

Article 13. Administrative and Decision-Making Procedures

Procedures for Changes of Use, Lot Combination, Minor Subdivisions, Rezoning, Variance, Special Exceptions, Amending the Land Development Code or Comprehensive Plan and Annexations

13.00.00 Purpose and Intent

This article sets forth the procedures for receiving, reviewing, and rendering decisions on applications for changes of use, certificate of occupancies, lot combinations, minor subdivisions and lot splits, annexing land, issuing local development orders for variances, special exceptions and rezoning, as well as amendments to the Land Development Code and Comprehensive Plan.

13.01.00 Change of Use

A change of use occurs when an existing use is replaced by a different use. A proposed change of use shall be subject to the uses listed in Article 2 Zoning.

- A. A change of use shall not require a local development order when all of the following conditions are met:
 - 1. The existing use conforms to the comprehensive plan and this LDC;
 - 2. The proposed use conforms to the comprehensive plan and this LDC;
 - 3. The proposed increase does not increase density;
 - 4. Any proposed modifications to an existing building are only to the façade or interior of the building;
 - 5. The proposed use does not require a greater number of parking spaces than the existing use;
 - 6. The proposed use does not require a greater number of parking spaces than are currently available on the site;
 - 7. The proposed use does not increase the amount of impervious surface, whether due to expansion of an existing building, proposed construction of additional buildings, or addition to paved areas for any purpose; and
 - 8. All applicable development permits are obtained.
 - B. The determination that a proposed use or development constitutes a change of use is an administrative decision subject to appeal as set forth in Article 15.
 - C. When a local development order is required due to a proposed change of use, all standards and procedures of the comprehensive plan and this LDC shall apply to the proposed new use.
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13.02.00 Certificate of Occupancy

A certificate of occupancy is a demonstration that the use and occupancy of land or buildings conform to the requirements of this LDC. A certificate of occupancy shall be received by the property owner prior to the use or occupancy of land or buildings. When a change of use occurs, as set forth in Section 13.01, a new certificate of occupancy shall be required.

13.03.00 Lot Combinations

All applications requesting to combine two or more lots shall contain the following information:

1. Parcel Numbers of each impacted lot
2. Address or Location of impacted each lot
3. Reason for the request
4. The name, address, telephone number, email address, and signature of the property owner.

Along with the above information, the following must be submitted for review:

1. Proof of Ownership;
2. Summary Plat. A plan clearing depicting the contiguous/adjacent lots to be combined;
3. Existing and proposed legal descriptions, including existing easements and rights-of-way;
4. Proposed points of ingress and egress;
5. Existing and proposed dimensions of the lots;
6. Applicable zoning district, future land use and site design requirements pursuant to this LDC.

The Request for lot combination shall meet the following criteria:

1. Lots shall be under same ownership.
2. Lots shall be adjacent.
3. Shall not result in a lot that does not comply with the density, dimension, or other design requirements of this LDC.
4. Shall not create a nonconforming situation with regard to a lot or any structures located on a lot.
5. Shall comply with density, dimension, and other design requirements of this LDC.

The owner(s) of the properties shall meet with city staff and complete the application requesting to combine the adjacent properties. After review of the submitted documents and request form, staff will complete the Combination of Tax Parcels letter to be approved by the City Administrator or his/her designee. The Combination of Tax Parcels Letter along with the Survey shall be recorded by the Volusia County Clerk of Court with copies delivered to the Volusia County Property Appraiser. Copies of the Recorded Documents shall be submitted to the City Clerk.

Once the parcels are combined into one lot under one tax parcel, if at some point in the future the property owner wishes to split the lots back into separate lots, the lots must go through the City's subdivision process (13.04.00).

13.04.00 Minor Subdivisions/ Lot Split

All applications requesting a minor subdivisions or lot split shall contain the following information:

1. Parcel Numbers of each impacted lot
2. Address or Location of each impacted lot
3. Reason for the request

4. The name, address, telephone number, email address, and signature of the property owner.

Along with the above information, the following must be submitted for review:

1. Proof of Ownership
2. Survey clearing depicting the contiguous/adjacent lots to be combined
3. Existing and proposed legal descriptions, including existing easements and rights-of-way
4. Proposed points of ingress and egress
5. Existing and proposed dimensions of the lots
6. Applicable zoning district, future land use and site design requirements pursuant to this LDC

The Request for a minor subdivisions or lot split shall meet the following criteria:

1. Lots shall be under same ownership
2. Lots shall be adjacent
3. Shall not result in a lot that does not comply with the density, dimension, or other design requirements of this LDC
4. Shall not create a nonconforming situation with regard to a lot or any structures located on a lot
5. Shall comply with density, dimension, and other design requirements of this LDC

Specific requirements for minor subdivisions

1. A minor subdivision is an alteration of a common property boundary between two (2) platted lots (also called a lot line adjustment); or the division of a parcel into two (2) lots where required as a subdivision under Florida law;
2. A lot line adjustment may increase or decrease the lot areas, but shall not result in a lot that does not comply with the density, dimension, or other design requirements of this LDC.
3. A lot line adjustment shall not create a nonconforming situation with regard to a lot or any structures located on a lot.
4. Lot creations of two (2) lot subdivision shall comply with density, dimension, and other design requirements of this LDC.
5. A minor subdivision is exempt from the platting requirements set forth for preliminary and final plats in Article 14.

The owner(s) of the properties shall meet with city staff and complete the application requesting a minor subdivisions or lot split. After review of the submitted documents and request form, the City Administrator or his/her designee will determine if review by the Planning and Land Development Regulation Commission (PLDRC) is needed.

The City Administrator or his/her designee is authorized to approve small scale minor subdivisions or lot splits. The Minor Subdivision or Tax Parcel Split Letter along with the Survey shall be recorded by the Volusia County Clerk of Court with copies delivered to the Volusia County Property Appraiser. Copies of the Recorded Documents shall be submitted to the City Clerk.

If the City Administrator or his/her designee determines that the minor subdivision is not small scale or he/she determines the application needs to be reviewed by the Planning and Land Development Regulation Commission (PLDRC), the application with supporting documentation will be scheduled for the next available Planning and Land Development Regulation Commission (PLDRC) Meeting. The Planning and Land Development Regulation Commission (PLDRC) will submit to the City Commission a recommendation of Approval, Approval with Conditions, or Denial.

13.05.00 Local Development Orders for Rezoning, Special Exceptions, Variances

A local development order shall be issued to indicate approval for Rezoning, Special Exceptions and/or Variances.

1. A local development order shall not be required when:
 - a. There is no increase in the amount of impervious surface within the development;
 - b. The number of dwelling units does not change by five percent (5%) or more;
 - c. There is no change in the floor area ratio;
 - d. There is no modification in the original design concept, such as a change in housing types, building scale, or compatibility factors;
 - e. There is no change in the land use categories on the approved site plan;
 - f. There is no increase in traffic volume, flow, or points of ingress or egress;
 - g. There is no reduction of required setbacks;
 - h. There is no reduction in the number of parking spaces;
 - i. There is no change in parking lot design; or
 - j. There is no reduction in landscaping or buffering.

13.06.00 Exemptions

The situations described in (A) and (B) below are exempt from the provisions of this LDC.

- A. The provisions of this LDC and any amendments thereto shall not affect the validity of any valid and effective local development order or permit that was issued prior to the effective date of this LDC under the following situations:
 1. The development activity authorized by the local development order or permit was commenced prior to the effective date of this LDC, and such activity continues without interruption (except because of war or natural disaster) until the development is complete;
 2. The development activity authorized by the local development order or permit will be commenced after the effective date of this LDC but within six (6) months of the issuance of a valid building permit which was issued prior to the effective date of this LDC; or
 3. The development activity authorized by the local development order is proceeding in accordance with the time limits contained in the local development order.
- B. The provisions of this LDC and any amendments thereto shall not affect work required for public facilities and services within the public right-of-way, as further described below:
 1. Work required for the installation of facilities for the distribution or transmission of gas, water, sewer, electricity, cable, telephone, or telecommunications services;

2. Work required for the purpose of inspecting, repairing, or replacing any existing water or sewer lines, mains, or pipes; and
3. Work required for the purpose of inspecting, repairing, or replacing cables, power lines, utility poles, utility tunnels, or the like.

13.07.00 Fees Required

A fee shall be required for all applications. Fees are set forth in the schedule of fees as adopted by Resolution set by the City Commission. No action shall be taken on an application until all applicable fees are paid.

The City is authorized to enter into a contract with persons who have expertise necessary for the review of an application or a specific technical aspect of an application. The costs of such review shall be paid by the applicant, according to the schedule of fees.

13.08.00 Requirements for All Board Applications

Each application is due no later than the first day of the month prior to the scheduled public hearing dated for which the application will be considered and at a minimum include the following information:

1. At least one (1) pre-application meeting with the City Administrator or his/her designee prior to submittal of an application.
2. A completed application form available from the City.
3. The name, address, telephone number, email address, and signature of the property owner.
4. When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.
5. A property survey containing the legal description, land area, and existing improvements on the site. The survey shall be signed by a surveyor licensed in the State, and shall have been performed not more than two (2) years prior to the date of application.
6. Payment of applicable fees.
7. All site plans and drawings for an application shall be prepared at the same scale. The sheet size shall not be less than eleven inches by seventeen inches (11 x 17) and shall not be more than by thirty-six inches by forty-eight inches (36 x 48). An electronic version is required.
8. The number of copies of the application materials shall be as specified by the City Administrator or his/her designee.

13.09.00 Request for Rezoning

All applications requesting a rezoning shall contain the following information:

1. All Board Application Submittal Criteria as explained in Section 13.08.00.
 - a. A completed application form available from the City.
 - b. The name, address, telephone number, email address, and signature of the property owner.

- c. When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.
 - d. All site plans and drawings for an application shall be prepared at the same scale. The sheet size shall not be less than eleven inches by seventeen inches (11 x 17) and shall not be more than by thirty-six inches by forty-eight inches (36 x 48). An electronic version is required.
 - e. The number of copies of the application materials shall be as specified by the City Administrator or his/her designee.
2. The applicants interest in the property in question.
 3. The legal description of the property.
 4. The current Zoning and Land Use Designation (consistent Future Land Use shall be in place prior to rezoning approval).
 5. The Proposed Zoning Designation.
 6. A map of the area identifying the proposed zoning district designation for the subject property. The map shall show the current zoning district designations and land use categories from the Future Land Use Map in the comprehensive plan for the subject property and all adjacent properties.
 7. A detailed statement shall be provided including the following information:
 - a. The reason for the requested change.
 - b. The consistency of the proposed zoning district with the land use category on the Future Land Use Map in the comprehensive plan.
 - c. A justification for the proposed zoning district.

13.09.01 Rezoning Guidelines

In recommending a change in zoning to the City Commission, staff and/or the Planning and Land Development Regulation Commission (PLDRC) may recommend the City Commission impose such conditions and restrictions upon the premises benefitted by the change in land use as may be necessary to allow a positive finding to be made on any of the foregoing factors or to minimize the injurious effect of the change in Zoning.

The City shall maintain a record of all changes in Zoning by means of a Local Development Order which shall include the justification for their issuance and copy of the notice of the change in Zoning.

13.10.00 Rezoning to a Planned Development

All land within the Planned Development (PD) shall be under the ownership of one person, either by deed, agreement for deed or contract for purchase. Planned Development (PD) applicants shall present either an opinion of title by an attorney licensed in Florida or a certification by an abstractor or a title company, authorized to do business in Florida, that, at the time of initial application, unified ownership of the entire area within the proposed Planned Development (PD) is in the applicant, or contract seller. Unified ownership shall thereafter be maintained until after the recording of the master development plan or final plat.

Article 2 outlines specific requirements for Residential Planned Development (PD-R), Commercial Planned Development (PD-C), Mixed-Use Planned Development (PD-MUX).

13.10.01 Rezoning to a Planned Development Pre-Application Meeting

A pre-application meeting is required before a Planned Development (PD) rezoning application can be accepted. After the pre-application meeting, a sketch plan may be submitted for review and comment prior to filing the application for rezoning.

The pre-application meeting is intended to provide an opportunity for an informational exchange between the applicant and the administrative staff. No fee shall be charged. The applicant need not submit any plans or other information; however, the more information, such as sketch plans, proposed land uses, site information, adjacent land uses, and proposed density, that the applicant does submit, the more complete the responsive comment can be. At a minimum, the applicant will be advised of the usual procedures and requirements. Forms, application materials, guidelines, checklists, copies of the comprehensive plan, and copies of the zoning and subdivision regulations will be made available at a reasonable cost.

13.10.02 Concept plan/Sketch plan for Rezoning to a Planned Development

After the pre-application meeting, a concept plan/sketch plan shall be submitted to the City Administrator or his/her designee and scheduled for the next Planning and Land Development Regulation Commission Meeting. All proposed Planned Developments (PDs) must undergo a Concept Plan review.

The sketch plan shall indicate zoning and future land use categories and the approximate height, location, architectural character and density of dwellings, and other structures. The sketch plan shall also show the tentative major street layout, approximate street widths, sites of schools, open space areas and parks, existing structures, waterways, wooded areas, wetlands, floodplain areas (if applicable), total acreage and existing zoning. Finally, it shall include a vicinity map, and any other information deemed appropriate by the applicant.

The Planning and Land Development Regulation Commission (PLDRC) shall issue no binding order, finding or other indication of approval or disapproval of the proposal, and no person may rely upon any comment concerning the proposal, or any expression of any nature about the-proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

Comments on the sketch plan are informational only and are subject to change after a more detailed review of the rezoning application.

13.10.03 Application Requirements for Rezoning to Planned Development

An application for rezoning to a Planned Development (PD), shall be submitted with a master development plan (MDP) and application fees to the City Administrator or his/her designee.

13.10.03A Residential Planned Development Application.

An application for rezoning to Residential Planned Development (PD), together with a master development plan (MDP) and application fees shall be submitted to the City Administrator or his/her designee.

The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:

1. **Preliminary plan exhibits.** The preliminary plan shall consist of the following:
 - (a) Name of project and name, address, telephone number of the developer and his professional project engineers, architects and planners.

- (b) The date the plan was drawn, its scale, and a north arrow.
 - (c) Names and location of adjoining streets and names of abutting property owners.
 - (d) Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features in or adjoining the property.
 - (e) The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.
 - (f) Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.
 - (g) General feasibility plans for potable water, sewage disposal, and stormwater drainage.
 - (h) Approximate location and area encompassed for each proposed land use within the development.
 - (i) Approximate location and size of common open space.
 - (j) Such additional material maps, studies, or reports subsequently deemed necessary by any reviewing department or agency.
2. **Written development agreement.** In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the City Administrator or his/her designee at the pre-application meeting. The development agreement, along with the preliminary plan, shall govern the development of the Planned Development (PD) and shall regulate the future use of the land. The development agreement shall include any statements or information requested by any reviewing department or agency at the pre-application meeting or Concept Plan Review by the PLDRC, such as:
- (a) Evidence of unified ownership and control.
 - (b) Statement agreeing to:
 - i. Proceed with the proposed development according to all regulations.
 - ii. Provide appropriate performance and maintenance guarantees.
 - iii. Follow all other provisions of this chapter to the extent not expressly inconsistent with the Development Agreement, and bind the applicant's successors in title to his commitments.
 - iv. The acreage and percentage of the total land area devoted to each of the proposed land uses.
 - v. Maximum density for each type of dwelling.
 - vi. Maximum building heights.
 - vii. Minimum building spacing and floor areas.
 - viii. Lot sizes, yard areas and buffer areas, including perimeter buffers.
 - ix. Statement regarding the disposition of sewage and storm water, and arrangements for potable water.
 - x. When the Residential Planned Development (PD) is planned for phase development, a schedule of the phases.
 - xi. The proposed language of any covenants, easements or other restrictions.
 - xii. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.

13.10.03B Commercial and Mixed Use Planned Development Application.

An application for rezoning to Commercial Planned Development (PD-C) or Mixed-Use Planned Development (PD-MUX), together with a Master Development Plan (MDP) and application fees shall be submitted to the City Administrator or his/her designee.

The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:

1. **Preliminary plan exhibits.** The preliminary plan shall be drawn to an appropriate engineers scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the preliminary plan shall include all of the following, if applicable:
 - (a) The approximate size and location of all proposed buildings and other structures, the specified use of buildings and structures may be indicated, if known.
 - (b) Generalized off-street parking and loading plans, including circulation plans for vehicular movement.
 - (c) Driveway and access controls, including number and approximate location of driveways.
 - (d) Approximate location, size and description of open spaces, landscaped areas, or buffers.
 - (e) Approximate location and size of all easements, rights-of-way, or drainage facilities and structures.
 - (f) Approximate boundary lines and dimensions of parcels proposed to be subdivided.
 - (g) The general topography and physical conditions of the site, including features such as waterbodies, wooded areas, wetland areas, vegetation types, soils, 100-year floodplain areas, and steep grades or depressions on the site.
 - (h) General location of signs.
 - (i) Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in items a. through h. above.
2. **Written development agreement.** In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the City Administrator or his/her designee at the pre-application meeting. The development agreement, along with the preliminary plan, shall govern the development of the Planned Development (PD) and shall regulate the future use of the land. The development agreement shall include the following information:
 - (a) Evidence of unified ownership and control.
 - (b) Statement agreeing to:
 - i. Proceed with the proposed development according to all regulations.
 - ii. Provide appropriate performance and maintenance guarantees.
 - iii. Following all other provisions of this chapter to the extent not expressly inconsistent with the Development Agreement, and bind the applicant's successors in title to his commitments.
 - iv. A listing of the land uses agreed upon in each component of the Planned Development (PD).
 - v. Maximum building heights.
 - vi. Minimum building spacing and floor area ratios, and impervious surface ratios.
 - vii. Lot sizes, yard areas, and buffer areas, including perimeter buffers.
 - viii. Statement regarding ingress/egress controls to the site.

- ix. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.
- x. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.
- xi. When the Planned Development (PD) is planned for phase development, a schedule of the phases.
- xii. The proposed language of any covenants, easements or other restrictions.
- xiii. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.

13.10.04 Procedure for Rezoning to Planned Development Application

Consideration of applications for rezoning to a Planned Development (PD) as specified above shall be reviewed by the Planning and Land Development Regulation Commission (PLDRC) for the purpose of making a recommendation to the City Commission as outlined in 15.07.00 and the City Commission shall render decisions as outlined in 15.08.00.

13.10.05 Post-approval stage.

Following approval of Rezoning to a Planned Development (PD), the preliminary plan, and the Development Agreement, both signed by the mayor and attested by the City Administrator or his/her designee, shall be recorded in the public records of Volusia County, Florida, at the expense of the applicant.

After the Master Development Plan (MDP) is recorded, site plan and subdivision regulations shall follow the processes outlined in Article 14.

Amendments the Planned Development (PD) shall follow 13.18.01 for Minor Amendments and 13.18.03 for Major Amendments.

13.11.00 Requests for Variances and Special Exceptions

All applications requesting a Variances and Special Exceptions shall contain the following information:

1. All Board Application Submittal Criteria as explained in Section 13.08.00:
 - a. A completed application form available from the City.
 - b. The name, address, telephone number, email address, and signature of the property owner.
 - c. When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.
 - d. All site plans and drawings for an application shall be prepared at the same scale. The sheet size shall not be less than eleven inches by seventeen inches (11 x 17) and shall not be more than by thirty-six inches by forty-eight inches (36 x 48). An electronic version is required.
 - e. The number of copies of the application materials shall be as specified by the City Administrator or his/her designee.
2. Site Plan
 - a. Lot dimensions with property line monuments located thereon.

- b. Location and size of existing and proposed structures.
- c. Zoning, Land Use, Easements (public and private), water courses, and if existing and proposed structures, fences, streets, and street right-of-way lines
- d. Information regarding abutting property, as directly affects the application.

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:

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; such on-site conditions may include, but are not limited to, topography, preservation of vegetation, access, vehicular and pedestrian safety and preservation of scenic views;
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 the article to other lands, buildings or structures in the same zoning district;
4. That literal interpretation of the provisions would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the article and would work [incur] 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 this code and the comprehensive plan, will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
7. The granting of the variance will not be detrimental to the property or improvements in the area in which the property is located.
8. In granting any variance, the commission may prescribe appropriate conditions and safeguards, the violation of which shall be deemed a violation of this code. The commission may also prescribe a reasonable time limit within which the action for which the variance was requested shall be begun, completed or both.
9. Under no circumstances shall the commission grant a variance which permits a use not generally, or by 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. For purposes of this section, an unnecessary hardship shall mean that without the granting of the variance or special exception the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

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.

Special Exception Uses. 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 special exception uses should be granted and either grant special uses with appropriate conditions and safeguards or deny special exception uses. After review of an application and a public hearing thereon, the Planning and Land Development Regulation Commission (PLDRC) may make a recommendation that the City Commission allow special exception uses only upon a determination that the use meets the following standards:

- a. The intensity of the proposed use is harmonious with the character of the area and is consistent with trends of development in the area.
- b. Does not have an unduly adverse effect on existing traffic patterns, movements, intensity, and safety.
- c. Is consistent with the comprehensive plan goals and policies and the density/intensity standards based on the Comprehensive Plan and Future Land Use Map for the district in which the property is located.
- d. The proposed use is consistent with the intent of the zoning district in which it is located.
- e. The proposed use shall not be detrimental to the health, safety, welfare, and morals of adjoining properties or residents of the city, and shall be economically beneficial to the city.
- f. The height and orientation of any proposed structure(s) shall be compatible with existing neighboring structures.
- g. The subject property shall be of adequate size and shape to accommodate the proposed development while providing adequate separation from neighboring uses.
- h. The proposed use shall not create or intensify flooding issues on neighboring properties.
- i. The proposed use shall be effectively buffered so as to screen neighboring properties from traffic, noise, light, odor, or visual impacts.
- j. The refuse and/or loading areas shall be adequately screened so as not to have visual, odor, or noise impacts on neighboring properties.
- k. The size, design, and location of proposed sign(s) shall be in conformance with the city sign regulations, as well as being compatible with neighboring uses.
- l. Exterior lighting shall be harmonious with neighboring uses in terms of glare and intensity.

- m. On-site traffic circulation shall meet the requirements for the Police Department, Fire Department and other first responders.

13.13.00 Procedures for Review and Decision Making

Article 15 outlines the procedures for review and decision making including action by the Planning and Land Development Regulation Commission (PLDRC), action by the City Commission, Requests for Continuation of a Public Hearing, Withdrawal of Pending Applications as well as the process for Quasi-Judicial Hearings.

13.14.00 Notice Requirements

Notice Requirements are outlined in Article 15.02.00.

13.15.00 Determination of Completeness & Sufficiency

All applications are subject to a determination of completeness.

A determination of completeness is a determination that all required documents and plans has been submitted in sufficient number, and whether all fees have been paid. A determination of completeness is not a determination of compliance with substantive standards and criteria.

1. The City Administrator or his/her designee shall issue a determination of completeness to the applicant, within five (10) working days of receipt of an application. When the application is not complete, the determination shall specifically identify the missing documents and/or plans.
2. The applicant shall have thirty (30) days from the date of determination to correct the deficiencies. The application shall not be processed until deficiencies are corrected and the application is determined to be complete. If the applicant fails to correct the deficiencies within the thirty (30) day period, the application shall be deemed withdrawn.
3. A determination of completeness is an administrative decision subject to appeal as set forth in Article 15.

13.16.00 Material Changes to an Application

A determination by the City Administrator or his/her designee that the Applicant has made material changes to an application, not proposed by and/or approved by the Planning and Land Development Regulation Commission (PLDRC), will require a new review and action in accordance with the procedures set forth below.

13.17.00 Pre-Application Conference

A pre-application conference is a meeting between an applicant and the City Administrator or his/her designee for the purposes of:

1. Exchanging information on the potential development of a site;
2. Providing information on permissible uses of the site proposed for development;
3. Providing information to an applicant regarding the design standards set forth in this LDC that are applicable to a potential application;
4. Providing information to an applicant regarding standards of regional, state, or federal agencies that may be applicable to a potential application;
5. Determining the need and requirements for supporting plans, documents, and studies;

6. Providing information to an applicant regarding infrastructure requirements and the construction of required improvements; and
7. Providing information to an applicant regarding the appropriate procedures and schedules for receiving and reviewing applications and rendering decisions regarding a potential application.
8. It is the City's intent that all requirements be identified during the pre-application conference. However, no person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal, made by a participant at the pre-application conference, as a representation or implication that the proposal will be ultimately approved or rejected in any form.
9. A pre-application conference shall be held not more than six (6) months prior to submission of an application.
10. The pre-application conference may include representatives of City departments responsible for reviewing applications and independent reviewers hired by the City, and may include representatives of regional, State, or federal agencies with authority over specific aspects of the proposed development.

13.18.00 Amendments to Local Development Orders

When a local development order has been issued and an applicant wishes to modify a site plan or subdivision plat to which the local development order applies, the procedures of this section shall apply. Amendments to development permits shall be governed by the applicable building or technical codes, or City permit procedures.

13.18.01 Minor Amendments

Minor amendments include the following:

1. Changes in the types and locations of landscaping materials, provided that:
 - a. Such changes do not reduce total amount of landscaping material;
 - b. Any required buffer area complies with the standards of this LDC; and
 - c. The proposed landscaping materials comply with the specifications of this LDC.
2. A minor adjustment in the location of dumpsters, sidewalks, bicycle facilities, sheds, or other accessory buildings, provided that:
 - a. The adjustment does not deviate from the approved location more than ten (10) feet in any direction;
 - b. Such adjustment does not encroach into any required buffer or stormwater management area;
 - c. Such adjustment does not increase the approved impervious surface ratio for the project; and
 - d. The location continues to comply with all standards of this LDC, including, but not limited to, setbacks, landscaping, and buffer requirements.
3. A minor adjustment in the location and design of parking lots and access drives, provided that:
 - a. Such adjustment does not encroach into any required buffer or other landscaped area;

- b. Such adjustment does not increase the approved impervious surface ratio for the project;
- c. Such adjustment does not reduce the number of parking spaces; and
- d. Such adjustment continues to comply with all standards of this LDC and the Public Works Manual.

13.18.02 Procedures for Minor Amendments

The applicant shall submit one (1) copy of the approved site plan, or subdivision plat indicating the proposed minor amendments.

The City Administrator or his/her designee shall determine that the amendment is consistent with:

- 1. The requirements of Section 13.18.01 Minor Amendments; and
- 2. The standards and criteria of the LDC.

The City Administrator or his/her designee shall approve or deny the application for a minor amendment and issue a written order to modify the local development order.

Upon review by the City Administrator or his/her her designee, a minor amendment to the exterior elevations for development within the Gateway Overlay or Historic District may be subject to consideration by the Historic Preservation Board with a recommendation to the City Commission.

13.18.03 Major Amendments

Any proposed change to an approved local development order that is not a minor amendment as described in Section 13.08.01 shall be considered a major amendment. Major amendments are processed in the same manner as the original application.

13.18.04 Expiration of Local Development Orders and Development Permits

A request may be applied for by the applicant to extend the expiration date of a Development Order. An application and the application fee shall be submitted prior to the expiration date of the original Development Order. Fees are set forth in the schedule of fees as adopted by Resolution set by the City Commission. No action shall be taken on an application until all applicable fees are paid. The extension may be granted by the City Administrator or his/her designee at his/her discretion if the following conditions are applicable:

- 1. the developer has provided documentation showing that they have been diligently working towards the construction of substantial infrastructure improvements;
- 2. the granting of the extension shall not be injurious to neighboring properties or to the City;
- 3. the developer shows just cause for the extension;
- 4. the property(s) involved in the subdivision plan/plat does not have any outstanding fines, fees, liens, or taxes;
- 5. no additional extensions have been approved. Only one (1) extension shall be granted per project.

13.19.00 Annexation

Annexation is the process of adding real property to the boundaries of the City of Lake Helen. Once annexed, the property becomes fully a part of the City and realizes all benefits and services

thereof. The Florida Statutes will allow unincorporated property to be annexed only if it is contiguous with the City limits.

In order for specific property within unincorporated areas to be voluntarily annexed, Chapter 171.044 of the Florida Statutes requires the following criteria be met:

1. An application must be filed bearing the signatures of all property owners within the area proposed to be annexed.
2. The property must be contiguous to the municipality's boundaries and must be reasonable compact.

13.19.01 Annexed Properties Land Use and Zoning Designations

All properties have Land Use and Zoning designations, regardless of their political jurisdiction. The Lake Helen Comprehensive Plan allows properties annexing into the City to convert the existing Volusia County Future Land Use designations to similar City of Lake Helen designations, provided the City's planning objectives for the area can be met. Alternatively, if the City determines the County's designations are not the most appropriate for the property, a request for City designations must be made in accordance with the Land Use Plan Amendment process. In either case, a Zoning Map Amendment request must be made to establish a City Zoning designation that is consistent with the Future Land Use designation.

13.19.02 Procedure for Annexation

The owner(s) of the properties shall meet with city staff and complete the application requesting Annexation. The Application will be forwarded to the Planning and Land Development Regulation Commission for review and recommendation to the City Commission and will ensure compliance with Chapter 171 of the Florida Statutes.

13.20.00 Procedures for Revisions to the Land Development Code, Amendments to the Comprehensive Plan; text amendments and changes in Future Land Use Map

All requests for Revisions to the Land Development Code, Amendments to the Comprehensive Plan; text amendments and changes in Future Land Use (map amendments) shall be reviewed in accordance with the provisions of this section. The general procedure for amendments to the zoning map or for text amendments to these regulations shall be as follows:

1. An amendment may be proposed by:
 - a. The City Commission;
 - b. The Planning and Land Development Regulation Commission (PLDRC); or
 - c. By a person. Any person wishing to request an amendment shall submit their request which shall be accompanied by the necessary fees and shall contain all pertinent information which may be required by the Planning and Land Development Regulation Commission for proper consideration of the matter, including a letter of authorization from all property owners of land which is the subject of the request for the Comprehensive Plan future land use map change (FLUM amendment).
2. All proposed amendments shall be submitted to the Planning and Land Development Regulation Commission (PLDRC) for study and recommendation. One (1) public hearing before the PLDRC required, but they are authorized to hold a public workshop on the request prior to holding a public hearing. A report shall be prepared

stating the Planning and Land Development Regulation Commission's recommendations to the City Commission for final action on each request.

13.20.01 Requirements of Future Land Use Text and Map Amendments

A Future Land Use Map amendment request to the City Commission shall be in accordance with F.S. Chapter 163, and shall show that the Planning and Land Development Regulation Commission has studied, considered and found (where applicable) whether or not:

1. The request is consistent with the densities, intensities and general uses set forth in the Comprehensive Plan and LDC regulations.
2. The requested uses are compatible with existing or planned uses in the surrounding area.
3. Approval of the request will be consistent with the population density pattern and not place an undue burden upon existing transportation or other services, utilities and facilities and will be capable of being adequately served by them, should the highest use allowed by the requested zoning be developed.
4. The proposed uses are appropriate at the subject location.
5. The proposed change is consistent with the established land use pattern, and would not create an isolated district unrelated to adjacent and nearby districts.
6. Changed or changing conditions make the passage of the proposed amendment necessary.
7. The proposed change will be compatible with improvements or development of adjacent property in accordance with existing regulations.
8. The proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the public welfare.
9. Substantial reasons exist why a reasonable use of property cannot be accomplished under existing zoning.
10. Whether the change suggested is out of scale with the needs of the neighborhood or city, and it is impossible to find other adequate sites for the proposed use in districts already established.

13.20.02 Requirements for Land Development Regulation and Comprehensive Plan Text Amendments

Before granting any text amendment, the Planning and Land Development Regulation Commission (PLDRC) must recommend and the City Commission must determine a need and justification for change, finding that:

1. The amendment is consistent with the densities; intensities; general uses; and goals, objectives, and policies set forth in the Comprehensive Plan and City Charter.
2. The text amendment is in compliance with the City Charter, Comprehensive Plan, the LDC regulations, the Code of Ordinances, and any other applicable code or regulation.

13.20.03 Procedures for Review of Proposed Revisions to the Land Development Code, Amendments to the Comprehensive Plan; text amendments and changes in Future Land Use Map

1. Following the Planning and Land Development Regulation Commission public hearing, staff shall submit the request and report to the City Commission with the board's recommendation. The recommendation and report shall include the findings of fact and written statement of reasons for such recommendation. The board recommendation is advisory only and shall not be binding upon the City Commission.
2. Staff shall forward the Planning and Land Development Regulation Commission' (PLDRC) recommendations, report and all necessary supporting data, to the City Commission for their review.
3. The City Commission public hearing notices shall comply with the requirements set forth in the Florida Statutes and City established policies, as may be amended from time to time.
4. If the Planning and Land Development Regulation Commission's recommendation for change is not acted upon by the City Commission within six (6) months of the date of its receipt, the petition upon which the recommendation was based shall be deemed to have been denied.