real estate, and upon any other real or personal property owned by the violator, and may be collected in any legal manner.

G. Method of Demolition or Repair.

1. The Code Enforcement Board or Special Magistrate shall order either the demolition or repair of a building or structure as follows:

a. Demolition and removal shall be ordered when any building or structure is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy to such an extent that it is unreasonable to repair the building or structure. Such order shall specify a time in which demolition is to be completed and shall require that the owner board up such building or structure pending demolition and removal.
b. Repair shall be ordered where such building or structure is capable of being made safe by repair. Such order shall specify the time in which such repairs are to be made and shall require the owner to board up the building or structure pending such repair.

2. Boarding up a building or structure for future demolition or repair pursuant to an order of the Code Enforcement Board or Special Magistrate shall not extend beyond one year, unless approved by the Code Enforcement Board or Special Magistrate upon a showing of good cause.
3. When any building or structure is to be demolished and removed by the City, the City, or any entity under contract to the City, may enter onto the real property that is the subject of the order and undertake such demolition by any lawful means. The City, or any entity under contract with the City, shall have the right to sell salvage and valuable materials at the highest price obtainable. The proceeds of the sale, after deducting the expenses of such demolition and removal, shall be promptly remitted to the owner with a report of such sale of transaction, including the items of expense and the amounts deducted. If there is not surplus to remit to the owner, the report shall so state.

Section 2.06.11 Contractors

Recommend moving this section out of the Land Development Code and into the Code of Ordinances.

A. Insurance. All contractors shall furnish proof of compliance with the following:
1. The applicant has a public liability insurance policy for the ensuing year with an insurance company authorized to do business in the State of Florida with the following minimum liability limits:

	Liability	Property Damage
General Contractor	$300,000	$50,000
Building Contractor	$300,000	$50,000
Residential Contractor	$100,000	$25,000
Sheet Metal Contractor	$100,000	$25,000
Air Conditioning Contractor	$100,000	$25,000
Roofing Contractor	$100,000	$25,000
Mechanical Contractor	$100,000	$25,000
Pool Contractor	$100,000	$25,000
Plumbing Contractor	$100,000	$25,000

Underground Utility and Excavation Contractor	$100,000	$25,000
Solar Contractor	$100,000	$25,000
Pollutant Storage System Specialty Contractor	$100,000	$25,000
Specialty Contractors, unless specified otherwise	$100,000	$25,000

a. The policy shall contain a provision adding the City of Destin as an additional insured or a provision holding the City of Destin, its officers, agents, employees, assigns, mayor and councilmen, both individually and collectively harmless from any liability caused by the negligence, carelessness, or wanton act of the contractor or his agents, employees or assigns. If the policy does not contain either provision, the contractor shall sign a hold harmless form provided by the City of Destin.
b. The policy shall contain a provision or statement from the company that the policy will not be canceled without ten days' prior notice to the City of Destin. If at any time the said liability policy becomes canceled or terminated, the certificate so issued shall become null and void.

2. The applicant has worker's compensation insurance for the ensuing year with an insurance company authorized to do business in the State of Florida or an exemption certificate accepted by State of Florida Department of Labor and Employment Security, Bureau of Workers' Compensation Compliance.

B. Revocation. The city may suspend or revoke any permit, license or contractor registration for the following:
1. Fraud, deceit or misrepresentations in obtaining a permit, city license or contractor registration;
2. Incompetence or negligence in conducting work which is in violation of existing codes;
3. Fraudulent departure from or willful disregard of plans or specifications in any material manner, without the consent of the owner or his duly authorized representative, or the commission of any fraudulent act by the contractor which results in injury to the owner or supplier;
4. A contractor permitting any other person, firm, corporation or other entity to use the contractor's certificate of competency for the purpose of obtaining permits or performing work under such certificate of competency.

Section 2.06.12 Fire District Review

A. Review of projects located in the Destin Fire District by such district is required. All Building Permits for non-residential and multi-family projects shall be approved by the Destin Fire Control District. Minor alterations, single-family and duplex dwellings are exempt. Approvals or disapprovals by the fire district are not required for issuing certificates of completion or occupancy.

Revise section to change "Destin Fire District" to "City of Destin". Additionally, revise last sentence so that approvals by the fire district (if required) are required prior to issuance of Certificate of Occupancy.

Section 2.07 Procedures for Right-of-Way Construction and Vacation Review

Section 2.07.01 Right-of-Way Construction Permits

A. No unauthorized encroachment shall be permitted onto existing rights-of-way. Further, strict adherence to the building setback requirements described in Article ~~7~~ of this Code shall serve to protect rights-of-way from encroachment. All activity (e.g. paving, landscaping, sprinkler system installation, etc.), with the exception of the installation and repair of mailboxes, installation of sod, or installation of streets trees and other streetscape features in compliance with the design standards for the Multimodal Transportation District located in Section ~~8.09.03~~ in a public ROW is prohibited unless the applicant submits a plan detailing the proposed activity to the City Engineer's office and obtains a ROW construction permit, prior to the undertaking of said activity. A copy of said permit shall be available on-site for the duration of the project.

Include hold harmless language regarding pavers, etc. in the right-of-way.

Section 2.07.02 Utilities in the Right-of-Way

A. No public utility shall commence any construction or maintenance project which involves work in a public place within the city without first obtaining a permit therefore from the city.
B. A fee shall be required for securing public utility construction project permits required by section 18-60.
C. Application.
    1. Any public utility seeking a permit for a construction project as required by section 18-60 shall file an application for such permit with the city's public works office. The application shall be made in writing, upon forms provided by the city, and shall be filed in the office of public works.
    2. The application shall provide the information, acknowledgments and agreements provided in the application form attached hereto and made a part hereof by reference and such other information as shall be deemed necessary for a particular project by the city building inspector, or the city manager when his review is required.
D. Application Referral to City Manager. All projects the permit application for which proposes to involve or require pavement, sidewalk, driveway or drainage facility cuts or disturbances, or boring under improved streets, sidewalks, driveways or drainage structures or facilities or areas, shall be referred to the city manager within two (2) working days for review.
E. Application Review and determination by the City Manager. The city manager is authorized to require the applicant for a permit required by section 18-60 to post a construction warranty or surety performance and indemnity bond, at the election of the public utility, assuring restoration of public property and rights-of-way to the satisfaction of the city manager, or his designee, for those projects which the city manager determines to be sensitive in nature. Public utilities chartered by the state legislature are excluded from the requirements of this section.
F. Construction Warranty. If the public utility elects to issue its construction warranty to the city as provided for in section 18-64, it shall be in the form prescribed by the city.

G. Bond. If the public utility elects to file a bond as provided in section 18-64, it shall be in the form of a performance and indemnity bond as is normally used for such purposes in this state. The required warranty or bond shall be filed with the city manager prior to commencement of the project by the public utility.

Is this consistent with the current process for reviewing and approving utilities in the right-of-way? Recommend revising process so that it is reviewed and approved by Community Development Director and/or City Engineer. Additionally, it is recommended this language is transferred from the Code of Ordinances to the Land Development Code.

Section 2.07.03 Communications Facilities in the Right-of-Way

Sections 2.07.03 "Communications Facilities in the Right-of-Way" and 2.07.04 "Wireless Facilities in the Right-of-Way" will be combined into one section, as there is duplicate information in the two sections. If communications facilities are not currently being registered, that requirement will be removed. Additionally, it is recommended that these two sections be moved from the Code of Ordinances to the Land Development Code.

A. Intent and Purpose. It is the intent of the city to promote the public health, safety and general welfare by: providing for the placement or maintenance of communications facilities in the public rights-of-way within the city; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including F.S. § 337.401, as it may be amended, the city's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of communications facilities in the public rights-of-way by all communications services providers; and minimizing disruption to the public rights-of-way. In regulating its public rights-of-way, the city shall be governed by and shall comply with all applicable federal and state laws.

B. Definitions. For purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given. Where not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not otherwise defined shall be construed to mean the common and ordinary meaning.

    1. Abandonment shall mean the permanent cessation of all uses of a communications facility; provided that this term shall not include cessation of all use of a facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "abandonment" of a facility in public rights-of-way.
    2. City shall mean Destin, Florida, a municipality incorporated under the laws of the State of Florida.
    3. Communications facility or facility or system shall mean any permanent or temporary plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes,

manholes, vaults, drains, surface location markers, appurtenances, and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the city and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer communications services.

4. Communications services shall mean the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. Notwithstanding the foregoing, for purposes of this article "cable service", as defined in F.S. § 202.11(2), as it may be amended, is not included in the definition of "communications services," and cable service providers may be subject to other ordinances of the city.
5. Communications services provider shall mean any person including a municipality or county providing communications services through the placement or maintenance of a communications facility in public rights-of-way. "Communications services provider" shall also include any person including a municipality or county that places or maintains a communications facility in public rights-of-way but does not provide communications services.
6. FCC shall mean the Federal Communications Commission.
7. In public rights-of-way or in the public rights-of-way shall mean in, on, over, under or across the public rights-of-way.
8. Ordinance shall mean this article.
9. Person shall include any individual, children, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations, and shall include the city to the extent the city acts as a communications services provider.
10. Place or maintain or placement or maintenance or placing or maintaining shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A communications services provider that owns or exercises physical control over communications facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A person providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the communications facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities in the public rights-of-way.
11. Public rights-of-way shall mean a public right-of-way, public utility easement, highway, street, bridge, tunnel or alley for which the city is the authority that has jurisdiction and control and may lawfully grant access to pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. "Public rights-of-way" shall not include private property. "Public rights-of-way" shall not include any real or personal city property except as described above and shall not include city buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way.

12. Registrant shall mean a communications services provider that has registered with the city in accordance with the provisions of this article.
13. Registration or register shall mean the process described in this article whereby a communications services provider provides certain information to the city.
14. Stealth technology shall mean communications facilities designed in such a way that the facilities and their various component parts (antennae, cables, wires, lattice support) are camouflaged and compatible with the structure upon which they are mounted.

C. Registration for placing or maintaining communications facilities in public rights-of-way.

1. A communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall first register with the city in accordance with this article. Subject to the terms and conditions prescribed in this article, a registrant may place or maintain a communications facility in public rights-of-way.
2. A registration shall not convey any title, equitable or legal, to the registrant in the public rights-of-way. Registration under this article governs only the placement or maintenance of communications facilities in public rights-of-way. Other ordinances, codes or regulations may apply to the placement or maintenance in the public rights-of-way of facilities that are not communications facilities. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the city or another person's facilities. Registration does not excuse a communications services provider from complying with all applicable city ordinances, codes or regulations, including this article.
3. Each communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall file a single registration with the city which shall include the following information:
    a. Name of the applicant;
    b. Name, address and telephone number of the applicant's primary contact person in connection with the registration, and the person to contact in case of an emergency;
    c. For Registrations submitted prior to October 1, 2001, the applicant shall state whether it provides local service or toll service or both;
    d. Evidence of the insurance coverage required under this article and acknowledgment that registrant has received and reviewed a copy of this article, which acknowledgment shall not be deemed an agreement; and
    e. The number of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Federal Communications Commission, or other federal or state authority, if any.
    f. For an applicant that does not provide a Florida Public Service Commission certificate of authorization number, if the applicant is a corporation, proof of authority to do business in the State of Florida, such as the number of the certificate from or filing with the Florida Department of State.
4. The city shall review the information submitted by the applicant. Such review shall be by the city manager or his or her designee. If the applicant submits information in accordance with subsection (c) above, the registration shall be effective and the city

shall notify the applicant of the effectiveness of registration in writing. If the city determines that the information has not been submitted in accordance with subsection (3) above, the city shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The city shall so reply to an applicant within thirty (30) days after receipt of registration information from the applicant. Non-effectiveness of registration shall not preclude an applicant from filing subsequent applications for registration under the provisions of this article.

5. A registrant may cancel a registration upon written notice to the city stating that it will no longer place or maintain any communications facilities in public rights-of-way within the city and will no longer need to obtain permits to perform work in public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in public rights-of-way.
6. Registration does not in and of itself establish a right to place or maintain or priority for the placement or maintenance of a communications facility in public rights-of-way within the city but shall establish for the registrant a right to apply for a permit, if permitting is required by the city. Registrations are expressly subject to any future amendment to or replacement of this article and further subject to any additional city ordinances, as well as any state or federal laws that may be enacted.
7. A registrant shall renew its registration with the city every two (2) years. if no information in the then-existing registration has changed, the renewal may state that no information has changed. Failure to renew a registration may result in the city restricting the issuance of additional permits until the communications services provider has complied with the registration requirements of this article.
8. In accordance with applicable city ordinances, codes or regulations, a permit may be required of a communications services provider that desires to place or maintain a communications facility in public rights-of-way. An effective registration shall be a condition of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

D. Notice of Transfer, sale or assignment of assets in public right-of-way. If a registrant transfers, sells or assigns its assets located in public rights-of-way incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this article. Written notice of any such transfer, sale or assignment shall be provided by such registrant to the city within twenty (20) days after the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in section 18-44 within sixty (60) days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the city manager or his designee that the transferee, buyer or assignee is the new applicant.

E. Placement or maintenance of a communications facility in public rights-of-way.
   1. A registrant shall at all times comply with and abide by all applicable provisions of the state and federal law and city ordinances, codes and regulations in placing or maintaining a communications facility in public rights-of-way.

2. A registrant shall not commence to place or maintain a communications facility in public rights-of-way until all applicable permits, if any, have been issued by the city or other appropriate authority, except in the case of an emergency. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service. Registrant shall provide prompt notice to the city of the placement or maintenance of a communications facility in public rights-of-way in the event of an emergency and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in public rights-of-way in connection with the emergency. Registrant acknowledges that as a condition of granting such permits, the city may impose reasonable rules or regulations governing the placement or maintenance of a communications facility in public rights-of-way. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The city may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities, that may otherwise require individual permits.
3. As part of any permit application to place a new or replace an existing communications facility in public rights-of-way, the registrant shall provide the following:
    a. The location of the proposed facilities, including a description of the facilities to be installed, where the facilities are to be located, and the approximate size of facilities that will be located in public rights-of-way;
    b. A description of the manner in which the facility will be installed (i.e. anticipated construction methods or techniques);
    c. A maintenance of traffic plan for any disruption of the public rights-of-way;
    d. Information on the ability of the public rights-of-way to accommodate the proposed facility, if available (such information shall be provided without certification as to correctness, to the extent obtained from other persons);
    e. If appropriate given the facility proposed, an estimate of the cost of restoration to the public rights-of-way;
    f. The timetable for construction of the project or each phase thereof, and the areas of the city which will be affected; and
    g. Such additional information as the city finds reasonably necessary with respect to the placement or maintenance of the communications facility that is the subject of the permit application to review such permit application.
4. To the extent not otherwise prohibited by state or federal law, the city shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights-of-way.
5. All communications facilities shall be placed or maintained so as not to unreasonably interfere with the use of the public rights-of-way by the public and with the rights and convenience of property owners who adjoin any of the public rights-of-way. The use of trenchless technology (i.e., directional bore method) for the installation of Facilities in the public rights-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed wherever feasible. The city may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way consistent with this article and other applicable law.

6. All safety practices required by applicable law or accepted industry practices and standards shall be used during the placement or maintenance of communications facilities.
7. After the completion of any placement or maintenance of a communications facility in public rights-of-way or each phase thereof, a registrant shall, at its own expense, restore the public rights-of-way to its original condition before such work. If the registrant fails to make such restoration within thirty (30) days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such placement or maintenance, the city may perform restoration and charge the costs of the restoration against the registrant in accordance with F.S. § 337.402, as it may be amended. For twelve (12) months following the original completion of the work, the registrant shall guarantee its restoration work and shall correct any restoration work that does not satisfy the requirements of this article at its own expense.
8. Removal or relocation at the direction of the city of a registrant's communications facility in public rights-of-way shall be governed by the provisions of F.S. §§ 337.403 and 337.404, as they may be amended.
9. A permit from the city constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this article, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.
10. A registrant shall maintain its communications facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law.
11. In connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in F.S. Ch. 556, as it may be amended.
12. Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas.
13. Upon request of the city, and as notified by the city of the other work, construction, installation or repairs referenced below, a registrant may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights-of-way, and registrant may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and disturbance in the public rights-of-way.
14. A registrant shall not place or maintain its communications facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the city or any other person's facilities lawfully occupying the public rights-of-way of the city.
15. The city makes no warranties or representations regarding the fitness, suitability, or availability of the city's public rights-of-way for the registrant's communications facilities and any performance of work, costs incurred or services provided by registrant shall be at registrant's sole risk. Nothing in this article shall affect the city's authority to add, vacate or abandon public rights-of-way, and the city makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

16. The city shall have the right to make such inspections of communications facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this article.
17. A permit application to place a new or replace an existing communications facility in public rights-of-way shall include plans showing the location of the proposed installation of facilities in the public rights-of-way. If the plans so provided require revision based upon actual installation, the registrant shall promptly provide revised plans. The plans shall be in a hard copy format or an electronic format specified by the city, provided such electronic format is maintained by the registrant. such plans in a format maintained by the registrant shall be provided at no cost to the city.
18. The city reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the city in public rights-of-way occupied by the registrant. The city further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way within the limits of the city and within said limits as same may from time to time be altered.
19. A registrant shall, on the request of any person holding a permit issued by the city, temporarily raise or lower its communications facilities to permit the work authorized by the permit. The expense of such temporary raising or lowering of facilities shall be paid by the person requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than thirty (30) days advance written notice to arrange for such temporary relocation.
20. A wireless facility that is a portion of a communication facility, such as an antenna ("wireless facility(ies)"), which is attached to a legally maintained vertical structure in the public rights-of-way, such as a light pole or utility pole ("vertical structure(s)"), shall be subject to the following criteria:
    a. Such wireless facilities may not extend more than ten (10) feet above the highest point of the vertical structure;
    b. Such wireless facilities that are attached to a vertical structure located in public rights-of-way shall utilize stealth technology;
    c. Such wireless facilities shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
    d. Such wireless facilities shall comply with any applicable Federal Communications Commission Emissions Standards;
    e. The design, construction, and installation of such wireless facilities shall comply with any applicable local building codes;
    f. No commercial advertising shall be allowed on such wireless facilities; and
    g. Any accessory equipment and related housing in the public rights-of-way that are used in conjunction with such a wireless facility shall comply with any applicable local rules, regulations, ordinances, or laws governing the placement and design of such equipment.
21. Vertical structures, such as towers, whose sole purpose is to serve as a mounting device for antennae, are expressly prohibited from being placed in the public rights-of-way

unless applicable zoning and land use laws or regulations allow such structures to be placed within the zoning district in which such public rights-of-way are located or to which they are adjacent.

F. Suspension of Permits.
   1. The city may suspend a permit for work in the public rights-of-way for one (1) or more of the following reasons:
      a. Violation of permit conditions, including conditions set forth in the permit, this article or other applicable city ordinances, codes or regulations governing placement or maintenance of communications facilities in public rights-of-way;
      b. Misrepresentation or fraud by registrant in a registration or permit application to the city; or
      c. Failure to properly renew or ineffectiveness of registration.
      d. Failure to relocate or remove facilities as may be lawfully required by the city.
   2. The city manager or his or her designee shall provide notice and an opportunity to cure any violation of (a) through (d) above, each of which shall be reasonable under the circumstances.

G. Appeals. Final, written decisions of the city manager or his or her designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the city manager within thirty (30) days of the date of the final, written decision to be appealed. Any appeal not timely filed as set forth above shall be waived. The city shall consider, or appoint a hearing officer to consider, the appeal. The hearing shall occur within thirty (30) days of the receipt of the appeal, unless waived by the registrant, and a written decision shall be rendered within twenty (20) days of the hearing. Upon correction of the grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.

H. Involuntary termination of registration.
   1. The city may terminate a registration if:
      a. A federal or state authority suspends, denies, or revokes a registrant's certification or license to provide communications services;
      b. The registrant's placement or maintenance of a communications facility in the public rights-of-way presents a danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice; or
      c. The registrant ceases to use all of its communications facilities in public rights-of-way and has not complied with section 18-56 of this article.
   2. Prior to termination, the registrant shall be notified by the city manager or his or her designee with a written notice setting forth all matters pertinent to the proposed termination action, including which of (1) through (3) above is applicable as the reason therefore, and describing the proposed action of the city with respect thereto. The registrant shall have sixty (60) days after receipt of such notice within which to address or eliminate the reason or within which to present a plan, satisfactory to the city manager or his or her designee, to accomplish the same. If the plan is rejected, the city manager or his or her designee shall provide written notice of such rejection to the registrant and shall make a recommendation to the city council regarding a decision as to termination of registration. A decision by the city to terminate a registration may only be accomplished by an action of the city council. A registrant shall be notified by written

notice of any decision by the city council to terminate its registration. Such written notice shall be sent within seven (7) days after the decision.

3. In the event of termination, the former registrant shall: (a) notify the city of the assumption or anticipated assumption by another registrant of ownership of the registrant's communications facilities in public rights-of-way; or (b) provide the city with an acceptable plan for disposition of its communications facilities in public rights-of-way. If a registrant fails to comply with this subsection (c), which determination of non-compliance is subject to appeal as provided in section 18-48, the city may exercise any remedies or rights it has at law or in equity, including but not limited to taking possession of the facilities where another person has not assumed the ownership or physical control of the facilities or requiring the registrant within ninety (90) days of the termination, or such longer period as may be agreed to by the registrant, to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its original condition before the removal.
4. In any event, a terminated registrant shall take such steps as are necessary to render safe every portion of the communications facilities remaining in the public rights-of-way of the city.
5. In the event of termination of a registration, this section does not authorize the city to cause the removal of communications facilities used to provide another service for which the registrant or another person who owns or exercises physical control over the facilities holds a valid certification or license with the governing federal or state agency, if required for provision of such service, and is registered with the city, if required.

I. Existing communications facilities in public rights-of-way. A communications services provider with an existing communications facility in the public rights-of-way of the city has sixty (60) days from the effective date of this article to comply with the terms of this article, including, but not limited to, registration, or be in violation thereof.

J. Insurance.

1. A registrant shall provide, pay for and maintain satisfactory to the city the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a rating reasonably acceptable to the city. All liability policies shall provide that the city is an additional insured as to the activities under this article. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the city annually. Thirty (30) days advance written notice by registered, certified or regular mail or facsimile as determined by the city must be given to the city of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the city.
2. The limits of coverage of insurance required shall be not less than the following:
    a. *Worker's Compensation and Employer's Liability Insurance*
    Worker's Compensation-Florida Statutory Requirements
    Employer's Liability - $100,000 limit each accident
    b. Comprehensive General Liability
    $1,000,000.00 for property damage per occurrence;
    $2,000,000.00 for property damage aggregate;

$5,000,000.00 for personal bodily injury or death to any one person; and $10,000,000.00 bodily injury or death aggregate per single accident or occurrence.

c. *Automobile Liability*

$1,000,000.00 for bodily injury and consequent death per occurrence; $1,000,000.00 for bodily injury and consequent death to any one person; and $500,000.00 for property damage per occurrence.

K. Indemnification.

1. A registrant shall, at its sole cost and expense, indemnify, hold harmless, and defend the city, its officials, boards, members, agents, and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the city arising out of the placement or maintenance of its communications system or facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this article, provided, however, that a registrant's obligation hereunder shall not extend to any claims caused by the negligence, gross negligence or wanton or willful acts of the city. This provision includes, but is not limited to, the city's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. The city agrees to notify the registrant, in writing, within a reasonable time of the city receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the city from participating in the defense of any litigation by its own counsel and at its own cost if in the city's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted: (a) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or (b) as a waiver of sovereign immunity beyond the waiver provided in F.S. § 768.28, as it may be amended.
2. The indemnification requirements shall survive and be in effect after the termination or cancellation of a registration.

L. Construction Bond.

1. Prior to issuing a permit where the work under the permit will require restoration of public rights-of-way, the city may require a construction bond to secure the restoration of the public rights-of-way. Notwithstanding the foregoing, a construction bond hereunder may only be required to the extent that the cost of the restoration exceeds the amount recoverable against the Security Fund as provided in section 18-54.
    a. Twelve (12) months after the completion of the restoration in public rights-of-way in accordance with the bond, the registrant may eliminate the bond. However, the city may subsequently require a new bond for any subsequent work in the public rights-of-way.
    b. The construction bond shall be issued by a surety having a rating reasonably acceptable to the city; shall be subject to the approval of the city manager or his or her designee; and shall provide that: "For twelve (12) months after issuance of this bond, this bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

2. The rights reserved by the city with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the city may have under this article, or at law or equity.
3. The rights reserved to the city under this section are in addition to all other rights of the city, whether reserved in this article, or authorized by other law, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the city may have.

M. Security Fund. At or prior to the time a registrant receives its first permit to place or maintain a communications facility in public rights-of-way after the effective date of this article, the registrant may be required to file with the city, for city approval, an annual bond, cash deposit or irrevocable letter of credit in the sum of (twenty-five thousand dollars ($25,000.00) or other appropriate amount) having as a surety a company qualified to do business in the State of Florida, and acceptable to the city manager or his or her designee, which shall be referred to as the "security fund." The security fund shall be maintained from such time through the earlier of: (a) transfer, sale, assignment or removal of all communications facilities in public rights-of-way; or (b) twelve (12) months after the termination or cancellation of any registration. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this article. The security fund shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this article, subject to section 18-85 of this article, there shall be recoverable, jointly and severally from the principal and surety of the security fund, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal, relocation or abandonment of any facilities of the registrant in public rights-of-way, plus a reasonable allowance for attorneys' fees, up to the full amount of the security fund. Notwithstanding the foregoing, the city may in its discretion not require a security fund or may accept a corporate guarantee of the registrant or its parent company.

N. Enforcement Remedies.
1. A registrant's failure to comply with provisions of this article shall constitute a violation of this article and shall subject the registrant to the code enforcement provisions and procedures as provided in Chapter 14, Article III, sections 14-78 through 14-85 of the Destin City Code. In addition, at the city's discretion, violation of this article may be punishable as provided in section 1-9, Destin City Code.
2. Failure of the city to enforce any requirements of this article shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

O. Abandonment of a communications facility.
1. Upon abandonment of a communications facility owned by a registrant in public rights-of-way, the registrant shall notify the city within ninety (90) days.
2. The city may direct the registrant by written notice to remove all or any portion of such abandoned facility at the registrant's sole expense if the city determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility: (a) compromises safety at any time for any public rights-of-way user or during construction

or maintenance in public rights-of-way; (b) prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available; or (c) creates a maintenance condition that is disruptive to the public rights-of-way's use. In the event of (b), the city may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement, where agreed to by the registrant.

3. In the event that the city does not direct the removal of the abandoned facility, the registrant, by its notice of abandonment to the city, shall be deemed to consent to the alteration or removal of all or any portion of the facility by the city or another person at such third party's cost.
4. If the registrant fails to remove all or any portion of an abandoned facility as directed by the city within a reasonable time period as may be required by the city under the circumstances, the city may perform such removal and charge the cost of the removal against the registrant.

P. Force majeure. In the event a registrant's performance of or compliance with any of the provisions of this article is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this article, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage, strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, contractors or agents.

Q. Reservation of rights and remedies.
1. The city reserves the right to amend this article as it shall find necessary in the lawful exercise of its police powers.
2. This article shall be applicable to all communications facilities placed in the public rights-of-way on or after the effective date of this article and shall apply to all existing communications facilities in the public rights-of-way prior to the effective date of this article, to the full extent permitted by state and federal law.
3. The adoption of this article is not intended to affect any rights or defenses of the city or a communications service provider under any existing franchise, license or other agreements with a communications services provider.
4. Nothing in this article shall affect the remedies the city or the registrant has available under applicable law.
5. Any person who uses the communications facilities of a registrant, other than the registrant that owns the facilities, shall not be entitled to any rights to place or maintain such facilities in excess of the rights of the registrant that places or maintains the facilities.

Section 2.07.04 Wireless Facilities in the Right-of-Way

Sections 2.07.03 "Communications Facilities in the Right-of-Way" and 2.07.04 "Wireless Facilities in the Right-of-Way" will be combined into one section, as there is duplicate information in the two sections. If communications facilities are not currently being registered, that requirement will be removed. Additionally, it is recommended that these two sections be moved from the Code of Ordinances to the Land Development Code.

A. Findings, Intent and Purpose.
    1. The city hereby makes and declares the following findings and declares its legislative intent as follows:
        a. The public rights-of-way within the City of Destin are a unique and physically limited resource and important amenity that are critical to the travel and transport of persons and property in the city.
        b. The demand for wireless telecommunications services has grown exponentially in recent years, requiring the continual upgrading of wireless telecommunications equipment and services to satisfy such demand.
        c. The placement of wireless telecommunications equipment and facilities in the public rights-of-way to satisfy the demand for telecommunications services raises important issues with respect to the city's responsibility to manage its public rights-of-way.
        d. The public rights-of-way must be regulated, managed and controlled in a manner that ensures minimal inconvenience to the public, and enhances the health, safety and general welfare of the city and its citizens.
    2. It is the intent of the city to promote the public health, safety and general welfare by:
        a. Establishing reasonable rules and regulations governing the placement and/or maintenance of wireless facilities in the public rights-of-way by all wireless providers, including both wireless providers and wireline wireless providers as well as pass-through providers;
        b. Adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including but not limited to, the Federal Communications Act of 1934, Sections 332 and 253, Section 6409(a) of 47 USC § 1455(a), or as hereinafter amended;
        c. Minimizing disruption to the public rights-of-way; voiding potential damage to public rights-of-way caused by wireless facilities by ensuring that such wireless facilities are soundly and carefully designed, constructed, modified and maintained.

B. Definitions. For purposes of this article, the following terms, phrases, words and their derivations shall have the meanings given. The words "shall" and "will" are mandatory , and "may" is permissive. Words not otherwise defined shall be construed to have their common and ordinary meaning. The following definitions apply only for purposes of this article:
    1. Antenna means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.
    2. Applicant means any person who submits an application and is a wireless provider.
    3. Application means a request submitted by an application to an authority for a permit to place or co-locate wireless facilities.
    4. Authority means a county or municipality having jurisdiction and control of the public rights-of-way of any public road.

5. Authority utility pole means a utility pole owned by an authority in the public rights-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the public rights-of-way pursuant to F.S. § 337.401(7)(b)6.
6. Co-location or co-locate or attach means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.
7. Day(s). In computing any period of time expressed in day(s) in this article, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.
8. Distributed antenna system or DAS is a network of spatially separated antenna modes connected to a common source within a geographic areas or structure. A DAS is a wireless facility.
9. Existing structure shall mean a structure within the public rights-of-way that exists at the time an application for permission to place a wireless facility on the preexisting structure is filed with the city. The term includes any structure that:
    a. Can structurally support the attachment of a wireless facility;
    b. Can be modified or repurposed to support the attachment of a wireless facility;
    c. Can be removed and replaced with a structure of similar design and purpose as the original existing structure that supports the attachment of a wireless facility; or
    d. Other facilities in compliance with applicable codes and laws.
10. FCC shall mean the Federal Communications Commission.
11. In public rights-of-way or in the public rights-of-way shall mean over, above, in, on or under the public rights-of-way within the city over which the city has jurisdiction, control and authority to regulate.
12. Maintain shall mean to exercise physical control over a wireless facility in the public rights-of-way, including ownership or the right to maintain and repair. A person providing service only through resale or only through use of a third party's unbundled network elements is not "maintaining" the wireless facilities through which such service is provided. The transmission and receipt of radio frequency signals through the airspace of the public rights-of-way does not constitute "maintaining" facilities in the public rights-of-way.
13. Micro wireless facility means a small wireless facility having dimensions no larger than twenty-four (24) inches in length, fifteen (15) inches in width, and twelve (12) inches in height and an exterior antenna, if any, no longer than eleven (11) inches.
14. Pass-through provider means any entity or person who, upon registering with the city, places or maintains a wireless facility the city's rights-of-way and that does not remit communications service taxes as imposed by the city pursuant to F.S. ch. 202

and F.S. § 337.401. A pass-through provider can also be a wireless infrastructure provider pursuant to F.S. § 337.401 as amended.

15. Permit means the public rights-of-way permit that must be obtained before a person may construct in the public rights-of-way and shall include, but not be limited to the city's public rights-of-way engineering and construction permits issued by the city engineer or his or her designee.
16. Person means any natural person or corporation, business association or other business entity, including, but not limited to a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing or any other legal entity and shall include the city to the extent the city acts as a wireless provider.
17. Place or placement or placing shall mean to erect, construct, install, place, extend, remove, occupy, locate, relocate, or significantly alter the configuration of a wireless facility.
18. Pole attachment means any attachment of a wireless facility by a wireless provider, to an existing utility pole or existing structure within a public rights-of-way.
19. Public rights-of-way or rights-of-way shall mean property or any interest therein, which is acquired for or devoted to a public road, including but not limited to, roadways, highway, street, or bridge for which the city is the authority and may lawfully grant access to pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface.
20. Registration or register means the process described in this ordinance whereby a wireless provider or pass-through provider provides certain information to the city.
21. Small cell means small, low-powered wireless facilities, consisting of a transmit-receive antenna that communicates with wireless devices, a wireless backhaul antenna that connects the facility to the carrier's core network, and compact radio equipment mounted on either existing structures or utility poles.
22. Utility pole means a pole or similar structure that is used in whole or in part to provide wireless services or for electric distribution, lighting, traffic control, signage, or similar function. The term includes the vertical support structure for traffic control, signage, or similar function.
23. Wireless facility means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:
    a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;
    b. Wireline backhaul facilities; or
    c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.
24. Wireless infrastructure provider means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless

communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

25. Wireless provider shall mean a wireless infrastructure provider or a wireless services provider.
26. Wireless services provider means a person who provides wireless services.
27. Wireless support structure means a free-standing structure, such as a monopole, a guyed or self-supporting tower, or other existing or proposed structure designed to support or be capable of supporting wireless facilities. The term does not include a utility pole.

C. Registration.

1. Registration required. A wireless provider or pass-through provider that desires to place or maintain a wireless facility in a public rights-of-way shall first register in accordance with this article. Subject to the terms and conditions prescribed in this article, a registrant may place or maintain a wireless facility in public rights-of-way.
2. Registration. Each wireless provider or pass-through provider that desires to place or maintain a wireless facility in public rights-of-way shall file a single registration with the city, that shall include the following information:
    a. Name of the registrant;
    b. Name, address and telephone number of the registrant's primary contact person in connection with the registration and the person to contact in case of an emergency;
    c. Evidence of the insurance coverage, or self-insurance status adequate to defend and cover claims;
    d. A copy of federal or state certification authorizing the registrant to provide wireless services as a wireless services provider or telecommunications services as a wireless infrastructure provider; and
    e. If the registrant is a corporation or limited liability company, proof of authority to do business in the State of Florida.

D. Notice of transfer, sale, or assignment in public rights-of-way.

1. An applicant shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, a registration granted pursuant to this article without having first provided the city with at least thirty (30) days written notice of the same. Further, any such person to whom such transfer has been made, must register with the city m accordance with this article and shall provide proof of insurance coverage m accordance with sections 13-178 and 13-184 of this Code.
2. If permit applications are pending in the applicant's name, the transferee, buyer or assignee shall notify the city engineer that the transferee, buyer or assignee is the new applicant.
3. A violation of the requirements of this section shall be a violation of this Code and the applicant who is alleged to have violated any of the provisions of this section may be subject to the enforcement remedies set forth in this Code.

E. Permit requirements and conditions.

1. Permit required. An applicant shall not commence to place or maintain a wireless facility in public rights-of-way until all applicable permits have been issued by city, except in the case of an emergency as provided for in the city emergency section

herein. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The city engineer shall consider the following in the review and consideration of an application and imposition of reasonable permit conditions:

a. Permit applications. Applications to place a wireless facility in public rights-of-way shall contain the following:
    i. An engineering plan signed and sealed by a Florida Registered Professional Engineer, or prepared by a person who is exempt from such registration requirements as provided in F.S. § 471.003, identifying the location of the proposed facility, including a description of the facilities to be installed, where it is to be located, and the approximate size of facilities and equipment that will be located in public rights-of-way;
    ii. A description of the manner in which the facility will be installed (i.e. anticipated construction methods and/or techniques);
    iii. If appropriate given the facility proposed, the timetable for construction of the project or each phase thereof, and the areas of the city which will be affected;
    iv. Application fee of one hundred fifty dollars ($150.00), to cover the city's costs of reviewing and processing the application; and
    v. Such additional information requested by the city that the city finds reasonably necessary to review the application.
b. Permitting timeline. Within fourteen (14) days after receiving an application, the city must determine and notify the applicant, by electronic mail, if the application is deemed complete. If an application is deemed incomplete, the city must specifically identify the missing information. An application is deemed complete if the city fails to provide notification to the applicant within fourteen (14) days. A complete application is deemed approved if the city fails to approve or deny the application within sixty (60) days after receipt of the application.
    i. Within fourteen (14) days after the date of filing an application, the city may request that the proposed location of a wireless facility be moved to another location in the public rights-of-way and placed on an alternative city pole or existing structure or wireless support structure or may place a new utility pole.
    ii. City and applicant may negotiate the alternative location for thirty (30) days after the date of the request. At the end of the thirty-day negotiation period, if the alternative location is agreed upon by the applicant, the applicant will notify city of this acceptance. The application is deemed granted for any new location where there is agreement, and all other locations in the application.
    iii. If no agreement is reached, the applicant will notify city of the nonagreement and city shall grant or deny the original application within ninety (90) days after the date the application was filed. A request for an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

iv. City and applicant may agree to extend the sixty-day application review period.

v. A permit issued pursuant to an approved application shall remain effective for one (1) year unless extended by the authority.

c. Permit denial. The city will notify the applicant of approval or denial by electronic mail. The city will specify, in writing, any basis for denial, including the specific code provisions on which the denial was based. This denial letter will be sent to applicant via electronic mail on the day the city denies the application.

i. Applicant may cure the deficiencies identified by the city and resubmit the application within thirty (30) days after notice of the denial is sent to applicant.

ii. City shall approve or deny the revised application within thirty (30) days after receipt, or the application will be deemed approved. Any additional review will be limited to the deficiencies cited in the denial.

iii. City may deny a proposed co-location of a wireless facility if the co-location:

a. Materially interferes with the safe operation of traffic control equipment.

b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.

c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.

d. Materially fails to comply with the 2010 edition of the FDOT Utility Accommodation Manual.

e. Fails to comply with city's applicable codes.

d. Emergency. In the case of an emergency, an applicant may restore its damaged wireless facilities in the public rights-of-way to their pre-emergency condition or replace its destroyed wireless facilities in the public rights-of-way with facilities of the same size, character and quality, all without first applying for or receiving a permit.

i. The term "emergency" shall mean a condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service.

ii. Applicant shall provide prompt notice to the city of the repair or replacement of a wireless facility in the public rights-of-way in the event of an emergency, and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in the public rights-of-way in connection with the emergency.

F. Enforcement of permit obligations; suspension and revocation of permits. The city engineer may order the suspension of work under a permit and ultimately may revoke any permit, in the event of a substantial breach of the terms and conditions of any applicable statute,

ordinance, rule or regulation or any condition of the permit. Any suspension of work or revocation must be in writing and contain the legal basis for such suspension or revocation.

G. Appeals. An applicant aggrieved by an action or decision of the city engineer shall be entitled to appeal a decision denying, suspending, or revoking a permit to the city engineer by filing notice of appeal with the city manager within thirty (30) days of the decision appealed from. The city manager shall schedule a hearing on the appeal to be held within thirty (30) days of the date the appeal is filed and shall provide the applicant notice of the date of such hearing.

H. Insurance.

1. General. An applicant shall provide, pay for and maintain satisfactory to the city, the types of insurance described herein. All insurance shall be from companies duly authorized to do business in the state and having a rating reasonably acceptable to the city. All liability policies shall provide the city as an additional insured. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and a copy shall be filed and maintained with the city. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the city.
2. Insurance coverage and limits of insurance coverage. The insurance coverage and limits of coverage of insurance required shall be not less than the following: Commercial general liability insurance in the amount of one million dollars ($1,000,000.00) per occurrence, or in such other amount specified by the city's risk management division, for bodily injury and property damage. The city must be named as an additional insured on this policy, and a certificate of insurance containing such endorsement must be issued as part of the policy.

Section 2.07.05 Right-of-Way/Easement Vacation

It is recommended that this process be revised so that it functions similar to a development project: reviewed by TRC, letters, addresses and responses sent and received directly to and from the City.

A. No city right-of-way, or any portion thereof, may be vacated if any portion of the city's right-of-way shares a boundary with a water body. The following requirements and procedures shall apply to all requests to vacate a ROW or an easement:

1. A completed application by the abutting property owner(s) or their authorized agent(s) shall be submitted to the city engineer's office. The application shall contain the following:
    a. A letter to the city requesting the ROW/easement vacation and stating the reasons for said request.
    b. An application fee and all related fees, including, but not limited to, legal advertisements, and certified mailings, shall be paid by the applicant.
    c. A legal description and survey of the ROW/easement to be vacated and identify all abutting properties. If the survey shows that any portion of the city's right-of-way shares a boundary with a water body, the application and any application fee shall be returned to the applicant.
    d. A certificate of projected property value from the property appraiser.

e. A list of the names and addresses of the owners of property located within a 300-foot radius of requested ROW/easement vacation on the property appraiser's letterhead. A letter of announcement of requested ROW/easement vacation shall be mailed, at the expense of the applicant, to each address on the list of property owners. The notice shall be sent by certified mail return receipt requested and all return receipts shall be filed with the city, by the applicant, prior to the city council's consideration.
f. Letters from all franchised utility companies stating no objection, or recommending disapproval for reason including, but not limited to, Gulf Power Company, Destin Water Users, South Walton Utility Company, AT&T Telephone Company, Sprint Telephone Company, New South Telecommunications, Okaloosa Gas Company, and Cox Cable Communications.
g. Letter from the Destin Fire Control District official with authority to approve, stating no objection, or recommending disapproval for reason.

2. The city attorney shall review the application for legal sufficiency. The city engineer shall provide a recommendation to the local planning agency. The local planning agency shall provide a recommendation on the application to the city council. The city council may approve the application to vacate a ROW/easement based upon a finding that all of the following requirements are met:
    a. The requested vacation is consistent with the comprehensive plan.
    b. The ROW does not provide the sole access to any property.
    c. The vacation would not jeopardize the current or future location of any utility.
    d. The proposed vacation is not detrimental to the public interest. City ownership of the ROW is no longer necessary to accomplish any valid city purpose. The city has not granted any easements which will be adversely affected by the vacation.
    e. No city owned right-of-way, or any portion thereof, may be vacated if the city's right-of-way shares any boundary with a water body.

Section 2.08 Procedures for Conditional Use Review

Section 2.08.01 General Conditional Uses

A. The following shall apply to all applications for a conditional use in any zoning district within the City of Destin:
    1. Findings. A conditional use shall be permitted upon a finding by the city council, after a duly noticed public hearing. that the proposed use, application and, if applicable, site plan, comply with the criteria specified in this section, including specific conditions established by the city council during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations. If the proposed conditional use is a major development pursuant to Chapter 2 of the LDC, the city council shall render the final determination pursuant to the procedures for major developments. A conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest. An

application for a conditional use shall describe how the specific land use characteristics proposed meet the criteria described herein and shall include a description of any measures proposed to mitigate against possible adverse impacts of the proposed conditional use on properties in the immediate vicinity.

2. Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
    a. Scale and intensity of the proposed conditional use as measured by the following:
        i. Floor area ratio;
        ii. Traffic generation;
        iii. Square feet of enclosed building for each specific use;
        iv. Proposed employment;
        v. Proposed number and type of service vehicles: and
        vi. Off-street parking needs.
    b. On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection including the following:
        i. Utilities;
        ii. Public facilities, especially any improvements required to ensure compliance with concurrency management;
        iii. Roadway or signalization improvements, or other similar improvements;
        iv. Accessory structures or facilities; and
        v. Other unique facilities/structures proposed as part of site improvements.
    c. On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:
        i. Open space;
        ii. Setbacks from adjacent properties;
        iii. Screening and buffers:
        iv. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
        v. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.
3. Criteria for Conditional Uses.
    a. Land use compatibility. The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic- generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.
    b. Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic

circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

c. Proper use of mitigative techniques. The applicant shall demonstrate that the conditional use and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

d. Hazardous waste. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation without use of city approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material and shall regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the city unless the specific location is consistent with the comprehensive plan and land development regulations and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources.

e. Avoid over-proliferation of uses. An over-proliferation of similar uses within a zoning district shall not be permitted. The City Council shall review the existing uses within the zoning district in determining whether a conditional use shall be approved or denied.

f. Compliance with applicable laws and ordinances. A conditional use application shall demonstrate compliance with all applicable federal, state, county, and city laws and ordinances. Where permits are required from governmental agencies other than the city, these permits shall be obtained as a condition of approval. The city may affix other conditions to an approval of a conditional use in order to protect the public health, safety, and welfare.

4. LPA recommendation required. All applications for a conditional use must first be considered by the City's Land Planning Agency (LPA) for consistency with the Comprehensive Plan, prior to being considered by the City Council for a final decision. The City Council shall not be bound by the recommendation of the LPA.
5. The Board of Adjustment shall not be required to review conditional use applications.

This sentence will be removed.

6. Appeals. Appeals of the city council on a conditional use application are by writ of certiorari to the circuit court.

Section 2.08.02 Certificates of Appropriateness and Conditional Uses in Overlay Districts

Combine Sections 2.08.02.A "Destin Harbor District Overlay" and 2.08.02.B "Zerbe-Calhoun Historic District Overlay" as there is similar information listed in both sections.

A. Destin Harbor District Overlay

1. Process for designation of structures and sites significant to the history of the Destin Harbor. A property owner or authorized agent of a property owner may apply to designate a structure or site as significant to the history of the Destin Harbor pursuant to this section. Such application may include a request for a conditional use, if applicable.
    a. Applications for a certificate of appropriateness (with or without a conditional use) shall be submitted to the city manager on a form to be provided by the city. along with a signed, sealed survey of the subject property, which survey is dated within at least one year of the application date.
    b. The owner of the subject property must either sign the application or give written authorization.
    c. The City Manager, in consultation with the City Land Use Attorney and City staff, shall review a certificate of appropriateness (with or without a conditional use) application for sufficiency, and shall forward the request to the City Council once the City Manager has determined that the application includes all required information.
    d. The City Manager shall schedule a public hearing on the certificate of appropriateness (with or without a conditional use) before the City Council, which hearing shall be held not later than 60 days after receipt of an application, said hearing may be continued once, at the discretion of the City Council, upon request of the applicant to the City Council or for good cause. A separate hearing before the Board of Adjustment shall not be required if a certificate of appropriateness application is submitted with a conditional use.
    e. Notice will be published in a local newspaper of general circulation at least ten days prior to the public hearing.
    f. The City Council shall render an order to either issue or deny the application for a certificate of appropriateness (with or without a conditional use).
    g. The order shall be mailed to the applicant and shall include findings of fact and conclusions of law, and shall state specifically (i) that the certificate of appropriateness (with or without a conditional use) vests the uses, structures, driveways, accessways, parking, (as applicable) and any other items depicted on the survey, as well as any City Code waivers authorized by approval of the survey submitted by the applicant: all until such time that the applicant abandons the uses for a period of at least 180 days; and (ii) that no further permits shall be required from the City of Destin with respect to any uses, structures, driveways, accessways, parking, (as applicable) and any other items depicted on the survey, all until such time that the applicant abandons the uses for a period of at least 180 days, and subject to any limitation that may exist, to the extent that the Building Official has determined a serious threat to the public health or safety exists without such limitations. Nothing in this section releases the applicant from any requirement to obtain a business tax receipt on the subject property, if applicable.
2. Criteria for designation of structures and sites significant to the history of the Destin Harbor. The City Council may grant a certificate of appropriateness if there is an existing structure on the site, which the applicant seeks to preserve, and which was

constructed prior to 1975 (according to records of the Property Appraiser and/or the City of Destin) and at least one of the following additional criteria are met:

a. Historical significance. Proposed changes of use, developments or redevelopments in the overlay district, should show character, interest or value as part of the development, heritage, or cultural characteristics of the Harbor area; be the site of historic or prehistoric event(s) that had an effect upon the City of Destin; or exemplify the cultural, political, economic, or social heritage of the City of Destin.

b. Architectural significance. Proposed changes of use, developments or redevelopments should portray an era of history characterized by distinctive architectural period(s)/style(s); embody those distinguishing characteristics of an architectural type specimen, contain elements of architectural design, detail, materials or craftsmanship that represent a significant era in the history of the Harbor area.

c. Environmental significance. Proposed changes of use, developments or redevelopments should enhance the variety. interest, and sense of identity of the Harbor area by the protection of the unique natural and man-mad environments, by preserving waterfront views, preserving water dependent activity, fostering a pedestrian-oriented environment, and promoting convenient public access to the harbor boardwalk and charter fishing opportunities for the public.

3. Conditional uses. If an applicant desires to change the use of an existing structure on the site, the applicant is required to apply for a certificate of appropriateness with conditional use. Conditional uses in the Harbor Area Overlay shall include those listed in Table XX, Table of Allowable Uses. To the extent that there is any conflict between the permissibility of any specific use in the underlying zoning district and the Harbor Area Overlay, the provisions of the underlying zoning district shall apply, unless an application for a certificate of appropriateness has been submitted. The following shall apply to all applications for a certificate of appropriateness with conditional use within the Destin Harbor Area:

a. Findings. A conditional use shall be permitted upon a finding by the city council, after a duly noticed public hearing on the certificate of appropriateness with a conditional use, that the proposed use, application and, if applicable, survey or site plan, comply with the criteria specified in this section, including specific conditions established by the City Council during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations. If the proposed conditional use is a major development pursuant to Chapter X of the LDC, the City Council shall render the final determination pursuant to the procedures for major developments. A conditional use shall be denied if the city determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest. An application for a conditional use shall describe how the specific land use characteristics proposed meet the criteria described herein and shall include a description of any measures proposed to mitigate against possible adverse impacts of the proposed conditional use on properties in

the immediate vicinity. The City Council is authorized to grant any waivers to the Land Development Code pursuant to Subsection XX in order to further the purposes of the Harbor District Overlay.

b. Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:
    i. Scale and intensity of the proposed conditional use as measured by the following:
        a. Floor area ratio;
        b. Traffic generation;
        c. Square feet of enclosed building for each specific use:
        d. Proposed employment:
        e. Proposed number and type of service vehicles; and
        f. Off-street parking needs.
    ii. On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection, including the following:
        a. Utilities;
        b. Public facilities, especially any improvements required to ensure compliance with concurrency management;
        c. Roadway or signalization improvements, or other similar improvements;
        d. Accessory structures or facilities; and
        e. Other unique facilities/structures proposed as part of site improvements.
    iii. On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:
        a. Open space;
        b. Setbacks from adjacent properties;
        c. Screening and buffers;
        d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
        e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.

c. Criteria for conditional uses in the Harbor District Overlay:
    i. Land use compatibility. The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.
    ii. Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation. and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as

screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

iii. Proper use of mitigative techniques. The applicant shall demonstrate that the conditional use and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity. including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

iv. Hazardous waste. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation without use of city-approved mitigative techniques designed to prevent any adverse impact to the general health. safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material and shall regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the City unless the specific location is consistent with the comprehensive plan and land development regulations and does not adversely impact wellfields. aquifer recharge areas, or other conservation resources.

v. Preservation of "Old Destin". The Harbor District Overlay is intended to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the district that are reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this zoning district to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize the South Harbor Mixed Use and North Harbor Mixed Use zoning districts, promote the tourist trade and interest, and foster knowledge of the City's living heritage. Therefore, conditional uses should meet one or more of the following criteria:

    a. Historical significance. Proposed changes of use, developments or redevelopments in the overlay district, should show character, interest or value as part of the development, heritage, or cultural characteristics of the Harbor area: be the site of historic or prehistoric event(s) that had an effect upon the City of Destin; or exemplify the cultural, political, economic, or social heritage of the City of Destin.

    b. Architectural significance. Proposed changes of use, developments or redevelopments should portray an era of

history characterized by distinctive architectural period(s)/style(s); embody those distinguishing characteristics of an architectural type specimen, contain elements of architectural design, detail, materials or craftsmanship that represent a significant era in the history of the Harbor area.

c. Environmental significance. Proposed changes of use, developments or redevelopments should enhance the variety, interest, and sense of identity of the Harbor area by the protection of the unique natural and man-mad environments, by preserving waterfront views, preserving water dependent activity, fostering a pedestrian-oriented environment, and promoting convenient public access to the harbor boardwalk and charter fishing opportunities for the public.

vi. Compliance with applicable laws and ordinances. A conditional use application shall demonstrate compliance with all applicable federal, state, county, and city laws and ordinances except that the City Council may grant waivers or variances to the City Land Development Code pursuant to Section XX of this Code. Where permits are required from governmental agencies other than the City, these permits shall be obtained as a condition of approval. The City may affix other conditions to any approval of a conditional use in order to protect the public health, safety, and welfare.

4. Certificate of appropriateness. Evidence of the approval required under the terms of the Harbor District Overlay shall be a Certificate of Appropriateness issued by the City Council, stating that the change of use and development or re-development depicted on the survey has been made are approved by the City Council. The City Council may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. Any action by applicants following issuance of a certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.
5. Code waivers. To further the intent and purpose of Harbor District Overlay, the City Council may waive or modify requirements of the Land Development Code pursuant to this Section XX, including but not limited to parking requirements, driveway requirements, stormwater requirements, any performance standards, requirements for lot area, lot width, lot depth, setback, and open space standards set forth in Table XX. Table of Dimensional Regulations, provided however, that if the Building Official determines there is a serious threat to the public health, safety or welfare, such waivers may not be granted. Further, alternative stormwater requirements may be imposed to prevent flooding on the subject property.
6. Appeals:
    a. Any appeal of a City Council decision on a determination under this section shall be by petition for certiorari review to the circuit court of Okaloosa County. Florida, based solely on the record of the hearing before the city

council. The application forms shall contain a venue selection provision requiring venue to be in Okaloosa County.

b. The applicant is responsible for providing a verbatim transcript of the record of that hearing.

c. Such an appeal must be filed within 30 days after the date the City renders its order.

7. Penalties: The Code Compliance Department may enforce the terms of this section by bringing a case to the Special Magistrate or Code Enforcement Board, whichever is applicable, as provided in Chapter 14, Offenses and Miscellaneous Provisions, Article III, Code Enforcement Board or Special Magistrate, of the Code Ordinances of the City of Destin and F.S. ch. 162, pt. 1. Additionally, the code compliance department, or other duly authorized officer or authority, may enforce the terms of this section through issuance of civil citation as provided in Chapter 14. Offenses and Miscellaneous Provisions, Article III, Code Enforcement Citation Program and Procedures, of the Code Ordinances of the City of Destin and F.S. ch. 162, pt. 2.

This section will be removed as all penalty information and procedures will be included in new "Citation Authority" article.

B. Zerbe-Calhoun Historic District Overlay

1. Process for designation of structures and sites significant to the history of the Zerbe-Calhoun Area. In addition to the set Zerbe-Calhoun Historic Park set forth in subsection 3., a property owner or authorized agent of a property owner may apply to designate a structure or site as significant to the history of the City of Destin within the Zerbe-Calhoun Historic Overlay Area pursuant to this section. Such application may include a request for a conditional use, if applicable.

a. Applications for a certificate of appropriateness (with or without a conditional use) shall be submitted to the City Manager on a form to be provided by the City, along with a signed, sealed survey of the subject property, which survey is dated within at least one year of the application date.

b. The owner of the subject property must either sign the application or give written authorization.

c. The City Manager, in consultation with the City Land Use Attorney and City staff, shall review a certificate of appropriateness (with or without a conditional use) application for sufficiency, and shall forward the request to the City Council once the City Manager has determined that the application includes all required information.

d. The City Manager shall schedule a public hearing on the Certificate of Appropriateness (with or without a Conditional Use) before the City Council, which hearing shall be held not later than 60 days after receipt of an application, said hearing may be continued once, at the discretion of the City Council, upon request of the applicant to the City Council or for good cause. A separate hearing before the Board of Adjustment shall not be required if a certificate of appropriateness application is submitted with a conditional use.

e. Notice will be published in a local newspaper of general circulation at least ten days prior to the public hearing.

f. The City Council shall render an order to either issue or deny the application for a certificate of appropriateness (with or without a Conditional Use).

g. The order shall be mailed to the applicant and shall include findings of fact and conclusions of law, and shall state specifically (i) that the certificate of appropriateness (with or without a conditional use) vests the uses, structures, driveways, accessways, parking, (as applicable) and any other items depicted on the survey, as well as any City Code waivers authorized by approval of the survey submitted by the applicant; all until such time that the applicant abandons the uses for a period of at least 180 days; and (ii) that no further permits shall be required from the City of Destin with respect to any uses, structures, driveways, accessways, parking, (as applicable) and any other items depicted on the survey, all until such time that the applicant abandons the uses for a period of at least 180 days, and subject to any limitation that may exist, to the extent that the Building Official has determined a serious threat to the public health or safety exists without such limitations. Nothing in this section releases the Applicant from any requirement to obtain a business tax receipt on the subject property, if applicable.

2. Criteria for designation of structures and sites significant to City history. The City Council may grant a Certificate of Appropriateness if there is an existing structure on the site, which the applicant seeks to preserve, and which was constructed prior to 1975 (according to records of the Property Appraiser and/or the City of Destin) and at least one of the following additional criteria are met:

   a. Historical significance. Proposed changes of use, developments or redevelopments in the overlay district. should show character, interest or value as part of the development, heritage, or cultural characteristics of the area; be the site of historic or prehistoric event(s) that had an effect upon the City of Destin; or exemplify the cultural, political, economic, or social heritage of the City of Destin.

   b. Architectural significance. Proposed changes of use, developments or redevelopments should portray an era of history characterized by distinctive architectural period(s)/style(s); embody those distinguishing characteristics of an architectural type specimen, contain elements of architectural design, detail, materials or craftsmanship that represent a significant era in the history of the Zerbe-Calhoun area.

   c. Environmental significance. Proposed changes of use, developments or redevelopments should enhance the variety, interest, and sense of identity of the Zerbe-Calhoun area by the protection of the unique natural and manmade environments, by preserving waterfront views, preserving water dependent activity, fostering a pedestrian-oriented environment, and promoting convenient public access to the bay for the public.

3. Conditional uses. If an applicant desires to change the use of an existing structure on the site, the applicant is required to apply for a certificate of appropriateness with conditional use. Conditional uses in the Zerbe-Calhoun Historic Area Overlay shall include those listed in Table 7-2. Table of Allowable Uses. To the extent that there is any conflict between the permissibility of any specific use in the underlying zoning district and the Zerbe-Calhoun Historic Area Overlay, the provisions of the underlying

zoning district shall apply, unless an application for a certificate of appropriateness has been submitted. The following shall apply to all applications for a certificate of appropriateness with conditional use within the Zerbe-Calhoun Historic Area Overlay:

a. Findings. A conditional use shall be permitted upon a finding by the City Council, after a duly noticed public hearing on the certificate of appropriateness with a conditional use, that the proposed use, application and, if applicable, survey or site plan, comply with the criteria specified in this section, including specific conditions established by the City Council during review of the respective application in order to ensure compliance with the comprehensive plan and land development regulations. If the proposed conditional use is a major development pursuant to Chapter 2 of the LDC, the City Council shall render the final determination pursuant to the procedures for major developments. A conditional use shall be denied if the City determines that the proposed use does not meet the criteria provided in this section and, further, that the proposed conditional use is adverse to the public's interest. An application for a conditional use shall describe how the specific land use characteristics proposed meet the criteria described herein and shall include a description of any measures proposed to mitigate against possible adverse impacts of the proposed conditional use on properties in the immediate vicinity. The City Council is authorized to grant any waivers to the Land Development Code pursuant to subsection ~~7.12.06(DD)(6),~~ in order to further the purposes of the Zerbe-Calhoun Historic District Overlay.

b. Characteristics of use described. The following characteristics of a proposed conditional use shall be clearly described as part of the conditional use application:

   i. Scale and intensity of the proposed conditional use as measured by the following:
      a. Floor area ratio;
      b. Traffic generation;
      c. Square feet of enclosed building for each specific use;
      d. Proposed employment;
      e. Proposed number and type of service vehicles; and
      f. Off-street parking needs.

   ii. On- or off-site improvement needs generated by the proposed conditional use and not identified on the list in subsection, including the following:
      a. Utilities;
      b. Public facilities, especially any improvements required to ensure compliance with concurrency management;
      c. Roadway or signalization improvements, or other similar improvements;
      d. Accessory structures or facilities; and
      e. Other unique facilities/structures proposed as part of site improvements.

   iii. On-site amenities proposed to enhance site and planned improvements. Amenities including mitigative techniques such as:

a. Open space;
b. Setbacks from adjacent properties;
c. Screening and buffers;
d. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
e. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.

c. Criteria for conditional uses in the Zerbe-Calhoun Historic District Overlay:

i. Land use compatibility. The applicant shall demonstrate that the conditional use, including its proposed scale and intensity, traffic-generating characteristics, and off-site impacts are compatible and harmonious with adjacent land use and will not adversely impact land use activities in the immediate vicinity.

ii. Sufficient site size, adequate site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

iii. Proper use of mitigative techniques. The applicant shall demonstrate that the conditional use and site plan have been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

iv. Hazardous waste. The proposed use shall not generate hazardous waste or require use of hazardous materials in its operation without use of City-approved mitigative techniques designed to prevent any adverse impact to the general health, safety and welfare. The plan shall provide for appropriate identification of hazardous waste and hazardous material and shall regulate its use, storage and transfer consistent with best management principles and practices. No use which generates hazardous waste or uses hazardous materials shall be located in the City unless the specific location is consistent with the comprehensive plan and land development regulations and does not adversely impact wellfields, aquifer recharge areas, or other conservation resources.

v. Preservation of "Old Destin". The Zerbe-Calhoun Historic District Overlay is intended to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and

areas of the district that are reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this zoning district to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize the South Harbor Mixed Use and North Harbor Mixed Use zoning districts, promote the tourist trade and interest, and foster knowledge of the City's living heritage. Therefore, conditional uses should meet one or more of the following criteria:

a. Historical significance. Proposed changes of use, developments or redevelopments in the overlay district, should show character, interest or value as part of the development, heritage, or cultural characteristics of the Zerbe-Calhoun area; be the site of historic or prehistoric event(s) that had an effect upon the City of Destin; or exemplify the cultural, political, economic, or social heritage of the City of Destin.

b. Architectural significance. Proposed changes of use, developments or redevelopments should portray an era of history characterized by distinctive architectural period(s)/style(s); embody those distinguishing characteristics of an architectural type specimen, contain elements of architectural design, detail, materials or craftsmanship that represent a significant era in the history of the Zerbe-Calhoun area.

c. Environmental significance. Proposed changes of use, developments or redevelopments should enhance the variety, interest, and sense of identity of the Zerbe-Calhoun area by the protection of the unique natural and manmade environments, by preserving waterfront views, preserving water dependent activity, fostering a pedestrian-oriented environment, and promoting convenient public access to the Bay.

vi. Compliance with applicable laws and ordinances. A conditional use application shall demonstrate compliance with all applicable federal, state, county, and City laws and ordinances except that the City Council may grant waivers or variances to the City Land Development Code pursuant to Section ~~7.12.06.(DD)(6)~~ of this Code. Where permits are required from governmental agencies other than the City, these permits shall be obtained as a condition of approval. The City may affix other conditions to any approval of a conditional use in order to protect the public health, safety, and welfare.

4. Certificate of appropriateness. Evidence of the approval required under the terms of the Zerbe-Calhoun Historic District Overlay shall be a certificate of appropriateness issued by the City Council, stating that the change of use and development or re-

development depicted on the survey has been made are approved by the City Council. The City Council may permit modifications of original proposals if such modifications are formally acknowledged, clearly described, and recorded in the records of the case. Any action by applicants following issuance of a certificate of appropriateness shall be in accord with the application and material approved and any conditions appended thereto.

5. Code waivers. To further the intent and purpose of Zerbe-Calhoun Historic District Overlay, the City Council may waive or modify requirements of the Land Development Code pursuant to this Section ~~7.12.06(DD)(6)~~, including but not limited to parking requirements, driveway requirements, stormwater requirements, any performance standards, requirements for lot area, lot width, lot depth, setback, and open space standards set forth in Table 7-3, Table of Dimensional Regulations, provided however, that if the Building Official determines there is a serious threat to the public health, safety or welfare, such waivers may not be granted. Further, alternative stormwater requirements may be imposed to prevent flooding on the subject property.
6. Appeals.
    a. Any appeal of a City Council decision on a determination under this section shall be by petition for certiorari review to the circuit court of Okaloosa County, Florida, based solely on the record of the hearing before the City Council. The application forms shall contain a venue selection provision requiring venue to be in Okaloosa County.
    b. The applicant is responsible for providing a verbatim transcript of the record of that hearing.
    c. Such an appeal must be filed within 30 days after the date the City renders its order.
7. Penalties: The Code Compliance Department may enforce the terms of this section by bringing a case to the Special Magistrate or Code Enforcement Board, whichever is applicable, as provided in Chapter 14, Offenses and Miscellaneous Provisions, Article III, Code Enforcement Board or Special Magistrate, of the Code of Ordinances of the City of Destin and F.S. ch. 162, pt. 1. Additionally, the code compliance department, or other duly authorized officer or authority, may enforce the terms of this section through issuance of civil citation as provided in Chapter 14, Offenses and Miscellaneous Provisions, Article III, Code Enforcement Citation Program and Procedures, of the Code Ordinances of the City of Destin and F.S. ch. 162, pt. 2.

    This text will be removed. All penalty information and procedures will be listed in new Citation Authority article.

Section 2.09 Procedures for Change of Use Permits

Section 20.09.01 Intent

A. When the use of a space changes, the risk factors and neighborhood impacts associated with the space can also change. Alterations to the existing building/space may be required to meet the requirements of the City Land Development Code, Comprehensive Plan, Code of Ordinances, and/or building or fire code requirements for the new use. Alterations to the existing building and/or site may therefore be required to meet the Land Development Code

requirements for the new use. The change of use permit process is intended to help identify those requirements and protect the public health, safety and welfare.

Development and redevelopment opportunities exist within the City. Existing developments are required to be consistent with existing development order(s) and expansion or changes to a space should not be permitted if a property is not currently in compliance with applicable city or state codes, or with an applicable development order.

A change of use review process is intended to allow the City to address all allowable past, present and future uses, where changes have occurred or are proposed to occur on the property. This process is intended to allow the City to ensure compliance with all current land use regulations, and to allow the City to consider and address potential impacts related to access, fire protection, lighting, noise, parking, signage, traffic, traffic safety, and vehicular access, and other impacts affecting the public health, safety or welfare.

Section 2.09.02 Applicability and Criteria

A. A change of use permit shall be required for the following types of changes, which includes all permanent, temporary, and seasonal uses:
    1. A property or structure (including portions of a property or structure) is, or is proposed to be, a different land use than the approved use or existing use. (Examples may include, but are not limited to, a new retail use where a warehouse use was previously approved or permitted, or an amenity proposed for a residential use has been changed to a commercial use.)
    2. Properties and/or structures where the intensity of a use is increased, which results in additional impacts including but not limited to additional required parking, structure or site modifications, or other impacts affecting the public welfare, as determined by the Community Development Director or designee (Examples may include, but are not limited to, a retail center allowing a mobile vendor to operate).
    3. The addition of a use to a site with a number of different uses current in operation, resulting in multiple uses on one site. (Examples may include, but are not limited to, a commercial building with multiple suites that may include commercial, retail, or restaurant uses.)
    4. Establishment of new or expanded home occupations. (Examples may include, but are not limited to, home offices for businesses or realtors, or computer software consultants that provide technical assistance to customers).

B. Prima facie evidence of change of use. The following shall be prima facie evidence of a change of use:
    1. The addition of 750 square feet or more of gross floor area to any structure or impervious surface.
    2. Any change of use upon the property affecting 750 square feet or more of the property, of any structure, or of any pervious or impervious surface.
    3. Any change of use/development of building/structure/parcel of land that generates vehicle trips above the current concurrency levels at the property location.

C. Additional applications. The City may require additional applications be submitted as part of the change of use permitting process, including but not limited to applications for a development order, development order exemption, major or minor amendment to a development order, conditional use, or any other application determined to be necessary by the Community Development Director or designee, pursuant to any city code or ordinance.

D. Eligibility. An application for a change of use permit shall be denied if any one (or more) of the following conditions exist:
   1. There is a pending code compliance violation on the subject property; or
   2. A recorded code compliance lien exists on the subject property; or
   3. There is a development order on the property and the Community Development Director or designee determines that the property is not currently in compliance with such existing development order; or
   4. The application submitted is not complete, is missing any information, and/or is missing any required fee; or
   5. Any of the criteria or requirements set forth in section ~~2.28.01(A) or (B)~~ for a change of use permit application is/are not met.

E. Change of use permit application requirements.
   1. A complete application must include the following information, at a minimum, and the Community Development Director or designee may require additional information if the Community Development Director or designee determines that more information is needed based on the scope of the change of use:
      a. Identification of the type of change of use (i.e., properties and structures requesting a different land use; increases in density/intensity; addition of a use to a site with a different use current in operation resulting in multiple uses on one site; home occupations; and off-site businesses.
      b. Applicant information.
      c. Owner information.
      d. Subject property address and parcel ID.
      e. Detailed description of proposed change of use.
      f. Current and/or previous use of property.
      g. Duration of change of use (permanent, seasonal or temporary).
   2. Owner authorization.
   3. Proof of ownership.
   4. List of all shared parking agreements for subject property from property owner (if applicable).
   5. List of all uses on the property, as well as the gross floor area of each use.
   6. Floor plan (if applicable).
   7. Site plan, drawn to scale to include:
      a. Property lines.
      b. All existing structures.
      c. Parking space layout.

Section 2.10 Withdrawal of Applications

An application for development approval may be withdrawn at any time. Caution: The withdrawal of any application for development approval which occurs after the publication of any notices which may be required by this Code or other law will result in the application losing its relative position in priority for plan review and will require the applicant to resubmit its application at the initial step in the development review process required for the particular development. Such resubmittal will require payment of the necessary fees in order to activate the plan review process and reestablish relative position and priority for plan review.

Note: Nothing in this section shall be construed to prevent the Local Planning Agency (LPA) or the City Council from delaying action or decision on any application. In the event the LPA or City Council votes to delay review or decision on any application, said application will retain its relative position and priority for plan review purposes.

Section 2.11 Procedures for Capital Improvements Program (CIP)

It is recommended that entire section related to the Capital Improvements Program is removed. There is currently an entire element related to the CIP in the Comprehensive Plan.

Section 2.11.01 Purpose, Monitoring and Evaluation

A. The purpose of this article is to provide for a capital improvement program (CIP) that is designed to maintain adopted levels of service in facilities that provide sanitary sewer, solid waste, drainage, potable water, traffic circulation, recreation and open space.
B. Chapter 14, table 14-1, of the comprehensive plan presents a schedule of capital improvement projects for Destin through 1995. This schedule may be changed by ordinance.
C. The CIP shall be reviewed on an annual basis by the committee created by policy 14.A.3.6 of the comprehensive plan.
    1. The committee shall be comprised of the following:
        a. City manager;
        b. Planning director;
        c. Public works director; and
        d. Accounting supervisor.
    2. The committee shall maintain information on development activity, level of service conditions and other data necessary to accurately evaluate the implementation of the comprehensive plan.

Section 2.11.02 Method of Assessment

A. Article X of this Code provides methodologies by which concurrence may be determined. To provide the infrastructure required for continued and orderly growth, CIP planning must be properly timed and projects prioritized for maximum utility and cost effectiveness. The rules contained herein express procedures and methodologies adopted by the City of Destin. Application of the rules shall in the cases of sanitary sewer, potable water and solid waste require the cooperation of independent servicing entities such as Okaloosa County, Destin Water Users, Inc., and Sun States.
    1. Timing. In each of the public service facilities identified in section XX above, the following schedule shall be adhered to by the CIP committee:
        a. Sanitary sewer. Provisions to expand treatment plant facilities, effluent disposal and collector systems shall be made at the point where existing flow and committed flow total at a level 75 percent of the total treatment facility capacity.
            i. Permitting of new development projects shall not occur after 95 percent of the total treatment facility capacity has been utilized. In such cases where construction to provide additional capacity has begun with a scheduled completion date, and upon the approval of the department of environmental regulation, permitting against the new capacity may be granted.

b. Solid waste. Solid waste transfer and/or landfill capacity shall be expanded, or a new disposal methodology initiated, when the receiving capacity of the transfer station or landfill reaches 80 percent of capacity levels.
    i. Failure to provide for new expansion or a disposal methodology at or before the 80 percent capacity level by the servicing agency (Okaloosa County) shall obligate the city to seek through its own offices ways and means to provide uninterrupted solid waste disposal service to the citizens of Destin.

c. Drainage. Drainage facilities shall be constructed as required by chapter 17-25, FAC, Stormwater Rule, so as to achieve an 80 to 95 percent removal of stormwater pollutants before discharge into receiving waters. The city's adopted LOS, i.e., to retain the first one inch of runoff on-site with post-development runoff rate for a 25-year storm event, no [not] exceeding pre-development runoff.

d. Potable water. New potable wells and storage tanks shall be constructed to maintain a minimum LOS of 125 gallons per capita per day (gpcd); maintain a minimum sustained fire flow in accordance with standards promulgated by the National Board of Fire Underwriters (NBFU) and the Fire Suppression Rating Guide of the Insurance Services Office (ISO) and a minimum static pressure of 35 pounds per square inch (PSI).
    i. Whenever demand is within 25 percent of the minimum standards for potable water, provisions shall be made to expand and/or improve the system.

e. Recreation and open space. Acquisition of land for resource-based and activity-based parks and recreational facilities shall occur at the point no later than when the adopted LOS of two acres per 1,000 population is measured less (on an annual basis) than 2.05 acres per 1,000.

2. Setting priorities. The following checklist shall be used by the committee in conjunction with the LPA in assigning capital outlays to proposed/needed CIP projects. Individual projects shall be prioritized based on the number of "yes" responses vis-a-vis other desired projects. "Yes" answers implement the goals, objectives and policies of the comprehensive plan. "No" answers do not directly support plan goals, objectives and policies.

PRIORITY CHECKLIST (Objective 14.A.4)

Project		Yes	No	Not Applicable
1.	Will the project provide infrastructure for growth?	____	____	____
a.	Will development bear the cost of facility improvements?	____	____	____
2.	Is the amount of growth that this project is designed to serve consistent with the most recent population projections?	____	____	____

3.	Will this project either leave unchanged or increase the ratio of jobs in Destin to residents of Destin?		____	____	____
4.	If the project is likely to stimulate residential development:				
	a.	Will development be centrally located in Destin?	____	____	____
	b.	Can development be serviced with roads, schools, utilities, etc., without further city investment?	____	____	____
	c.	Will development benefit low to moderate income persons?	____	____	____
	d.	Will development provide open space in accordance with this Code (article 12)?	____	____	____
5.	If the project is likely to slow residential development in an area:				
	a.	Is that area rural in classification?	____	____	____
	b.	Are one or more public service systems in the area being used at or near capacity?	____	____	____
6.	If the project is likely to stimulate commercial or industrial development in areas remote from central Destin:				
	a.	Is the area presently zoned for such land use?	____	____	____
	b.	Can development be serviced with roads, schools, utilities, etc., without further city investment?	____	____	____
	c.	Will development provide open space in accordance with this Code (article 12)?	____	____	____
7.	Will development have impact on the coastal protection zone or environmentally sensitive lands?		____	____	____

Section 2.11.03 Assessing pro rata costs

A. As may be determined by the assignment of priority to CIP projects under subsection 14.02.01.B, the city shall require that approved growth totally pay for itself except under the following conditions in which case pro rata costs shall be assessed for facility needs as set forth in table 14.03.01A. (Note: Impact fees as established in article 18 are affected by the percentages shown under "Developer Pro Rata Cost.")

Table XX. FACILITY NEEDS PRO RATA COST SHARING

	Project	Developer Pro Rata Cost
1.	Project provides low to moderate income housing	____ percent

2.	Project promotes infill and does not extend infrastructure requirements	____ percent
3.	Project provides jobs per 100 population that is greater than the existing unemployment rates per 100 population	____ percent
4.	Project fulfills a community need, i.e., social, cultural, recreational, educational, historical or archaeological preservation, etc.	____ percent
5.	Project adds to quality of life and aesthetic appeal of the city	____ percent

Section 2.11.04 Annual Report

A. Reporting. By April 1 of each year the committee shall report to the LPA on the status of implementation activities and existing level of service conditions in the city.
    1. Committee reporting to the LPA shall be as follows:
        a. Recommendations of the committee to maintain level of service standards.
        b. Any recommendations for adjusting the CIP and amending the plan.
        c. A schedule of priority for CIP projects.
    2. LPA reporting to the City Council shall be as follows:
        a. Recommendations of the LPA and the committee, if not the same, to maintain level of service standards.
        b. Any recommendations for adjusting the CIP and amending the plan.
        c. A schedule of priority for CIP projects. Committee priority schedule shall also be presented to the City Council, if not the same.

Section 2.12 Procedures for Boards, Committees, and Public Hearings

Section 2.12.01 Public Participation

This section will be removed, as there are requirements related to public participation within each Board section.

A. Purpose. The purpose of this article is to delineate procedures for public participation in all matters relating to the city's comprehensive plan. These procedures apply to consideration of all draft documents required for preparation of the comprehensive plan, the formal adoption process of the comprehensive plan, amendments to the comprehensive plan, preparation and adoption of the evaluation and appraisal report, and any other matters deemed appropriate by the City Council. The notice procedures in section 4.01.00 below shall also apply to all other public hearings held in the City of Destin, and to any other noticed public meetings as deemed appropriate by the City Council.
B. Definitions. The terms "citizen participation" and "public participation" are synonymous and apply to affected persons, substantially affected persons and aggrieved or adversely affected parties as defined in F.S. §§ 163.3184(1), 163.3213(2)(a) and 163.3215(2), respectively.

Section 2.12.02 Technical Review Committee (TRC)

Revise this section to provide more flexibility. Specifically, this section will be revised to remove the specificity regarding the members, appointments, and conduct of TRC meetings.

A. Establishment. There is hereby created a committee to be known as the Technical Review Committee (TRC) for the purpose of providing for the professional and technical review of development order applications as specified under section 2.26.03 of this Code.

B. Membership.
   1. The initial membership on the TRC shall be capped at nine members, and terms on the committee shall be for four years, unless the member resigns from the committee, is removed from the committee by a majority vote of the City Council, or has their membership terminated pursuant to subsection B.
   2. Membership on the TRC shall be terminated if the member: (1) files a lawsuit against the City, (2) is convicted of a felony, or a crime involving moral turpitude, or (3) fails to timely review projects to such a degree that the City Manager, Community Development Director, and Land Use Attorney all three agree is causing a detriment to the function of the TRC.
   3. The membership shall include:
      a. The City Land Use Attorney;

      An appropriate individual from the following city departments, as applicable:

      b. Community Development Department, Planning;
      c. Public Services Department;
      d. Parks and Recreation Department;
      e. Community Development Department, Building Official or Building Official's designee;

      An appropriate individual from the following agencies:

      f. Destin Fire Control District (nominee must have experience as a firefighter);

      An appropriate individual from the following utilities:

      g. Destin Water Users (nominee must have technical experience in the area of water utilities);
      h. Okaloosa Gas District (nominee must have technical experience in the area of gas utilities);
      i. Gulf Power (nominee must have technical experience in the area of electrical utilities).
   4. The City Manager may appoint and remove the City Staff representatives, under Section 2.06.02.C.2 - 5. above, as the City Manager may deem appropriate.
   5. Other than the City Land Use Attorney, the City Manager shall provide the names of the nominees for the other four positions to the City Council, for the City Council's approval by a majority vote. The consideration and vote by City Council shall not be part of the Consent Agenda.

C. Functions, duties and responsibilities of TRC. The TRC members may be provided items to review in relation to their areas of expertise, and shall confine their review to the areas so designated. Subject to these limitations, the TRC shall review the following applications for compliance with the provisions of this City Land Development Code, and all applicable building codes:
   1. Major/Minor development order;

2. Major/Minor deviations to development orders;
3. Major subdivisions; and
4. Planned unit developments.

D. Conduct of TRC meetings.
   1. The TRC staff shall hold regular monthly meetings at the established time and place unless cancelled due to lack of items to be discussed or acted upon.
   2. The TRC agenda shall be distributed to the members and applicants at least seven working days prior to the regularly scheduled meeting.
   3. The meetings shall be open to the public and reasonable notice of the time, place and agenda shall be given and posted. Attendance of the applicant or agent is not required but is encouraged.
   4. On development applications to be reviewed by the TRC, the Community Development Director, or other person designated by the City Manager, shall be responsible for the following:
      a. Agenda preparation and distribution;
      b. Chairing the meeting;
      c. Recording the minutes;
      d. Notification to applicants of the regularly scheduled date, time and place for consideration of the application;
      e. Written notification to applicants of the outcome of the TRC review.
   5. At the second City Council meeting each month, the City Land Use Attorney shall provide a brief monthly update, under City Land Use Attorney's designated portion of the Agenda, summarizing the activities of the TRC.

Section 2.12.03 Local Planning Agency (LPA)

A. In accordance with the adopted City of Destin comprehensive plan and with the Florida Local Government Comprehensive Planning and Land Development Regulation Act, F.S. § 163.3161 et seq., and chapter 163, part II the local planning agency (LPA) serves as the land development regulation commission.

Revise this section to correct the Florida Statute reference to "Community Planning Act"

B. Establishment; appointment. There is hereby established a local planning agency consisting of seven members who shall be appointed by the city council. In addition to the seven members appointed by the city council, the local planning agency shall include an ex officio member who is a representative of the Okaloosa County School District appointed by the Okaloosa County School Board as a nonvoting member. The school board representative shall attend those meetings at which the local planning agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. The school board representative is not counted in the quorum. The local planning agency shall also include an ex officio member who is a representative of a military installation on behalf of all military installations located within the jurisdiction. The military installation representative shall serve as a non-voting member. The city manager or his or her designee will comply with the notice requirements, as required by F.S. § 163.3175, by providing the commanding officer of the local military installation with information relating to the proposed changes to the comprehensive plan, plan amendments,

and proposed changes to land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation. The military installation shall have the opportunity to review and comment on the proposed changes.

This section will be deleted as it is not a statutory requirement, and not currently in place.

C. Terms of members. The terms of members of the local planning agency shall be four years
D. Terms of officers and rules. The local planning agency shall elect a chairman and vice-chairman. The terms of the chairman and vice-chairman shall be for one year, with eligibility for re-election. The local planning agency shall adopt rules necessary to conduct of its affairs and in keeping with applicable laws and regulations.
E. Functions, duties, and responsibilities. The local planning agency shall perform the following functions, duties, and responsibilities:
    1. Perform the functions, duties, and responsibilities of prescribed by F.S. § 163.3174(4).
    2. Perform any other functions, duties, and responsibilities assigned to it by the city council or be general or special law.
F. Proceedings. A quorum is necessary at any meeting in order for the agency to take official actions. The local planning agency shall either recommend the city council approve, approve with conditions, deny, an item under consideration for its action. The local planning agency may continue for future action any item under consideration for its actions a maximum of 60 days from the date that the item was first heard.
G. The local planning agency's public hearing and public meeting regarding any matter shall be conducted so as to encourage and afford members of the public reasonable opportunity to present their views on any matter under consideration. The chairman may, at his or her discretion, rule out-of-order public comments deemed repetitious or not germane to the matter under discussion. An agenda for the meeting shall be posted in or near the meeting room and generally available to those in attendance.
    1. The sequence of activities at such planning agency's meeting regarding the matters under consideration shall be as follows:
        a. Announcement of the matter for consideration by the chairman, or designee, with the reading of any required public notice by the chairman or his designee.
        b. Presentation of staff reports/comments, if any, whether written or verbal. Written staff reports, if prepared, shall be provided to the local planning agency, applicable agencies, media, proponents and any group registered pursuant to section ~~4.01.E~~ at least three days prior to consideration.
        c. Receipt of comments from the proponents and opponents of the matter in as nearly equal proportions as possible. All speakers will be required to fill out address cards so that an accurate record of participants can be maintained.
        d. Close public input except for direct questions as may be initiated by the members of the local planning agency.
        e. Local planning agency discussion, debate and recommendation by majority vote prior to considering the next matter or adjournment.
    2. The local planning agency shall transmit its written recommendation on each matter decided to the City Council as soon as possible. Included in this recommendation

shall be a response to the substantive public comments received during consideration of the matter.

3. The local planning agency shall conclude consideration of the agenda no later than 11:30 p.m. No agenda item may be initiated after 10:30 p.m. unless a majority vote agrees to do so. Agenda items not considered at this date will be placed first on the agenda for the next available date that meets applicable notice requirements.
4. A meeting summary or minutes shall be prepared in conformance with the applicable public records laws of the state.

Section 2.12.04 City Council

A. After the local planning agency makes a recommendation regarding any matter described, the City Council shall hold at least one public hearing to consider the recommendation. The hearing may be continued to an announced time certain upon a majority vote. An agenda for the hearing shall be posted in, or near, the meeting room and be generally available to those in attendance.

B. The City Council public hearing shall encourage and afford members of the public reasonable opportunity to present their views on any matter under consideration. The chairman may, at his or her discretion, rule out-of-order public comments deemed repetitious or not germane to the matter under discussion.

C. The sequence of activities regarding matters under consideration shall be as follows:
   1. Announcements of the matter for consideration by the chairman with the reading of any public notice by the chairman or his designee.
   2. Presentation of staff reports/comments, if any, whether written or verbal. Written staff reports, if prepared, shall be provided to the City Council, applicable agencies, proponents and any group registered pursuant to section ~~4.01~~. The recommendation of the local planning agency shall also be presented in written form.
   3. Receipt of comments from the proponents and opponents of the matter in as nearly equal proportions as possible. All speakers will be required to fill out address cards so that an accurate record of participants can be maintained.
   4. Close public input except for direct questions as may be initiated by the members of the City Council.
   5. City Council discussion, debate and approval, adoption or enactment, as appropriate for the specific matter, by majority vote prior to considering the next matter or adjournment.

D. The City Council shall conclude consideration of the agenda no later than 11:30 p.m. No agenda item may be initiated after 10:30 p.m. unless a majority vote to do so. Agenda items not considered at this hearing will be placed first on the agenda of the next date available that meets applicable notice requirements.

E. A meeting summary or minutes shall be prepared in conformance with the applicable public records laws of the state.

Section 2.12.05 Board of Adjustment (BOA)

A. Establishment; appointment. There is hereby established a board of adjustment consisting of seven members who shall be appointed by the City Council.

B. Terms of members. After the first seven appointments to the board, all succeeding appointments shall be for a term of three years, or until their successors are appointed and qualified.

C. Functions, duties and responsibilities. The board of adjustment shall have the following powers and duties:

1. To hear and decide appeals when it is alleged that there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.
2. To hear and decide such conditional uses as the board of adjustment is specifically authorized to pass on under the terms of any zoning ordinance, to decide such questions as are involved in the determination of when conditional uses should be granted, and to grant conditional uses with appropriate conditions and safeguards or to deny conditional uses when not in harmony with the purpose and intent of any zoning ordinance. When reviewing an application for a conditional use, the following criteria shall be considered. Any applicant for a proposed conditional use shall provide plans that demonstrate compliance with the following general criteria:
    a. Size, Location, or Number of Conditional Uses. Size, location, or number of conditional uses in an area shall be limited so as to maintain the overall character of the district in which said conditional uses are located. The proposed conditional use(s) shall be compatible with surrounding land uses and the general character of the area including such factors as height, bulk, scale, intensity, traffic, noise, drainage, dust, lighting, appearance, etc.
    b. Hours of Operation. Hours of operation may be limited by the board of adjustment to ensure compatibility with adjoining properties. For instance, hours of operation may be restricted to avoid potential adverse impacts on a conforming residential use or on an adjacent single-family residential zoning district.
    c. Factors Impacting Scale and Intensity of Conditional Uses. The size and shape of the site, the proposed access and internal circulation, and the urban design enhancements must be adequate to accommodate the proposed scale and intensity of conditional use requested. The site shall be of sufficient size to accommodate urban design amenities such as screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure, and similar site plan improvements needed to mitigate potential adverse impacts of the proposed use, including its design, mass, height, and scale. The board of adjustment may impose conditions that require supplemental development standards to ensure compatibility with surrounding development.

In granting any conditional use, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with any zoning ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use is granted, shall be deemed a violation of the zoning ordinance. The board of adjustment may prescribe a reasonable time limit within which the action for which the conditional use is required shall be begun or completed or both.

This section will be removed as conditional uses are now reviewed by the LPA, not Board of Adjustment. Additionally, all references to conditional uses will be removed.

3. To authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the board of adjustment must find:
    a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
    b. That the special conditions and circumstances do not result from the actions of the applicant.
    c. That granting the variance requested will not confer on the applicant any special privilege that is denied by any zoning ordinance to other lands, buildings, or structures in the same zoning district.
    d. That literal interpretation of the provisions of any zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance and would work unnecessary and undue hardship on the applicant.
    e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
    f. That the grant of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

    In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with any zoning ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the zoning ordinance.
    The board of adjustment may prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed or both.

4. Under no circumstances, except as permitted above, shall the board of adjustment grant a variance to permit a use not generally or by conditional uses permitted in the zoning district involved or any use expressly or by implication prohibited by the terms of the ordinance in the zoning district. No nonconforming use of neighboring lands, structures, or buildings in the same zoning district and no permitted use of lands, structures, or buildings in other zoning districts shall be considered grounds for the authorization of a variance.

D. Applications. It shall be the responsibility of the applicant for conditional uses or variances to ordinances to demonstrate and each application shall contain statements of fact establishing the criteria prescribed in Subsections ~~2.25.03(B) through (J),~~ as applicable. Each request for conditional uses or variance, and each decision appealed, shall be the subject matter of a separate application.

E. Findings. The board of adjustment shall make objective findings of fact and report in its minutes the findings of fact relied upon in concluding whether or not the criteria described in

Subsections ~~2.25.03(B) through (J)~~, as applicable, are met, and whether or not the request is consistent with the City's comprehensive plan, and no issuance of any conditional use or variance to any City ordinance shall issue unless the applicable criteria and plan compliance are met.

F. Action time limit. An action for which a variance or conditional use is required shall be begun no later than six months and completed no later than 12 months from the grant of variance or conditional use, or such other reasonable time limit as shall be determined for the grant of variance or conditional use by the board of adjustment.

G. Review of administrative orders. In exercising its powers, the board of adjustment may, upon appeal, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance, and may make any necessary order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of a majority of all the members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official or to decide in favor of the applicant on any matter upon which the board is required to pass under any such ordinance.

H. Appeal from decision of administrative official. Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, board, or bureau of the City affected by any decision of an administrative official under any zoning ordinance. Such appeal shall be taken within 30 days after rendition of the order, requirement, decision, or determination appealed from by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal specifying the grounds thereof. The appeal shall be in the form prescribed by the rules of the board. The administrative official from whom the appeal is taken shall, upon notification of the filing of the appeal, forthwith transmit to the board of adjustment all the documents, plans, papers, or other materials constituting the record upon which the action appealed from was taken.

I. Stay of work and proceedings on appeal. An appeal to the board of adjustment stays all work on the premises and all proceedings in furtherance of the action appealed from, unless the official from whom the appeal was taken shall certify to the Board of Adjustment that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

J. Hearing of appeals. The board of adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person, by agent, or by attorney. For procedural purposes, an application for a special exception shall be handled by the board of adjustment the same as for appeals.

K. Judicial review of decisions. Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any officer, department, board, commission, or bureau of the City, may apply to the circuit court for judicial relief within 30 days after rendition of the decision by the board of adjustment. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules.

L. Rules of procedure for the board of adjustment.

1. Definitions. For the purpose of this section the following terms, phrases, words, abbreviations and their derivations shall have the following meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. Words not defined shall be given their common and ordinary meaning, or for those so included, the meaning found in Section 1-2 of the codified ordinances of the City.
    a. Applicant shall mean the person(s) filing the application, the representative of the person(s) filing the application, or the attorney representing the person(s) filing the application.
    b. Application shall mean the application form and supporting documents and, where the context so requires, the variance requested by the application, or special exception required by the application, or the administrative action or interpretation being reviewed by the application.
    c. Board shall mean the Board of Adjustment of the City of Destin.
    d. Chairman shall mean the chairman of the Board of Adjustment of the City of Destin.
    e. Code shall mean the codified ordinances of the City of Destin, Florida, unless otherwise designated.
    f. Legal advisor shall mean the City Attorney or other attorney appointed by the City Council to serve in the capacity of legal advisor to the Board of Adjustment of the City of Destin.
    g. Site plan shall mean a drawing, to scale, which accurately depicts the property and proposed improvements.
    h. Survey shall mean a sketch or survey prepared by a registered land surveyor and certified within the last 90 days prior to the date of application.
2. Application requirements.
    a. Each request for a variance, conditional use, or appeal of an administrative decision as allowed by Section ~~2.25.03~~ shall be originated by the filing of an application with the community development director or his or her designee.
    b. The form of the application shall be approved by the legal advisor and the board.
    c. The application must be supported by the following:
        i. Letter of request from the applicant which contains the request(s) for variance(s), conditional use(s), or appeal(s) of an administrative decision.
        ii. Statements of fact setting out compliance with the criteria established by Section ~~2.25.03~~ of the Code when required.
        iii. Proof by the applicant of ownership or interest in the land for which the request is sought, if applicable.
        iv. A complete legal description of the parcel of land for which the request is sought.
        v. A site plan, to scale, showing the proposed improvement or location of the specific request. The site plan shall contain an affidavit that the plan accurately depicts the property, improvements and proposed

improvements. The applicant may provide a current survey (not older than 90 days) which provides the same information, in lieu of a site plan.

vi. Any other documents or requirements which are mandated by the Code or deemed necessary by staff in reference to the specific request made. By way of example and not of limitation, such requirements might be a drawing of the structure of a sign as required by the sign ordinance or, in the case of a swimming pool, a drawing of the location of the pump and filter equipment.

d. The community development director, or designee, shall have the discretion to refuse to accept an application which does not include support documents required by this section or the Code.

e. The application and any supporting materials must demonstrate the need and the requirements of Section ~~2.25.03(B) through (J)~~ of the Code as applicable. Failure to provide complete information will permit the board to continue or dismiss, without prejudice, any application.

3. City staff responsibilities.

a. The City staff, hereinafter referred to as "staff," has the responsibility for the everyday business of the City, and as regards matters that may come before the board, to insure compliance with ordinances of the City.

b. Staff shall provide assistance to the applicant of a technical nature regarding the requirements of the Code and identification of elements of plan noncompliance with the Code.

c. Staff must review all applications for technical completeness and report its opinion to the board.

d. Staff, as designated by the Community Development Director, must review the site plan or survey attached to the application and provide a statement that staff has viewed the property and finds that the site plan accurately depicts the property, to the best of the staff's knowledge. It is understood that staff should not act as a surveyor or in any way guarantee the site plan(s) attached to the application, but should provide the board with information that the site plan(s) does or does not accurately depict the property for the purposes of the specific request and disposition by the board.

4. Public hearings generally.

a. Pursuant to Section ~~2.25.10~~ of this Code, the board shall fix a reasonable time for hearing the specific request.

b. Pursuant to the provisions of Section 2-29 of the Code of Ordinances, the public hearing on any application shall be conducted in accordance with Robert's Rules of Order. However, as the hearings held by the board are quasi-judicial, certain additional rules and procedures are proper. These rules are to guarantee that the applicant, the City, and any interested party have due process. In addition, the rules will provide a forum for the hearing which is easy to follow, provides evidence in a logical progression, and provides the board an opportunity to dispose of applications in a reasonable time.

c. The agenda for each regular meeting shall be followed as prepared by the Community Development Director or his or her designee. The chairman may,

in the exercise of his or her discretion, or upon majority vote of the board, alter the agenda to dispose of items in a prompt and efficient manner. The chairman may in the exercise of his or her discretion, or upon a consensus of the board, also request, but may not compel, an applicant to postpone, continue or recess a matter to a later time or date. The board may, for good cause, continue a matter to a later time or date.

d. The City Clerk or his or her designee is responsible to keep minutes of the public hearings and meetings of the board. These minutes shall include, but are not limited to: the evidence presented by the applicant, the staff and members of the public; deliberation of the board; and the decision of the board. The minutes are not verbatim transcripts of the proceedings.
e. The applicant is responsible for ensuring that a verbatim record of the proceeding is made if required for his or her purposes.

5. Order of proceeding with public hearing.
    a. The order of proceeding with the public hearing as specified hereinafter on an application before the board shall be followed, but may be varied from, in the exercise of discretion of the chairman or by majority vote of the board.
    b. The chairman, or his or her designee, shall read into the record the notice of the public hearing, unless waived in whole or in part by the interested parties present, and shall examine the proof of publication of the notice and announce that the notice was properly published, indicating the dates published and the newspaper in which such notice occurred.
    c. The chairman, or his or her designee, shall read into the record the application, and any additional information which the applicant has attached to the application, and shall announce the attachment of any supporting documents with a brief description of each.
    d. The chairman, or his or her designee, shall then read into the record any deficiencies which the staff has determined exist in the application.
        i. If the deficiencies have been cured by the applicant, such should be noted on the record and the public hearing should proceed.
        ii. If the deficiencies have not been cured, and the applicant is unable to cure them within the time of publication of the notice of public hearing, the chairman may ask if the applicant wishes to continue, postpone or recess the public hearing.
        iii. If the deficiencies are a result of the board or staff, the board may continue, postpone, or recess the matter for a reasonable time sufficient to cure the deficiencies.
        iv. If, in the opinion of the legal advisor, the deficiencies are such that no action on the application would cure the deficiencies, then the board may deny the request, after giving the applicant an opportunity to be heard on curing the deficiencies, if applicable.
    e. The chairman shall then read into the record any and all comments of the staff.
    f. The chairman shall then call upon the applicant. The applicant shall then be given an opportunity to make a statement and present any additional testimony, information and supporting documents.

g. The chairman shall then call upon the staff. Staff shall then be given an opportunity to make a statement and present any additional testimony, information and supporting documents.
h. The chairman shall then call upon the public for any comments, testimony, information and documents in support of granting the application.
i. The chairman shall then call upon the public for any comments, testimony, information and documents against granting the application.
j. The chairman shall then call upon the applicant for any rebuttal.
k. The chairman shall then call upon the staff for any rebuttal.
l. The chairman shall then call upon the public for any rebuttal.

6. Board deliberation.
   a. The board shall deliberate upon the application and testimony and other evidence of the applicant, staff and members of the public.
   b. The board during deliberation may call upon the applicant, staff or members of the public to answer questions which the board may have regarding the application.
   c. The board may postpone, continue or recess deliberation on the application, until a time when the board believes that the matter may be disposed of in a prompt fashion. Such a case may occur when the staff, legal advisor or the applicant are unable to answer questions from the board and require additional time to provide information.
   d. Deliberation may continue so long as the board has questions of the applicant, staff or members of the public.
   e. Deliberation may be ended in the same manner as for closing debate, with the exception of only a majority vote needed or upon announcement by the chairman without objection from a member of the board.
7. Evidence at the hearing.
   a. Variance. The burden of proof shall be upon the applicant to establish the standards required in Section ~~2.25.03(G)~~ of this Code for the granting of a variance.
   b. Conditional uses. The burden of proof shall be upon the applicant to establish evidence to support the granting of a conditional use. Once evidence is established supporting the granting of the conditional use, the burden of proof shifts to the staff to demonstrate by competent substantial evidence that the conditional use requested is adverse to the public interest.
   c. Administrative decision appeal. The burden of proof shall be upon the applicant to establish, by a preponderance of the evidence, an error when such applicant is appealing an administrative decision.
   d. Testimony commonly is not under oath; however, by filing the application, preparing the comments or participating in the public hearing, the applicant, staff and members of the public certify the testimony or evidence which they give or proffer is true and correct to the best of their knowledge and belief. However, the chairman, in the exercise of his or her discretion, or on a majority vote of the board, reserves the right to swear in any witness.
   e. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.

f. The members of the board, applicant, staff or public shall be free to challenge the testimony or evidence of any party presenting the same. The board shall be free to disregard testimony or evidence that it feels is without merit.
g. All evidence of a type commonly relied upon by a reasonable, prudent person in the conduct of his affairs shall be admissible, whether or not such evidence would be admissible in a trial in the courts of this state.
h. Irrelevant, immaterial or unduly repetitious evidence shall be excluded by the chairman.
i. Any member of the board may question any person presenting evidence or testimony to the board.
j. All questions or challenges to evidence shall be presented to the chairman. The chairman may, in the exercise of his discretion, allow questions directly to the person whose testimony or evidence is being challenged.
k. Any ruling by the chairman may be challenged and overturned by a majority vote of the board.

8. Motion to grant or deny.
   a. After deliberation on the application is closed, a motion may be made to grant or deny the application.
   b. The motion shall state the objective findings of fact, prescribed in Sections ~~2.25.03(B) through (J)~~, as applicable, upon which the board bases its decision.
   c. The motion shall briefly state what evidence was relied upon in making the findings of fact.
   d. The board may consult with the legal advisor to determine if any additional requirements must be met in order to grant or deny the application.
   e. The motion may contain other factors which the board considered in making its decision, such as, but not limited to: commencing construction without a permit, defective plans, etc.
   f. The motion may also contain safeguards or conditions which are required to assure conformity with the ordinances and protect the public health, safety and welfare.
   g. Pursuant to Section ~~2.25.06~~ of this Code, the motion may also contain time frames within which any activity, pursuant to a variance or special exception, are commenced and completed.
   h. The motion may also make the granting of the application contingent upon the applicant complying with certain conditions and safeguards.
   i. When the board passes a motion granting or denying the application, the result pronounces the order of the board, for the purposes of granting or denying the relief requested, and commences the time for filing an appeal to such order.
   j. When the board passes a motion denying the application, the chairman or his designee should advise the applicant of the appeal rights provided in Section ~~2.25.11~~, "Judicial review of decisions," of this Code.
   k. After the board has passed a motion which either grants or denies the application with or without conditions, and no appeal has been made, the planning and zoning secretary shall compile the motion into written form and present the order to the chairman for execution.

Section 2.12.06 Harbor and Waterways Board (HWB)

It is recommended that this section be revised to provide more broad direction for the Harbor and Waterways Board, rather than the specific powers and responsibilities that are listed currently. Additionally, remove the requirement of an annual report.

A. Composition; appointment; terms of members. The Destin Harbors and Waterways Board continues and consists of seven members who shall be appointed by the City Council. All succeeding appointments shall be for a term of four years, or until successors are appointed and qualified. All members shall reside in the City. The board membership shall include, to the extent possible, one commercial fisherman, one pleasure boat owner, one environmentalist, one sports fisherman and one layman.

B. Jurisdiction. The purpose of the board is to monitor the conditions of and impact of growth and development on the tidally influenced waters within and surrounding the City of Destin, herein referred to as the harbors and waterways of Destin.

C. Powers. The board is empowered to:
    1. Inventory all existing and potential sources of pollution and to qualify their relative contributions to the water quality of the harbors and waterways of Destin.
    2. Monitor the overall condition of the harbors and waterways of Destin including, but not limited to, water depths, water quality, dredging activities of public or private entities, violations of litter laws, sanitation requirements or other laws, ordinances, rules or regulations affecting activities in the harbors and waters of Destin and to recommend to the city manager or City Council appropriate action with respect to securing the enforcement of such laws, ordinances, rules or regulations, or the enactment of such ordinances.
    3. Recommend a current comprehensive plan for future growth development and restoration of the harbors and waterways of Destin and amendments thereto, which will upon adoption by the City Council be incorporated in the city's comprehensive plan. Review of other public and private studies and recommendations of merit by the board are encouraged.
    4. Cooperate and consult with city boards and departments, the regional planning council and water management district for planning and performance purposes.
    5. Recommend to the City Council needed actions respecting compliance with assurance programs by any governmental agency.
    6. Recommend funding programs to the City Council including, but not limited to, securing grants or other public or private application funding, soliciting donations, establishing rents and assessing fees.
    7. Recommend to the City Council the purchase, leasing or other acquisition of real or person personal property and disposal thereof.

D. Employment of experts. The board may, with the consent of the City Council, employ consulting technical experts as the need may arise.

E. Annual report to City Council's three-year program; cost estimates. The board shall submit to the City Council, during the month of August, an annual report summarizing the activities of the board for the fiscal year and recommendations made by it to the City Council during the year and the action of the City Council during the year on any and all recommendations made

by the board in that or former years. The annual report of the board shall also contain a program for improvements to the harbor plan, year by year, during the three years next ensuing, with cost estimates and recommendations as to how the costs should in the opinion of the board be met.

Section 2.12.07 Advisory Committees

A. The City Council may, from time to time, appoint advisory committees to participate in the matters subject to public meeting requirements of the local planning agency.

Section 2.12.08 Notice Procedures for Public Hearings

A. All public hearings and public meetings shall be held after 5:00 p.m. Monday through Thursday. Workshops may be held at other times deemed appropriate.

B. The planning division will advertise in a newspaper of general paid circulation, interest and readership within the city, that a public hearing or public meeting, as the case may be, will be held to consider any of the matters described in section XX above. The advertisement will include an identification of who is holding the hearing or meeting, as well as the date, time, place and general subject of the hearing or meeting and the location where copies of the proposed matter may be reviewed. The advertisement will encourage the public to provide written and/or verbal comments on the matters under consideration. Workshops may be held without advertising.

C. The first publication of notice of public hearing shall appear not less than ten days prior to the date of the hearing or meeting and the second publication of notice of public hearing shall appear not less than five days prior to the hearing or meeting. Notice of all public hearings shall also be posted on the City of Destin internet website not less than ten days prior to the hearing or meeting.

D. A notice of all such public hearings or meetings will be posted in a conspicuous place in city hall at least seven days prior to the hearing or meeting. Notice will be given to the appropriate media representatives at least 24 hours before all public hearings, public meetings and workshops. Workshops may be held without the seven-day notice.

E. A notice will be provided of any public hearing, public meeting, or workshop, to any person, group, agency or government that registers with the city to receive such notice at least 14 days prior to the hearing or meeting. The group, agency or government receiving such notice shall be responsible to notify their membership of the particulars involved.

F. The City Council may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of paragraph B. of this subsection. However, no emergency ordinance or resolution shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the actual list of permitted, conditional, or prohibited uses within a zoning category. Emergency enactment procedures for land use plans adopted pursuant to F.S. pt. II, ch. 163 shall be pursuant to that part.

G. Ordinances that amend the Comprehensive Plan, the Land Development Code, or the Official Zoning Map shall also satisfy the following additional public hearing notice requirements:

    1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than ten contiguous acres, the City shall notify by mail each real property owner whose land will be re-designated by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance

as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the first public hearing.

2. The City Council shall hold two advertised public hearings on ordinances that amend the Comprehensive Plan, the Land Development Code or the Official Zoning Map. The second public hearing shall be held at least ten days after the first public hearing.

Section 2.13 Procedures for Addressing

Section 2.13.01 Naming of Streets

This section will be revised to include a process for the renaming of streets based on the internal process created. This process and application is needed from Staff.

A. All streets and private ways in the City shall be named.
B. In new developments, the developer shall submit suggested street and private way names to the City as part of the subdivision or planned unit development application.
C. Unnamed streets or private ways shall be named by the City Council, as shown on the approved subdivision or planned unit development plan, after recommendation by the Okaloosa County Department of Public Safety.
D. Future street and private way name changes shall be accomplished by resolution of Council.
E. Consideration shall be given to commemorating local distinguished citizens, national heroes, typical fishes, animals, trees, shrubs and flowers, or based upon the subdivision or planned unit development application, or based upon a petition of the residents of such street or private way.

Section 2.13.02 System established

A. A uniform system of numbering buildings identified by the title "numbering system" shall be established and maintained on file in the planning and zoning department. The official property numbering maps maintaining the "numbering system" are hereby adopted, incorporated herein by reference, and made a part of this article. Future amendments shall be accomplished administratively by the Planning Department.

Section 2.13.03 Administration and number assignment.

A. The Planning Division~~Planning and Zoning Department~~ will be responsible for managing, coordinating and maintaining the "numbering system." Administrative procedures for assigning numbers shall include as a minimum:
    1. The owner or occupant of any building to which a number has been assigned will be notified in writing of the number assigned.
    2. Should an existing building have, exhibit or be addressed by a number in conflict with the uniform "numbering system," notice shall be given to the owner or occupant whose building is in conflict.
B. Standards. All principal buildings, docks and piers in the city shall be assigned and have their assigned numbers displayed, whether or not mail is delivered to such locations. Numbers need not be displayed on accessory buildings. Docks and piers shall be assigned the same number as the principal building, or, for vacant lots, the same number as would be assigned a

principal building if existing. Physical numbering shall conform to the following minimum standards:

1. Assigned numbers for principal buildings shall be displayed and clearly visible and legible, preferably reflective, from the street or private way on which the building fronts, with Arabic numerals not less than three inches in height and one-half inch in width.
2. Numbers must be in a color contrasting to the building or other background.
3. In the case of a principal building which has multiple entrances, the assigned number shall be displayed on each separate front entrance.
4. Any different numbers which might be mistaken for or confused with the number assigned in accordance with the "numbering system" shall be removed.
5. Assigned numbers for principal buildings which are not visible from the street or private way shall additionally be displayed at the intersection of the driveway and servicing street, and attached to a post, wall, fence or mailbox at a level to ensure visibility.
6. Assigned numbers for all docks and piers shall be displayed in such a fashion so as not to be confused with channel or other marine markers at their waterward extremity, facing away from the dock or pier. Such numbers shall be displayed in Arabic numerals not less than four inches in height and one-half inch in width, consisting of a reflective material and in a contrasting color to the background to which they are attached. Further, such numbers shall be positioned so as to be constantly between five and eight feet above the mean high-water line.

C. Building permit and certificate of occupancy restrictions. No building permit shall be issued for any principal building, dock or pier until the owner has procured the required number or numbers for the premises, building, dock or pier. No certificate of occupancy shall be issued until the owner has displayed the required number or numbers in accordance with this article.

Section 2.14 Fees

Section 2.14.01 Land Development Application Fees

Combine "Land Development Application Fees and Right-of-Way Construction Permit Fees" into one general section which establishes that fees will be assessed for all development activity review, and adopted by City Council by resolution.

A. There shall be a review fee established for the review of the following land development applications: Variances, rezoning, special exceptions, planned unit developments, major subdivisions, minor subdivisions, replat of subdivision/lot reconfigurations, major development orders, modifications for major development orders, minor development orders, modifications to minor development orders, development of regional impact, review of docks, boathouses, beach or dune walkovers, bulkheads, seawalls, landscape plans submitted separate from a development order application, appeals of administrative decisions, letters/certificates of zoning compliance, amendments to the comprehensive plan and/or the land development code and/or the Code of Ordinances as it relates to land development, requests for tabling and/or rehearing, residential (single-family or duplex) certificate of occupancy (as-built) site re-inspection, minor development order certificate of occupancy (as-built) site re-inspection, major development order certificate of occupancy (as-built) site re-inspection, review and inspection for white sands compliance, alcohol license, local business

tax, comprehensive plan/land development code written interpretation, occupational license review, and multiple consultation fees. There shall also be fees established for outside consultant cost recovery, mailing, and advertising.

B. These fees shall be established by the city council by resolution and shall be reviewed no less than annually during the budget process.

Section 2.14.02 Right-of-Way Construction Permit Fees

A. There shall be ROW construction permits fees established for all development activity within the public ROW of the City of Destin. These fees shall apply to: ROW permit processing, commercial (non-residential), residential (single or two-family lots), re-inspections (commercial and residential), and vacation of right-of-way/easements.

B. These fees shall be established by the city council by resolution and shall be reviewed no less than annually during the budget process.

Section 2.14.03 Penalties and Penalty Fees

This section will be removed as all information related to penalties will be included in the Citation Authority Chapter.

A. Any work which commences prior to securing the appropriate permit or permits shall be charged a rate double the application permit fee.

B. Any person found in violation of this article shall be punished by a fine not exceeding $500.00 or imprisoned for a term not exceeding 60 days or by both such fine and imprisonment. Each day any violation of any provision of the Code continues shall constitute a separate offense.

Section 2.14.04 Mobility Fees

This section will be a high level explanation of mobility fees, why they are collected and where in the LDC they are located.

Section 2.14.05 Impact Fees

This section, similar to mobility fees, will be a high level explanation of impact fees, why they are collected and where in the LDC they are located.

Section 2.15 Intergovernmental Coordination

This entire section will be removed, as the information is outdated, and not necessary, as there are detailed policies related to Intergovermental Coordination included in the Comprehensive Plan (Chapter 8)

Section 2.15.01 Purpose

A. The purpose of this article is to set forth regulations governing the procedures for effective intergovernmental coordination among and between the local governments of Okaloosa County and various federal and state agencies. The provisions of this article are intended to implement, inculcate and recommend procedures that will provide the respective governing bodies the information-gathering and exchange necessary to resolve conflicts that may arise

as the result of plan implementation, e.g., impacts of development on level of service (LOS) standards.

1. Okaloosa County Comprehensive Plan Committee. This committee is formed pursuant to agreement between the municipalities of Okaloosa County and the governing body of Okaloosa County. The comprehensive plan committee serves as the technical advisory committee (TAC) to the local planning agency and City Council. Its purpose is to provide a forum for data dissemination, discussion and conflict mediation at a technical level prior to decision or action by the respective governing bodies (policy 13.A.1.2).
    a. Powers of the committee are limited as follows:
        i. Adopt bylaws for the regulation of its affairs and the conduct of its business and rules pursuant to F.S. ch. 120 and concurrence of the respective local governments of Okaloosa County.
        ii. All recommendations made by the committee to the respective local governments are advisory.
    b. Composition of the comprehensive plan committee shall be as follows:
        i. Okaloosa County, the municipalities within the county and the Okaloosa County School Board shall all have two representatives on the committee. The city manager, or his designee, shall be the primary member of the committee and shall vote on any issue raised in the form of a motion for committee action. The LPA shall appoint from its membership an alternate member who shall vote only in the absence of the primary member. Persons appointed to represent the city on the committee shall be approved by the City Council and shall represent the city on this committee exclusively at the pleasure of the City Council.
    c. Meetings shall be held monthly as established by the chairman or at the special request of any of the committee members.
        i. The committee meetings shall be held in accordance with generally accepted parliamentary procedure.
    d. The committee shall have a chairman and vice-chairman who shall serve at the pleasure of the committee. The county shall provide a recording secretary. The chairman shall have the authority to appoint subcommittees and chairmen as necessary.
        i. The committee, with the concurrence of the represented governing bodies, may appoint an independent consultant to serve as chairman, or in some other technical advisory capacity. The consultant shall be qualified to monitor, advise and recommend methodologies for intergovernmental coordination and the implementation of the respective comprehensive plans. Remuneration for such a consultant shall be prorated based upon the population of each local government in Okaloosa County that is represented on the committee.

Section 2.15.02 State Agencies Coordination

A. Table 10-1 below, taken from chapter 10 of the foundation documents, provides a listing of state agencies, their functions and the city office of primary responsibility for coordination.

TABLE 10-1. STATE AGENCIES COORDINATION

Florida Agency	Function		Coordination Entities [1]
Department of Community Affairs	a.	Development of regional impact, application for development approval review.	Division of Resource Planning and Management—City Manager
	b.	Consistency of local emergency management plans with regional plans.	Division of Emergency Management—City Manager
	c.	Review of local comprehensive plans for consistency with state and regional plans (chapter 9J-5.021).	Division of Resource Planning and Management—City Manager
Department of Environmental Regulation	a.	Permitting—Water and sewer systems, dredge and fill projects, landfill operations.	Bureau of Permitting—City Manager
	b.	Monitoring.	Bureau of Water Quality Management Bureau of Waste Management and Grants
Department of Health and Rehabilitative Services	Administers state programs relating to youth services, mental health, alcohol rehabilitation, family services, public health, crippled children, community hospitals, public welfare, and aging.		City Manager, Council on Aging
Department of Natural Resources	Consistency of recreation and open space element with state outdoor recreation plan.		Division of Recreation and Parks, Office of Policy Planning—City Manager
Department of Transportation	Consistency of local government traffic circulation elements with Florida Transportation Plan.		Division of Public Transportation Operations—Board of County Commissioners, City Manager
	a.	Consistency of the port, aviation and related facilities element with the state aviation plan and funding for aviation planning.	Division of Public Transportation Operations—Board of County Commissioners
Department of State, Division of Historical Resources	Administers laws relating to historic sites and properties.		City Manager
Department of Agriculture and Consumer Services	Consumer protection.		City Manager

	a.	Inspects scales and measures.	
	b.	Analysis of petroleum products.	
	c.	Inspects and certifies milk products and citrus.	
	d.	Receives consumer complaints and provides consumer information.	
Game and Freshwater Fish Commission	Consistency of recreation and open space element with state outdoor recreation plan.		City Manager
	a.	Administers Florida Boating Improvement Program.	City Manager
	b.	Lake and pond renovation assistance.	
	c.	Recreation grants (boat ramps, piers).	
Northwest Florida Water Management District	Permits and controls potable water wells.		City Manager
Okaloosa Soil and Water Conservation District	Supervises, develops and conserves natural resources.		County Agent/City Manager
	a.	Advises on land development proposals.	
	b.	Interacts with local governments as nonvoting member of the comprehensive plan committee.	

[1] The office with primary responsibility for coordination is listed in the last column.

Section 2.15.03 Other Coordination Agencies

A. Other agencies which require frequent coordination are listed in chapter 10, foundation documents.

Please supply a copy of the Foundation Documents, referenced throughout the LDC.