

ARTICLE 3 – CODE ADMINISTRATION AND ENFORCEMENT.

3.1 PURPOSE

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3.1 PURPOSE.

The purpose of this article is to establish the designated individuals, departments, boards, and other bodies responsible for the administration of this Unified Development Code.

3.2 DUTIES OF VARIOUS INDIVIDUALS, BOARDS, AND AGENCIES IN ADMINISTRATION OF THIS UNIFIED DEVELOPMENT CODE.

A. City Manager.

- (1) The City Manager or his designee shall be responsible for receiving requests for concurrency determinations, informing applicants of the required information, and issuing a concurrency certificate.
- (2) The City Manager shall act as chairman of the technical review committee (TRC), setting meetings and distributing applications for major development proposals to committee members for review.
- (3) The City Manager may approve exemptions from the requirements of these regulations as deemed appropriate in emergency situations, as provided for in subsection 3.6(F).
- (4) The City Manager or his designee shall review stormwater management plans for conformance with the requirements of these regulations contained in Article 13, Stormwater Management.

B. Planning and Development Department.

The Planning and Development Department shall be responsible for the administration and application of this Unified Development Code as set forth herein. The Planning and Development Department responsibilities include the following:

- (1) Determine whether a proposed development activity is consistent with the future land use map contained in the adopted comprehensive plan;
- (2) Receive applications for development approval and determine whether the development activity is a minor or major development;
- (3) Review applications for minor development and approval for permit issuance;
- (4) Refer applications which require additional review by the Historic Preservation Board or other body to the applicable board for review and action. The Planning and Development Department shall have the authority to approve minor development activities within the Community Redevelopment Areas. In addition, the Planning and Development Department shall have the authority to approve minor development activity, including signage which complies with the historic preservation guidelines in Section 11.4 of these regulations. The Planning and Development Department shall also have the authority to approve minor development activity which involve contributing structures; provided the alteration or renovation of the regulated historic structure is limited to repainting the exterior surface using the approved historic paint color chart, or replacement of windows, doors, roof, awnings with the approved historic materials and style; provided all other city regulations are met;
- (5) The planning and development director acts as the redevelopment director for the Community Redevelopment Areas;
- (6) Receive requests for special exceptions and variances and refer these to the Board of Adjustment;
- (7) Receive requests for amendments to this Unified Development Code or the comprehensive plan and refer these to the Planning Board;
- (8) Upon development order approval by the Technical Review Committee or City Council, the zoning coordinator shall coordinate the review of the construction plans and specifications for conformance to the public works manual and the Florida Life Safety Code; and
- (9) Upon determination of compliance with the public works manual and receipt of approval by the city's Florida Life Safety Code Officer, the Planning and Development Department shall authorize the issuance of a building permit.

C. Administrative Adjustment.

(1) Applicability.

Due to the individual characteristics of a given development, the strict application of all provisions of the Code may not be appropriate in all situations. Therefore, limited administrative adjustments to the provisions of this Code by the Planning Director may be permitted, in order to allow a measure of flexibility.

- a. Administrative adjustments shall apply only to limited circumstances and shall not apply in widespread fashion (e.g., to multiple subdivision lots or to other multiple applications on a site).
- b. The adjustment must be consistent with the purpose, design guidelines, scale, and character of the underlying zoning district.

- c. The adjustment must be consistent with city land use policies, including but not limited to those in the comprehensive plan.
- d. The adjustment must not adversely impact adjacent and nearby property owners and public services, or public safety, including but not limited to necessary rights-of-way, easements, dedicated tracts, and emergency access points.
- e. The adjustment shall meet any additional approval criteria in support of public health, safety, and welfare, as may be specified by the Planning Director, based on his or her professional judgment.
- f. The adjustment might provide flexibility for a site with natural or physical features, such as Heritage trees, vegetation, flood courses, or other features that might be adversely affected, or have adverse effects, if standards are inflexible.
- g. Administrative adjustments to this Unified Development Code shall only occur in conjunction with the approved Criteria for Waiver or Reduction in Standards as indicated in Subsection (5) below.
- h. In order to encourage higher density residential development in the downtown area, the developer of any apartment, townhouse or condominium complex may be permitted to increase its height and density in accordance with Subsection 4.2(K)(5).

(2) Maximum Authorized Adjustments.

Developments receiving an administrative adjustment on any applicable provision of this Code shall fully comply with all other relevant requirements of this Code.

- a. Any adjustment greater than the amount permitted in this subsection shall be addressed through the variance and/or special exception provisions of this Code as may be applicable to the development.
- b. Multiple administrative adjustments may be considered for a single development proposal, but each adjustment must be evaluated independently and meet all necessary criteria.
- c. Nonconforming or unpermitted use of neighboring lands, structures, or buildings in the same district shall not be considered grounds for an administrative adjustment.

(3) Review Procedure.

The Planning Director shall evaluate and approve any administrative adjustment according to the review criteria below and shall approve, approve with conditions, or deny the adjustment. At his or her discretion, the Director may refer an administrative adjustment to the Board of Adjustment or the Historic Preservation Board, as may be appropriate. In such cases, the applicant shall follow standard processes in this Code for obtaining a variance, waiver, change in zoning, etc. Certain situations involving structure height, setbacks, and others, may require approval by the Public Works Department and/or Fire and Life Safety.

(4) Review Criteria.

All administrative adjustments shall meet the following criteria:

- a. The administrative adjustment will be consistent with the purposes and intent of this Unified Development Code.
- b. The administrative adjustment shall not result in activities not permitted within the applicable zoning district and/or activities inconsistent with the Comprehensive Plan.
- c. Special conditions or circumstances exist.

d. The adjustment will not materially and adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations.

e. No standard or regulation established by the State of Florida shall be violated as a result of an administrative adjustment.

f. No required separation of uses, such as the distance between a school or church and an alcoholic beverage establishment, shall be varied as a result of an administrative adjustment.

g. *Administrative Adjustments to Zoning Standards* (attached by the Planning and Development Department to the Development Application as “Administrative Adjustment”) shall be limited to the following:

i. Reducing minimum Front, Side, and Rear Setbacks by up to 10 percent.

ii. Reducing or waiving the required compatibility Front Setback;

iii. Increasing maximum Building Height permitted by the property development standards of the zoning district by up to 10 percent;

iv. Increasing maximum ISR by up to 10 percent;

v. Reducing Lot Area and Lot Width by up to 5 percent;

vi. Loading Space and Parking requirements by up to ten percent except that Parking requirements for Manufacturing, Warehousing, Wholesale or Business Services, large item community retail, all remodeling/expansion projects, and all redevelopment of existing Sites with new construction may be reduced by up to 15 percent in mixed-use and commercial zoning districts;

vii. Increasing the maximum projection of structural elements into Front, Rear or Side Setbacks by up to 5 percent, provided there is no reduction in the corresponding Setback requirement;

viii. Reducing the required screening and or buffer yards specified in this Code when the Building is located adjacent to a, public or private park or open space reserve area or when existing topography or vegetation provide a natural screen; or when the adjacent residential property is developed with an Institutional or Multi-Family Use and the location of improvements on one or both properties provides adequate Screening;

ix. Reducing the minimum allowed distance required between on-site ground, monument or pole signs by up to 10 percent;

x. Increasing the maximum allowed height and/or allowed square footage of on-site ground, monument or pole signs by up to 10 percent;

xi. Increasing the maximum allowed height and/or allowed square footage of individual building or wall signs or of the total allowed building sign coverage by up to 10 percent;

xii. Allowing structurally altered legal non-conforming on-site pole, ground or monument signs to be structurally altered at their existing base or pole structure location provided that the extent of non-conforming sign height or sign size is reduced; and

xiii. Landscape and Open Space requirements as per Article 12, may be reduced provided at least two or more, dependent upon percentage of reduction, of the Criteria for Waiver, identified in subsection 3.2(C)(5) have been met.

xiv. Due to the complex nature and varying degrees of development within the City there may exist certain situations, not indicated here, that may apply to the Administrative

Adjustment criteria found here. The Planning Director shall have the ability to determine applicability on a case by case basis.

(5) Criteria for Waiver or Reduction in Standards

All Administrative Adjustments resulting in a reduction in Zoning Standards as defined in this Unified Development Code shall be accompanied by one or more of the following as to be determined by the Planning Director given the circumstances of each individual development:

- a. Public Access to the Waterfront through deeded easement;
- b. The installation or improvement of pedestrian and/or bicycle oriented features not limited to sidewalks, raised walkways, and bridges;
- c. The inclusion, in the development, of individual balconies with predominant waterfront views;
- d. The installation/construction of Public Entertainment and/or Recreational Features;
- e. The construction or provision of screening of land use transitions and On-site Public Parking facilities;
- f. Increased and creative landscaping and public open-space facilities and features;
- g. "Landmark" quality building design to be determined by the Planning Director;
- h. Underground and/or effective screening of utilities and service areas;
- i. The redevelopment and/or reuse of an existing structure;
- j. Improved and/or increased access and mobility of on-site pedestrian, bicycle, and vehicular traffic and accessibility features;
- k. The installation and/or incorporation in the development of approved permeable pavement systems;
- l. Innovative and proven energy conservation measures;
- m. The development of a Mixed-Use structure or complex with 10,000 or more square feet of floor space;
- n. The on-site construction of a privacy fence, decorative sound wall, and/or "berming" or mounding, and
- o. Other site improvements, which have not been mentioned here, provided it is in keeping with the purpose and intent of the Zoning District in which the development is occurring and this Unified Development Code.

D. Florida Life Safety Code officer.

(1) The Florida Life Safety Code officer for the city reviews all site plans and construction plans and specifications, other than single-family residential, for conformance with the Florida Life Safety Code and the Florida Fire Prevention Code.

(2) Prior to authorizing the issuance of a building permit for development activity other than single-family residential, the Planning and Development Department shall require evidence to be provided by the Florida Life Safety Code officer indicating conformance with the Florida Life Safety Code and Florida Fire Prevention Code.

E. Technical review committee (TRC).

- (1) The technical review committee (TRC) is composed of city staff knowledgeable in the areas of land development, building, zoning, public works and/or planning, and is appointed by the City Manager. The City Manager shall act as chairman of the technical review committee.
- (2) The technical review committee is responsible for development review and development order approval for all major development activity, except major subdivision platting and planned development projects (PDPs). Development order approval is issued based upon a determination by the TRC that the proposed development activity conforms to the requirements of this Unified Development Code.
- (3) The technical review committee acts in an advisory role for development activity which requires review by the planning board and approval by city council, such as major subdivision plats and PDPs, and may be called upon to confer with the board of adjustment regarding requests for special exceptions and variances.
- (4) All minutes of the technical review committee meetings shall be filed with the Planning and Development Department.

F. Riverfront Redevelopment Team.

The Riverfront Redevelopment Team (RRT) is Responsible for examining issues of importance to the Community Redevelopment Agency as assigned. The RRT is an advisory body. The Agency will identify challenges and opportunities within the three CRA areas and delegate specific tasks or issue examinations to the RRT. Upon conclusion of their work the RRT shall report back to the Agency their findings. The agency may also ask the RRT if proposed development activity is consistent with the CRA plans and in keeping with the community's character.

G. Planning board.

- (1) The city planning board is hereby designated as the local planning agency. The planning board as established under part II, section 2-521 of the City of Milton Code of Ordinances, shall be responsible for review and recommendations regarding the development, updating and amendment of the comprehensive plan and this Unified Development Code. All plan amendments and revised regulations shall require planning board review and recommendation prior to council approval.
- (2) All major subdivision plats and planned development projects shall require review and recommendation by the city planning board prior to action by the city council.
- (3) All minutes of the planning board meetings shall be filed with the Planning and Development Department.

H. City council.

The city council is responsible for approving planned development projects and preliminary and final plats for major subdivisions. The city council also acts as the Community Redevelopment Agency (CRA) for the Community Redevelopment Areas. Any major development activity will require CRA approval of the required land use certificate for development in the community redevelopment areas. Upon approval of the land use certificate by the CRA, the development approval authority may approve the development order.

I. Historic preservation board.

- (1) The historic preservation board, as established in section IV-5, shall issue a certificate of appropriateness for renovations or alterations to regulated historic structures within the historic district as set forth in subsection 10.4(B)
- (2) The development approval authority shall require evidence of a certificate of appropriateness prior to authorizing development order of building permit approvals for historic structures as defined in subsection 10.4(B).
- (3) All minutes of the historic preservation board shall be filed with the Planning and Development Department.

J. Board of adjustment.

(1) Established; composition; term; removal.

A board of adjustment is hereby established which shall consist of seven members to be appointed by the city council, each for staggered terms of three years. Members of the board of adjustment may be removed from office by the city council in regular council action. Vacancies shall be filled by the city council for the unexpired term of the member affected.

(2) Proceedings; meetings.

The board of adjustment shall adopt rules necessary to conduct its affairs and in keeping with the provisions of these regulations. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths, and compel the attendance of witnesses. All meetings shall be open to the public. The board of adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Planning and Development Department.

(3) Powers and duties.

The board of adjustment shall have the following powers and duties:

a. Administrative review.

To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by any board, department or committee in the administration and application of these regulations. Decisions rendered by city council shall not be appealed to the board of adjustment;

b. Special exceptions.

To hear and decide only such special exceptions as the board of adjustment is specifically authorized to consider by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations or to deny special exceptions when not in harmony with the purpose and intent of these regulations. (Refer to subsection 3.3);

c. Variances.

To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement

of the provisions of these regulations would result in unnecessary hardship. (Refer to subsection 3.4); and

d. Powers of Planning and Development Department on appeals.

In exercising the powers mentioned in 3.2(B) and 3.2(C), the board of adjustment may, so long as such an action is in conformity with the terms of these regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have the power of the Planning and Development Department from whom the appeal is taken. (Refer to subsection 3.5).

e. Voting.

The concurring vote of four members of the board shall be necessary to:

- i. Reverse any order, requirement, decisions, or determination of the Planning and Development Department, technical review committee, or other administrative official; or
- ii. Decide in favor of the applicant on any matters upon which it is required to decide in the application of these regulations.

K. Designees.

Table 3.2.1. Summary of Approval Authority

Development Type/Aspect	Approval Authority
<i>Minor Development Activity:</i>	
a) Review for UDC conformance	Planning and development dept.
b) City development permit	Planning and development dept.
c) Building permit	Santa Rosa County building dept.
d) Special exception	Board of adjustment
e) Variance	Board of adjustment
f) Appeal	Board of adjustment
<i>Major Development Activity:</i>	
a) Review for UDC conformance	Planning and development dept.
b) Development permit	Technical review committee (TRC)
c) Building permit	Santa Rosa County building dept.
d) Special exception	Board of adjustment

e) Variance	Board of adjustment
f) Appeal	Board of adjustment
<i>Major Subdivisions and Planned Development Projects:</i>	
a) Review for UDC conformance	Planning and Development Dept. and TRC
b) Recommendation to city council	Planning board
c) Development order	City council
d) Building permit	Santa Rosa County Building Dept.
e) Special exception	City council
f) Variance	City council
g) Appeal	City council

3.3 SPECIAL EXCEPTIONS.

A. Requirements and procedures.

A special exception and/or special use shall not be granted by the board of adjustment unless and until the following requirements and procedures are met:

(1) *Application.*

A written application for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is required. No application may be filed by the same applicant for the same special exception for a period of six months, unless there is a substantial change of facts or circumstances;

(2) *Notice; posting; fees.*

Notice shall be given at least 15 days in advance of the public hearing. The owner of the property for which the special exception is sought or his or her agent and the owners of abutting property shall be notified by mail. Notice of such hearing shall be posted in a conspicuous spot on the property for which the special exception is sought, at the city hall and in one other public place at least 15 days prior to the public hearing. The required fees as set forth in subsection 3.6(I) shall be deposited with the city clerk to cover the cost of posting notices and notification by mail;

(3) *Hearing.*

A public hearing shall be held. Any party may appear in person, or by agent or attorney;

(4) *Board action; factors.*

The board of adjustment shall make a finding that it is empowered under the section of these regulations described in the application to grant the special exception and; provided that the granting of the special

exception will not adversely affect the public interest the board of adjustment shall confer with the appropriate representatives of boards and/or committees having the development review responsibility or specific knowledge regarding the special exception;

(5) Findings.

Before any special exception shall be issued, the board shall make written findings certifying compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following, where applicable:

- a. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and to convenience, traffic flow and control, and access in case of fire or catastrophe;
- b. Off-street parking and loading areas where required, with particular attention to the items in subsection (5)a, of this section and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
- c. Refuse and service areas, with particular reference to the items in subsections (5)a. and (5)b. of this section;
- d. Utilities, with reference to the location, availability and compatibility;
- e. Screening and buffering with reference to type, dimensions, and character;
- f. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- g. Required yards and other open space;
- h. General compatibility with adjacent properties and other property in the district; and

(6) Restrictions.

Any restrictions imposed as a condition of granting the special exception, such as limitations on size or square footage, including future expansions, shall be specified at the time the special exception is granted.

3.4 VARIANCES.

A. Requirements and procedures.

A variance from the terms of these regulations shall not be granted by the board of adjustment unless and until the following requirements or procedures are met:

(1) Application; conditions.

A written application for a variance (hardship relief) is submitted to the Planning and Development Department demonstrating that a hardship exists based on one of the following conditions:

- a. Special conditions and circumstances exist which are peculiar to the land, structure, or buildings involved and which are not applicable to other land, structure, or buildings in the same district;
- b. Literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations;

- c. The special conditions and circumstances do not result from the actions of the applicant; or
- d. Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures or buildings in the same district.

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

No application may be filed by the same applicant for the same variance for a period of six months, unless there is a substantial change in facts or circumstances.

(2) Notice; hearing.

Notice of public hearing shall be given in accordance with the provisions specified in section II-4, special exceptions, and a public hearing shall be held. Any party may appear in person, or by agent or by attorney;

(3) Findings.

The board of adjustment shall make a finding that the requirements regarding hardship relief have been met by the applicant for a variance, that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure;

- a. The board of adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;

(4) Conditions; safeguards; violation.

In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with these regulations. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations and punishable under section 3.6;

(5) Time limit.

The board of adjustment shall prescribe a reasonable time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the prescribed time limit shall render the variance null and void; and

(6) Substantially similar use.

Under no circumstances shall the board of adjustment grant a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district; however, as provided for in these regulations, the board may make a substantially similar use determination upon request by the development approval authority.

3.5 APPEALS.

A. To board of adjustment.

(1) Appeals to the board of adjustment concerning the interpretation or administration of these regulations may be taken by any person aggrieved or by any officer or bureau of the governing body of the city

affected by any decision of the Planning and Development Department, technical review committee, or any administrative official or board. (Decisions rendered by the city council shall not be appealed to the board of adjustment.) Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Planning and Development Department and with the board of adjustment a notice of appeal specifying the grounds thereof. The Planning and Development Department shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.

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

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

B. Judicial review.

Any taxpayer, or any officer, department, board or bureau of the governing body, or any person, jointly or severally, having standing to do so, may seek review of a final quasi-judicial decision of the board of adjustments by petition for writ of common-law certiorari to the circuit court in and for the county, pursuant to state law.

C. Historic preservation board.

Appeals to the city council, acting as the redevelopment agency, may be taken by any person aggrieved or by any officer or bureau of the city council affected by any decision of the historic preservation board. Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Planning and Development Department and with the city council a notice of appeal specifying the grounds thereof. The Planning and Development Department shall forthwith transmit to the council all papers constituting the record upon which the action appealed was taken.

3.6 ENFORCEMENT AND PENALTIES.

A. Administration and enforcement.

The Code Enforcement Officer, Planning and Development Director, his or her designee, and Certified Stormwater Inspectors for the city shall enforce these regulations. If he or she finds that any provisions of these regulations are being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order:

- (1) The discontinuance of the illegal use of the land, buildings, or structures;
- (2) Removal of the illegal building or structures or of the illegal additions, alterations or structural changes;

- (3) Discontinuance of any illegal work being done; or
- (4) Take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

B. Expiration of permit.

(1) Time restrictions causing cancellation; notice.

Except as specifically provided elsewhere in this Unified Development Code, if the work described in any building permit or city development permit has not begun within six months from the date of issuance thereof, or if work ceases for a period of 12 months, said permit shall expire; it shall be canceled by the county building official or the city's Planning and Development Department as applicable, and written notice thereof shall be given to the persons affected.

Furthermore, except as specifically provided elsewhere in this Unified Development Code, if the work described in any building permit or city development permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the county building official or city Planning and Development Department as applicable, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit and/or a new development permit has been obtained.

(2) Expiration of permit for permanent outdoor advertising signs.

If the work described in any city development permit granted for the purpose of erecting a permanent outdoor advertising sign is not completed within 365 days from the issuance thereof, said permit shall expire; it shall be canceled by the city Planning and Development Department and written notice thereof shall be given to the persons affected.

C. Construction and use to be as provided in applications, plans, permits; variance considered violation.

Building permits issued on the basis of plans and applications approved by the development approval authority authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of these regulations, and shall be punishable as provided in subsections 3.6(D) and 3.6(E), below.

D. Code enforcement and Special Magistrate(s).

As established in Chapter 20, Article IV, Divisions 1 - 3, of the City's Code of Ordinances 1977, as amended in 2004, the Special Magistrate(s) functions to hear alleged Code violations, issue findings of fact based on evidence of record and conclusions of law, and issue orders affording proper relief. The Special Magistrate is authorized to impose fines for noncompliance with these regulations and to impose liens against real property.

E. Penalty.

- (1) In case any building or structure is erected, constructed, reconstructed, altered, repaired or maintained, or any building, structure, land or water is used in violation of these regulations or any ordinance, the

proper local city authorities, in addition to other remedies, may institute any appropriate action or proceeding in a civil action in the circuit court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, and to restrain, correct, or abate such violation, to prevent the occupancy of said building, land, structure, or water, and to prevent any illegal act, conduct or business, or use in and about such premises.

(2) Any violation of these regulations is declared to be unlawful and whenever these regulations require the doing of any act, failure to do the act is declared to be unlawful. Violations shall be punishable as civil infractions, each day any violation of any provision of these regulations shall continue shall constitute a separate offense.

F. Emergency Exemptions.

(1) These regulations shall not be construed to prevent any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency including, but not limited to:

- a. Fire, or hazards resulting from violent storms or hurricanes; or
- b. When the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of life or property.

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

G. Projects Requiring an Amendment to the City's Comprehensive Plan.

(1) Applications for development approval (ADA) may only be considered if the proposed development is consistent with the adopted comprehensive plan. As provided in section 4.3, there is a presumption of general consistency with the comprehensive plan if the requirements of these regulations are met.

(2) Upon receipt of an ADA, the Planning and Development Department shall make a determination of consistency of the proposed development activity with the adopted Future Land Use Map of the comprehensive plan. Applicants for proposed developments which are not consistent with the adopted plan may apply to the Planning Board to consider a proposed plan amendment, which if approved must be reviewed by the state department of community affairs in accordance with F.S. § 163.3187.

(3) The city will not be responsible for the preparation of any comprehensive plan amendment. The developer will hire a competent professional in the planning field to complete the comprehensive plan amendment. The developer will be responsible for any and all legal ads, public notices and registered mailings, per F.S. §§ 163.3184 and 163.3187. Required notices and mailings shall be coordinated with the Planning and Development Department.

H. Public hearings; notice.

(1) If the city council calls a public hearing, the applicant shall pay the cost of notice by publication and notice by mail. Property owners shall be notified by mail when their property is located within 500 feet of a boundary of an area to be changed. All owners of property under consideration for change shall be notified by mail.

(2) Any application for an amendment, supplement, change, modification or repeal of the content of these regulations shall follow the same procedure stated in subsection (1) of this section, except that no

notification of property owners shall be necessary. Notice shall be by publication in the local newspaper and posted in the city hall.

(3) Notification of owners, publication in newspapers, and posting in public places, of any application for an amendment, supplement, change, modification or repeal shall be no later than 15 days before the public hearing.

I. Schedule of fees, charges and expenses.

(1) The city council shall establish by a separate resolution a schedule of fees, charges and expenses for:

- a. Development review;
- b. Review of technical construction plans;
- c. Issuance of building permits;
- d. Appeals;
- e. Variances;
- f. Special exceptions; and
- g. Other matters pertaining to these regulations.

(2) The schedule of fees shall be posted in the office of the Planning and Development Department, and may be altered or amended only by a resolution adopted by the city council. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on application or appeal. A collection procedure shall be established by the Planning and Development Department.

