

Land Development Code Re-Write Review and Changes by City Commission September 29, 2017 at 9:00 A.M.

Article 1: Purpose

1.04.00 Authority

These Land Development Code regulations are enacted pursuant to the requirements and authority of F.S. § 163.3202, the Local Government Comprehensive Planning and Land Development Regulation Act, the City Charter, and the general powers in F.S. ~~Chapters 165 and~~ Chapter 166.

*165 deals with County authority.

1.07.02 Exceptions

1. **Previously issued and applied for building/development permits.** The provisions of these Land Development Code (LDC) regulations and any amendments thereto will not affect the validity of any lawfully application or issued and effective building/development permit applied for in good faith or issued prior to the date of these adopted regulations (which shall be **DATE OF ADOPTION**) and if:
 - A. The development activity authorized by the permit has commenced prior to the effective date of these LDC regulations or any amendment thereto, or after the effective date of these regulations but within twelve (12) months of issuance of the building/development permit.
 - B. The development activity continues for a minimum of thirty (30) days without interruption of permitted work, except because of war or natural disaster, until the development is complete.
 - C. If permit expires or is otherwise invalidated, any further development pertaining to that permit shall occur only in conformance with the requirements of these LDC regulations or amendments thereto.
2. **Previously approved building/development permits.** Projects with active building or development permits when this Land Development Code or an amendment thereto is adopted, where development activity has commenced and proceeds according to the time limits in the regulations under which the development was originally approved, must meet only the requirements of those regulations. If the building/development permit expires or is otherwise invalidated, any further development shall occur only in conformance with the requirements of these regulations or amendment thereto.

1.10.01 Building Code and Fire Prevention and Life Safety Code

The Florida Building Code, and the Unsafe Building Abatement Code as may be amended and as promulgated and established by F.S. Ch. 553 is hereby adopted as fully as if incorporated and set forth at length in this Article and made part of these Land Development Code (LDC) regulations by reference.

The Uniform Fire Prevention and Life Safety Code as adopted by the State of Florida Fire Marshal and as same may be amended are adopted and incorporated by reference as if fully set forth herein. The most current edition of the Florida Fire Prevention Code, adopted and as amended in the future, is adopted by the city as a part of its Fire Prevention Code. *Added to take from Article 20.*

1.10.04 Gateway Corridor Historic Style Guide

The Gateway Corridor Historical Style Guide dated March 9, 2017 is hereby adopted as fully as if incorporated and set forth at length in this Article and incorporated by reference.

Changes and Updates from Special Meetings of LDC ReWrite updated: 10/13/2017

The Gateway Corridor Historic Style Guide is a reference guide for developers in preparing architectural elevations and to the City in reviewing architectural elevations for approval. The Gateway Corridor Historical Style Guide is only a guide and does not require strict compliance nor dictate the only acceptable architectural design. Architectural designs approved by the City, and not ordered by a Court, for construction in the Gateway Corridor area shall be added to the Gateway Corridor Historical Guide. The Gateway Corridor Historic Style Guide may be modified and expanded with new technology, best practices and recommendations.

Commissioner Connell asked to allow for additions to the Style Guide.

1.11.00 Penalty

The provisions of the Land Development Code (LDC) may be enforced and violations punished by any of the following methods, alone or in combination, in the sole discretion of the city and as described in Article 15:

- ~~1. The county court shall have jurisdiction to enforce these regulations by a fine not exceeding \$500.00 or imprisonment not exceeding 60 days or by both. Each day any violation shall continue shall constitute a separate offense.~~
- ~~2. The special magistrate appointed by the city, shall have jurisdiction to enforce these provisions, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the special magistrate as provided by law.~~
- ~~3. Any violation of the LDC may be treated as a civil infraction in accordance with the supplemental municipal code enforcement procedures set forth in § 162.21, Florida Statutes, as may be amended from time to time. Any code enforcement officer designated by the City Administrator or his/her designee is hereby empowered to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted provision of the LDC. For a person who does not contest the citation, initial violations of the LDC shall carry a civil penalty of \$100.00 and repeat violations shall carry a civil penalty of \$250.00, payable to the clerk of court. If contested, the court may impose a penalty of up to \$500.00.~~
1. The special magistrate appointed by the city, shall have jurisdiction to enforce these provisions, and any person, firm, corporation, or agent determined to be in violation shall be subject to all penalties and remedies available to the special magistrate as provided by law.
2. Any violation of the LDC which the City Commission has identified as enforceable by citation and designated a fine amount for each violation. The City Commission shall establish the citation process by ordinance.
3. The city may institute any appropriate action or procedure to bring about compliance or remedy a violation.
4. The city may order discontinuance of the use of any land, water, or building; the removal of any building, addition, or other structure; the discontinuance of any work being done; or any other act when such use or act is in violation of the LDC.
5. Unless necessary for purposes of correcting a violation of the LDC or to avoid imminent peril to life or property, no officer, official, agent, employee, or board of the city will approve, grant, or issue any development order for any person where:
 - a. The property that is the subject of the requested development order is the site of an uncorrected violation of any provision of the LDC, or an unpaid code enforcement, correction, or abatement lien; or
 - b. The applicant for development order has any unpaid civil penalty or costs arising from a code enforcement action regarding the real property that is the subject of the request. Appeal of any denial or refusal to act pursuant to this section shall be

as provided in the general appeal provisions of the LDC for appeal of an administrative decision.

6. Specific provisions of the LDC may provide for additional remedies. It is the legislative intent of this section to set forth a general description of the methods by which the city may enforce the provisions of this LDC, and not to limit any power or authority of the city. The city's selection of a particular enforcement method shall not be deemed to prohibit the City Commission from selecting one or more additional methods of enforcement, whether referenced above or otherwise available to the city in law or in equity, regarding the same set of operative facts.

1.12.00 Abrogation

This Land Development Code (LDC) 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 of~~ Volusia County.

Article 3: Boards

3.01.00 City Commission

All powers of the city shall be vested in the City Commission except as otherwise provided by law or the City Charter, and the commission shall provide for the exercise of such powers and for the performance of all duties and obligations imposed on the city by law.

In addition, the following functions, powers and duties of the commission shall be, in general:

1. To ratify the updating of the Comprehensive Plan; to ensure the City's Comprehensive Plan meets present and foreseeable future needs and is consistent with the City Charter, as required from time to time.
2. To provide for the approval of proposals promoting orderly development along lines consistent with the Comprehensive Plan.
3. To provide for the approval of subdivision plats, site plans to ensure consistency with the Comprehensive Plan and the LDC regulations.
4. To conduct public hearings as may be necessary in the discharge of its enumerated duties.
5. To amend these regulations following reviews and recommendations by the local planning board (Planning and Land Development Regulation Commission).
6. To authorize and delegate duties to city administration or other boards as necessary to implement these LDC regulations.
7. To interpret the City's Land Development, Zoning, and Comprehensive Plan regulations when reviewing development applications. ~~an appeal is made of an interpretation a review of conducted by~~ the Planning and Land Development Regulation Commission.

3.02.02 Functions, Powers, and Duties of the PLDRC

6. Special Exception Uses (Article 13). The Planning and Land Development Regulation Commission shall hear and make recommendations to the City Commission on requests for Special Exception uses. In doing so, the commission may decide such questions as are involved in determining when conditional uses should be granted and either grant special uses with appropriate conditions and safeguards or deny conditional uses. After review of an application and a public hearing thereon, the Planning and Land Development Regulation Commission may make a recommendation that the City Commission allow ~~conditional~~ special exception uses only upon a determination that the use meets the following standards:

3.02.02 Functions, Powers, and Duties of the PLDRC

Under no circumstances shall the commission grant a variance which permits a use not generally, or by ~~conditional special exception~~ use, permitted in the zoning district involved, or any use expressly or by implication prohibited, by the terms of this code in the zoning district involved. Nonconforming uses of neighboring lands, structures or buildings in the same zoning classifications or district, and permitted uses of lands, structures or buildings in other zoning classifications or districts shall not be considered grounds for the authorization of a variance.

3.03.01 Powers and duties of the Historic Preservation Board

1. Update the official inventory of historic properties and submit to the City Commission recommendations and documentation regarding proposed changes contiguous to the City of Lake Helen Historic District ~~when-needed~~.
2. Develop programs to stimulate public interest in the conservation of historic districts, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect historic district conservation policies and goals.
3. Explore funding and grant sources and advise and educate property owners concerning availability of such funds for identification, protection, enhancement, perpetuation, and use of historic, architectural, archaeological, and cultural resources.
4. Cooperate with agencies of city, county, regional, state and federal governments in planning proposed and future projects to reflect historic preservation and concerns and policies, and assist in the development of proposed and future land use.
5. Represent the City Historic Preservation Board at educational meetings, workshops and conferences sponsored by the Department of State, Division of Historic Resources or other historic preservation organizations.
6. Advise property owners and other city agencies concerning the proper protection, maintenance, enhancement and preservation of historic properties.
7. Advise and educate the City Commission concerning the effects of City actions on historic properties and neighborhoods.
8. Provide written design guidelines to citizens and property owners, as needed, to foster an understanding of the purposes of this Article and Article 5.
9. Recommend approval, approval with conditions or denial of petitions for Certificates of Appropriateness required under this Article and Article 5.
10. Recommend approval, approval with conditions or denial of petitions for Certificates of Designation required under this Article and Article 5.
11. Provide a hearing and recommended decision in response to Variance claims as outlined in Article 5.05.16.
12. Notify the City Commission, City Code Compliance Officer and Building Official when it appears that there has not been compliance with the historic preservation regulations of this Code.
13. Create and recommend to the City Commission the initial City of Lake Helen Historic District and subsequent additions and deletions to the properties, structures and boundaries of said district.
14. Provide direction and an opportunity for public review and comment prior to final approval of a building permits within the Gateway Corridor.
15. Act as a resource for information, advice, education and references for the citizens of Lake Helen in historic matters.

Article 6: Non-Conforming Situations

6.00.00 Legal nonconforming lots, structures and uses

Within the districts established by these regulations and/or amendments thereto, there exist lots, structures, and uses which were lawful before these regulations were adopted but which would be

classified as nonconforming under these Land Development Code (LDC) regulations. These lots, structures and uses are then classified as legally nonconforming.

These legal nonconformities shall be permitted to continue until they are removed, but they are not encouraged to remain in existence since they are declared to be incompatible with the current LDC regulations. These legal nonconformities shall not be expanded or extended, nor be used as grounds for adding other prohibited structures or uses.

It is the ~~intent~~ purpose of these regulations to bring nonconforming lots, structures and uses into compliance with the city's regulations. ~~to not continue a nonconforming lot, structure or use.~~ Casual, temporary or illegal use of a lot, structure or use shall not be sufficient to set a precedent or establish the existence of a nonconforming use or to create rights for the continuance of such use.

6.02.0 Expansion or Modification of Nonconforming Uses or Structures

8. Any non-conforming use shall be brought into full compliance with all provisions of this Code if any of the following activities occur:

- a. When the non-conforming use has been discontinued for a period of 180 days;
 - i. Failure to have active utility accounts or an active local business tax receipt shall mean that the use has been discontinued.
- b. If a non-conforming structure or portion of any structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs or maintenance and is declared by any duly authorized official of the city to be an unsafe building, it shall not thereafter be repaired or rebuilt except in conformity with this Land Development Code.

Article 7: Environmental and Resource Protection

None

Article 9: Easements, Utilities, Stormwater

9.07.17 Regulation of Wells

The City, through its commissioners, officers, agents and employees, shall have at all times, the right of access to any property upon which a well is located, for the purposes of inspecting the same or otherwise regulating the operation of the well under the terms of this section.

Article 10: Floodplains

None

Article 12: LOS (Level of Service): Concurrency

None

Land Development Code Re-Write Review and Changes by City Commission October 12, 2017 at 7:00 P.M.

Article 5. Building Permits, New Construction Design Specifications, Historic Preservation and Gateway Overlay

5.04.01 Gateway Overlay Boundary Area

The boundary area described below and illustrated on the attached geographical location map (Gateway Overlay Map) hereby establishes the Gateway Overlay of the City of Lake Helen, Florida.

The Gateway Overlay shall encompass:

Changes and Updates from Special Meetings of LDC ReWrite updated: 10/13/2017

Entire parcels within Commercial Areas in the City including: GCD (Gateway Commercial District), NRC (Non-Retail Commercial District), NCS (Neighborhood Convenience Services), DCD (Downtown Commercial District).

Entire Residential parcels abutting the following streets: N. Summit Avenue (from Jennings Avenue to City Line), W. Main Street (from Summit Avenue to Lakeview Drive), N. Lakeview Drive (from W. Main Street to Lake Pearl), McKenzie Road (from Lake Pearl to City Line), Macy Avenue (from W. Ohio Avenue to City Line), W. Ohio Avenue (from Orange Avenue to Prevatt Avenue), Lemon Avenue (from S. Orange Avenue to Prevatt Avenue), Prevatt Avenue (from Tangerine to Kickligter Road). The Woods of Lake Helen and Edgewood Estates Subdivisions are incorporated into the Gateway Overlay by reference per recorded Subdivision Development Orders and Article of Incorporation.

REMOVE:

~~The Gateway Overlay is comprised of entire parcels within Commercial Areas in the City including: GCD (Gateway Commercial District), NRC (Non-Retail Commercial District), NCS (Neighborhood Convenience Services), DCD (Downtown Commercial District) as well as one hundred feet off the Residential property line for the following Gateway Overlay Streets: N. Summit Avenue (from Jennings Avenue to City Line), W. Main Street (from Summit Avenue to Lakeview Drive), N. Lakeview Drive (from W. Main Street to Lake Pearl), McKenzie Road (from Lake Pearl to City Line), Macy Avenue (from W. Ohio Avenue to City Line), W. Ohio Avenue (from Orange Avenue to Prevatt Avenue), Lemon Avenue (from S. Orange Avenue to Prevatt Avenue), as well as entire parcels adjacent to Prevatt Avenue (from Lake Pearl Drive to Kickligter Road). The Woods of Lake Helen and Edgewood Estates Subdivisions are incorporated into the Gateway Overlay by reference per recorded Subdivision Development Orders and Article of Incorporation.~~

5.05.00 Designation of the Historic District

The City of Lake Helen Historic District shall be applied to all properties in the City Historic District Map so listed at the time of adoption of this article. All provisions outlined in this Article shall be effective immediately after adoption and all properties so assigned shall conform with the Certificate of Appropriateness process outlined herein.

The City of Lake Helen Historic District Regulations shall be applied to all additional appropriate properties in the City listed on the City of Lake Helen Historic District Map, by way of the Certificate of Designation process outlined herein.

The City of Lake Helen Historic Preservation Board shall create a process for recognizing Historic homes and properties not adjacent or contiguous to the Historic District.

Gateway Corridor to Gateway Overlay

Land Development Code Re-Write Review and Changes by City Commission October 13, 2017 at 7:00 P.M.

Article 2. Zoning

Bed and Breakfast Inn Zoning Locations (as a Special Exception Use):

1. SFR-3 -- within Historic District (see Article 5 and Historic District Map)
2. SFR-2
3. SFR-1
4. SFR-R
5. SFR-RE
6. DCD

Changes and Updates from Special Meetings of LDC ReWrite updated: 10/13/2017

7. BSR
8. GCD

Addition within "Definitions"

Short-term Vacation Rental. The rental of part or all of any legally permitted dwelling unit for fewer than 30 consecutive days.

Article 4. Accessory Uses and Structures

4.02.00 Bed and Breakfast Inn Facilities

Bed and Breakfast Inn facilities are a special exception use and is subject to the following requirements:

4.03.12 Temporary Canopies

New Carport Canopies are prohibited.

4.07.00 Fences

5. Any fence located adjacent to a public right-of-way or private road shall be placed with the finished side facing that right-of-way. These fences shall not have electric wire, ~~barbed wire~~ or any other items affixed to them that may pose a safety hazard unless properly marked and approved by the City Administrator or his/her designee.

4.09.00 Private Event Facilities

1. As permitted by Special Exception, Private Event Facilities include farm and residential land and structures that are used for for-profit, paid events such as weddings, tastings, special or seasonal celebrations, rodeos, and other gatherings, and may include tasting rooms. City facilities are excluded from the provisions of this section.
6. Primary Structure must be fully enclosed.
7. Private Event Facilities facility shall not be permitted if it will be located within two thousand six hundred twenty five feet (2,625') ~~five thousand two hundred fifty (5,250) feet~~ of an existing Special Event facility. Such distance shall be measured from the nearest property lines of each parcel. This provision can be waived at by the City Commission.

Article 5. Building Permits, New Construction Design Specifications, Historic Preservation and Gateway Overlay

5.01.03 Certificates of occupancy (CO)

It shall be unlawful to use, occupy or permit the use or occupancy of any building, premises, or both, or any part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a temporary certificate of occupancy (TCO) or a certificate of occupancy (CO) has been issued by the Chief Building Official (CBO) or his/her designee for the work completed.

No nonconforming structures or use shall be maintained, renewed, changed or extended until a certificate of occupancy (CO) has been issued by the Chief Building Official (CBO) or his or her designee, after receiving approval from the City Administrator or his/her designee. The certificate of occupancy (CO) shall state where the nonconforming use differs from the provisions of this article, provided that, upon enactment or amendment of this article, owners or occupants of nonconforming uses or structures shall have three (3) months to apply for a certificate of occupancy (CO).

A temporary certificate of occupancy (TCO) may be issued by the Chief Building Official (CBO) or his/her designee for the temporary occupancy of a building when all but the final inspection has been performed and upon request of the applicant, should the Chief Building Official (CBO) or

his/her designee deem the building to be safe to occupy, for the purposes of allowing the applicant or future tenant to receive temporary utility services for building maintenance, repair or buildout and operations, for system and utility testing purposes, or for stocking of inventory and doing other types of preparatory work needed prior to opening for business. Such temporary certificate of occupancy (TCO) may require such other conditions and/or safeguards as will protect the safety of occupants and the public, as determined by the Chief Building Official (CBO).

Article 8. Landscaping and Tree Protection and Preservation Requirements

8.08.00 Historic And Specimen Trees

A historic tree is any live oak (*Quercus virginiana*) or bald cypress (*Taxodium distichum*) with a thirty-six (36) inch or greater DBH or other tree which is determined by the City, through a public hearing and with due notice to the property owner, to be of such unique and intrinsic value to the general public because of its size, age, historic association or ecological value as to justify this classification. The following species of trees with the minimum specified DBH are determined to be specimen trees:

Common Name	Botanical Name	DBH
Turkey Oak	<i>Quercus laevis</i>	12 inches
Other oaks	<i>Quercus spp.</i>	18 inches
<u>Live oaks</u>	<u><i>Quercus virginiana</i></u>	<u>18 inches</u>
<u>Longleaf Pine</u>	<u><i>Pinus palustris</i></u>	<u>12 inches</u>
Maple	<i>Acer spp.</i>	18 inches
Sweet gum	<i>Liquidambar styraciflua</i>	18 inches
Hickory	<i>Carya spp.</i>	18 inches
Elm	<i>Ulmus spp.</i>	18 inches
<u>Cedar Tree</u>	<u><i>Cedrus</i></u>	<u>18 inches</u>
Loblolly Bay	<i>Gordonia lasianthus</i>	12 inches
Sweet Bay	<i>Magnolia virginiana</i>	12 inches
Red Bay	<i>Persea borbonia</i>	12 inches
Swamp Bay	<i>Persea palustris</i>	12 inches
Sycamore	<i>Platanus occidentalis</i>	18 inches
Magnolia	<i>Magnolia grandiflora</i>	12 inches

- A. No historic or specimen tree shall be removed without a finding by the appropriate city official that such removal is justified. Justification shall be documented by an arborist, and shall include evidence that the tree is a hazard or that not removing the tree so significantly interferes with the ability of the owner to develop the property, it is unreasonable.

Article 11. Transportation and Improvement Standards

11.03.04 Street Design Standards

1. Streets shall be dedicated to the City upon completion, inspection, and acceptance by the City.
2. Street names. Proposed streets, which are in alignment with others existing and named, shall bear the assigned name of the existing streets, with the same spelling. In no case shall

the name for a proposed street duplicate or be phonetically similar to existing street names, and the street shall also be designated the same as the existing streets, such as street, avenue, boulevard, etc. Street names shall require the approval of the City Commission, E-911 addressing for Volusia County, and the postmaster of the U.S. Postal Office.

3. Private streets may be allowed only within developments where all streets remain under common ownership.
4. The street system of the proposed development shall, to the extent practicable, mirror the existing historic grid network, conform to the natural topography of the site, preserve existing hydrological and vegetative patterns, and minimize erosion potential, runoff, and the need for site alteration.
5. Streets shall be laid out to avoid environmentally sensitive areas.
6. The street layout in all new development shall be coordinated with and interconnected to the street system (existing and projected) of the surrounding area. All streets shall terminate at other streets on at least one end.
7. Streets in proposed developments shall be connected to rights-of-way in adjacent areas to allow for proper inter-neighborhood traffic flow. If adjacent lands are un-platted, stub outs in the new development shall be provided for future connection to the adjacent un-platted land.
8. Streets shall intersect as nearly as possible at right angles and shall not create an intersection of streets of less than 75 degrees.
9. New intersections along one side of an existing street shall coincide with existing intersections on the opposite side, where possible. Where an offset (jog) is necessary at an intersection, the distance between center lines of the intersecting streets shall be no less than 150 feet.

11.05.00 Sidewalks and Bikeways

1. Projects abutting collector or arterial facilities shall provide sidewalks adjacent to the collector or arterial roadway. Location of sidewalks shall be consistent with any planned roadway improvements.
2. ~~Sidewalks shall be provided on both sides of all local streets.~~ Sidewalks shall be provided where recommended by the Downtown Master Plan and/or Bicycle/Pedestrian Study and/or Transportation Study. The City Commission may grant exceptions to this requirement when finding a sidewalk is not practicable.

11.08.04 Off-Site Parking

Up to 75% of the overall required parking may be met in off-site parking areas through a shared parking agreement. ~~The off-site parking area must be located within 600 feet walking distance of the structures' nearest public entrance.~~ A pedestrian connection providing a safe, well lighted walking environment shall be required.

Article 13. Administrative and Decision-Making Procedures

Scott to provide language to allow waivers/variances to be added to site plan approvals or development orders.

13.12.00 Variance and Special Exception guidelines

A Variance or Special Exception may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such Variance or Special Exception may be granted by the City Commission after receiving a recommendation from the Planning and Land Development Regulation Commission.

Variations. The Planning and Land Development Regulation Commission shall hear and make recommendations to the City Commission regarding requests for variances from the quantitative terms of the zoning regulations where, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship upon, and personal to, the applicant therefor, and not surrounding properties. In order to recommend approval of said variance, the Planning and Land Development Regulation Commission must find:

10. The public notice and approval process for a variance and a site plan is the same. Since they are the same, the City can approve variances as part of the site planning process assuming that the site plan approval goes through the approval process and the required notices are provided for site plan approval and the notices incorporate the notice provisions for a variance. However, the review criteria for a variance approval shall remain the same.

Article 14. Site Development Plans and Subdivision Regulations

None

Article 15 Hearing Procedures, Appeals, Code Compliance and Enforcement, Violations, Penalties, Special Magistrate, Citations, Nuisance Abatement

None