



**AGENDA
LOCAL PLANNING AGENCY
THURSDAY, JULY 6, 2023
5:30 PM
ANNEX COUNCIL CHAMBERS**

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MINUTES**
- 4. NEW BUSINESS**
 - A. Discussion/Recommendation of draft Land Development Code language of the new Article 1 – General Provisions/Legal, Article 2 – Administration & Article 3 - Nonconformities.**
- 5. PUBLIC COMMENTS** (Comments from the public on any matters considered at the meeting, or on any matters not on the agenda)
- 6. DIRECTOR'S REPORT**
- 7. NEXT MEETING DATE: July 20, 2023**

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)

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: July 6, 2023
BOARD/COMMITTEE: Local Planning Agency
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 4.A.

TO: Local Planning Agency

THRU: Lance Johnson, City Manager

FROM: Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney
Steve O'Connor, Principal Planner

DATE: June 23, 2023

SUBJECT: Discussion/Recommendation of draft Land Development Code language of the new Article 1 – General Provisions/Legal, Article 2 – Administration & Article 3 - Nonconformities.

I. BACKGROUND: Over the last several years, the City diligently updated and aligned the City's Comprehensive Plan with the Future Land Use Map and the Zoning Map. The next step is the update and alignment of 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 move forward diligently and systematically with the drafting of the new LDC. The discussion tonight seeks input and direction from the LPA on the language of the three (3) draft Articles. Staff intends to incorporate LPA input and bring these Articles back to the City Council for formal adoption.

II. DISCUSSION: Drafts of *Article 1 – General Provisions/Legal* and *Article 2 – Administration* have now been posted for public review since March 6, 2023, for a total of 45 days. Anyone from the public, including members of the LPA may access the digital drafts at the link here <https://www.cityofdestin.com/688/LDC-Rewrite>. The Draft Articles will remain available to the public through the entire public process, however long that takes. Staff will engage the appropriate boards for input after the thirty (30) days with the LPA being the last for a final recommendation to City Council. Based upon any action taken by the LPA and City Council, Staff will update the drafts accordingly.

The drafts have gone through several review iterations with Community Development Staff, several other Departments and the City's Land Use Attorney. Review criteria was based on the new LDC's purpose and intent, feedback from the LPA and other boards or committees, and for compliance with the City's adopted Comprehensive Plan and State Statutes. Below is a brief synopsis of what to expect from the draft language of Articles 1 & 2.

Article 1 – General Provisions/Legal establishes the City of Destin's authority to develop and enforce the LDC among other Statutory powers and legal requirements. This article has been updated and the Vesting of projects language has been moved. That said, this article has not gone through any substantial changes. However, Vested Rights have been added to this Article to provide clarity and ease of reference.

Article 2 – Administration has been reorganized, updated, and consolidates all application or procedural review processes into one single article. It combines all of current Article 2, elements of Articles 4 & 18, and other randomly located processes and procedures from the existing LDC. The draft of this Article is drastically different from the existing code. First, it flows from enforcement responsibilities, the explanation of how to determine what each application is, to how it is processed, and then established the roles and responsibilities of each Board and Committee. The end of the Article establishes the Mobility and Impact Fees as required by State Statutes. The major additions or changes are as follows:

1. Complete overhaul of the organization, to include an Article 2 **User's Guide Chart**
2. New **Annexation Process Procedures**
3. A comprehensive **Planned Unit Development (PUD)** process and procedure which includes clear regulations as to what can be a PUD, Community Benefit requirements, and what a development must do if utilizing the PUD process.

The purpose of tonight's discussion is to gather the LPA's specific guidance and feedback after reviewing the draft language. Staff wants to know if the LPA agrees that the draft is meeting the goal, purpose, and intent of the LDC Rewrite, and if the current issues known to the LPA have been addressed in the rewrite. The Goals and Purpose of the LDC Rewrite are listed below for reference.

1. Align the LDC with the policies of the Comprehensive Plan, the Future Land Use Map and Zoning Map
2. Implement the City's Comprehensive Plan development policies.
3. Enhance the livability elements of the City's Planning Areas
4. Facilitate the development of Sound Infrastructure, Livable Neighborhoods, and Vibrant Economic Development
5. Create a simple, easy to read and navigate Land Development Code for all users.

At the May 18, 2023 LPA meeting, several changes were requested and those are reflected in the updated Final Draft of Article 2. These changes have been underlined and highlighted and a list of the changes is below.

1. Page 8 - **Section 2.02.04: Staff Reports** (This section was added to address the

LPA's request for Public Noticing requirements to be added to all Staff Reports).

2. Page 9/10 - ***Section 2.02.06.A.4.b***
3. Page 17 - ***Section 2.03.03.C.1.e.1.***
4. Page 47 - ***Section 2.09.01.A.2.a.1.(i)***
5. Page 57 - ***Section 2.12.01.E.2.c.***
6. Page 70 - ***Section 2.16.02.D.***

Article 3 – Nonconformities has been reorganized and put into its own article from the ***Current Article 7, Section 13.*** The format and organization have significantly changed, and the language updated to be more readily readable providing clarity for all users. There was one new addition to the Nonconformities that does not exist currently: ***Section 3.05 - Legal Nonconforming Site Elements.*** This is a new section created to correct the noncompliance of sites that were developed long before stormwater, access, or other site elements that exist in today LDC.

- A. Link to Strategic Goals / Objectives:** #2. Enhanced quality of life and safety for families
#3. Economic development and revitalization
#4. Effective, efficient, and aesthetically pleasing infrastructure
#5. Improve mobility and connectivity
#6. A green and sustainable environment
- B. Effect on Budget (EOB):** N/A
- C. Level of Service (LOS):** N/A
- D. Legislative Sponsor:**

III. CONCLUSION: Staff is seeking feedback and recommendation to the City Council regarding ***Articles 1 – General Provisions/Legal and Article 2 – Administration, and Article 3 – Nonconformities.***

IV. RECOMMENDED MOTION: I move that the LPA recommend approval of LDC draft ***Article 1 – General Provisions/Legal, Article 2 – Administration, and Article 3 – Nonconformities*** to the City Council.

ALTERNATIVE MOTIONS:

I move that the LPA recommend approval of LDC draft ***Article 1 – General Provisions/Legal, Article 2 – Administration, and Article 3 – Nonconformities*** to the City Council, with the changes discussed.

I move that the LPA recommend tabling the LPA's recommendation until Staff provides updated drafts based on the changes discussed for the LDC draft ***Article 1 – General Provisions/Legal, Article 2 – Administration, and Article 3 – Nonconformities.***

I move that the LPA recommend denial of LDC draft ***Article 1 – General Provisions/Legal, Article 2 – Administration, and Article 3 – Nonconformities*** to the City Council

Attachments:

1. Article 1 - General Provisions-Legal -

FINAL DRAFT 03.01.23

2. Article 2 - Administration - FINAL
DRAFT 06.23.23
3. Article 3 - Nonconformities FINAL
DRAFT 04.17.23

ARTICLE 1 - GENERAL PROVISIONS/LEGAL

SECTION 1.01 CONSISTENCY WITH STATE LAW

The Florida Legislature has enacted the "Community Planning Act," (section 163.3161, Fla. Stat., et seq.), which mandates that cities and counties adopt comprehensive plans and land development regulations to guide and manage future development.

The City Council of the City of Destin adopted a Comprehensive Plan pursuant to State law, which plan has been amended from time to time in accordance with State law.

The City Council of the City of Destin adopted land development regulations, as required by State law to implement the comprehensive plan.

Section 163.3194(1)(b), Fla. Stat. 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 regulations.

The City Council of the City of Destin, determined that the adopted land development regulations contained within this Code are necessary to protect the public health, safety, general welfare, natural environment and economic vitality of the city.

The code (LDC) is developed pursuant to Chapter 163, Florida Statutes, and are consistent with the City's Comprehensive Plan, the City Charter and the general powers provided local government in Chapter 166, Florida Statutes.

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" and cited as such.

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. All development undertaken, and all actions taken in regard to development orders must be consistent with the City's adopted Comprehensive Plan and these land development regulations. Provided these regulations remain consistent with the City's Comprehensive Plan, these regulations take precedence over any other ordinance, resolution or procedure

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affecting land use and no development may be undertaken without prior authorization pursuant to this Code.

SECTION 1.05.01 EXCEPTION FOR VESTED RIGHTS

- A. Presumptive Vested Rights Permit: Possession by a property owner of a valid unexpired final plat or final engineering plans approved by the city shall presumptively vest the development approved if:
 - 1. Such plat or plans were approved prior to the plan adoption date; and
 - 2. Physical development pursuant to the plat or plans has commenced and is continuing in good faith.
 - 3. Verification of the above requirements shall be made by the City Council and a written statement of verification shall be included in a written order approved by the City Council and signed by the Mayor, if it approves a presumptive vested rights special use permit in reliance thereon.
- B. Common law vested rights.
 - 1. Applicants who do not qualify for a presumptive vested rights special use permit shall be entitled to a common law vested rights special use permit if they can prove the following:
 - a. Prior to the plan adoption date, there was a valid, unexpired act or omission of a government agency upon which the applicant relied; and
 - b. The applicant's reliance was reasonable and in good faith; and
 - c. The applicant, in reliance upon the valid, unexpired act of government, has made a substantial change in position or has incurred extensive obligations or expenses; and
 - d. It would be inequitable, unjust or fundamentally unfair to destroy the rights acquired by the applicant by means of the government's act or omission.
 - 2. The purchase of property in reliance on then existing zoning, without more, shall not vest the purchaser's right to develop in accordance with said zoning.
 - 3. The following are not considered development expenditures or obligations in and of themselves, without more, unless the applicant was unable to obtain further approvals because of extraordinary delays beyond the applicant's control.
 - a. Expenditures for legal and other professional services that are not related to the design or construction of improvements;
 - b. Taxes paid;
 - c. Expenditures for initial acquisition of the land.

SECTION 1.06. GENERAL PENALTY; CONTINUING VIOLATIONS; VIOLATION AS PUBLIC NUISANCE; ATTORNEYS' FEES AND COSTS

- A. Whenever in this code, or in any ordinance or resolution of the city, or rule, regulation or order promulgated by any officer or agency of the city under authority duly vested in him of it, any act is prohibited or is declared to be unlawful, or the doing of any act is required or the failure to do any act is declared unlawful, and no specific penalty is provided for the violation thereof, the violation of any such provision of this code or any such ordinance, resolution, rule, regulation or order shall be punished by a fine of not more than five hundred dollars (\$500.00). Each day any violation of any of the provisions of this code or any such ordinance, resolution, rule, regulation or order shall continue, and shall constitute a separate offense.
- B. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance, resolution, rule, regulation or

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order shall be deemed a public nuisance and may be abated by the city as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

- C. In addition to and supplemental to any other provision of this Code, the city shall be entitled, as a prevailing party, to recover reasonable attorneys' fees and costs incurred in any legal proceeding brought by the city to enforce any provision of this Code through all appellate proceedings.

SECTION 1.07 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. Nothing in this section shall be construed to authorize development that is inconsistent with the City's Comprehensive Plan.

SECTION 1.08 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 1.09 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.

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ARTICLE II - ADMINISTRATION

SECTION 2.01 GENERAL ADMINISTRATION

SECTION 2.01.01 ADMINISTRATOR

- A. The City Manager or their designee shall administer and enforce this Code.
- B. All questions of interpretation and enforcement shall be presented to the City Manager or their designee first, and any questions of interpretations of the City Manager or their designee can be appealed to the Board of Adjustment.
- C. The City Manager or designee shall have the authority to reject materials or suspend work when not in conformity with approved plans and specifications

SECTION 2.01.02. PURPOSE AND INTENT

This Code was enacted to provide a consolidated reference source for land development regulations of the City of Destin. It implements those policies mandated by the Florida Statutes related to development and the City's policies outlined in the Comprehensive Plan. Therefore, where a conflict exists between this Code and existing ordinances, the Land Development Code (this Code or LDC) shall take precedence. The LDC and the supplemental City of Destin Design Manual (Design Manual) establish site design criteria and provide review procedures for development projects and permit applications required for development. Procedures to appeal decisions are also provided.

SECTION 2.02. GENERAL ADMINISTRATION PROCEDURES

SECTION 2.02.01 AUTHORIZATION FOR DEVELOPMENT PERMITS AND ORDERS

- A. All development activity requires a final development order.
- B. Development activity can be authorized through a Development Permit or Development order if the proposed development:
 - 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 for stormwater, sewage, water, streets, traffic and other engineering concerns as may be adopted by the City of Destin; and
 - 4. Conforms to the City of Destin Design Manual.
- C. Any development that requires a Minor Subdivision or Major Subdivision shall complete the Final Plat before submitting any application for construction or permitting.

SECTION 2.02.02 SUBMITTALS

- A. Applications for development review shall be available through the Community Development Department.
- B. A completed application shall be signed by all owners, or their agent, of the property subject to the proposed development plan.
 - 1. Signatures by other parties will be accepted with notarized proof of authorization by the owners.
 - 2. In the case of corporate ownership, the authorized signature shall be accompanied by a letter showing proof of the authorized individual role or office in the corporation on the corporate letterhead.
- C. All preliminary and final development plans submitted shall conform to the standards outlined in the City of Destin's Development and Subdivision checklists in the Design Manual and submitted electronically.

SECTION 2.02.03 NOTICE

A. Written notice:

1. Written notice shall be provided to owners of property within 300 feet, or as specifically identified below, for land subject to development related applications that must be considered and approved by the:
 - a. Board of Adjustment,
 - b. Local Planning Agency,
 - c. Harbor and Waterways Board
 1. Written notice with Certified mail shall be provided to:
 - (i) Adjacent property owners
 - (ii) Owners of property on the opposing shore for water bodies less than 100 feet in width
 - d. City Council
 - e. City Manager or designee
 - f. Community Development Director
2. The written notice shall include, at a minimum, the following:
 - a. The name of the owner of the property,
 - b. The name of the authorized agent (if applicable),
 - c. The address of the subject property or tax parcel identification number if an address has not been issued for the property,
 - d. Project description,
 - e. Location map of the subject property, and
 - f. A statement informing the public of the location where the proposed application package can be viewed, unless otherwise provided in Florida Statutes.
3. 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. Sign notice posted on property:

1. All applications which require a public hearing, or involve the development of land shall post a sign on the subject property with the following exceptions:
 - a. Development Order Exemption
 - b. Simple Development Order or Deviation
 - c. Lot Split
 - d. Change of Use
 - e. Code Text Amendment
2. The sign shall meet the following requirements:
 - a. The placement on the subject property shall be a maximum of five feet from the adjacent right-of-way, and clearly visible and legible from the right-of-way.
 - b. The minimum size of the sign shall be 24 inches by 36 inches.
 - c. The sign shall clearly indicate the following:
 1. Project Name or Number
 2. Applicant's or Agent's name
 3. Emergency contact phone number of the responsible party for said development site who is available 24 hours a day, seven days a week
3. The sign must remain on-site until final approval and shall be removed within five days of approval.

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4. A sign for Commercial, Industrial, or Multi-family developments shall be posted prior to construction until a Certificate of Occupancy or Certificate of Completion is issued and shall be removed within five days of issuance.
 - a. This sign shall meet the requirements listed above in [Section 2.02.03.B.2.](#)
- C. Notice Procedures for Public Hearings
 1. All public hearings and public meetings shall be held at regularly scheduled time and day, as indicated by the City.
 2. Workshops may be held at other times deemed appropriate.
 - a. Workshops may be held without advertising
 3. All public hearings require a published advertisement in a newspaper of general paid circulation, interest and readership within the city.
 - a. The advertisement will include;
 1. An identification of who is holding the hearing or meeting;
 2. The date, time, and place;
 3. General subject of the hearing or meeting;
 4. The location where copies of the proposed matter may be reviewed; and
 5. The advertisement will encourage the public to provide written and/or verbal comments on the matters under consideration.
 - b. The first published notice of public hearing or meeting shall appear ten (10) to twenty-one (21) days prior to the date of the hearing or meeting.
 - c. The second published notice of public hearing shall appear five (5) to eight (8) days prior to the hearing or meeting.
 4. Notice of all public hearings shall also be posted on the City of Destin website not less than ten days prior to the hearing or meeting.
 5. All noticed public hearings or meetings will be posted in a conspicuous place in city hall at least seven days prior to the hearing or meeting.
 6. Notice will be given to the appropriate media representatives at least twenty-four (24) hours before all public hearings, public meetings and workshops.
 - a. Workshops may be held without the seven-day notice.
 7. A ten (10) day advance notice must be provided to any person, group, agency, or government that registers to receive notices for any public hearing or meeting, or workshop.
 - a. The group, agency, or government receiving the advanced notice is responsible for notifying their members of the particulars involved.
 8. The City Council may, by a two-thirds vote, enact an emergency ordinance without complying with the requirements of [Section 2.02.03.C.](#)
 - a. Emergency enactment procedures for land use plans adopted shall be pursuant to F.S. pt. II, ch. 163.
 - b. Exceptions: No emergency ordinance or resolution shall be enacted that;
 1. Establishes or amends any Future Land Use or Zoning map designation of a parcel or parcels of land, or;
 2. Changes the permitted, conditional, or prohibited uses within a zoning district.
 9. Comprehensive Plan, Land Development Code, or the Official Zoning Map amendments require the following additional notice requirements:
 - a. The notice shall be sent at least 30 days prior to the first public hearing state;
 1. The substance of the proposed ordinance as it affects that property owner; and
 2. The time and place for one or more public hearings on such ordinance.

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- b. Ordinances involving a parcel or parcels of land less than ten contiguous acres;
 - 1. The City shall mail a notice to all real property owners whose land will be re-designated by enactment of the ordinance, and;
 - (i) The latest ad valorem tax records will be utilized for mailing addresses of affected property owners.
- c. Ordinances involving a parcel or parcels of land greater than ten contiguous acres,
 - 1. The City Council shall hold two advertised public hearings on the proposed ordinances.
 - 2. The second public hearing shall be held at least ten days after the first public hearing.

SECTION 2.02.04 STAFF REPORTS

- A. All applications and process regulated by this Article that must be reviewed by a City Committee, Board, or City Council shall have a Staff Report developed for consideration.
- B. The Staff report shall be prepared by Community Development Department Staff.
- C. The Staff Report shall include but is not limited to the following, if applicable;
 - 1. Characteristics of the site and surrounding area;
 - a. Important natural and manmade features,
 - b. The size and accessibility of the site and
 - c. Surrounding land uses
 - 2. Impact on level of service standards (LOS).
 - 3. The nature of the proposed development;
 - a. land use types
 - b. Density or intensity
 - c. Placement of proposed buildings, improvements, and impervious ground cover on the site
 - d. Location, type, and method of maintenance of open space and public use areas, if any
 - e. Preservation of natural features or protection of sensitive lands, if any;
 - f. Proposed parking areas and internal traffic circulation
 - g. Stormwater management, and
 - h. Water and sewage distribution, collection, and treatment systems.
 - 4. Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.
 - 5. Other applicable factors, rules, regulations or criteria prescribed by the Comprehensive Plan, this Code or other law.
 - 6. Proper Public Noticing compliance shall be addressed.

SECTION 2.02.05 WITHDRAWAL OF APPLICATIONS

- A. An application for development approval may be withdrawn at any time by the applicant or their representative.
- B. The City may declare an application withdrawn if resubmittal of materials is not received within thirty (30) calendar days from receipt of comments from the City.
 - 1. The City shall notify the applicant seven (7) calendar days before an application is declared withdrawn.
 - 2. An extension may be requested by the applicant for up to thirty (30) calendar days.
 - a. No more than two (2) extensions, for a maximum of sixty (60) calendar days, may be requested by the applicant during the application review process.

- b. An extension request shall be submitted no later than seven (7) days prior to submittal deadline.
- C. The withdrawal of any application for development review will result in the application losing its position in the Community Development Department's plan review queue.
- D. To restart review of a withdrawn application, the applicant must submit a new application with all required materials and repayment of all application or other required review fees.
- E. Any requested and approved extension extends any decision deadline requirement by the number of days the extension is approved for.

SECTION 2.02.06 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 that:
 - a. Request approval of Final Plat prior to construction of infrastructure.
 - b. Provide roadway, street, multi-modal or pedestrian corridor as identified as a need by the City.
 - c. Provide or modify Public or Private Right of way for Single-family or multi-family subdivisions.
 - d. 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.
 - e. 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. The approval of any development plan shall be subject to the developer providing assurance that all required improvements shall be satisfactorily constructed according to the approved development plan, including, but not limited to;
 - a. Storm drainage facilities,
 - b. Streets and highways accessways,
 - c. Water and sewer lines,
 - d. Streetlights,
 - e. Signage,
 - f. Striping,
 - g. Parking facilities,
 - h. Sidewalks,
 - i. Open space and recreation facilities.
 - 3. 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 projected total cost, to include materials and labor, for each improvement proposed, prepared and provided by a Florida-registered Professional Engineer (signed, sealed, and dated).
 - 1. Separate projected costs for:
 - (i) On-site, common area, or private infrastructure elements
 - (ii) New Private ROW improvements required

- (iii) New Public ROW or off-site infrastructure elements required
 - (iv) Existing Public ROW or off-site improvement required
 - c. The term of the agreement indicating that all required improvements shall be satisfactorily constructed within the period stipulated.
 - 1. The term shall not exceed the timelines identified in the Development Order.
 - (i) If the Development Order expires;
 - (a) The security/surety for on-site private improvements shall be released back to the developer
 - (b) The security/surety identified for critical or existing public infrastructure will be retained by the City and shall be used to construct such infrastructure
 - 2. If the applicant fails to construct required improvements according to the schedule for constructing improvements, the city shall utilize the security/surety provided in connection with the agreement.
 - d. All developers upon application shall sign an agreement to indemnify and hold harmless the City, its officers, employees, and agents who perform improvements not fulfilled by the developer or owner as identified in security/surety documents.
 - e. 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.
 - f. 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.
4. Amount and type of security/surety:
- a. The City Manager or designee, shall be responsible for determining the adequacy of the security/surety proposed to be provided by the developer.
 - b. Contingency: All securities/sureties shall be in the amount of no less than 125% of the cost of construction.
 - 1. The City Manager, at the recommendation from the Community Development Director or designee, may require a higher contingency amount for any security/surety.
 - c. 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.
 - d. Security/Surety requirements may be met but are not limited to the following:
 - 1. Deposit in the form of Cash, Certified Check, Cashier's Check, Money Order (required for Certificate of Occupancy) or online payment.
 - 2. Irrevocable letter(s) of credit.
 - 3. Performance or surety (insurance) bond(s) issued by insurance companies licensed to do business in the State of Florida
 - e. Upon approval of the City Manager or designee, the amount of security/surety may be reduced, not more than once during the term of the improvements, with the completion and final acceptance of required improvements.

1. In no case, shall the amount of the security/surety be reduced to less than the designated minimum, or not reduced less than 25%, necessary for completing the remaining required improvements.
2. The following conditions shall apply to the posting of any security/surety
 - (i) Administrative fee can be found in accordance with the latest adopted Fee Resolution and shall be assessed and paid at the time of application and post of security/surety. The Administrative fee does not include any inspection fees.
 - (ii) A ten percent (10%) Security/surety handling fee will be added to any security/surety in accordance with the adopted and amended Fee Resolution.
 - (a) The handling fee shall be paid prior to reduction or release of said security/surety
- f. Security/surety documents must reflect:
 1. The names of the subdivision or development
 2. The developer and developer's authorized agents
- g. Security/surety shall be provided prior to the issuance of the final development order
5. Inspection of improvements:
 - a. The City Engineer or designee shall be given 48-hour advance notification of scheduled inspections.
 1. If an inspection is requested within 24 hours, that inspection shall be triple the usual inspection fee.
 - b. Inspection of the following phases of construction may be conducted by the City Engineer or designee. These phases shall be inspected and certified by the developer's engineer:
 1. Subgrade or stabilized subgrade
 2. Curbs and concrete work
 3. Roadway base
 4. Surface course
 5. Drainage structures and systems
 - c. The developer's engineer shall provide certification(s) that all infrastructure was constructed in accordance with the approved development plan.
 1. Testing documentation shall be provided to the City Engineer or designee, along with copies of Florida Department of Environmental Protection (FDEP) certification(s).
 2. Inspection by the developer's engineer will not preclude the City Engineer or designee from inspecting any and all aspects of construction.
 - d. The City Engineer or designee shall have the authority to reject materials or suspend work when not in conformity with approved plans and specifications.
6. Procedures for acceptance by the City:
 - a. Preliminary acceptance of physical improvements is subject to:
 1. Within two weeks prior to presentation to City Council for preliminary acceptance, the City Engineer or designee shall:
 - (i) 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.
 2. The developer has posted the required security/surety in an amount equal to 25 percent of the construction cost of the improvements to ensure maintenance for a period of one year from the date of preliminary acceptance by the City Council.

3. The security/surety provided for the installation of physical improvements as specified in this Section shall not expire until the installation of physical improvements has been permanently accepted by the City.
 - (i) Responsibility of acquiring permanent acceptance shall be the developer's.
- b. Infrastructure will only be permanently accepted into the city's maintenance program once all identified defects are corrected by the developer.
 1. The developer shall have sixty (60) calendar days from notification of deficiencies by the City Engineer or designee.
 2. Failure to make required corrections specified by the City Engineer shall result in a forfeiture of securities/sureties.
 3. Responsibility for acquiring permanent acceptance shall be the developer's
7. 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:
 1. Roads or streets
 2. Stormwater drainage
 3. Sidewalks, pedestrian tracks or pathways
 4. Streetlights
 5. Open space and recreation areas
 6. traffic control devices on private property
 7. Handrails
 8. Permanent striping
 - b. There shall be a minimum maintenance period of one year.
 - c. The maintenance period shall begin with the preliminary acceptance by the City Council of construction of the improvements.
 - d. During the maintenance period, the developer shall schedule bi-annual inspections to be done jointly by the City Engineer or designee and a representative of the developer.
 1. These inspections shall be scheduled at mid-year and thirty (30) days prior to permanent acceptance by the City Council.
 - e. The City Engineer or designee shall advise the developer, in writing, of any corrective measures to be made during the maintenance period.
 1. It shall be the developer's responsibility to make required corrections prior to the release of the maintenance security/surety.
 - f. 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.
 1. 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.
 2. When no condominium is to be organized under Chapter 719, F.S., an owner's association shall be created, and all common facilities and properties shall be conveyed to that association.
 - (i) When a development requires an owner's association a recorded copy of the documents must be provided to the City before preliminary acceptance.

3. The developer shall submit a proposed infrastructure maintenance plan and budget.
The proposed budget must be submitted for review by the City Engineer or designee.
- g. 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.
 1. Such covenant shall be included with the request for final plat.
 2. 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.
- B. Future improvement payment (fee in-lieu of):
 - a. The provisions of this Section apply to all proposed developments in the City or adjacent to public rights-of-way when improvements cannot be installed or constructed, due to circumstances outside of the City or the developer's immediate control, within a:
 1. Public right of way
 2. Easement
 3. City owned property within the City
 4. 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.
 - b. 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.
 - c. 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.
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 will be constructed according to the approved development plan at an undisclosed later date by the City, including, but not limited to:
 - a. Roads or streets
 - b. Stormwater drainage
 - c. Sidewalks, pedestrian tracks or pathways
 - d. Streetlights
 - e. Open space and recreation areas
 - f. Signage other than traffic control,
 - g. Handrails
 - h. Permanent striping
3. The developer shall provide the projected total cost for each improvement:
4. Cost for construction shall be proposed by a signed and sealed and dated estimate prepared and provided by the developer's Florida Professional Engineer.
 - a. The amount and type of payment provided to assure construction.
5. Amount and type of future improvement payment:
 - a. The City Manager, or 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:
 1. Certified check

2. Cashier's check
3. Money order
4. Cash; or
5. Online payment
- 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 which can be found in accordance with the latest adopted Fee Resolution.
6. Future improvement payment shall be made prior to the issuance of a development order for commercial projects or a building permit for residential projects.
7. Future improvement payment: At such time that the improvements can be constructed within the public right-of-way, easement, or city-owned property:
 - a. The City shall construct such improvements and use the future improvement payment to pay for the costs of the improvements.
 - b. After completion of the improvements, any unused portion of the future improvement payment shall be returned to developer.
 - c. If the future improvement payment is not sufficient to pay for the improvements, developer shall pay any shortfall to the city.

SECTION 2.03. USER'S GUIDE

SECTION 2.03.01. DEVELOPMENT PROJECT TYPE CLASSIFICATION TABLE

- A. The classification of development project types depends on multiple factors including, but are not limited to, the scope, history, location, and community interest in the project.
- B. **Table 2-1 Project Type Classification Table** directs the user to the criteria and procedures for the applicable section of the Land Development Code for the proposed project.
 1. Final project classification type will be determined by the City Manager, the Community Development Director, or their designee after a preliminary review of the project.
- C. The regulations in this code include the criteria established for a project to be classified as a specific Development Project type.
- D. Development in the City falls into two primary categories: Land Division and Land Development.
- E. A Development Order is an order granting, denying, or granting with conditions an application for approval of development.
 1. Development Orders are generally required for all new development, substantive and substantial changes, or additions and deviations to an existing development.

Table 2-1 Project Type Classification Table			
Map and Code Amendments			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Zoning Map Amendment	N/A	2.06.02	City Council
Future Land Use Map Amendment	N/A	2.06.02	City Council
LDC Text Amendment	N/A	2.06.02	City Council
Miscellaneous Projects			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Annexation	N/A	2.06.03	City Council

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Land Division			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Lot Split	N/A	2.04.01, 2.06.04;	Community Development Director
Minor Replat	N/A	2.04.02, 2.06.05	City Manager or designee
Minor Subdivision	N/A	2.04.03, 2.06.05	City Manager or designee
Major Subdivision	N/A	2.04.04, 2.06.06	City Council
ROW or Easement Vacation	N/A	2.04.05, 2.06.07	City Council
Land Development			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Simple Development Order	No	2.05.01, 2.06.09	Community Development Director
Minor Development Order	No	2.05.02, 2.06.10	Community Development Director
Major Development Order	No	2.05.03, 2.06.11	City Council
Technical Deviation	Yes	2.05.04.A	Community Development Director
Simple Deviation	Yes	2.05.04.B, 2.06.09	Community Development Director
Minor Deviation	Yes	2.05.04.C, 2.06.10	Community Development Director
Major Deviation	Yes	2.05.04.D, 2.06.11	City Council
Development Agreements	No	2.06.12	City Council
Planned Unit Development	No	2.07	City Council
Use Requests			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Conditional Use	N/A	2.09.01	City Council
Conditional Use/Certificate of Appropriateness	N/A	2.09.01; 2.09.02; 2.09.03	City Council
Change of Use	N/A	2.10.02	City Staff
Special Construction Permits			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Marine Construction / Harbor and Waterways Board	N/A	2.08	Chief Building Official or City Council depending on scope of project
Right-of-Way Construction	N/A	2.12	Community Development Director
Board of Adjustment			
Project Classification	Prior DO Issued for project	Project Details	Final Approval Authority
Administrative Appeal	N/A	2.11.01	Board of Adjustment
Variance	N/A	2.11.02	Board of Adjustment
Marina Citing Exception	N/A	2.11.03	Board of Adjustment

SECTION 2.03.02 DEVELOPMENT ORDERS:

- A. No property shall have more than one development order application under review by the City at any one time.

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- B. Provided the development plan meets or exceeds all applicable requirements of the Land Development Code, City Comprehensive Plan, and City Ordinances the City shall;
1. Issue a development order to the developer within ten (10) business days from the approval date of said development order application.
 - a. An approved development order is required prior to the city's issuance of any construction permit(s). The development order is not a construction permit.
 - b. A development order shall include, but is not limited to, the following if applicable:
 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 certificate of occupancy.
 3. If modifications to the development plan are required, the development order shall not be issued prior to such modified plan is submitted and approved by the city.
 4. Notification that development shall commence within a 12-month period and continue until completion in accordance with terms and conditions of approval.
 5. A phasing plan and schedule of construction 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. Any guarantees or sureties required for public improvements required as a result of the anticipated impact of the development or as required by regulations in this Code or other law.
 9. Such other conditions as may be required to assure compliance with this Code, the comprehensive plan or other law.
 10. Characteristics of the site and surrounding area;
 - (i) Important natural and manmade features,
 - (ii) The size and accessibility of the site and
 - (iii) Surrounding land uses.
 11. Impact on requirements for level of service standards (LOS).
 - (i) The nature of the proposed development;
 - (ii) land use types
 - (iii) Density or intensity
 - (iv) Placement of proposed buildings, improvements, and impervious ground cover on the site
 - (v) Location, type, and method of maintenance of open space and public use areas, if any
 - (vi) Preservation of natural features or protection of sensitive lands, if any;
 - (vii) Proposed parking areas and internal traffic circulation
 - (viii) Stormwater management, and
 - (ix) Water and sewage distribution, collection, and treatment systems.
 12. Conformity of the proposed development with the Comprehensive Plan, this Code and other applicable regulations.
 13. Other applicable factors, rules, regulations or criteria prescribed by the Comprehensive Plan, this Code or other law.

C. Exemptions from Development Orders:

1. A construction permit may be issued without a development order if any of the following conditions apply:
 - a. 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
 - b. The construction or alteration of one attached or detached single family dwelling
 - c. The resurfacing with the same material of a vehicle use area that conforms to all requirements of this Code
 - d. The land, parcel or property of the proposed project is subject to a minor replat or lot split granted pursuant to procedures in **Section 2.06** of this Article
 - e. Determination by the Community Development Director or designee
 1. A Director or designee determination shall not conflict with any requirement or provision of this Article or the Comprehensive plan.

D. Final Development Orders:

1. A final development order is valid for a period of one year from the date of issuance.
2. A building permit must be issued for either the construction of infrastructure or construction of the entire project.
3. Construction must commence within six (6) months after issuance of building or construction permit.
4. If a building permit is not issued within one year from the date of issuance of the final development order then the development order becomes null and void.
5. If construction activity ceases for a period of one-hundred and eighty (180) days after 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.

E. Development Order Extension:

1. The applicant may request one extension to a development order, not to exceed 12 months from the date of original expiration.
2. An applicant shall submit an application for extension no less than forty-five (45) calendar days of expiration of the original Development order.
3. The application shall include;
 - a. Proof of ownership and agent affidavit (if applicable),
 - b. A narrative describing why development has not commenced
4. Once an application is received, it will be forwarded to the Community Development Director for a final determination.
5. The fee for an extension is half (1/2) the cost of the original application.

F. An approved Development Order or construction permit must be issued prior to or in conjunction with a clearing permit before clearing of land. It is the intent of this paragraph to prohibit any clearing, grading, or demolition of land or structures without first having an approved development with a corresponding approved site plan conforming to all applicable City regulations and this Code.

1. A clearing Permit can only be issued if in conjunction with a building permit or construction permit.
2. If the building permit or construction permit becomes null and void so does the clearing, grading, or demolition permit.

3. If a clearing permit is issued and the lot, land, or parcel is cleared, but no construction occurs within one (1) month of completion of clearing, grading, or demolition, the site shall comply with (Section XX.XX.XX – Stormwater management Plan) and stabilized with:
 - a. Sod
 - b. Hydroseeding
 - c. Or other City Engineer approved alternative

SECTION 2.04. LAND DIVISION PROJECT TYPES

The following project types involve rearranging established lot lines or dividing or land into two or more parcels. Any development that requires a Minor Subdivision or Major Subdivision shall complete the Final Plat before submitting any application for construction or permitting.

SECTION 2.04.01 LOT SPLIT:

- A. A lot split is the division of a tract of land or lot that results in either;
 1. a lot line adjustment between two platted lots or tracts of land; or
 2. the creation of exactly one (1) additional lot or tract of land provided the following conditions are met:
 - a. The tract of land or lot to be split is platted or has a legal description of record; and
 - b. Each lot or tract of land proposed;
 1. abuts a public or approved private street; or
 2. a recorded perpetual cross-access easements exist on the lot to be split; or
 3. if necessary, a recorded perpetual cross-access easements is created by the lot split and is clearly shown on the recorded lot split.
 - c. The lot split shall meet all relevant zoning criteria established in this code.

Figure 2-1: Lot Split - One additional lot example

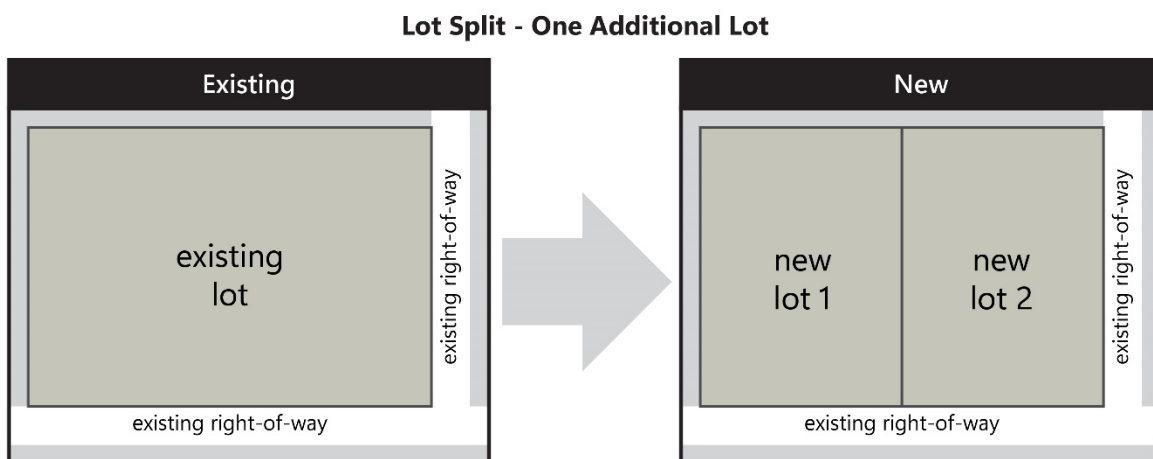
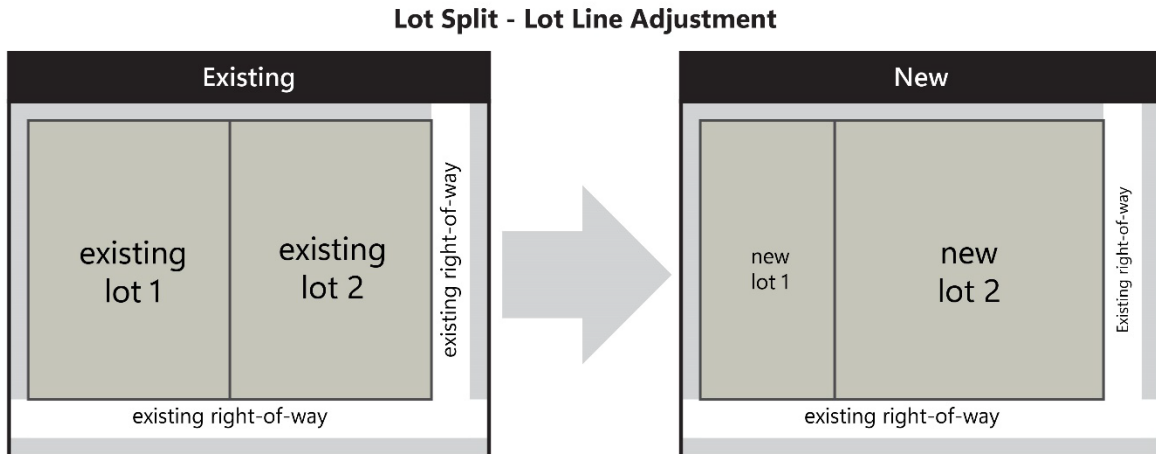


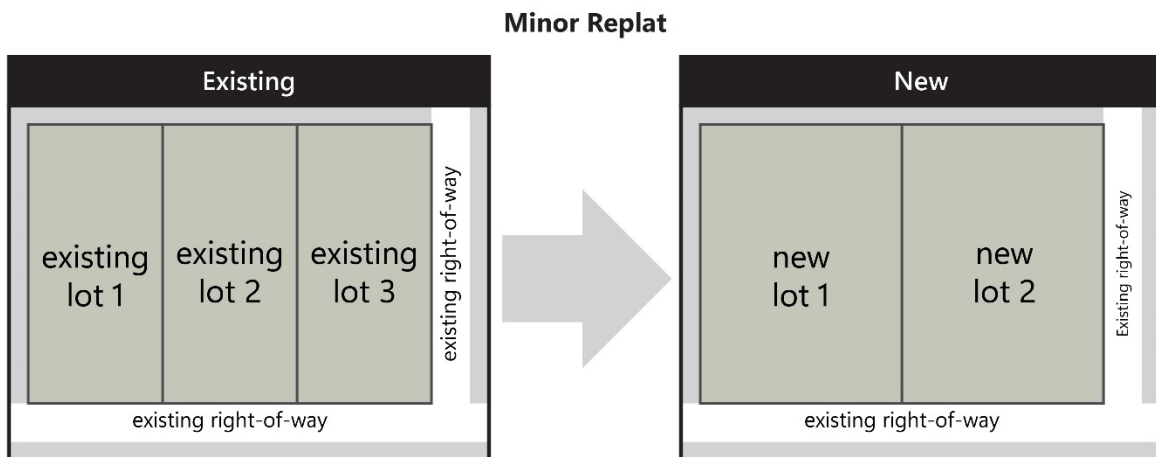
Figure 2-2: Lot Split - Lot Line Adjustment example



SECTION 2.04.02 MINOR REPLAT:

- A. A minor replat is the subdivision of a platted parcel or platted parcels within the same platted subdivision, that;
1. Reduces the number of lots involved; and
 2. Increases the area of two or more adjacent lots or parcels of land; and
 3. No roadway, drainage, or other improvements are required; and
 4. The final lot configuration complies with the standards of this Code.

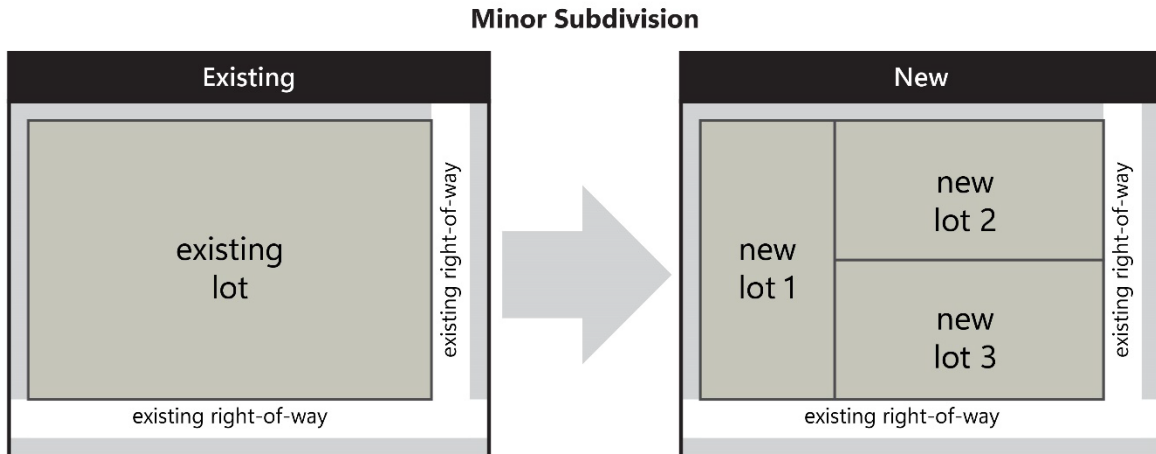
Figure 2-3: Minor Replat example



SECTION 2.04.03 MINOR SUBDIVISION:

- A. A minor subdivision is the division of land that is either previously platted or not, that results in nine (9) or fewer lots; and
1. All lots front on an existing public or private right-of-way; and
 2. There is no dedication of land to the City or an owners' association.

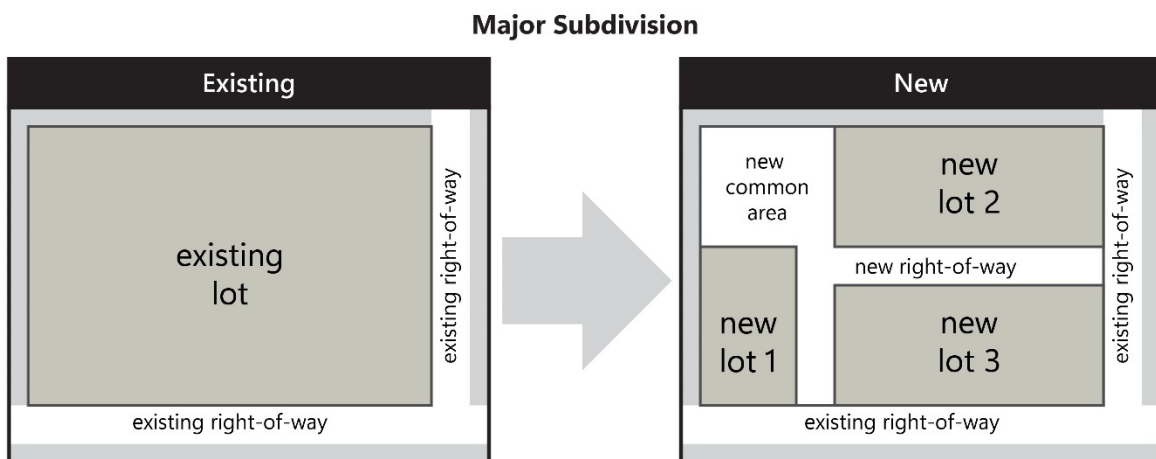
Figure 2-4: Minor Subdivision example



SECTION 2.04.04 MAJOR SUBDIVISION:

- A. A major subdivision is the division of land resulting in;
1. Ten (10) or more new lots; or
 2. The subdivision requires the dedication of future public or private right-of-way, to either the City or an owners' association.

Figure 2-5: Major Subdivision example



SECTION 2.04.05 RIGHT-OF-WAY OR EASEMENT VACATION:

- A. A Right-of-Way (ROW) or easement vacation involves the abandonment of a Public or Private ROW or easement across or on a lot, parcel, property or other land.
- B. The vacation of ROW results in the directly adjoining property owners of the subject ROW to gain property either;
1. Fully across the ROW if there is no property subjected to the original plat across the ROW
 2. To center-line of the ROW if there is a property subjected to the original plat across the ROW

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- C. The Vacation of an easement abandons the rights of the easement holder, and releases the property owner of any encumbrances the easement held, on or across the subject lot, parcel, property, or other land.
- D. Any Vacation of ROW or an easement shall require any subject plat to be updated through the most appropriate Land Division process.
 - 1. If a plat is not applicable then the most appropriate Land Division process shall be initiated in conjunction with the vacation application at the applicant's expense.

SECTION 2.05. LAND DEVELOPMENT PROJECT TYPES

The following are development project types that do not include the division of land. However, this does not preclude any project in Sections 2.04 or 2.05 from following the appropriate procedures identified in this Article.

SECTION 2.05.01 SIMPLE DEVELOPMENTS:

- A. A development project shall be designated as a Simple Development if;
 - 1. There is existing development on site and it does not have a valid or vested Development Order on the property, lot(s), or parcel(s),
 - 2. The proposed changes do not require review by any external Technical Review Committee agency or entity, and;
 - 3. The proposed project meets one of the following criteria:
 - a. Proposes a change to the use of any structure or land, and
 - 1. The proposed change of use does not require additional parking spaces beyond those already existing on the site.
 - 2. Simple Development Orders do not apply to the Change of Use of a Single-Family Home to a Short-Term Rental.
 - b. Or any proposed changes to existing development cannot increase impervious surface area beyond 750 square feet.
 - 1. Any increase in impervious surface up to 750 square feet must meet all applicable stormwater requirements outlined in the City of Design Manual.
 - c. Does not meet any of the criteria of a Minor Development per Section 2.05.02 or Major Development per Section 2.05.03.
- B. Simple Developments shall currently meet or exceed Comprehensive Plan requirements for site development, specifically, open space, height, and density/intensity.
 - 1. If the site does not meet or exceed the Comprehensive Plan then any new proposed development shall meet or exceed the regulations of this Code and any applicable Comprehensive Plan requirements.
 - a. If the updates exceed the criteria of this Section, then it shall be deemed a Minor or Major Development or Deviation.
- C. If a property has any previously approved Simple Development or Deviation and the new proposed development after approval would exceed the limitations listed in this Section, it no longer qualifies as a Simple Development or Deviation.

SECTION 2.05.02 MINOR DEVELOPMENTS:

- A. A development project shall be designated as a Minor Development if it satisfies one or more of the following criteria:
 - 1. Commercial, Industrial, or Mixed-use development plans consisting of 9,999 or less square feet of gross floor area.

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2. 9,999 square feet or less of development activity such as a park, active recreation, open air development, or similar development, that involves;
 - a. Any change in land use,
 - b. Any construction of buildings or structures, or
 - c. Any change in the use of any structure or land that generates vehicle trips.
3. Residential development plans consisting of 9 or fewer dwelling units.
4. Demolition of a nonresidential structure or building, unless determined as unsafe by the Building Official or other regulatory agency.
5. Any project submittal identified by the Community Development Director needing higher level of review beyond the Simple Deviation due to:
 - a. Having an impact upon the surrounding properties or community by virtue of the proposed development, or
 - b. Is identified as being of significant interest to the general public.

SECTION 2.05.03 MAJOR DEVELOPMENTS:

- A. A development project shall be deemed a major development if it satisfies one or more of the following criteria:
 1. Non-residential and mixed-use development plans consisting of 10,000 square feet or more of gross floor area.
 2. 10,000 square feet or more of development activity such as a park, active recreation, open air development, or similar development, that involves;
 - a. Any change in land use,
 - b. Any construction of buildings or structures, or
 - c. Any change in the use of any structure or land that generates vehicle trips.
 3. Residential development plans consisting of ten or more dwelling units.
 4. Major Subdivisions.
 5. All Planned Unit Developments (PUDs).
 6. New telecommunications towers.
 7. Any project submittal identified by the City Manager or designee as needing City Council review due to:
 - a. Having an impact upon the surrounding properties or community by virtue of the proposed development, or
 - b. Is identified as being of significant interest to the general public

SECTION 2.05.04 DEVIATIONS TO DEVELOPMENT:

For those projects or properties with active or vested Development Orders, all changes must be approved by the City through a deviation to the existing development order.

- A. Technical Deviation: Modifications or amendments that become necessary due to technical or engineering considerations, or unknown site conditions that are not in conflict with the criteria for a Minor or Major Deviation listed in this Section.
 1. Technical modifications cannot propose any deviation from the intent and purpose of the approved Development Order
 2. Any Technical Modification shall be the minimum modification to overcome the particular difficulty.
 3. Technical modifications shall not be approved if it conflicts with or cause a violation of any standard or requirement of the Comprehensive Plan, a CRA Master Plan, or the LDC.

4. Such modifications shall be limited to modifying the following elements:
 - a. The distance shown on the approved development plan between any structure or group of structures, and any other structure or group of structures.
 1. Any modification that decreases any building setbacks to any external property line of the development will require a Simple, Minor, or Major deviation depending on the original approval process.
 - b. Vehicular circulation elements
 - c. The relocation or increasing the size of any open space
 - d. Any stormwater element
 - e. Any final grade
 - f. The types of landscaping elements and their arrangement within the required landscaping buffer area
 - g. Relocation or construction of accessory structures
 5. Technical Deviation or amendments application shall follow the same procedures for a Simple Deviation as outlined in **Section 2.06.09**.
- B. Simple Deviations to a Development Order: A simple deviation to a development order is a project that requires review only by city staff members involved in the development review process.
1. 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.
 - b. The proposed changes to the development plan only include rearranging or reducing, any
 1. driveways/accessways,
 2. number of parking spaces,
 3. impervious surface, or
 4. buildings on the subject property.
 5. The proposed changes bring the property into compliance with the existing stormwater regulations as described in the LDC and the City of Destin Design Manual, without exceeding criteria for other deviations listed below.
- C. Minor Deviation to a Development Order: A deviation to a final development order shall be deemed minor if it satisfies one or more of the following criteria:
1. A change from the final development order that requires the review of external Technical Review Committee members.
 2. The addition of floor area or impervious surface for Commercial, Industrial, or Mixed-use developments not to exceed 9,999 square feet total in combination with existing floor area or impervious surface.
 3. The addition of land development activity not to exceed 9,999 square feet or less in combination with existing development, of development activity such as a park, active recreation, open air development, or similar development, which means, but is not limited to;
 - a. Any change in land use,
 - b. Any construction of buildings or structures, or
 - c. Any change in the use of any structure,
 4. Demolition of a nonresidential or multi-family building, unless determined as unsafe by the Building Official or other regulatory agency.

- D. Major Deviation to a Development Order: A deviation to a final development order shall be deemed major if it satisfies at least one of the following criteria:
1. The addition of gross floor area for Commercial, Industrial, or Mixed-use developments exceeding 10,000 square feet total in combination with existing floor area.
 2. The addition of land development activity exceeding 10,000 square feet of development activity such as a park, active recreation, open air development, or similar development, which means, but is not limited to;
 - a. Any change in land use
 - b. Any construction of buildings or structures
 - c. Any change in the use of any structure
 3. Residential development plans proposing additional units that total ten or more dwelling units in combination with existing dwelling units.
 4. Any change to a condition in the final development order that was expressly imposed by City Council.
 5. Any proposed change that adversely affects the compatibility of the existing development.
 6. Any proposed change that the City Manager, or designee, determines should be reviewed by the City Council due to the community impact.

SECTION 2.06 DEVELOPMENT PROJECT REVIEW PROCEDURES

SECTION 2.06.01 GENERAL REVIEW PROCEDURES FOR ALL PROJECTS

- A. All applications or project types list in Table 2-1: Project Type Classification Table shall follow the following procedures unless specifically identified in the respective Development Project Review Procedures of **Section 2.06**.
- B. All applications for development orders or deviations to a development order shall be processed in a timely manner and in accordance with F.S. § 166.033. This entails prompt review and responses from both the applicant and the City.
1. No property shall have more than one development order application under review by the city at any one time.
- C. Pre-Application Meeting: The purpose of the Pre-Application Meeting is to facilitate coordination of the proposed development, or other process, between City Staff, Applicable external Agencies and the Applicant(s).
1. A Pre-Application meeting is required before filing for a formal review of all proposed projects or development plans.
 2. City Staff will direct the applicant to all appropriate Technical Review Committee agencies for a preliminary review prior to filing for formal city review, if necessary. This includes but is not limited to;
 - a. Destin Water Users
 - b. Destin Fire Control
 - c. Florida Power & Light
 3. A Pre-Application Meeting Summary will be provided to the applicant within ten (10) business days. The summary will include:
 - a. The appropriate review procedures and fees, if enough information on the project was provided prior to or during the Pre-Application meeting.
 1. If the appropriate procedure is not determined with the first Pre-application meeting, City Staff may require a follow-on Pre-Application Meeting before formal submittal of any application.

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- b. Brief description of the proposed development, if provided.
 - c. Major Land Development Code sections of concern.
 - d. Development Checklists
 - e. Any comments from internal or external agencies or departments, if provided.
 4. The meeting summary is preliminary and shall not be considered a comprehensive review or final comments.
 5. The City reserves the right to provide more comments at the time of formal application review.
 6. No comment made by any persons associated with the city during any pre-application meeting, discussion, or summary shall be considered either as approval or rejection of the proposed development or development plans.
- D. Formal Development Application Submittal
 1. Submittal of all development applications for City review shall be submitted through the City's online application portal.
 - a. All materials required by City Staff or in the Development Application Checklist shall be submitted for review.
 - b. Payment of the application is required at time of submittal.
 1. Fees for development applications can be found in the City's Schedule of Fees
- E. Completeness Review:
 1. Once an application is submitted City Staff will conduct a completeness review to ensure all required materials were submitted as identified by City Staff and or in the Development Application Checklist.
 2. If all materials are submitted and fees paid, Staff will begin the Substantive review of the application per the appropriate procedures per specific application type in the proceeding sections.
 3. If any required materials are missing or fees are not paid, Staff will notify the applicant via a Completeness Review letter of all the missing items within thirty (30) calendar days of application, except as listed below;
 - a. Staff shall provide a Completeness Letter within twenty-one (21) days from application submittal date;
 1. Simple Development or Deviation
 2. Lot Split
 3. Minor Replat
 4. The applicant must provide the missing materials within thirty (30) days of the date of the Completeness Review letter.
 - a. If the applicant does not submit within the thirty (30) days the application will be deemed withdrawn per **Section 2.02.04.**
- F. Substantive Application Review:
 1. Once an application is deemed complete Staff will conduct a substantive review of the application materials, and staff shall;
 - a. Determine conformity of the proposed development with the Comprehensive Plan, this Code, other applicable requirements.
 - b. Hear and address concerns and desires of surrounding landowners and other affected persons.

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- c. Consider any rule, objective or policy of the Comprehensive Plan or any other criterion applicable when recommending to either approve, approve with conditions, approve with modifications, or deny the application.
2. Technical Review Committee (TRC) Review:
 - a. Once an application is deemed complete Staff will forward the application the appropriate TRC members.
 1. Each TRC member shall limit their review to their area of expertise pertaining to their professional and functional experience of their role.
 - b. The Community Development Director will determine if a TRC meeting will be required for an application at any time during the review of an application.
 - c. The following Project Types are exempt from TRC review, unless determined necessary by the Community Development Director or their designee.
 1. Annexation
 2. Map & Code Amendments
 3. Lot Split or Lot Line Adjustment
 4. Development Order Exemption
 5. Simple Development Order
 6. Simple Deviation
 7. Change of Use, except as otherwise identified in this Code.
 8. Conditional Use
 9. Certificate of Appropriateness
 10. Harbor & Waterways Board applications
 11. Board of Adjustment Applications
 - d. TRC shall be allowed a thorough review of application materials from a minimum of two (2) weeks to a maximum of four (4) weeks, based on the scope of the proposed development.
 1. If Staff identifies the need for more review time, a request will be made to the applicant.
 - e. TRC members shall provide city Staff with comments pertaining to the specific professional expertise.
 1. If a TRC member does not provide City Staff with comment within the allotted time specified for the review, it is assumed the TRC member approves the development.
 - f. City Staff will provide the applicant with all TRC review comments within ten (10) calendar days of the end of the identified TRC review period through a Development Review Report (DRR).
 - g. If the TRC approves the application Staff will prepare the application for the appropriate approval procedure identified in the proceeding sections.
 - h. If the TRC denies the application, comments will be provided to the applicant for their review and resubmittal of materials.
 - i. Resubmittal of application materials shall be submitted within thirty (30) days of receipt of the Corrections Report.
 - j. If the applicant does not submit within thirty (30) days, the application will be deemed withdrawn per **Section 2.02.04.**

SECTION 2.06.02 APPLICATION DENIAL

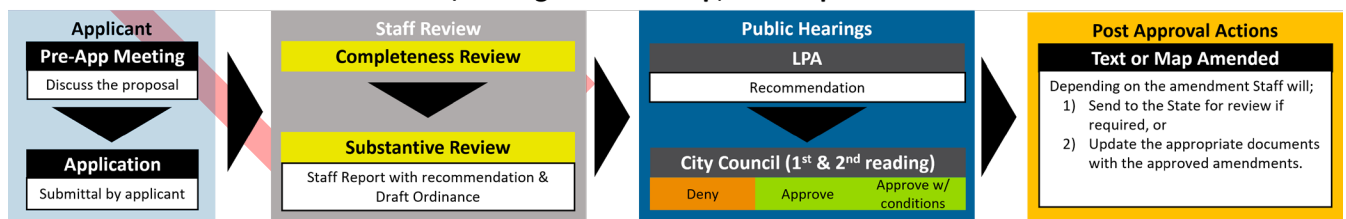
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- A. If, after the appropriate approval body review, an application is denied, no future application for the same or similar request or procedure may be processed within the time frame listed below:
 - 1. One (1) year for any application requiring City Council approval
 - 2. Six (6) months for any application requiring Local Planning Agency approval
 - 3. Three (3) months for all other applications

SECTION 2.06.03 PROCEDURES FOR AMENDMENTS TO THE LAND DEVELOPMENT CODE, COMPREHENSIVE PLAN, ZONING MAP, OR FUTURE LAND USE MAP

- A. The text of this Code, or Comprehensive Plan and the Official Zoning District Map or the Future Land Use Map boundaries may be amended or supplemented.
- B. Proposed changes may be suggested or recommended by;
 - 1. City Council
 - 2. City Manager
 - 3. Local Planning Agency
 - 4. Community Development Director
 - 5. By a property owner
 - 6. By petition of the owners of 51 percent or more of the area or properties involved in the proposed change.
- C. The Community Development Department will review and forward the application and a staff report and draft ordinance with or without a recommendation for approval, approval with conditions, or denial to the Local Planning Agency (LPA) for its review at a public hearing.
- D. The LPA, will forward its staff report with recommendation and draft ordinance to the City Council for approval, approval with conditions, table, or denial for review at a public hearing.
- E. The City Council shall then approve, approve with conditions, table, or deny the application.
- F. If approved, on 1st reading at City Council, a Second reading will be heard at the next City Council meeting while meeting required noticing requirements.
 - 1. If State review is required, then the second reading shall occur within thirty (30) days of receiving State approval.

Procedure for LDC text, Zoning or FLUM map, or Comprehensive Plan Amendment



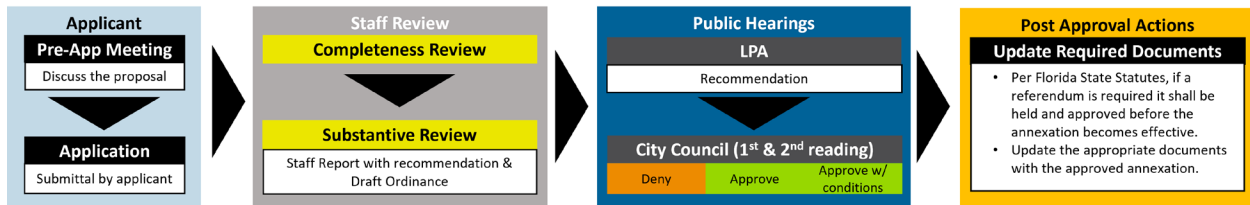
SECTION 2.06.04 ANNEXATION OF PROPERTY

- A. Annexation into the city may be initiated by either the City of Destin or by individual or groups of property owners.
 - 1. In any instance of annexation, the property proposed to be annexed shall be contiguous to the City Limits.
- B. The City shall manage growth of the physical city limits without creating hardships and unnecessary costs for existing residents and business owners by properly assessing any City initiated or property owner initiated request of annexation through:
 - 1. The promotion of orderly growth by facilitating long-range planning for the provision of municipal service to develop and redevelopment areas.

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2. The application of appropriate land use regulation, development and property maintenance standards, fire, and construction codes and environmental regulations.
 3. Ensuring that residents and businesses outside the corporate limits share the tax and maintenance for facilities, streets and utilities necessary to meet the demand.
- C. Annexations may be initiated by;
1. Any property owner may request annexation into the city if contiguous to the City limits.
 2. The City may initiate annexation of contiguous, compact, unincorporated land in the following ways:
 - a. The City may annex enclaves of 110 acres or less through an interlocal agreement with Okaloosa County; except for undeveloped or unimproved real property, pursuant to **Section 171.046**, Florida Statutes.
 - b. The City may annex an enclave with fewer than 25 registered voters by City ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave, except for undeveloped or unimproved real property, pursuant to **Section 171.046**, Florida Statutes.
 - c. The City may annex land by referendum election, pursuant to the procedures set forth in **Section 171.0413**, Florida Statutes.
- D. Annexations Applications:
1. Annexations whether property owner initiated or City initiated, shall address in the application, the criteria listed in **Paragraph B** of this section, and the following if applicable:
 - a. Elimination of Enclaves: (Enclaves are areas of county jurisdiction that are surrounded by the City).
 - b. Enhance the City Economic and Tax Base: The request shall demonstrate how annexing the proposed area into the city it will benefit the City's tax base and not create a deficit in the City's revenue, budget, or create any other financial burden on the City or Residents.
 - c. Impacts on the City's Infrastructure: The request shall demonstrate how annexing the proposed area will not create a negative impact upon the City's infrastructure, including but not limited to:
 1. Roads and streets
 2. Stormwater facilities
 3. Other City services
 2. The Community Development Department shall develop a staff report and ordinance for review by;
 1. The Local Planning Agency at a public hearing for a recommendation and consideration to City Council.
 2. City Council shall consider at a public hearing the recommendation and determine whether to approve, approve with conditions, table, or deny the request on First reading,
 - (i) If approved, on First reading at City Council, a Second reading will be heard at the next City Council meeting while meeting required noticing requirements.
 - (ii) If the Annexation meets the criteria of **Section 2.06.03.C.2.c** then the referendum per Florida State **Statutes 171.0413** shall be held and approved before the annexation becomes effective.

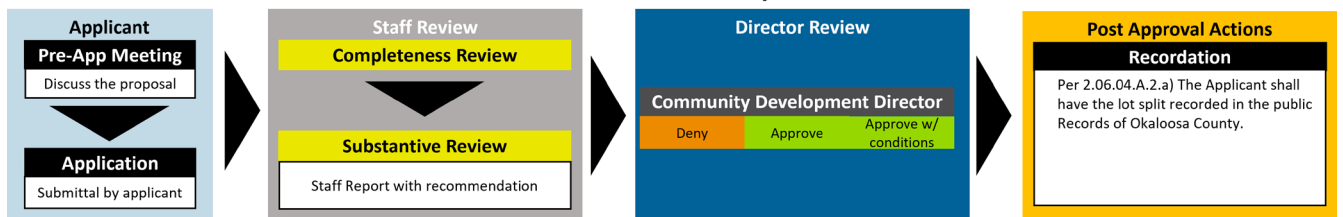
Procedure for Annexation of Property



SECTION 2.06.05 LOT SPLITS OR LOT LINE ADJUSTMENTS

- A. Lot Splits or Lot Line Adjustments require notification to adjacent property owners and a notice posted on the property per **Section 2.02.03**.
- B. The Community Development Director may grant waivers from the platting requirements of this Code for divisions of land that constitute a lot split.
- C. Upon review by City Staff and recommendation to the Community Development Director, the Director may approve the lot split or lot line adjustment.
 1. The Director's approval and mylar(s) shall be recorded in the public records of Okaloosa County.
- D. No further division of an approved lot split is permitted under this Section, unless a plat is prepared and approved in accordance with this Code.
- E. All mylars shall meet State Statute and The City of Destin Design Manual standards.

Procedure for Lot Splits

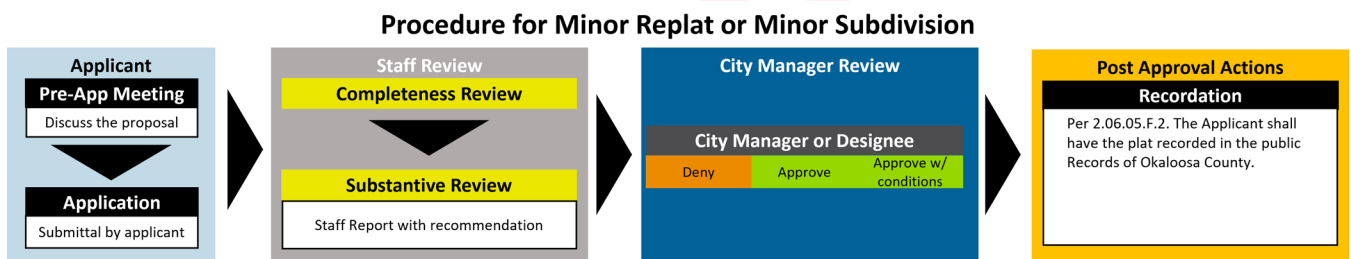


SECTION 2.06.06 MINOR REPLATS/MINOR SUBDIVISIONS

- A. Minor Subdivisions or Replats require notification to adjacent property owners and a notice posted on the property per **Section 2.02.03** once approved by the TRC.
- B. Prior to approval of a minor replat or minor subdivision by the City Manager or designee, the following standards shall be met:
 1. Each proposed lot must conform to the requirements of this Code, the City's Comprehensive Plan, City Ordinances, and those standards specified by F.S. chapter 177.
- C. 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.
- D. Right-of-way dedication, identified by the Community Development Director, may be required if any lot abuts a street right-of-way that does not conform to current City Standards.
 1. If Right-of-Way is determined to be required the application automatically becomes a major subdivision and shall follow those procedures.
 2. The Applicant is still responsible for the fees for the major subdivision application, but the fees paid for the minor subdivision will be credited towards the major subdivision.

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- E. Once reviewed and approved by all applicable TRC members, the developer shall submit to the Community Development Department:
 1. One digital and one paper copy of the final plat (as prescribed by F.S. § 177.091)
- F. Final review and approval of minor replats or minor subdivisions shall be made by the City Manager or designee upon receiving the recommendation of the TRC.
- G. The City Manager's or designee's approval and mylar(s) shall be recorded in the public records of Okaloosa County.
- H. Final approval of the minor replat or minor subdivisions is required prior to issuance of a construction permit.
- I. The City may issue construction permits for residential developments involving minor replats or minor subdivisions without a final development order.
- J. All mylars shall meet State Statute and The City of Destin Design Manual standards

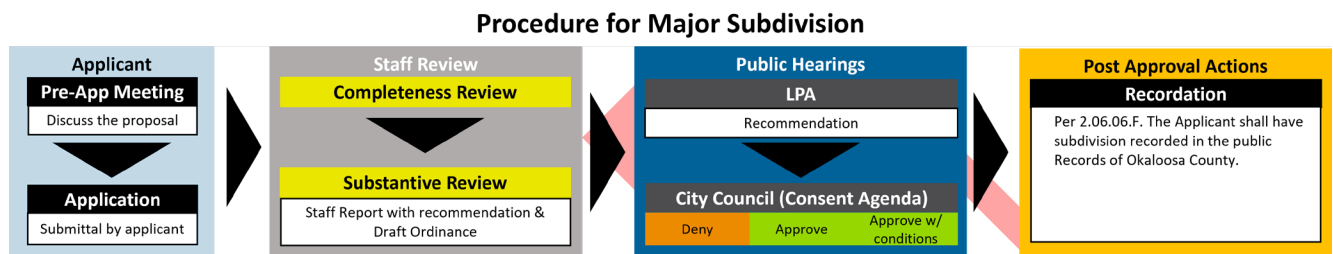


SECTION 2.06.07 MAJOR SUBDIVISIONS

- A. Major Subdivisions require notification to adjacent property owners and a notice posted on the property per **Section 2.02.03** once approved by the TRC.
- B. Preliminary Approval:
 1. Prior to approval of a major subdivision by the City the following standards shall be met:
 - a. Each proposed lot must conform to the requirements of this Code, the City's Comprehensive Plan, City Ordinances, and those standards specified by F.S. chapter 177.
 2. Once a major subdivision is reviewed for compliance by Staff and receives approval from the TRC, Staff will prepare a Staff Report for review and consideration for recommendation by the Local Planning Agency (LPA) at a public hearing.
 3. The LPA will forward their recommendation to the City Council for their review and consideration of Preliminary approval at a public hearing.
 4. The applicant may request preliminary and final approval under two public hearings, one with the LPA and one with City Council
 - a. If the applicant receives preliminary plat approval, the final plat may be placed on the City Council consent agenda for approval.
 5. If the proposed subdivision is denied upon consideration for preliminary approval the developer must resubmit as a new design indicating substantial differences from the previous design.
- C. Final Approval:
 1. Final plat requirements: The developer shall submit to the Community Development department:
 2. One digital and one paper copy of the final plat (as prescribed by F.S. § 177.091)
- D. Final review and approval of subdivisions classified as major shall be reviewed for consideration by the LPA for a recommendation to the City Council

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- E. City Council may, upon receiving the recommendation of the LPA, approve, approve with conditions, table, or deny to application.
- F. All mylars shall meet State Statute and The City of Destin Design Manual standards.
- G. Mylar(s) shall be recorded in the public records of Okaloosa County.
- H. Any development that requires a Major Subdivision shall complete the Plat before submitting any application for construction or permitting.
- I. If the proposed subdivision meets the criteria for any Land Development Project or Development Orders as identified in **Section 2.05**, both applications may be processed simultaneously by the appropriate procedures identified in this Section.
 1. Any requests for amendments to active development orders will not be processed until the required plat has been approved if applicable.



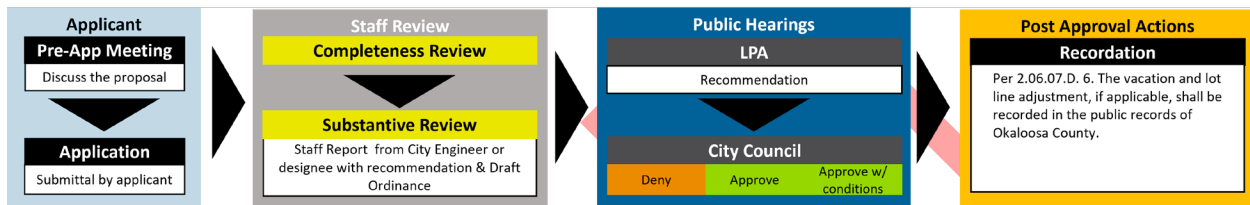
SECTION 2.06.08 RIGHT-OF-WAY/EASEMENT VACATION

- A. The vacation of city right-of-way or easement shall mean the subject right-of-way or easement is transferred to the adjacent private property owner(s) if no longer used by the city or general public, or easement holder.
- B. Vacations require notification to adjacent property owners and a notice posted on the property per **Section 2.02.03** once approved by the TRC.
- C. If vacated, the right-of-way is divided equally to adjacent property owners. It is the responsibility of the applicant(s) to complete all required applications and approvals which may result from such vacation.
- D. All applications for a right-of-way or easement vacation shall follow the following procedures;
 1. If the request requires the reconfiguration of lot lines or subdivision a parcel or lot of land the appropriate application per **Section 2.04**, shall be applied for and run concurrently with the vacation application.
 2. City Staff shall contact all utility providers or various stakeholders for input on the proposed vacation.
 3. The City Engineer or designee shall forward a Staff Report with a recommendation to the Local Planning Agency (LPA) at a public hearing.
 4. The LPA shall forward a recommendation to approve, approve with conditions, or deny the request to the City Council.
 5. City Council may, upon receiving the recommendation of the LPA, approve, approve with conditions, table, or deny the application to vacate a ROW/easement based upon the following criteria:
 - 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.

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- 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.
- f. Any proposed vacation of Scenic Highway 98 shall require a voter approved ballot referendum.
6. If City Council approves or approves with conditions the request, the applicant shall record the new lot configuration in the public records of Okaloosa County.
7. If the City Council denies a vacation request, the applicant shall wait one (1) year before reapplying for reconsideration.

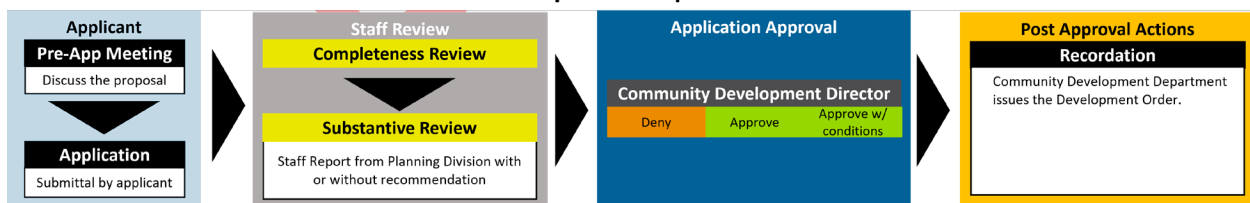
Procedure for Right-of-Way / Easement Vacation



SECTION 2.06.09 SIMPLE DEVELOPMENTS AND DEVIATIONS

- A. Simple Developments and Deviations require notification to adjacent property owners and a notice posted on the property per [Section 2.02.03](#).
- B. The Community Development Director or designee may approve, approve with conditions, approve with modifications, or deny any proposed projects identified as Simple Developments.
- C. City Staff shall make a recommendation to the Community Development Director or designee based upon the review of compliance with the City's LDC, Comprehensive Plan, other City Ordinances or any applicable Development Order.
- D. If the proposal is approved, Community Development Director shall authorize the issuance of a development order that complies with [Section 2.03.02](#).
- E. If the proposal is denied based upon the applicant's failure to meet the requirements of this Code the application can;
 1. Be reevaluated if the applicant submits materials that meet the requirements of this Code, or
 2. Become null and void.
 - a. The applicant will lose in-line priority consideration for concurrency.

Procedure for Simple Developments & Deviations

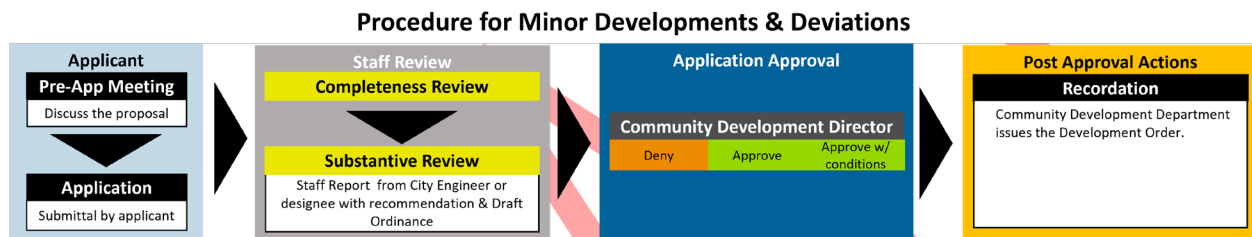


SECTION 2.06.10 MINOR DEVELOPMENTS AND DEVIATIONS

- A. Minor Developments and Deviations require notification to property owners and a notice posted on the property per [Section 2.02.03](#) once the project is sent to the TRC.

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- B. Upon review and recommendation of approval by City Staff and approval by the TRC, The Community Development Director or may approve, approve with conditions, approve with modifications, or deny any proposed projects identified as Minor Developments.
- C. City Staff shall make a recommendation to the Community Development Director based upon the review of compliance with the City's LDC, Comprehensive Plan, other City Ordinances, or any applicable Development Order.
 - 1. The recommendation shall include any TRC comments not resolved or recommendations from the TRC.
- D. If the proposal is approved, approved with conditions, the Community Development Director shall authorize the issuance of a development order that complies with **Section 2.03.02**.
- E. If the proposal is approved with modifications, a development order may be authorized by the Community Development Director once the required modifications have been completed and approved by the appropriate TRC 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,
 - 1. The applicant will lose in-line priority consideration for concurrency.

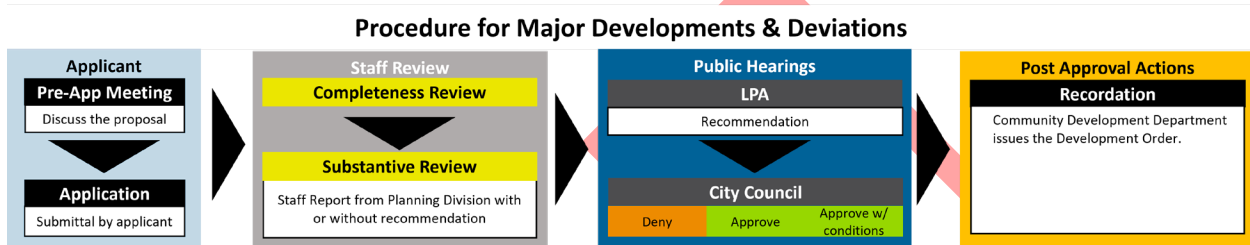


SECTION 2.06.11 MAJOR DEVELOPMENT AND DEVIATIONS

- A. Major Developments and Deviations require notification to property owners and a notice posted on the property per **Section 2.02.03**, once the project is sent to the TRC.
- B. Once the application has been reviewed and approved, approved with conditions, or approved with modifications by the TRC and City Staff, Staff shall prepare a Staff Report through the City Manager to the Local Planning Agency (LPA).
- C. The LPA, at a publicly noticed quasi-judicial public hearing, shall forward a recommendation of approval, approval with conditions, approval with modifications, or denial to the City Council after review and consideration of the proposed development based on the,
 - 1. Staff Report
 - 2. The City's Land Development Code,
 - 3. The City's Comprehensive Plan,
 - 4. City Ordinances
 - 5. Public testimony
 - 6. Information given by the applicant
- D. The City Council, at a publicly noticed quasi-judicial public hearing, shall approve, approve with conditions, approve with modifications, table, or deny the proposed development after review and consideration of the proposed development based on the,
 - 1. The LPA's recommendation
 - 2. Staff Report
 - 3. The City's Land Development Code
 - 4. The City's Comprehensive Plan,

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5. City Ordinances
 6. Public testimony
 7. Information given by the applicant.
- E. If the proposal is approved, approved with conditions, the City Council shall authorize the issuance of a development order that complies with **Section 2.03.02**.
- F. If the proposal is approved with modifications, a development order may be authorized by the once the required modifications have been completed and approved by the appropriate TRC members.
- G. 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,
1. the applicant will lose in-line priority consideration for concurrency.



SECTION 2.06.12 DEVELOPMENT AGREEMENTS

- A. Development Agreements as specified in this Code are proposed developments that require negotiations between local, state, or federal governments, public utility providers, taxing districts and other related agencies, and not for private development.
- B. Development Agreements are processed by submission of an application by either the City or other entity involved in the development.
- C. Based on the proposed development, the Community Development Director shall identify if it is a Simple, Minor, or Major Development and the appropriate materials will be required for application submittal per the Development Checklist in the City of Destin's Design Manual.
1. The corresponding fee shall also apply.
 2. 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.
- D. Negotiation of development agreements:
1. The City Manager and City Staff shall review the application package and negotiate such further terms and conditions as the City Manager or designee shall deem to be appropriate and necessary to protect the public's interest, safety, health or welfare.
 2. Once the parties agree on the terms and conditions of a development agreement, or further negotiations are not anticipated, the City Manager, or designee and Staff shall draft a Staff Report, including;
 - a. land use types
 - b. Density or intensity
 - c. Placement of proposed buildings, improvements, and impervious ground cover on the site
 - d. Location, type, and method of maintenance of open space and public use areas, if any
 - e. Preservation of natural features or protection of sensitive lands, if any;

- f. Proposed parking areas and internal traffic circulation
 - g. Stormwater management, and
 - h. Water and sewage distribution, collection, and treatment systems.
 - 3. The existence of a tentative agreement, staff report or recommendation shall not be sufficient governmental acts upon which reliance may be placed, such that
 - a. Any further expenditures by a either party would vest any right to continue development;
 - b. Nor shall such actions constitute partial performance entitling the any party to a continuation or extension of the development agreement.
 - 4. The City Council, by majority vote, may act to adopt, amend, extend, modify, revoke or cancel any proposed or existing development agreement at a publicly noticed hearing per Sections 2.02.03. and 2.15.
 - a. 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.
 - b. In the event state or federal laws are enacted after the execution of a development agreement that creates a non-conformity or non-compliance with the terms or conditions of the agreement, then the agreement shall be modified or revoked as necessary to comply with the relevant state or federal laws.
- E. 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 parties having any interest in the property described in a. above.
 - 1. Such statements shall be certified by an attorney-at-law licensed to practice in the State of Florida.
 - c. The development uses permitted on the land,
 - d. Densities and intensities
 - e. Building height.
 - f. The land use designation under the City of Destin Comprehensive Plan for all property included within the terms of the proposed agreement.
 - g. The current zoning classification of the property.
 - h. A description of public facilities that will service the development, including who shall provide and maintain such facilities.
 - i. The date any new facilities, if needed, will be constructed.
 - j. A schedule to assure public facilities will be available and sufficient to meet the development's impacts.
 - k. A description of any reservations or dedications of land for public purposes.
 - l. A description of all local development permits approved or needed to be approved for the development of the land.
 - m. A finding that the development permitted or proposed is consistent with the City of Destin comprehensive plan and land development regulations, as required by Section 163.3231 of the Act.

- n. 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.
 - o. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction, shall not relieve the parties from complying with the laws and regulations governing 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.
- 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.
- G. Periodic review:
 - 1. The city shall review the land and progress of development subject to the development agreement at least once every 12 months to determine compliance with the terms and conditions of the agreement
 - 2. Fourteen (14) days Prior to the city's review of the status of a development agreement, the developer shall submit a progress report to the City indicating;
 - a. All activities and achievements since the execution of the development agreement and, if applicable, since the previous periodic report.
 - 3. If during the periodic review the City finds on the basis of substantial competent evidence a failure to comply with the terms of the development agreement, the City, following the notice and hearing provisions of Sections 2.02.03. and 2.15 may:
 - a. Modify the agreement as necessary to obtain and ensure compliance with the terms of the agreement; or
 - b. Revoke the agreement to protect the public's interest, health, safety or welfare.
- H. 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.
- I. 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.

SECTION 2.07 PLANNED UNIT DEVELOPMENT REVIEW

SECTION 2.07.01 PURPOSE AND INTENT

- A. The Purpose of a Planned Unit Development (PUD) is to implement the purpose statement of the zoning district and Planning Area in which the project is located, utilizing an alternative approach to the design of the property, and related physical facilities. A PUD incorporates special development characteristics, that help achieve city goals identified in the adopted Strategic Plan, Comprehensive Plan, and Master Plans of the Community Redevelopment Areas (CRA), if applicable, and provide an overall benefit to the community as determined by the PUD objectives.
- B. A PUD is intended to:
 - 1. Encourage efficient use of land and resources, promoting greater efficiency in public and utility services.
 - 2. Encourage innovative development through new planning and building practices or trends, and
 - 3. Develop an enhanced product compared to a development implementing the strict application of the LDC.
 - 4. Implement compatibility with adjacent and nearby land developments.

SECTION 2.07.02 STANDARDS FOR PLANNED UNIT DEVELOPMENTS

- A. The City Council may approve, approve with conditions, or deny a PUD based upon the following standards:
 - 1. PUD Objectives: The PUD shall meet the purpose statement of the PUD, and
 - a. shall achieve at least five (5) of the strategies from the objectives as outlined in **Section 2.07.04**.
 - 1. No more than two (2) strategies can be utilized per objective to meet the minimum of five (5) strategies.
 - 2. No strategy may be utilized more than once per PUD proposal.
 - b. Demonstrate why modifications to the zoning regulations are necessary to meet the purpose for a PUD.
 - c. The City Council should consider the relationship between the proposed modifications to the zoning regulations and the purpose of a PUD, and
 - 2. Compatibility and Design: The proposed PUD is appropriately designed, consistent, and compatible with:
 - a. Adopted policies set forth in the City of Destin Comprehensive Plan and appropriate Planning Area;
 - b. Adopted Community Redevelopment Area Master Plan applicable to the site where the PUD will be located;

- c. The proposed PUD shall meet the intent of the Planning Area where the project is located.
- 3. Design And Compatibility: The proposed PUD will be located and is designed to achieve a more enhanced product, design and compatibility by demonstrating:
 - a. the project will result in a more enhanced product than would be achievable through strict application of the land use regulations.
 - b. the scale, mass, and intensity of the proposal is compatible with the neighborhood and Planning Area where the PUD will be located;
 - c. the proposal is compatible with the building and site design policies stated in an applicable Comprehensive Plan/Master Plan;
 - d. the building orientation in the proposal is compatible with the neighborhood where the PUD will be located and/or the policies stated in the Comprehensive Plan and/or applicable Master Plan related to building and site design;
 - e. the building setbacks along the perimeter of the development:
 - 1. Maintain the visual character of the neighborhood or the character described in the Comprehensive Plan and/or applicable Master Plan.
 - 2. Provide sufficient space for private amenities.
 - 3. Provide sufficient open space buffering between the proposed development and neighboring properties to minimize impacts related to privacy and noise.
 - 4. Provide adequate sight lines to streets, driveways and sidewalks.
 - 5. Provide sufficient space for maintenance.
 - f. The building facades offer ground floor transparency, access, and architectural detailing to facilitate pedestrian interest and interaction;
 - g. the lighting is designed for safety and visual interest while minimizing impacts on surrounding property.
 - h. the dumpsters, loading docks and/or service areas are appropriately located and screened.
 - i. the parking areas and internal vehicular networks are appropriately buffered from adjacent uses.
- 4. Landscaping: The proposed PUD preserves, maintains or provides native landscaping where appropriate by demonstrating:
 - a. That mature native trees located along the periphery of the property and along the street will be preserved and maintained.
 - b. That existing landscaping that provides additional buffering to the abutting properties will be maintained and preserved.
 - c. That proposed landscaping is designed to lessen potential impacts created by the proposed PUD.
 - d. Whether proposed landscaping is appropriate for the scale of the development.
- 5. Mobility: The proposed PUD supports Citywide transportation goals and promotes safe and efficient circulation within the site and surrounding neighborhood by demonstrating:
 - a. The drive access to local streets will negatively impact the safety, purpose, and character of the street;
 - b. The site design considers safe circulation for a range of transportation options including:
 - 1. Safe and accommodating pedestrian environment and pedestrian-oriented design, and orientation to transit where available; and
 - 2. Bicycle facilities and connections where appropriate, and orientation to transit where available; and
 - 3. Minimizing conflicts between different transportation modes.

- c. The site design of the proposed development promotes or enables access to adjacent uses and amenities;
 - d. The proposed design provides adequate emergency vehicle access; and
 - e. The loading access and service areas are adequate for the site and minimize impacts to the surrounding area and public rights-of-way.
- 6. Existing Site Features: The proposed PUD preserves natural and built features that significantly contribute to the character of the neighborhood and/or environment.
- 7. Utilities: Existing and/or planned utilities will adequately serve the development and not have a detrimental effect on the surrounding area.
- 8. Supplemental Standards:
 - a. Where a proposed PUD is directly adjacent to either the Gulf of Mexico, Choctawhatchee Bay, The Destin Harbor, and bayous, or the property encompasses private beach, the proposed PUD shall include the following, and will count towards two (2) of the five strategies required in **Section 2.07.02.A.1.a**
 - 1. A ten-foot (10') wide minimum public access easement(s) from publicly accessible land to the Gulf of Mexico, Choctawhatchee Bay, The Destin Harbor, bayous, or properties that encompass private beach; and
 - 2. Dedication of land or beach property or a public easement to the city for the purposes of public use of Gulf of Mexico, Choctawhatchee Bay, The Destin Harbor, bayous, or properties that encompass private beach, at a minimum of;
 - (i) one-hundred feet (100') land ward from wet sand or shoreline; and
 - (ii) one-hundred feet (100') of beach front.
 - (a) If the project consists of less than one-hundred feet (100') of beach front, then the entire beach front access shall be dedicated or provides by a public access easement.
 - b. Where a PUD is proposed in the Town Center CRA (TCCRA) Objective 3, Strategy 1 shall be utilized with 20% of the units set to 80% AMI, and will satisfy all five (5) required points.
 - 1. The affordable housing shall also be maintained by deed restriction or other documentation that holds the affordability in perpetuity.
 - c. If a PUD is proposed in the Town Center Commons Planning Area but outside of the TCCRA, affordable housing shall be implemented.
 - d. Points will be awarded towards the required five (5) points based on percentage of units offered at 80% AMI or below as shown in **Table 2-3 of Section 2.07.04.A.3**
- B. When approving a PUD, City Council may change, alter, modify or waive the following provisions of LDC:
 - 1. Zoning And Subdivision Regulations: Any provisions of the city's zoning or subdivision regulations as they apply to the proposed PUD.
 - a. Exceptions: The following elements of the zoning or subdivision regulations shall not be changed, altered, modified, or waived by the PUD process
 - 1. Uses: City Council shall not approve any use that is not allowed in the zoning district in which the PUD is located.
 - 2. Parking: The parking must be located within the PUD area and can only be used for the uses within the PUD.
 - 3. Building Height: Building height shall not exceed the allowed maximum height of the underlying zoning district.
 - 4. Density: Residential PUDs shall not exceed the density limitation of the zoning district or Future Land Use Designation of the Comprehensive Plan where the PUD is proposed except as allowed below.

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- (i) The calculation of PUD density may include open space acreage that is provided as Community Benefit and public amenity, open to the public, whether privately owned or dedicated to the public.
- b. Screening: Screening for solid waste, mechanical equipment, or other elements as required by the LDC or Design Manual.
- c. Signs: Signs shall not be reviewed or approved through the PUD process. Additionally, requests to exceed any dimensional limitation of signage shall not be considered in any review of a PUD application.
- d. Landscaping: Landscaping shall meet the minimum requirement of the underlying zoning district.

SECTION 2.07.03 MINIMUM AREA

- A. A proposed PUD shall have a minimum net lot area as listed in Table 2-2 for any parcel or tract of land under single ownership or control in certain Planning Areas.

Table 2-2: Minimum Area for a Planned Unit Development	
Planning Area	Minimum Acreage
Airport Planning Area	N/A
Crystal Beach Planning Area	.75 acre
Gulf Resort Planning Area	4 acres
Harbor Planning Area	.5 acre
Henderson Beach Planning Area	N/A
Holiday Isle Planning Area	2 acres
Town Center Commons Planning Area	2 acres
Village Planning Area	5 acres

SECTION 2.07.04 COMMUNITY BENEFIT

- A. A PUD shall apply and implement the following objectives per [Section 2.07.02.A.1](#), through the PUD process. Each objective includes strategies that are intended to be used to determine if an objective has been accomplished through a specific proposal of the PUD:
1. Objective 1 - Open Space and Natural Lands: Preserving, protecting or creating open space and natural lands:
 - a. Strategies:
 1. Inclusion of community gathering places or public recreational opportunities, such as new trails or trails that connect to existing or planned trail systems, playgrounds, public beaches or other similar types of facilities.
 2. Preservation of critical lands, watershed areas, riparian corridors and/or the urban forest.
 3. Development of connected greenways and/or wildlife corridors.
 4. Daylighting of water bodies.
 5. Inclusion of local food production areas, such as community gardens.
 6. Clustering of development to preserve open spaces.
 2. Objective 2 - Historic Preservation: Preserving, protecting or creating Historic areas within the City.
 - a. Strategies:
 1. Preservation, restoration, or adaptive reuse of buildings or structures that contribute to the character of the city either architecturally and/or historically, and that contribute to the general welfare of the residents of the city.

2. Preservation of, or enhancement to, historically significant landscapes that contribute to the character of the city and contribute to the general welfare of the city's residents.
3. Objective 3 - Housing: Providing affordable housing or types of housing that helps achieve the city's housing goals and policies:
 - a. Strategies:
 1. Affordable housing developed for those with incomes that are at or below eighty percent (80%) of the Area Median Income (AMI).
 2. The proposal includes housing types, excluding detached single-family housing, that are not commonly found in the existing neighborhood but are of a scale that is typical to the neighborhood.
 3. The following points will be awarded, at the following rates, towards the required five (5) points based on percentage of units offered at 80% AMI or below;

Table 2-3 Points awarded for Affordable Housing	
a.	2 points for 5% of units
b.	3 points for 10% of units
c.	4 points for 15% of units
d.	5 points for 20% of units

4. Objective 4 - Mobility: Enhances accessibility and mobility:
 - a. Strategies:
 1. Creating new interior block walkway connections that connect through a block or improve connectivity to transit or the bicycle network.
 2. Improvements that encourage transportation options other than just the automobile which excludes the required transportation infrastructure.
5. Objective 5 - Sustainability: Creation of a project that achieves exceptional performance with regards to resource consumption and impact on natural systems:
 - a. Strategies:
 1. Energy Use And Generation: Design of the building, its systems, and/or site that allow for a significant reduction in energy usage as compared with other buildings of similar type and/or the generation of energy from an on-site renewable resource.
 2. Reuse Of Priority Site: Locate on a brownfield where soil or groundwater contamination has been identified, and where the local, State, or national authority (whichever has jurisdiction) requires its remediation. Perform remediation to the satisfaction of that authority.
 3. Site Planning: Design and inclusion of a mix of uses to encourage the reduction of resource consumption and impacts to public facilities or services
6. Objective 6 - Comprehensive Plan/Master Plan Implementation: A project that implements a specific Goal, Objective, or Policy of the adopted Comprehensive Plan or Master Plan.
 - a. Strategies:
 1. A project that implements a specific goal, objective, or policy of the adopted Comprehensive Plan or Master Plan not related to compliance standards listed in **Section 2.07.02.**

SECTION 2.07.05 PROCEDURES

- A. Application: The applicant must file a complete application for PUD review with the Community Development Department containing the following information. Certain information may be deemed unnecessary to adequately evaluate the application by the Community Development Director.

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1. A complete written description, with supporting graphics, of the proposed PUD including;
 - a. The zoning regulations being modified in the PUD, and
 - b. The Comprehensive Plan or CRA Master Plan objectives, goals, and policies being met;
 - c. How the proposed PUD is compatible with other properties in the neighborhood(s);
 - d. What and how the proposed PUD provides and meets the community benefit requirement per **Section 2.07.04**;
 2. Existing conditions surveys
 3. Site plan depicting all proposed development
 4. Architectural graphics including elevations, profiles, conceptual floor plans and cross sections;
 5. Preliminary subdivision plat or final plat, if applicable or required;
 6. Traffic impact analysis;
 7. A statement describing the care and maintenance of all open space or recreational facilities; and
 8. Other information or documentation the Community Development Director may deem necessary for proper review and analysis of a particular application.
- B. Application Review
1. Review of the application will follow the same procedures as the Major Development process per **Section 2.06.11**.
 2. Any other required supplemental applications for a proposed PUD, such as subdivision or platting of land, will follow the applicable process per this Article.
- C. Authority: The City Council, following a recommendation from the Local Planning Agency, may approve PUDs for uses listed in the tables of permitted and conditional uses for each category of zoning district or districts. The approval shall be in accordance with the standards and procedures set forth in this Article and other regulations applicable to the district in which the property is located.
- D. City Council Decision:
1. A request for a PUD does not constitute an assurance or presumption of approval.
 2. A proposed PUD shall be evaluated on an individual basis, in relation to its compliance with the following to determine whether the PUD is appropriate and compatible in the proposed location;
 - a. The standards of this Section,
 - b. The standards for the zoning district in which it is located
 - c. Other standards and regulations within this Code,
 - d. Comprehensive Plan and other City Ordinances
 3. The City Council may approve or approve with conditions as necessary or appropriate for the PUD to comply with the standards and factors set forth in this Section.
 4. The City Council may approve any PUD with modifications, and the subsequent development order may be authorized by the City Manager or designee once the required modifications have been completed and approved by the appropriate TRC members.
 5. The City Council may deny an application for a PUD if it finds that the proposal;
 - a. Does not meet the intent of the base zoning district, or;
 - b. Is not appropriate or compatible with the Planning Area as outlined in the city's adopted Comprehensive Plan, or;
 - c. Does not meet the purpose and intent of this Article, or;
 - d. Is not consistent with the standards and factors as set forth in this section.
- E. Any person adversely affected by a final decision of the City Council may appeal per Section 2.11.02.

SECTION 2.07.06 TIME LIMIT ON APPROVED PLANNED UNIT DEVELOPMENT

- A. No PUD approval shall be valid for a period longer than one year unless;

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1. A building permit has been issued, or
2. Complete building plans have been submitted to the Building Division of the Community Development Department and are under review.
- B. If a PUD expires, the applicant loses rights to all approvals pertaining to the proposed PUD
- C. The Community Development Director may grant one extension of a PUD for up to one additional year from previous approval date;
 1. The material required for an extension request shall meet the same requirements for a Development Order Extension as outlined in **Section 2.03.02.E**.
 2. PUD Extension requests must be submitted 60 calendar days prior to the expiration of the PUD approval.
- D. If a PUD expires the applicant may request to reinstate the PUD, for twelve (12) months, by requesting a Public Hearing before City Council, within six (6) months after expiration.
 1. The material required for an extension request shall meet the same requirements for a Development Order Extension as outlined in **Section 2.03.02.E**.
 2. If a PUD expires and is reinstated, it shall not be allowed to request an extension or another reinstatement.

SECTION 2.07.07 DEVIATIONS OR AMENDMENTS TO A PLANNED UNIT DEVELOPMENT

- A. Following PUD approval, the development plan approved by the City Council shall constitute the site design in relation to building placement and design, landscaping, mobility and circulation elements, and any elements that were approved as zoning modifications through the PUD process. Deviations or amendments to the PUD may be allowed pursuant to this Section.
 1. No deviation or amendment shall be made in the construction, development, or use without a new application under the provisions of this Article.
 2. Any deviation or amendment to the approved development plan not authorized by the original approval or any subsequent approved modification or amendment of this section shall be considered a modification.
 - a. Major deviations or amendments are deviations from a final approved development plan, including any change; to
 1. A condition in the final development order that was expressly imposed by the City Council; or
 2. Any change that adversely affects the compatibility of the proposed project; or
 3. Any change that the City Manager, or his designee, determines should be reviewed by the City Council due to the community impact of the proposed change; or
 4. Any characteristic of the approved PUD including but not limited to the following:
 - (i) Any increase of the total building footprint by 10% or more;
 - (ii) Any increase in density, not to exceed the underlying zoning district, or Future Land Use Designation in the City's Comprehensive Plan, except as allowed by **Section 2.07.02.B.1.a.4** of this Article;
 - (iii) Any decrease in open space;
 - (iv) Any increase or decrease in parking spaces on or off-site by 10% or more;
 - (v) Request for additional uses not previously considered in the original approval;
 - (vi) Any increase of an originally approved use by, square footage, parking requirements, slip count or increase of capacity of use;
 - (vii) Any reduction of external setbacks, not to exceed the minimum setbacks as required by the underlying zoning district;
 - (viii) Any reduction of approved landscaping or tree canopy cover by 10% or more, not to exceed the required minimum landscaping requirement;

- (ix) Any alteration of the overall design theme or defining exterior or site architectural characteristics.
- 3. Such major deviations or amendments shall be consistent with the intent and purpose of the approved PUD plan and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such modifications would result in a violation of any standard or requirement of Comprehensive Plan, CRA Master Plan, or LDC.
- 4. Major deviations or amendment applications shall follow the same procedures as a Major Deviation application outline in [Section 2.06.11](#) of this Article
- 5. Noticing: shall follow the requirements per [Section 2.02.03](#) of this Article.
- B. Minor Deviations or Amendments:
 - 1. Minor deviations or amendments are deviations to an approved PUD that is not a Major deviation or amendment as identified in [Section 2.07.07.A.2.](#), nor a Technical modification as identified in [Section 2.07.07.C](#)
 - 2. Such minor deviations or amendments shall be consistent with the intent and purpose of the approved PUD plan, and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such modifications would result in a violation of any standard or requirement of Comprehensive Plan, CRA Master Plan, or LDC.
 - 3. Minor deviations or amendments applications shall follow the same procedures for a Minor Deviation as outlined in [Section 2.06.10](#).
- C. Technical Modifications: Modifications or amendments that appear necessary considering technical or engineering considerations and not in conflict with any Major Deviation as Identified in [Section 2.07.07.A.2](#) above.
- D. Such technical modifications shall be consistent with the intent and purpose of the approved PUD plan, and shall be the minimum necessary to overcome the particular difficulty and shall not be approved if such modifications would result in a violation of any standard or requirement of Comprehensive Plan, CRA Master Plan, or LDC.
- E. Such modifications shall be limited to modifying the following elements:
- F. The distance as shown on the approved development plan between any one structure or group of structures, and any other structure or group of structures.
 - 1. Except, a modification that decreases the setback between a proposed building and an existing building or property line external of the proposed PUD.
- G. Vehicular circulation element
- H. The location or increasing the size of any open space
- I. Any stormwater element
- J. Final grade
- K. The types of landscaping elements and their arrangement within the required landscaping buffer area
- L. Relocation or construction of accessory structures
- M. Technical modifications or amendments application shall follow the same procedures for a Simple Deviation as outlined in [Section 2.06.09](#)

SECTION 2.07.08 DISCLOSURE OF PRIVATE INFRASTRUCTURE COSTS FOR PLANNED UNIT DEVELOPMENTS

- A. PUDs, approved under this Article, shall include provisions for disclosure of future private infrastructure maintenance and placement costs to unit owners.
 - 1. Infrastructure Maintenance Estimates: Using generally accepted accounting principles, the developer shall calculate initial cost estimates for maintenance and capital improvements of all infrastructure for the PUD for a period of fifty (50) years following the recording of the subdivision plat or the estimated date of first unit occupancy of the PUD, whichever is later.

- a. The initial disclosure estimates shall cover all private infrastructure items and shall be prepared for five (5) increments of ten (10) years each.
 - b. Infrastructure cost estimates shall include roads, sidewalks, curbs, gutters, water, and sewer pipes and related facilities, drainage systems, landscaped or paved common areas, and other similar facilities ("infrastructure")
2. Initial Estimate Disclosure: The following measures shall be incorporated to assure owners and future owners receive adequate disclosure of potential infrastructure maintenance and replacement costs:
 - a. The cost estimate shall be recorded with and referenced on the recorded plat for any PUD.
 - b. The recorded plat shall also contain a statement entitled "notice to purchasers" disclosing that the infrastructure is privately owned and the maintenance, repair, replacement, and operation of the infrastructure is the responsibility of the property owners or owner association and shall not and will not be assumed by the city.
 - c. The cost estimate shall be specifically and separately disclosed to the purchaser of any property in the PUD, upon initial purchase, and also upon all future purchases for the duration of the fifty (50) year period.
3. Maintenance Statements: The entity responsible for the operation and maintenance of the infrastructure shall, at least once each calendar year, notify all property owners in the PUD of;
 - a. The estimated yearly expenditures for maintenance, repair, operation, or replacement of infrastructure
 - b. The actual expenditures incurred, for maintenance, repair, operation, or replacement of infrastructure, and at least once each calendar year shall notify all property owners of the actual expenditures incurred and shall specify the reason(s) for any variance between the estimated expenditures and the actual expenditures.
4. Maintenance Responsibilities: The property owners in a PUD shall be collectively and individually responsible, on a pro-rata basis, for operating, maintaining, repairing and replacing infrastructure to the extent necessary to ensure that access to the PUD is available to the city for emergency and other services and to ensure that the condition of the private infrastructure allows for the city's continued and uninterrupted operation of public facilities to which the private infrastructure may be connected or to which it may be adjacent.

SECTION 2.08 PROCEDURES FOR HARBOR AND WATERWAYS BOARD REVIEW

SECTION 2.08.01 PURPOSE AND INTENT

- A. Marine construction in Destin requires compliance with the Marina Siting in **Section X.XX.XX**, and may require review by the Harbor and Waterways Board (HWB) and or City Council, to preserve and protect one of Destin's premier natural resources, the Destin Harbor and waterways that fall within the City's jurisdiction.
- B. The bodies of water and waterways under the jurisdiction of the City of Destin for the purposes of enforcement of this Code are:
 1. The Destin Harbor
 2. The canals of Holiday Isle
 3. Indian Bayou (If the upland property is within the city limits)
 4. Joe's Bayou
 5. Marler Bayou
 6. Choctawhatchee Bay (If the upland property is within the city limits)

SECTION 2.08.02 MARINE CONSTRUCTION CLASSIFICATIONS

- A. Marine Construction Classification Categories: The following includes the three categories and category criteria:
1. Category 1: Marine Construction projects shall be considered Category 1 if the following criteria applies:
 - a. Residential docks eligible for self-certification from Florida Department of Environmental Protection (FDEP)
 - b. Boat lifts in existing slips
 - c. Upland slips
 - d. Sea walls that are upland of the declared mean high water line
 - e. Seawall that are waterward of the declared mean high water line
 2. Category 2: Marine Construction projects shall be considered Category 2 if any of the following criteria applies:
 - a. Residential docks not qualifying for FDEP self-certification,
 - b. Residential docks with 3-9 slips,
 - c. Residential docks requiring U.S. Army Corps of Engineers (USACE) approval
 - d. Residential docks proposed within twenty-five feet (25') of any established or implied riparian setback from adjacent properties
 3. Category 3: Marine Construction projects shall be considered Category 3 if any of the following criteria applies:
 - a. Residential docks with 10 or more slips
 - b. Commercial docks
 - c. Oil abatement plans
 - d. Dredge and/or Fill requests
 1. Application Materials require proof of submittal to State and Federal agencies as applicable.
 2. Proposed dredge and fill requires a Marine Construction Permit review and shall have State and Federal approvals at time of Marine Construction permit application submittal.

SECTION 2.08.03 HARBOR AND WATERWAYS BOARD REVIEW

- A. Category 1 Marine construction applications do not require Harbor and Waterways Board review and are reviewed through a building or marine construction permit application as outlined in **Section 2.08.05**.
- B. All marine construction applications deemed Category 2 shall require submittal of a Harbor and Waterways Board application.
1. Category 2 and 3 applications are reviewed by the HWB during a public hearing for recommendation to City Council.
 2. A complete application must be received a minimum of 30 days prior to the Harbor and Waterways Board meeting.
 - a. Applications will not be scheduled for a meeting until all required materials have been received.
 3. All objections received before the will be forwarded to the HWB prior to the public hearing.
 4. All objections heard during a public Hearing of the HWB will be forwarded to City Council.
- C. All marine construction applications deemed Category 3 shall require review by the Harbor and Waterways Board for recommendation to City Council for review at a Public Hearing.

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SECTION 2.08.04 CITY COUNCIL REVIEW

- A. All marine construction applications deemed Category 2 or 3 shall require review and approval by City Council prior to the issuance of any building permits and the start of construction.
 - 1. Category 2 applications will be reviewed by City Council on the Consent Agenda for regularly scheduled council meetings.
 - 2. Category 3 applications will be reviewed by City Council during a publicly noticed public hearing per **Sections 2.02.03. and 2.15.**
- B. The City Council shall approve, approve with conditions, or deny the application at the next available regularly scheduled City Council meeting.
- C. All objections received before the public hearing will be forwarded to the City Council prior to the scheduled meeting.

SECTION 2.08.05 MARINE CONSTRUCTION PERMITS

- A. All marine construction permits must be obtained within one (1) year of final approval by the City Council.
 - 1. If construction permits are not obtained within one (1) year, the proposed construction must be reconsidered by both the Harbor and Waterways Board and City Council.
- B. Approval of all applicable State or Federal permits are required at the time of marine construction permit application submittal.
- C. The project will be subject to all current regulations of the city at the time of permit submittal.
- D. Marine Construction permits must be obtained in accordance with **Section 2.14.03.**

SECTION 2.09 CRITERIA AND PROCEDURES FOR CONDITIONAL USE AND CERTIFICATE OF APPROPRIATENESS REVIEW

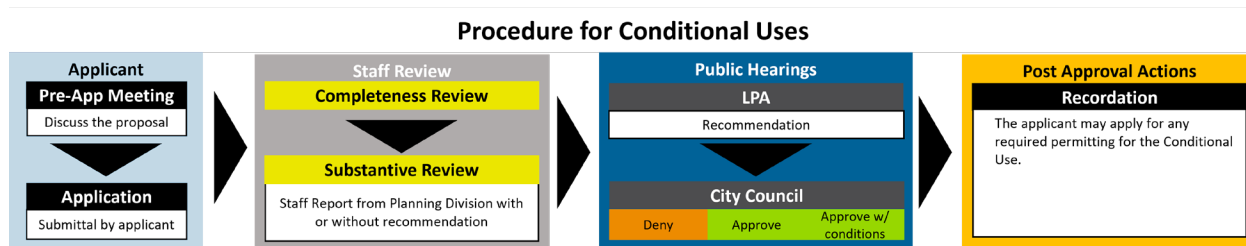
SECTION 2.09.01 CONDITIONAL USES

- A. The following shall apply to all applications for a conditional use in any zoning district within the City of Destin:
 - 1. A complete application for any Condition Use shall be filed and approved before any construction permit, or change of use can be approved.
 - 2. An application for a conditional use shall include;
 - a. A narrative describing how the proposed development meets the following criteria.
 - 1. Land use compatibility: The applicant shall demonstrate the conditional use is compatible and harmonious with adjacent land uses and **general character of the area. This includes but is not limited to:**
 - (i) An analysis of the proposed scale, density or intensity, traffic-generating characteristics, and off-site impacts.
 - (ii) **A statement and description of compatibility of the proposed use(s) with adjacent land uses and how the use(s) will not adversely impact land use activities in the immediate vicinity.**
 - 2. Sufficient Size: The site shall meet the minimum standards required per the applicable zoning district and capable to accommodate urban design enhancements such as, but not limited to;
 - (i) Screening, buffers, landscaping, and open space
 - (ii) Off-street parking, efficient internal traffic circulation

- (iii) Infrastructure needed to mitigate against potential adverse impacts of the proposed use
- 3. Mitigative Techniques: The applicant shall demonstrate that the conditional use and site plan are designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses.
 - (i) The design scheme shall address all off-site impacts to the immediate vicinity, including community infrastructure, to ensure the adverse impacts are not detrimental to the general public health, safety and welfare.
- 4. Hazardous Waste: No use generating hazardous waste or uses hazardous materials shall be located in the city unless the location is consistent with the Comprehensive Plan and this Code.
 - (i) Any proposed use generating hazardous waste or that requires hazardous materials for its operations shall use City, State, or Federally approved mitigative techniques to prevent all adverse impacts to the general health, safety and welfare.
 - (ii) If hazardous waste or materials is generated or utilized, all applicable State and Federal regulations shall be met.
 - (iii) The site plan shall identify all hazardous waste and hazardous material areas and shall utilize best management principles and practices.
 - (iv) The use shall not adversely impact wellfields, aquifer recharge areas, or other conservation resources.
- 5. Proliferation of Uses: Over-proliferation of similar uses within a zoning district shall not be permitted. The applicant shall demonstrate the use is not being over proliferated with their proposal.
 - (i) The City Council shall review the existing uses within the zoning district to determine whether a conditional use shall be approved or denied.
- 6. Compliance with applicable laws, regulations, and ordinances: The applicant shall demonstrate compliance with all applicable local State, or Federal laws, regulations, and ordinances.
 - (i) If 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.
- b. The narrative shall also describe the following characteristics
 - 1. Traffic generation;
 - 2. Square feet of enclosed building for each specific use;
 - 3. Proposed employment;
 - 4. Proposed number and type of service vehicles: and
 - 5. Off-street parking needs
 - 6. Mitigative techniques for abating smoke, odor, noise, and other noxious impacts.
 - 7. Include a description of any measures proposed to mitigate any possible adverse impacts on properties in the immediate vicinity,
- c. A site plan that shows the nature of the proposed development identifying the following if applicable;
 - 1. Land use types
 - 2. Density or intensity

3. Placement of proposed buildings, improvements, and impervious ground cover on the site
 4. Location, type, and method of maintenance of open space and public use areas, if any
 5. Preservation of natural features or protection of sensitive lands, if any;
 6. Proposed parking areas and internal traffic circulation
 7. Stormwater management, and
 8. Water and sewage distribution, collection, and treatment systems.
 9. Open space;
 10. Setbacks from adjacent properties;
 11. Screening and buffers:
 12. Landscaped berms proposed to mitigate against adverse impacts to adjacent sites; and
- d. Off-site improvements required to mitigate impacts of the Conditional Use such as but not limited to;
 1. Utilities;
 2. Public facilities, especially any improvements required to ensure compliance with concurrency management;
 3. Roadway or signalization improvements, or other similar improvements;
 4. Accessory structures or facilities; and
 5. Other unique facilities/structures proposed as part of site improvements.
 - 6.
 3. If any of the above listed characteristic or on or off-site elements do not apply to the project, the applicant shall state in the narrative why it is not applicable.
- B. Approvals for Conditional Uses:
1. The LPA, at a quasi-judicial public hearing, shall forward a recommendation of approval, approval with conditions, approval with modifications, or denial to the City Council after review and consideration of the proposed conditional use based upon the applicable criteria, this Code, the Comprehensive Plan, and City Ordinances.
 2. The City Council, at a quasi-judicial public hearing, shall approve, approve with conditions, approve with modifications, or deny the proposed development after review and consideration of the proposed development based on the LPA's recommendation, applicable criteria, this Code, the Comprehensive Plan, and City Ordinances.
 3. A conditional use shall be denied if the City Council determines the proposed conditional use does not meet the criteria provided in this section or the proposed conditional use is averse to the public's interest.
- C. If the proposed conditional use requires a Development Order the appropriate Development Project Type shall be identified per **Section 2.05** and the appropriate procedure per **Section 2.06** shall be followed.
- D. If the proposed conditional use requires any Development Order, the conditional use and development order shall run concurrently, and one shall not be approved before the other.
- E. If an applicant desires to change the use of an existing structure on a site and the property is located within the Harbor District Overlay or Zerbe-Calhoun Historic District Overlay, the applicant is required to apply for a Certificate of Appropriateness with the conditional use per **Section 2.09.03**.

- F. Appeals of the City Council on a conditional use application are by writ of certiorari to the circuit court.



SECTION 2.09.02. CONDITIONAL USES IN HISTORIC OVERLAY DISTRICTS

- A. In addition to the criteria and processes outlined in [Section 2.09.01](#), Conditional Uses proposed in the Harbor or Zerbe-Calhoun Historic Overlay Districts should meet the following intents and standards.
1. The Harbor District Overlay and the and the Zerbe-Calhoun Historic District Overlay intend 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 by providing significant examples of architectural styles of the past. To accomplish this the district may 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 in these overlay districts 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, 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) and embody those distinguishing characteristics of an architectural type and contain elements of architectural design, detail, materials or craftsmanship that represent a significant era in the history of the Destin Harbor area.
 - c. Environmental significance in the Harbor District Overlay: 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-made 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.
 - d. Environmental significance in the Zerbe-Calhoun Historic District Overlay: 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.

- e. To the extent that there is any conflict between the permissibility of any specific use in the underlying zoning district and the Historic Overlay, the provisions of the underlying zoning district shall apply.

SECTION 2.09.03 CERTIFICATE OF APPROPRIATENESS IN OVERLAY DISTRICTS

- A. The Certificate of Appropriateness intends to allow the preservation of historically significant structures and/or property in the Harbor and Zerbe-Calhoun Overlay Districts.
- B. The City Council may grant a Certificate of Appropriateness to an applicant seeking to preserve an existing structure constructed prior to 1975 on a site which is deemed historically, architecturally, or environmentally significant.
- C. A certificate of Appropriateness shall meet one or more of the criteria listed in [Section 2.09.02](#).
- D. To further the intent and purpose of Harbor District and Zerbe-Calhoun Historic District Overlay, the City Council may waive or modify the following requirements of this Code;
 - 1. Parking requirements
 - 2. Requirements for lot area, width, depth
 - 3. Building setbacks
 - 4. Open space
- E. The Community Development Director, the Building Official, or the City Engineer may determine there is a serious threat to the public health, safety or welfare, and the waivers listed in [Paragraph D](#) of this section shall not be granted.
- F. A property owner may apply to designate a structure or site as significant pursuant to this section. Such application may include a request for a conditional use, if applicable.
- G. Applications for a certificate of appropriateness (with or without a conditional use) shall be submitted to the Community Development Department and shall include;
 - 1. A narrative detailing why the property or structure is historically, architecturally, or environmentally significant.
 - 2. A narrative demonstrating the property or structure meets the criteria listed in [Section 2.09.02](#).
 - 3. A signed, sealed survey of the existing conditions of subject property, dated within six (6) months of the application date.
- H. City Staff and the City Land Use Attorney shall review a certificate of appropriateness (with or without a conditional use) application for sufficiency and shall forward the request to the City Council through the City Manager.
- I. The City Council, at a quasi-judicial public hearing, shall approve, approve with conditions, approve with modifications, or deny the proposed certificate of appropriateness after review and consideration of the applicable criteria, this Code, the Comprehensive Plan, and City Ordinances.
- J. If the proposal is approved, the City Council shall issue a Certificate of Appropriateness by Final Order as evidence of the approval under the terms of the Harbor District Historic Overlay or Zerbe-Calhoun Historic District Overlay.
 - 1. The order shall include findings of fact and conclusions of law detailing:
 - a. The certificate of appropriateness (with or without a conditional use) vests the,
 - 1. Uses
 - 2. Structures
 - 3. Driveways, accessways, or parking, (as applicable)
 - 4. Any other items depicted on the survey, or

5. Any City Code waivers authorized by approval of the survey submitted by the applicant, until such time that the applicant abandons the uses for a period of at least 180 days;
 6. The change of use and development or re-development depicted on the survey has been made are approved by the City Council
 7. Any action by applicants following issuance of a certificate of appropriateness shall be in accord with the application and material approved and any conditions or modifications approved by the City Council.
- K. Nothing in this section releases the applicant from any requirement to obtain a Business Tax Receipt on the subject property, if applicable.
- L. Appeals:
1. 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.
 2. The applicant is responsible for providing a verbatim transcript of the record of that hearing.
 3. Such an appeal must be filed within 30 days after the date the city renders its order.

SECTION 2.10 PROCEDURES FOR CHANGE OF USE

SECTION 2.10.01 APPLICABILITY AND CRITERIA

- A. Existing developments are required to be consistent with existing development order(s) and City, State or Federal regulations as applicable when modifications or changes in the use or to the site are proposed.
- B. Proposed changes or expansions to a space may be permitted once reviewed and approved through the Change of Use Process and;
 1. The property is compliant with applicable City, State or Federal regulations as applicable, or with an applicable development order.
- C. The Community Development Director or designee may determine a Development Order is necessary if the proposed change of use meets any of the Land Development Project Types criteria listed in **Section 2.05** of this Article.
- D. A change of use permit shall be required for any property, lot, parcel of land, structure, or site for the following changes, which includes all permanent, temporary, and seasonal uses:
 1. A property or structure or portion thereof is, or is proposed to be, a different land use than the approved use or existing use.
 2. Properties and/or structures where the intensity of a use is increased, which results in additional impacts including but not limited to;
 - a. Additional required parking,
 - b. Structure or site modifications
 - c. Impacts affecting the public welfare, as determined by the Community Development Director or designee
 3. The addition of a use to a site with a single-use or multiple uses currently in operation.
 4. The addition of more of impervious surface or gross floor area to any structure.
 5. Any change of use upon the property affecting the current condition of the property, any structure, or any pervious or impervious surface.

6. Any change of use/development of building/structure/parcel of land that generates vehicle trips above current levels at the property location.

SECTION 2.10.02. APPLICATION REVIEW AND APPROVAL

- A. Any proposed change of use shall submit an application to the City for review of the existing conditions against the new proposed condition and impacts.
 1. Staff may require review by any TRC member if the Change of Use is identified as affecting their services.
 - a. If the TRC member charges a fee for their review or there is a 3rd party review required, the applicant will be required to pay for this extra cost.
- B. An application must include all information and supplemental items required in the City of Destin Checklist at a minimum.
 1. Additional materials may be requested and required by the Community Development Director or designee if determined more information is required for City Staff to fully assess the proposed scope of the Change of Use.
- C. The Community Development Director or designee may require any additional applications be submitted as part of the change of use permitting process, as necessary, pursuant to this Code or other City Ordinance.
- D. Once an application is determined to comply with local, State, or Federal codes, regulations, or conditions of applicable development orders, City Staff may approve the Change of Use.
- E. An application for a change of use permit shall be denied if one (or more) of the following conditions exist:
 1. There is a pending code compliance violation on the subject property
 2. A recorded code compliance lien exists on the subject property
 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
 4. Any of the criteria or requirements for a change of use permit application is/are not met.

SECTION 2.11 PROCEDURES FOR APPEALS AND VARIANCES

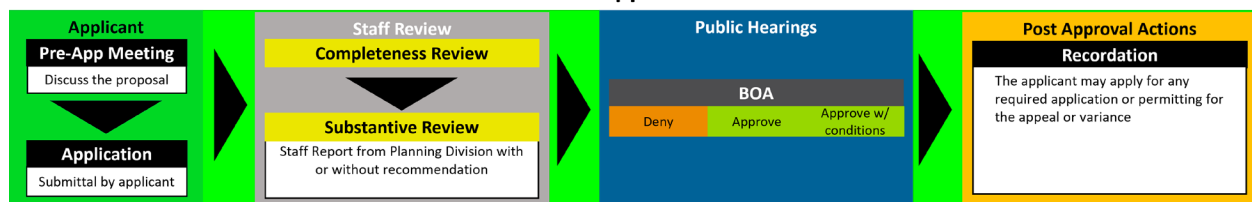
SECTION 2.11.01 APPEALS OF ADMINISTRATIVE OFFICIALS

- A. All appeals of any requirement, decision, or determination made by an administrative official or the Local Planning Agency enforcing the Code of Ordinances or this Code, shall be taken before the Board of Adjustment (BOA).
- B. The BOA may, upon appeal, reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.
- C. The BOA may hear any dispute including, but not limited to;
 1. A finding of concurrency deficiency
 2. Refusal on the part of the city to issue a final development order
 3. An appeal by an affected person or party
 4. Determination or interpretation of this Code made by any City Official or Board.
- D. Appeals by any affected person or party must be applied for within 30 calendar days of rendition of the order, requirement, decision, or determination in question.
- E. The appellant must include a narrative for the reason of an appeal in the application

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- F. The City Manager, or designee, shall arrange for an appeal hearing before the BOA and notify the appellant of the date, time, and place of the hearing.
- G. The appellant has the burden of demonstrating the decision in question was in error.
- H. The administrative official(s) involved, or the LPA, shall have the opportunity to present information and argument to support their decision.
- I. A majority vote of all the members present of the board at the hearing 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.
- J. The BOA shall base its decision on the requirements of the City of Destin Comprehensive Plan and the Land Development Code or Code of Ordinances at the time of the appeal.
- K. The Board shall make its decision based upon its usual voting procedures.
- L. The decision shall be issued in writing stating the reasoning involved.
- M. The BOA Order shall be rendered within 60 calendar days of the close of the hearing.
- N. 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.
- O. Appeal Review Procedures:
 1. Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, administrative official, board, or bureau of the city affected by an interpretation of this Code.
 - a. The Community Development Department shall provide all the documents, plans, papers, or other materials from which the decision was made, to the BOA.
 - b. An appeal to the BOA stays all work on the premises and all proceedings in furtherance of the action appealed from.
 1. Except in situations where the appropriate official determines and certifies to the BOA that a stay would cause imminent peril to life or property.
 2. In such case, proceedings or work shall not be stayed except by a restraining order, granted by the BOA or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
 2. All appeals must have a complete application submitted thirty (30) calendar days prior to the next available scheduled Board of Adjustment hearing.
 3. City Staff shall notify all parties when the appeal will be presented to the Board of Adjustment
 4. Upon the hearing, any party may appear in person, by agent, or by attorney.
 5. All administrative appeals shall be quasi-judicial public hearings and be conducted in accordance with [Section 2.15](#).

Procedure for Appeals & Variances



SECTION 2.11.02 APPEALS OF CITY COUNCIL

- A. A decision of the City Council may be appealed to the appropriate circuit court of the state within 30 days of rendition of the City Council's final order.

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- B. During the pendency of any appeal, no further action shall be taken on the application except pursuant to an order of the court or after final determination by the court as to the merits of the appeal.
- C. If an application is denied by the City Council, it may not be resubmitted to the City or reconsidered by the City Council for one (1) calendar year, except pursuant to an order of a court of competent jurisdiction.

SECTION 2.11.03 VARIANCES

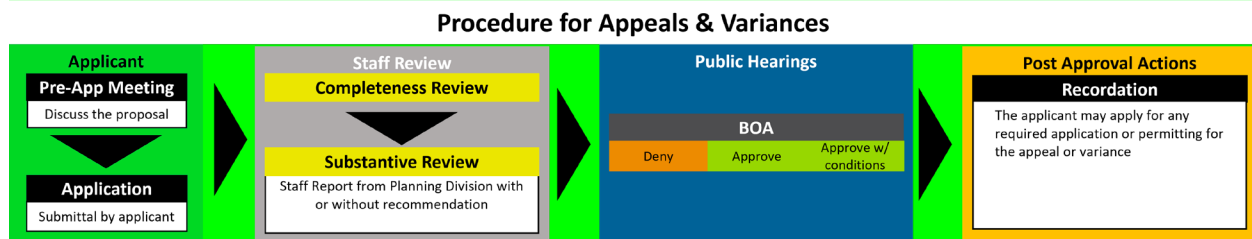
- A. A property owner or authorized agent may request a variance from the terms of any regulation in the Land Development Code not contrary to the public interest.
 - 1. Under no circumstances, shall the BOA grant a variance to elements of the zoning or subdivision regulations listed below. Any application requesting a variance from the following will be rejected by the Community Development Department and all fees returned to the applicant.
 - a. Any provision or requirement of the Comprehensive Plan.
 - b. Building height
 - c. Density or intensity.
 - d. Dimensional limitation of signage.
 - e. Number of signs allowed per property.
 - f. Required landscaping.
 - g. Screening for solid waste, mechanical equipment, or other required screening elements.
 - h. Uses per the underlying zoning district of the property except as allowed in **Article 3 – Nonconformities of this Code.**
 - 2. The BOA may grant a variance to the items c. and f. listed in **Paragraph A.1.** above on property that is subject to **Article 3 – Nonconformities** due to Public Agency Action, only if a variance would not have been required prior to the public agency action.
 - 3. Approval of a variance for a nonconforming use of neighboring lands, structures, or buildings in the same zoning district or in other zoning districts shall be considered grounds for the authorization of a variance.
- B. To authorize any variance from the terms of the conditions, the BOA shall find:
 - 1. 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.
 - 2. That the special conditions and circumstances do not result from the actions of the applicant.
 - 3. 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.
 - 4. 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.
 - 5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - 6. 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.
- C. Each request for a variance shall be the subject matter of a separate application.

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- D. The BOA may approve an exception for docks and pilings to be extended beyond the maximum length limits and slip density, provided that, in addition to the criteria listed in [Section 2.11.03.B.](#), the following criteria is also met:
1. That site-specific environmental conditions would impede placement of slips near or next to the shoreline.
 2. That site specific environmental conditions exist that prohibit dredging.
 3. That the proposed layout of the dock and pilings does not create a hazard to navigation.
 4. That no additional slips are obtained than would otherwise fit into a dock of the maximum size allowed without the exception.
- E. It shall be the responsibility of the applicant for variances to the Land Development Code to demonstrate and each application shall contain statements of fact establishing the criteria prescribed above.
- F. Each request for a variance as allowed by [Section 2.11.03](#) shall be originated by the filing of an application with the Community Development Department.
- G. The application must be supported by the appropriate materials to support the request. Failure to provide complete information will permit the board to continue or dismiss, without prejudice, any application. The application at a minimum shall include the following:
1. Letter of request from the applicant which contains the request(s) for variance(s), or appeal(s) of an administrative decision.
 2. Statements of fact setting out compliance with the criteria established by [Section 2.11.03.B](#) when required.
 3. Proof by the applicant of ownership or interest in the land for which the request is sought, if applicable.
 4. A complete legal description of the parcel of land for which the request is sought.
 5. A current survey dated and stamped no less than 180 days illustrating the existing site conditions.
 6. 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.
 7. Any other documents or requirements which are mandated by the Code or deemed necessary by staff in reference to the specific request made. This may include but not limited to the structure location or ancillary mechanical equipment location of the request.
- H. The Community Development Director, or designee, shall have the discretion to refuse to accept an application which does not include supporting documents required by this section or the Code.
- I. The application and any supporting materials must demonstrate the need and the requirements of [Section 2.11.03.B.](#)
- J. 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 [Section 2.11.03.B.](#) are met.
1. In granting any variance, the Board of Adjustment may require appropriate conditions and safeguards in conformity with any zoning ordinance.
 - a. Violation of any condition safeguard of an approved Variance shall be deemed a violation of the zoning ordinance.
 - b. The BOA may approve a reasonable time limit for applicant action to vest the approved variance by either setting a start or completion date.

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1. Any approved timeline in conjunction with a building or other construction permit shall follow the limits required per the Building Code.
- K. Action time limit: An action for which a variance is required shall begin no later than six months and completed no later than 12 months from the grant of variance, or time limit determined by the BOA.
- L. Public Hearing: All public hearings shall be quasi-judicial and conducted in accordance with **Section 2.15**.



SECTION 2.11.04 APPEALS OF THE BOARD OF ADJUSTMENT

- A. Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, may apply to the Circuit Court for judicial relief within 30 days after rendition of the decision by the board of adjustment.
- B. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules.

SECTION 2.12 PROCEDURES FOR RIGHT-OF-WAY CONSTRUCTION REVIEW

SECTION 2.12.01 RIGHT-OF-WAY CONSTRUCTION PERMITS

- A. Purpose: 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 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.
- C. No unauthorized encroachment shall be permitted onto existing rights-of-way.
- D. Strict adherence to the building setback requirements described in **Article 4** of this Code shall serve to protect rights-of-way from encroachment.
- E. All activity (e.g. paving, landscaping, sprinkler system installation, etc.), in a public ROW is prohibited unless;
 1. A ROW permit is submitted to the Community Development Department and reviewed and approved by the City Engineer or designee.
 2. The following activities conducted in the right-of-way are not required to obtain a ROW construction permit:
 - a. The installation and repair of mailboxes
 - b. Installation of sod
 - c. Irrigation

SECTION 2.12.02 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 from the city.

- B. Application:
 - 1. Any public utility seeking a permit for a construction project shall submitted a ROW permit to the Community Development Department for review and approved by the City Engineer or designee.
 - 2. The application shall include all required documentation as stated in the Design Manual, and any additional information that is deemed necessary for a particular project by the Community Development Director or designee.
- C. The Community Development Director may require the permit holder for projects, determined to be sensitive in nature, to post a construction warranty or surety performance and indemnity bond, at the election of the utility provided.
 - 1. The Bond shall assure restoration of public property and rights-of-way to the satisfaction of the Community Development Director, or his designee.
 - 2. Public utilities chartered by the state legislature are excluded from the requirements of this section.
- D. If the public utility elects to issue its construction warranty to the City as provided for in Paragraph C, above, it shall be in the form prescribed by the City.
- E. Bond: If the public utility elects to file a bond as provided in Paragraph C, it shall be in the form of a performance and indemnity bond.
 - 1. The required warranty or bond shall be filed with the city prior to start of the project by the public utility.

SECTION 2.13 TELECOMMUNICATION AND WIRELESS FACILITIES

The purpose and intent of this Article is to provide a uniform and comprehensive set of standards for the development, installation and/or replacement of commercial telecommunication towers, antennas and related facilities. The regulations contained herein are designed to protect and promote public health, safety, community welfare and the aesthetic quality of the City, while at the same time not unduly restricting the development of needed telecommunication facilities and encouraging managed development of telecommunication infrastructure.

SECTION 2.13.01 NEW TELECOMMUNICATION FACILITIES (TOWERS) ON PUBLIC OR PRIVATE PROPERTY

- A. No new telecommunications tower facility shall be installed, erected or constructed until;
 - 1. A development order has been issued pursuant to Section 2.03, of the Article.
 - 2. A building permit has been issued.
- B. All plans for new commercial telecommunications towers shall be submitted to the Community Development Department.
 - 1. The review and approval procedure shall be consistent with the procedures outlined in Section 2.06.10. – Major Developments of the Land Development Code and the standards set forth herein.
- C. The City shall consider the following in the review and consideration of an application and imposition of reasonable approval conditions:
 - 1. Applications to place a telecommunications facility on public or private property shall contain all required submittal materials for a Major Development Order, and;
 - a. any additional information requested by the city that is found reasonably necessary to review the application.

2. No new telecommunication tower shall be permitted unless the applicant demonstrates that no existing tower or alternative tower structure, regardless of whether it is located within the city, can accommodate the applicant's proposed antenna.
 - a. All evidence submitted shall be prepared by appropriate licensed professionals or qualified industry experts.
 - b. Evidence submitted shall demonstrate that no existing towers or approved, or suitable alternative structures are located within the geographic antenna placement area required to meet the applicant's engineering requirements, and shall consist of one or more of the following:
 1. That existing towers or alternative tower structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed Florida professional engineer.
 2. The planned equipment would exceed the structural capacity of the existing or approved tower or alternative tower structures, as documented by a qualified and licensed Florida professional engineer, and
 - (i) The existing or approved tower, or alternative tower structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 3. That the applicant's proposed antenna(s) would cause electromagnetic interference with the antennas on the existing towers or alternative tower structures, or the antennas on the existing towers or alternative tower structures would cause interference with the applicant's proposed antenna and the interference cannot be prevented at a reasonable cost.
 4. That the cost or contractual provisions required by the tower owner to use an existing tower or structure or to adapt an existing tower or alternative tower structure for shared use are unreasonable.
 - (i) Costs exceeding new tower development are presumed to be unreasonable as demonstrated by a commercial real estate appraisal from a MAI certified appraiser.
 5. That other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved alternative tower structure.
3. The following standards shall apply to approval of all telecommunications facilities:
 - a. The applicant shall demonstrate, using the latest technological evidence, why the antenna or tower must be placed in a proposed location to serve its necessary function in the company's grid system.
 1. Part of the demonstration shall include a drawing showing the boundaries of the area around the proposed location which would also permit the antenna to function properly in the company's grid system. The area shall be considered the allowable zone.
 - b. The applicant shall demonstrate that the telecommunication tower is no higher than necessary to function satisfactorily and to accommodate the co-location requirement.
 1. All towers shall be designed to accommodate the co-location of other telecommunication antennas as follows:

- (i) For towers up to 150 feet in height, the tower and telecommunication equipment building shall be designed to accommodate at least two providers; and
 - (ii) For towers greater than 150 feet in height, the tower and telecommunication equipment building shall be designed to accommodate at least three providers.
- c. Telecommunication towers shall be monopole construction unless it is demonstrated that another type of tower is required for safety purposes.
- d. All telecommunication towers shall be fitted with anti-climbing devices as approved by the manufacturers.
- e. Screening per **Section XX.XX.XX** of this Code shall be required around the telecommunication facility unless the antenna is mounted on an existing structure.
- f. Adequate parking shall be required for users of the tower and such maintenance personnel as normal operations require. If the site is not fully automated, the number of required parking spaces shall equal the number of employees working on the largest shift.
- g. The owner of property used as a telecommunication facility shall maintain such property and all structures in good condition and free of trash, outdoor storage, weeds and other debris.
- h. All telecommunications facilities shall comply with and abide by all applicable provisions of the State, Federal, and City laws, regulations, and ordinances, in placing or maintaining a telecommunications facility on private property.

SECTION 2.13.02 EXISTING OR COLLOCATED TELECOMMUNICATIONS FACILITIES

- A. Any existing telecommunications facility or the collocation of telecommunications equipment, expansion, or modification shall only require Building Permit review.
 - 1. Application review shall follow Florida State Statutes and Federal Regulations.
 - a. 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.
 - b. Approval, approval with conditions, or denial shall be given within sixty (60) days.
 - 1. If no decision is sent to the applicant within sixty (60) days the application shall be deemed approved.
- B. Additional antennas shall be allowed in any zoning district if located on an existing tower or alternative tower structure, and shall not be considered an expansion to an existing tower or alternative tower structure.
 - 1. The addition of an antenna to an existing tower or alternative tower structure shall require certification from a professional engineer that the design capacity of the tower or alternative tower structure will safely accommodate the additional antenna prior to the issuance of a building permit.
- C. City may deny a proposed collocation of a facility if the collocation:
 - 1. Materially interferes with the safe operation of traffic control equipment.
 - 2. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
 - 3. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
 - 4. Materially fails to comply with the most current edition of the FDOT Utility Accommodation Manual.
 - 5. Fails to comply with city's applicable codes.

SECTION 2.13.03 TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY

- A. Any existing telecommunications facility or the collocation of telecommunications equipment, expansion, or modification shall only require Right-of-Way (ROW) Permit review
 1. Application review shall follow Florida State Statutes and Federal Regulations.
 - a. Within ten (10) business days after receiving an application, the city must determine and notify the applicant, by electronic mail, if the application is deemed complete.
 - b. Approval, approval with conditions, or denial shall be given within sixty (60) days.
 1. If no decision is sent to the applicant within sixty (60) calendar days the application shall be deemed approved.
 2. Within ten (10) business days after the date of submitting a complete application, the city may request the proposed location of a facility be moved to another location in the public rights-of-way, and placed on an alternative;
 - a. City pole
 - b. Existing structure
 - c. Wireless support structure
 - d. Place a new utility pole
 3. The City and applicant may negotiate the alternative location for thirty (30) calendar days after the date of the request.
 - a. At the end of the thirty (30) calendar day negotiation period, if the alternative location is agreed upon by the applicant, the applicant will notify city of this acceptance.
 - b. The application is deemed granted for any new location where there is agreement, and all other locations in the application.
 4. If no agreement is reached, the applicant will notify the City of the nonagreement.
 - a. The City shall approve or deny the original application within ninety (90) calendar days after the date the application was filed.
 5. A request for an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.
 6. City and applicant may agree to extend the sixty (60) calendar day application review period.
- B. The City will notify the applicant of approval or denial.
 1. The City shall specify, in writing, any basis for denial, including the specific code provisions on which the denial was based.
 2. Applicant may cure the deficiencies identified by the City and resubmit the application within thirty (30) calendar days after notice of the denial is sent to applicant.
 3. City shall approve or deny the revised application within thirty (30) calendar days after receipt, or the application will be deemed approved.
 4. City may deny a proposed telecommunications facility change, modification, or expansion in the ROW if the proposed change, modification, or expansion:
 - 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 most current edition of the FDOT Utility Accommodation Manual.
 - e. Fails to comply with city's applicable codes.

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- C. Emergency: In the case of an emergency, an applicant may restore its damaged facilities in the public rights-of-way to their pre-emergency condition or replace its destroyed 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.
 - 1. 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.
 - 2. 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.
- D. If the installation and/or the operation of any telecommunication facility is determined by the City Building Official, to be inherently dangerous, or a demonstrable health hazard, the facility shall be declared to be a nuisance and all operation thereof shall cease.
 - 1. The telecommunication provider and/or owner of the facility shall be provided with a thirty (30) calendar day opportunity to cure.
 - a. Operation of the facility may continue, unless there is imminent danger of the structure collapsing.
 - b. This provision shall be applicable to telecommunication facilities located in the city prior to adoption of this Land Development Code.

SECTION 2.14 PROCEDURES FOR CONSTRUCTION AND BUILDING PERMIT REVIEW

SECTION 2.14.01 CONSTRUCTION PERMITS

- A. After a development order has been issued, the applicant may, apply for the necessary construction permits.
 - 1. The necessary construction permits may include building permits, marine construction permits and engineering permits.
- B. The city shall issue the necessary construction permits if;
 - 1. Applied for within 12 months of the issuance of the development order, or approved extension.
 - 2. The proposed construction is consistent with and approved pursuant to the development order.
 - 3. If the application for a construction permit deviates from the development plan the city shall notify the applicant within the identified and appropriate review deadlines.

SECTION 2.14.02 BUILDING PERMITS

- A. A building permit application is required for review, approval, and issuance by the Community Development Director or their designee for any structure that is;
 - 1. Erected
 - 2. Moved
 - 3. Modified
 - 4. Structurally altered
- B. All applications for building permits shall be accompanied by all items required per the City of Destin's applicable checklists and scaled and dimensioned:
 - 1. Building plans, if applicable
 - 2. Site plans
 - 3. Site survey dated within one year and application date

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- C. Issued building permit shall conform and comply with the provisions of this Code, unless;
 - 1. The applicant is issued an order approving any special exception, or variance, from the Board of Adjustment.
- D. A 12-month construction trailer permit may be issued for a lot during active construction of a permanent structure on such lot.
 - 1. The construction trailer shall be removed within two weeks following issuance of a Certificate of Occupancy or Certificate of Completion.
 - 2. Renewal of a 12-month permit shall be at the discretion of the City Manager or his designee.
- E. All construction involving the paving or increasing of impervious coverage of properties requires a building permit subject to approval by the City Engineer or designee.
- F. Marine Construction permits are required for docks, piers, boathouses, bulkheads and seawalls, and dredge and fill operations, which are allowed in all zoning districts and shall follow review procedures in [Section 2.13.04](#).
 - 1. Commercial docks are only allowed on properties that allow for commercial uses. Applications for marine construction shall follow the requirements and procedures outlined in [Section 2.13.04](#).
 - 2. Approvals by other concerned agencies are required for all structures in or adjacent to the water.

SECTION 2.14.03 MARINE CONSTRUCTION PERMITS

- A. Marine construction projects are required to be reviewed in accordance with [Section 2.08](#) prior to obtaining a marine construction permit, if applicable.
- B. All categories of marine construction are required to obtain a building permit from the city.
- C. Any recommendation for approval or approval by the Harbor and Waterways Board or City Council does not exempt the applicant from the requirement of obtaining a building permit or other approvals or authorizations from the city and/or other state and federal agencies.
- D. All applicable State and Federal approvals or authorizations shall be submitted with all Marine Construction permits.
 - 1. Any application without these approvals will be incomplete and the City will hold off on reviewing the application until these approvals are submitted.
- E. Permitting Procedures: The following procedures shall be adhered to by any applicant proposing to construct a new dock or alter, remodel, add riprap to, or reconstruct an existing dock in the Harbor or waterways of Destin shall require a permit from the city:
 - 1. Persons desiring to construct a new dock or alter, remodel, add riprap to, or reconstruct an existing dock shall apply for and obtain a permit and appropriate approvals as identified in [Section 2.08](#) of this Article, from the city prior to construction.
 - 2. Each application shall be complete and include all required supplemental items as indicated in the City of Destin's application checklists.
 - 3. All marine construction permit applications shall contain all required documents, including state and federal approval as necessary or applicable.
- F. Proposed projects located within the Destin Harbor and adjacent canals require a Net Positive Environmental Benefit (NPEB) fee, equal to twenty-five (25) percent of the cost of construction paid to the City of Destin by the applicant prior to issuance of a Marine Construction or Building Permit.
 - 1. No permit will be issued until the required NPEB funds are paid, if applicable.

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- G. 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 completion will be issued for such dock or structure.
- H. Joint ownership docks: Permits may be granted for joint ownership of a dock at the common riparian boundary for two adjacent property owners, subject to the following conditions:
 - 1. No permits shall be granted to persons other than the title of record owners of the abutting upland properties.
 - 2. The permit application must be signed by the owners of record of all abutting upland properties 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 Code.
 - 4. The regulations for setbacks apply to joint ownership docks with the exception that docks may be extended over the common property lines or implied riparian line.
- I. The City may issue permits for maintenance or cosmetic improvement to existing and previously approved docks or marine facilities.
 - 1. No permit shall be issued for maintenance or cosmetic improvements to docks or marina facilities which propose to repair or replace more than 50% a non-conforming dock or marina facility.
 - 2. Any proposed repairs to a non-conforming dock or marine facility that exceed 50% of the square footage of the dock or marine facility shall be brought into conformance.
 - 3. Any dock that is required to come into conformance shall follow the appropriate approval process identified in **Section 2.08**.
- J. All construction shall be inspected by the City Building Inspector for compliance with applicable building codes.
 - 1. 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.
- K. The city reserves full right, power, and authority to revoke a permit at any time for good cause.
 - 1. 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 the structure or structures, at the cost and expense of the permittee.
 - 2. Good cause shall include, but not be limited to, violation of any permit condition, or any provision of this ordinance.
- L. Dredging and filling requires, recommendation by the Harbor and Waterways Board, and approvals by the City Council and concerned agencies are required.

SECTION 2.14.04 INSPECTIONS AND CERTIFICATES OF OCCUPANCY

- A. All permits issued by the Community Development Department through the Building Division shall have inspections completed according to the specific requirements of the permit or as required by the Florida Building Code.
- B. Certificate of Occupancy and Certificate of Completion requirement:
 - 1. Builders and/or developers shall obtain a Certificate of Occupancy or Certificate of Completion as appropriate prior to using any building, structure or infrastructure for business, residential or other uses in which the public health, safety and welfare are involved.

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2. A Certificate of Occupancy or Certificate of Completion shall be obtained from the Community Development Department for all buildings and structures for which utility service is required.
3. 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 or certificate of completion from the city.

SECTION 2.14.05 SURVEYS FOR CERTAIN WORK

- A. A foundation survey shall be submitted to the Community Development Department after the foundation inspection has been completed and before vertical construction commences for structures involving habitable space, and either a;
 1. Poured foundation
 2. Pile foundation showing;
 - a. Location of all piles
 - b. Finished Floor Elevation
 - c. Placement of lowest structural member
 - d. Placement of all exterior decks
- B. The foundation survey shall be prepared by or under the direct supervision of a registered land surveyor and certified by same.
- C. All surveys shall utilize NAD83 Florida State Planes, North Zone, US Foot.
- D. Vertical construction shall not commence before approval of the foundation survey by the Community Development Department.
 1. Any work undertaken prior to submission and approval of the foundation survey shall be done at the builder's risk and remediated if the foundation survey is found to be out of compliance.
 2. A revised site plan may be submitted for review and;
 - a. If the new plan meets the development standards of this Code the Community Development Department may approve the plans
 - b. If the new plans do not meet the development standards of this Code, the Community Development Department shall not approve the plans.
- E. Any work completed that was not permitted with the original approval shall require review by city Staff.
 1. If found not in compliance with the Code all work shall be stopped and remediated.
- F. As-built survey: The following project types shall require an as-built survey be submitted to the City Building Division prior to the issuance of a certificate of occupancy:
 1. All building projects which require a foundation survey,
 2. All projects containing a swimming pool.
- G. The as-built survey shall be prepared by or under the direct supervision of a registered land surveyor and certified by same.
- H. No certificate of occupancy shall be issued until the Community Development Department has received, reviewed, and approved the survey.
 1. If a violation is determined to exist,
 - a. No Certificate of Occupancy shall be issued.
 - b. No permanent electric power shall be connected.
 - c. The structure shall not be occupied until the violation has been remedied.

SECTION 2.14.06 FIRE DISTRICT REVIEW

- A. Review of projects located in the City of Destin by such district is required.
- B. All building permits for non-residential and multi-family projects shall be approved by the Destin Fire Control District.
- C. Approvals or disapprovals by the Fire District are required prior to the issuance of a certificate of completion or occupancy.

SECTION 2.15 PROCEDURES FOR PUBLIC HEARINGS OR MEETINGS

SECTION 2.15.01 PUBLIC HEARING PROCEDURES

- A. 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 the most recent edition of Robert's Rules of Order.
- B. Regular hearing types at public meetings are general public hearings and quasi-judicial public hearings. The following includes the procedures for each type of public hearing.

SECTION 2.15.02 GENERAL PUBLIC HEARING

- A. Public hearings and meetings regarding any matter shall be conducted to encourage and afford members of the public reasonable opportunity to present their views on any matter under consideration.
- B. The chairman may, at their discretion, rule out-of-order public comments deemed repetitious or not germane to the matter under discussion.
- C. An agenda for the meeting shall be posted in or near the meeting room and generally available to those in attendance.
- D. The sequence of activities at such meeting regarding the matters under consideration shall be as follows:
 - 1. The chairman or their designee must announce the matter for consideration by reading any required public notice.
 - 2. Written staff reports, if prepared, shall be provided to the local planning agency, and made available to all concerned parties who request the report and published on the City website at least three days prior to consideration.
 - 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 board, committee, agency or council.
 - 5. Board, committee, agency, or council member discussion, debate and recommendation by majority vote prior to considering the next matter or adjournment.
- E. The board, committee, agency or council 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.
- F. The board, committee, agency or 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 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.
- G. A meeting summary or minutes shall be prepared in conformance with the applicable public records laws of the state.

SECTION 2.15.03 QUASI-JUDICIAL PUBLIC HEARING

- A. Quasi-judicial hearings are used to guarantee that the applicant, the city, and any interested party have due process.
- B. Order of proceeding with public hearing:
 - 1. 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.
 - 2. 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.
 - 3. 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.
 - 4. The chairman, or his or her designee, shall then read into the record any deficiencies which the staff has determined exist in the application.
 - a. If the deficiencies have been cured by the applicant, such should be noted on the record and the public hearing should proceed.
 - b. 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.
 - c. 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.
 - d. 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.
 - 5. The chairman shall then read into the record any and all comments of the staff.
 - 6. 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.
 - 7. 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.
 - 8. The chairman shall then call upon the public for any comments, testimony, information and documents in support of granting the application.
 - 9. The chairman shall then call upon the public for any comments, testimony, information and documents against granting the application.
 - 10. The chairman shall then call upon the applicant for any rebuttal.
 - 11. The chairman shall then call upon the staff for any rebuttal.
 - 12. The chairman shall then call upon the public for any rebuttal.

SECTION 2.15.04 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.

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- 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.
- F. Evidence at the hearing:
 - 1. The burden of proof shall be upon the applicant to establish the standards required in **Section 2.11** of this Code for the granting of a variance.
 - 2. 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.
 - 3. 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.
- G. 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.
- H. Formal rules of evidence shall not apply, but fundamental due process shall be observed and govern the proceedings.
- I. 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.
- J. 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.
- K. Irrelevant, immaterial or unduly repetitious evidence shall be excluded by the chairman.
- L. Any member of the board may question any person presenting evidence or testimony to the board.
- M. 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.
- N. Any ruling by the chairman may be challenged and overturned by a majority vote of the board.
- O. Motion to grant or deny:
 - 1. After deliberation on the application is closed, a motion may be made to grant or deny the application.
 - 2. The motion shall state the objective findings of fact upon which the board bases its decision.
 - 3. The motion shall briefly state what evidence was relied upon in making the findings of fact.
 - 4. 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.

5. 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.
6. 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.
7. Pursuant to **Section 2.11.03.K**, the motion may also contain time frames within which any activity, pursuant to a variance, are commenced and completed.
8. The motion may also make the granting of the application contingent upon the applicant complying with certain conditions and safeguards.
9. 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.
10. When the board passes a motion denying the application, the chairman or designee should advise the applicant of the appeal rights provided in **Section 2.11.04** of this Article.
11. 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 City Clerk shall compile the motion into written form and present the order to the chairman for execution.

SECTION 2.16 ESTABLISHMENT OF CITY BOARDS AND ADVISORY COMMITTEES

SECTION 2.16.01 TECHNICAL REVIEW COMMITTEE (TRC)

- A. The City shall establish and maintain a Technical Review Committee (TRC) for the purpose of providing for the professional and technical review of development applications.
- B. 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.
- C. The TRC shall review applications for compliance with the provisions of this City Land Development Code, and all applicable federal, state, and local building codes.
- D. City Staff may hold meetings with individual or multiple TRC members as needed.
- E. Membership:
 1. The membership shall include:
 - a. The City Land Use Attorney;
 - b. An appropriate individual from the following city departments, as applicable:
 1. Community Development Department, Principal Planner or designee;
 2. Community Development Department, Building Official or Building Official's designee;
 3. Community Development Department, City Engineer or designee
 4. Public Services Department;
 5. Parks and Recreation Department;
 - c. An appropriate individual from the following agencies:
 1. Destin Fire Control District (nominee must have experience as a firefighter);
 2. Okaloosa County School District
 - d. An appropriate individual from the following utilities:
 1. Water utility provider Users (nominee must have technical experience in the area of water utilities);
 2. Gas utility provider (nominee must have technical experience in the area of gas utilities);
 3. Local electrical utility provider (nominee must have technical experience in the area of electrical utilities).

4. Wastewater utility servicer (nominee must have technical experience in the area of wastewater utilities)
 - e. The City Manager or designee may appoint and remove the City Staff representatives and include any additional TRC members that may be necessary to the review of a proposed development or application.
- F. 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
 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.
- G. Conduct of TRC meetings:
 1. The Community Development Director or designee will determine if a TRC meeting is required for an application.
 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. Notification to applicants of the regularly scheduled date, time and place for consideration of the application.
 - d. Written summary to applicants of the TRC review.
 5. The City Clerk shall be responsible for the recording of minutes of each TRC meeting.

SECTION 2.16.02 LOCAL PLANNING AGENCY (LPA)

- A. In accordance with the adopted City of Destin Comprehensive Plan and with the Community Planning Act, F.S. § 163.3161 et seq., and chapter 163, part II the Local Planning Agency (LPA) serves as the land development regulation commission.
- B. The City shall establish and maintain the LPA consisting of seven members who shall be appointed by the City Council.
- C. The LPA 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.
 1. The military installation representative shall serve as a non-voting member.
 2. The City Manager or their 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;
 - a. Proposed changes to the Comprehensive Plan, or plan amendments
 - b. 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.

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3. The military installation shall have the opportunity to review and comment on the proposed changes.
- D. The terms of members of the Local Planning Agency shall **run concurrently with appointees.**
- E. The Local Planning Agency shall elect a chairman and vice-chairman.
 1. Terms of the chairman and vice-chairman shall be for one year, with eligibility for re-election.
- F. The Local Planning Agency shall adopt rules necessary to conduct of its affairs and in keeping with applicable laws and regulations.
- G. 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 by general or special law.
- H. Proceedings and process:
 1. A quorum is necessary at any meeting in order for the LPA to take official actions.
 2. The Local Planning Agency shall either recommend the City Council approve, approve with conditions, deny, an item under consideration for its action.
 - a. 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.
 3. The Local Planning Agency's public hearing and public meeting regarding any matter shall be conducted in accordance with **Section 2.15.02 or 2.15.03.**
 4. 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.
 - a. The hearing may be continued to a date certain upon a majority vote.
 5. An agenda for the hearing shall be posted in, or near, the meeting room and be generally available to those in attendance.
 6. The City Council public hearings shall be conducted in accordance with **Section 2.15.02. or 2.15.03.**

SECTION 2.16.03 BOARD OF ADJUSTMENT (BOA)

- A. The City shall establish and maintain a Board of Adjustment (BOA) consisting of seven members who shall be appointed by the City Council.
 1. 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.
- B. 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 authorize variance requests from the LDC or zoning ordinance as outlined in **Section 2.11.03.**
 3. The Board of Adjustment may approve an exception for docks and pilings to be extended beyond the limits allowed in regards to dock length and slip density, provided that the criteria in **Section 2.11.03.D** is met.
- C. All public hearings before the Board of Adjustment shall be quasi-judicial hearings and conducted in accordance with **Section 2.15.03** of this Article.

SECTION 2.16.04 HARBOR AND WATERWAYS BOARD (HWB)

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- A. 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.
- B. The City of Destin establishes and shall maintain the Destin Harbors and Waterways Board consisting of seven members who shall be appointed by the City Council.
 - 1. All succeeding appointments shall be for a term of four years, or until successors are appointed and qualified.
- C. All members shall reside in the City of Destin.
- D. The board membership shall include, to the extent possible,
 - 1. One (1) commercial fisherman
 - 2. One (1) pleasure boat owner
 - 3. One(1) environmentalist
 - 4. One(1) sports fisherman
 - 5. One (1) layman.
- E. Powers: The board is empowered to:
 - 1. Monitor the overall condition of the harbors and waterways of Destin including, but not limited to;
 - a. Water depths
 - b. Water quality
 - c. Dredging activities of public or private entities
 - d. Violations of litter laws
 - e. Sanitation requirements
 - f. Laws, ordinances, rules or regulations affecting activities in the harbors and waters of Destin
 - 2. 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. Discuss city issues related to the water quality and condition of the Destin Harbor and surrounding waterways and make recommendations to the City Council related to such issues.
 - 4. Make policy recommendations to the Comprehensive Plan and Land Development Code related to future development surrounding the Destin Harbor and restoration of the harbor and waterways of Destin.
 - 5. Review and make recommendations to City Council on proposed marine construction in the Destin Harbor and surrounding waterways.
- F. City Council Review
 - 1. 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.
 - 2. After the Harbor and Waterways Board makes a recommendation regarding any matter described, the City Council shall consider the recommendation by either;
 - a. A public hearing in the case of a Category 3 HWB review, or
 - 1. 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.

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- b. On their consent agenda in the case of Category 2 HWB review
3. The City Council public hearings shall be conducted in accordance with **Section 2.15.**

SECTION 2.16.05 ADVISORY COMMITTEES

- A. The City Council may, from time to time, appoint advisory committees to participate in the matters subject to public meeting requirements outlined in **Section 2.15.**

SECTION 2.17 PROCEDURES FOR ADDRESSING

SECTION 2.17.01 NAMING OF STREETS

- A. All streets and private ways in the City of Destin 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.

SECTION 2.17.02 STREET NAME CHANGE REQUESTS

- A. All street name changes shall be processed according to the following procedures.
 1. Street name change requests as a matter of preference must be submitted to the Community Development Department.
 2. An application for a preference request street name change must include the following:
 - a. An explanation of how the requested street name will be compatible with adjacent street locations, historical character, or theme.
 - b. Written proof of notification to;
 1. All Utility providers
 2. Florida Department of Transportation
 3. County Address Coordinator with statement of simplicity for the emergency system
 4. United States Post Office
 - c. A non-refundable application fee for processing the request is due at the time of submission of application.
 - d. Notarized signatures of at least 75% of the abutting property owners.
 - e. The impact (cost) on public/private utilities, business and property owners for undertaking change.
 - f. Compatibility with adjacent streets: location and historical character or theme.
 1. Consideration shall be given to commemorating local distinguished citizens, national heroes, typical fishes, animals, trees, shrubs and flowers
 - g. Ease of locating the street for people new to or unfamiliar with the area.
 3. Application review process. Once an application has been submitted to the Community Development Department and deemed complete, the following actions shall be taken by City Staff:
 - a. The Community Development Department will distribute the application to the following divisions, departments and agencies:
 1. Planning Division, Principal Planner
 2. Building Division, Chief Building Official
 3. Engineering Division, City Engineer
 4. Code Compliance Department, Code Compliance Director

5. Public Services Department, Public Services Director
 6. Clerk's Office, City Clerk
 7. Destin Fire Department
 8. Okaloosa County Sheriff's Office
 9. Okaloosa County Emergency Response Department
 10. Okaloosa County Geographic Information Systems (GIS) Department
- b. Once received, all representatives will review the application based on their specific technical criteria or regulations.
1. Recommendations from all representatives regarding the application shall be returned to the Community Development Department within 30 calendar days.
- c. The Community Development Director, or designee, shall review the recommendations and forward all petition information and recommendations through the City Manager's office to the City Council for final approval or denial.
- d. The City Council shall then schedule a public hearing to review the application, which shall be conducted in accordance with **Section 2.15** of this Article.
- e. Upon approval of any preference request, the petitioner will be responsible for reimbursing the City of Destin for the actual cost of completing required changes including any cost of updating official documents and installation of all applicable street signs.

SECTION 2.17.03 SYSTEM ESTABLISHED

- A. A uniform system of numbering buildings identified by the title "Numbering System" in the City's Design Manual shall be established and maintained on file by the Community Development Department.
- B. 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 Division.

SECTION 2.17.04 ADMINISTRATION AND NUMBER ASSIGNMENT.

- A. The Planning Division 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.
1. Numbers need not be displayed on accessory buildings.
 2. 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.
 3. Physical numbering shall conform to the following minimum standards:
 - a. 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.

- b. Numbers must be in a color contrasting to the building or other background.
 - c. In the case of a principal building which has multiple entrances, the assigned number shall be displayed on each separate front entrance.
 - d. Any different numbers which might be mistaken for or confused with the number assigned in accordance with the "numbering system" shall be removed.
 - e. 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.
 - f. 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
 1. Numbers shall be positioned so as to be constantly between five and eight feet above the mean high-water line.
- C. 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.
- D. No certificate of occupancy shall be issued until the owner has displayed the required number or numbers in accordance with this Article.

SECTION 2.18 FEES

SECTION 2.18.01 LAND DEVELOPMENT AND RIGHT-OF-WAY CONSTRUCTION FEES

- A. Land Development Fees: There shall be fees established and collected for the review of all development activity in the City of Destin.
- B. These fees shall be established by the City Council by resolution and shall be reviewed no less than annually during the budget process.
- C. Review fees may include but are not limited to all procedures identified in Table 2-1
- D. There shall also be fees established for outside consultant cost recovery, mailing and advertising.
 1. The City shall pay the initial invoice from the consultant.
 2. The City will then invoice the applicant and add a 10% administration fee.
 - a. The invoice shall be paid before final approval by Staff, any Board, or City Council.
- E. A comprehensive list of the fees are included in the City of Destin Fee Schedule.
- F. There shall be ROW construction permits fees established for the review of all development activity within the public ROW of the City of Destin.
 1. Review fees may include but are not limited to the following:
 - a. ROW permit processing
 - b. commercial (non-residential)
 - c. residential (single or two-family lots)
 - d. re-inspections (commercial and residential)
 2. A comprehensive list of the fees are included in the City of Destin Fee Schedule.

SECTION 2.18.02 MOBILITY FEES

The City of Destin's Mobility Plan establishes the transportation needs of residents, businesses, and visitors in the city. This plan identifies projects for motorized vehicle capacity, walking, transit, bicycling and parking that need the long-range needs of Destin. New developments are required to pay mobility fees to contribute to the costs of improvements to transportation infrastructure as illustrated in the mobility plan. – FEES WILL BE ADDED ONCE ADOPTED

SECTION 2.18.03 IMPACT FEES

In accordance with the Florida Impact Fee Act (F.S. 163.31801) Impact Fees are fees collected by the City of Destin to cover the cost of expanding public infrastructure and facilities required by a new or expanded development. New users are required to pay an impact fee for the additional capacity their use or development will require. All impact fees are required to be paid prior to the issuance of a certificate of occupancy. – FEES WILL BE ADDED ONCE ADOPTED/UPDATED

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ARTICLE III - NONCONFORMITIES

SECTION 3.01 INTENT AND APPLICABILITY

SECTION 3.01.01 INTENT

- A. Within the districts established by the City of Destin, legal nonconformities exist which were lawful by way of being permitted or approved before the adoption of the Land Development Code (LDC or this "Code") and are now prohibited, regulated, or restricted under this Code. This includes but is not limited to:
 - 1. Lot(s)
 - 2. Land use(s)
 - 3. Structure(s)
 - 4. Site Elements
 - 5. Signs
- B. This Article intends to implement policies 1-3.6.2 and 1-3.6.3 of the Comprehensive Plan, prohibiting
 - 1. The expansion of nonconforming land uses
 - 2. Development that intensifies a nonconforming use
 - 3. Increases or exacerbates the intensities of a nonconforming feature of a building or structure.
- C. The following standards shall require that plans for alterations to nonconforming structures incorporate improvements to bring the subject structure into compliance to the greatest reasonable and practical extent.

SECTION 3.02 NONCONFORMING LOTS

SECTION 3.02.01 LOTS OF RECORD

- A. If a nonconforming lot of record existed by way of plat, subdivision or contract of purchase prior to March 11, 1974, and a single-family dwelling is a permitted use of the applicable zoning district, then;
 - 1. The owner shall be allowed to construct a single-family dwelling, and
 - 2. Customary accessory structures if the primary dwelling is established on the property.
- B. Any variance of setback requirements shall be obtained only through action of the Board of Adjustment.
- C. No such nonconforming lot shall be altered in a way which increases its nonconformity, but any lot or portion thereof may be altered to decrease its nonconformity.

SECTION 3.03 NONCONFORMING USES

SECTION 3.03.01 LEGAL NONCONFORMING USES

- A. Uses of land, including uses of land with minor structures, made nonconforming by the adoption of this code, may be continued so long as it remains otherwise lawful, provided:
 - 1. No such nonconforming use shall be enlarged, increased, or expanded to occupy a greater area of land than occupied at the effective date of adoption or amendment of this provision.
 - 2. The nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than the area occupied by such use at the effective date of adoption or amendment of this provision.

3. If any nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of land, lot or parcel shall conform to this Code specified by the district in which the land, lot, or parcel is located.
4. No additional structure not conforming to the requirements of this section shall be erected in connection with such nonconforming use of land.

SECTION 3.03.02 NONCONFORMING USES UNDER SPECIAL EXCEPTION PROVISIONS

- A. A nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use only if the proposed use is in the public's interest, such as;
 1. Law enforcement,
 2. Fire and rescue,
 3. Utilities,
 4. Public services.
- B. The Board of Adjustment by making findings in the specific case, shall find that the proposed use is necessary in this specific location based on the interest of the public. The Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of the LDC.
- C. Any use which is permitted as a special exception in a district under the terms of this section shall be considered a legally nonconforming use.

SECTION 3.04 NONCONFORMING STRUCTURES

SECTION 3.04.01 LEGAL NONCONFORMING STRUCTURES

- A. Structures made nonconforming by the adoption of this code, may be continued so long as it remains otherwise lawful, provided:
 1. Any structure or portion thereof may be altered to decrease its nonconformity.
 2. No nonconforming structure or portion thereof shall be enlarged or altered in a way that increases its nonconformity.
 3. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than 50 percent of its replacement cost at time of destruction, may be reconstructed in its nonconforming location, size, or height, provided that;
 - a. It shall not be reconstructed except in the exact dimensions as it existed on the date of its destruction with due diligence.
 - b. Complete building permit applications, conforming to current Florida Building Code requirements, must be submitted to the Community Development Department no more than;
 1. Six (6) months from the date of destruction for nonresidential structures
 2. One (1) year from the date of destruction for residential structures
 4. Should any structure be moved for any reason to any district whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

SECTION 3.04.02 MOBILE OR MANUFACTURED HOMES

- A. Where, at the time of passage of this provision, lawful use of land involving mobile or manufactured homes which would not be permitted by the regulations imposed by this Code, the structure and use may be continued so long as it remains otherwise lawful, provided:
 1. No additional mobile or manufactured homes shall be located on any parcel in excess of the number of mobile or manufactured home sites, consisting of the appropriate slabs or

other identifiable location and utility connections which were in existence at the effective date of adoption or amendment of this Code.

2. If any individual mobile or manufactured homes located on any individually owned parcel or lot of record shall be moved for more than a period of six months, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located.
 3. These regulations are not intended to prohibit the continued operation of existing mobile or manufactured home parks as of the effective date of adoption or amendment of this Code and such mobile or manufactured home parks are expressly permitted to continue operation in the manner conducted prior to the effective date of adoption or amendment of this chapter.
- B. If any individual mobile/manufactured home located on any parcel of property on the effective date of adoption of this section shall be bounded by a fence or other boundary mutually agreed to by the adjoining land owners or occupants, and provided said lots abut a city street or public right-of-way, said lots may be sold or otherwise conveyed by metes and bounds description and such use continued so long as not abandoned pursuant to **Section XX.XX.XX** of this Code.

SECTION 3.05 NONCONFORMING SITE ELEMENTS

SECTION 3.05.01 LEGAL NONCONFORMING SITE ELEMENTS

- A. Legal nonconforming site elements listed in Paragraph C. below may be continued on-site so long as it remains otherwise lawful, unless the existing on-site uses, structures, or other elements do not require site modifications to meet this Code requirements.
- B. Legal nonconforming site elements shall be brought into compliance with this Code if;
1. The use of the site changes, expands, or increases that the Change of Use process per **Article 2** applies.
 2. The existing structure is modified, expanded, and increased to affect the existing condition of the legal nonconforming element.
- C. Legal nonconforming elements may include, but are not limited to;
1. Off-street parking
 2. Landscaping
 3. Lighting
 4. Stormwater
 5. Access (ingress or egress)
 6. Utilities
 7. Open space

SECTION 3.06 NONCONFORMING SIGNS

SECTION 3.06.01 LEGAL NONCONFORMING SIGNS

- A. All legal nonconforming signs shall be subject to the following restrictions:
1. No nonconforming sign may be enlarged or altered in a way which increases its nonconformity,
 2. A sign, or portion thereof, may be altered to decrease its nonconformity or for ordinary repair and maintenance as provided for herein.
 3. Ordinary repair and maintenance of nonconforming signs is permitted, up to 50% of the cost of replacement, as follows:

- a. Ordinary repair and maintenance shall mean the work necessary to keep the sign in good state of repair provided, however, ordinary repair and maintenance shall not include replacement of structural materials.
 - b. Structural materials, as used in this section shall mean those materials comprising the load-bearing components of the sign including, but not limited to;
 - 1. Vertical supports
 - 2. Horizontal stringers
 - 3. Braces, bracing wires, or brackets
 - 4. Catwalks
 - c. Structural materials do not include the;
 - 1. Sign face
 - 2. Skirt
 - 3. Electrical service or electric lighting, except in cases where such items have been incorporated into the load-bearing parts of the sign.
 - d. Examples of changes, modifications, or work which do not constitute ordinary repair and maintenance and are prohibited include, but are not limited to:
 - 1. Modification that changes the structure, or type of structure, of the sign, such as conversion of back-to-back sign to a V-type, or conversion of a wooden sign structure to a metal structure.
 - 2. Modification that changes the sign face area or the height of the sign.
 - 3. Modification that enhances the visibility of the sign's message or the period of time the sign's message is visible.
 - 4. Modification that adds automatic or electronic changeable faces, or copy.
 - 5. Modification that adds artificial lighting, or changes the existing lighting, such that elimination of the sign face is substantially increased.
 - e. Should a nonconforming sign be destroyed and must be structurally repaired by any means it shall be reconstructed in compliance with this Code.
 - f. A nonconforming sign may not be disassembled and re-erected at the same location.
 - g. A nonconforming sign may not be relocated.
 - h. A nonconforming sign which has become structurally unstable or constitutes an imminent threat to public safety shall be removed. Any replacement sign must conform to the provisions of **Section XX.XX.XX** Permitted signs.
 - 1. The Building Official has the authority to enforce this section.
 - i. Nothing in this section shall be construed so as to constitute a violation of § 70.20, Florida Statutes.
- B. Off-site signs: If an existing nonconforming off-site sign, billboard, or permanent outdoor advertising sign is destroyed by any cause, it may not be rebuilt for any reason.

SECTION 3.07 NONCONFORMITIES DUE TO PUBLIC AGENCY ACTION

- A. In the event that an action by a public agency (City of Destin, Florida Department of Transportation, etc.) creates a nonconforming structure and/or site, such structure or site may remain as legally nonconforming and no further action on the part of the owner is required.
- B. No legal nonconformity created due to public agency action may be increased or intensified and shall be governed by the appropriate sections of this article.
- C. In the event that a nonconformity is created by public agency action that results in a risk to public health, safety or welfare, the City Manager or designee may require certain LDC provisions to be

met to the maximum degree physically and financially feasible, at the cost of the public agency that created the nonconformity.

- a. The public agency shall rectify or mitigate the created risk at the time the risk is identified.
- b. If the risk cannot be reasonably mitigated then the public agency shall be responsible for acquiring the entire property where the risk is created.

SECTION 3.08 REPAIRS AND MAINTENANCE

- A. Nonconforming Multifamily or non-residential structures, including townhouse structures or portion of a structure containing a nonconforming use, work may be done not to exceed 25% of the current replacements cost of the structure, in any period of 12 consecutive months on the items listed below, provided that the cubic content existing when it became nonconforming shall not be increased;
 - a. Ordinary repairs
 - b. Repair or replacement of nonbearing walls
 - c. Fixtures
 - d. Wiring
 - e. plumbing,
- B. Paragraph A above does not apply to Single-Family or Duplex dwellings.
 - a. The intent of Paragraph A is not to supersede or nullify any Federal or State improvement requirements for Flood Plain improvements.
- C. For any nonconforming structure, declared to be unsafe or unlawful to use by any duly authorized official, no permits shall be issued to restore, repair, rebuild, modify, remodel, or for similar improvements.
 - a. Any permit for a structure declared unsafe, shall be in full compliance with the currently adopted Land Development Code.
- D. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any conforming building or part of a nonconforming structure thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.