

WORKSHOP AGENDA  
ESCAMBIA COUNTY PLANNING BOARD  
March 18, 2014–8:30 a.m.  
Escambia County Central Office Complex  
3363 West Park Place, Room 104

1. Call to Order.
2. Land Development Code.
  - A. Chapter 2 - Development and Compliance Review.
3. Information for April 1, 2014 meeting.
4. Public Forum.
5. Scheduling of Future Meetings.

The next **Regular Planning Board** meeting is scheduled for **Tuesday, April 1, 2014 at 8:30 a.m.** , in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

6. Announcements/Communications.
7. Adjournment.



**BOARD OF COUNTY COMMISSIONERS**  
Escambia County, Florida

**Planning Board-Workshop**  
**Meeting Date: 03/18/2014**

**2. A.**

---

**Agenda Item:**

---

**Attachments**

Ch 2 Compliance Review Process-DRAFT1A

---

# Working Copy

## Chapter 2 DEVELOPMENT AND COMPLIANCE REVIEW

### Article 1 General Provisions

- Sec. 2-1.1 Purpose of chapter.
- Sec. 2-1.2 Purpose of article.
- Sec. 2-1.3 General compliance review provisions.
- Sec. 2-1.4 General provisions of compliance review.

### Article 2 Verifications and Confirmations

- Sec. 2-2.1 Purpose of article.
- Sec. 2-2.2 Permitted land use.
- Sec. 2-2.3 Lot conformance.
- Sec. 2-2.4 Street names and addresses.
- Sec. 2-2.5 Alcoholic beverage zoning.
- Sec. 2-2.6 Land Development Code (LDC) interpretation.
- Sec. 2-2.7 Use compatibility.

### Article 3 Land Disturbance Activities

- Sec. 2-3.1 Purpose of article.
- Sec. 2-3.2 General land disturbance.
- Sec. 2-3.3 Pre-construction site work.
- Sec. 2-3.4 Construction in county right-of-way.
- Sec. 2-3.5 Residential driveways.
- Sec. 2-3.6 Removal of protected trees.
- Sec. 2-3.7 Sand and aggregate on barrier islands.

### Article 4 Site Development

- Sec. 2-4.1 Purpose of article.
- Sec. 2-4.2 Site development review.
- Sec. 2-4.3 Minor site development.
- Sec. 2-4.4 Major site development.

1	<b>Article 5</b>	<b>Subdivision</b>
2	Sec. 2-5.1	Purpose of article.
3	Sec. 2-5.2	Subdivision review and platting.
4	Sec. 2-5.3	Minor subdivisions.
5	Sec. 2-5.4	Master plans.
6	Sec. 2-5.5	Preliminary plats and construction plans.
7	Sec. 2-5.6	Final plats.
8	Sec. 2-5.7	Plat vacation.
9		
10	<b>Article 6</b>	<b>Special Conditions and Circumstances</b>
11	Sec. 2-6.1	Purpose of article.
12	Sec. 2-6.2	Review by quasi-judicial hearing.
13	Sec. 2-6.3	Applicant-initiated Zoning map amendment (rezoning)
14	Sec. 2-6.4	Variance of LDC standards.
15	Sec. 2-6.5	Conditional uses.
16	Sec. 2-6.6	Extensions of review, approval, and use periods.
17	Sec. 2-6.7	Medical hardship temporary use of manufactured homes.
18	Sec. 2-6.8	vested rights.
19	Sec. 2-6.9	Planned unit developments.
20	Sec. 2-6.10	Statutory development agreements.
21		
22	<b>Article 7</b>	<b>LDC and Comprehensive Plan Amendment</b>
23	Sec. 2-7.1	Purpose of article.
24	Sec. 2-7.2	LDC zoning map and text amendments.
25	Sec. 2-7.3	Comprehensive Plan Future Land Use and text amendments.
26		
27		
28	<b>Article 8</b>	<b>Manual and Procedures</b>
29		
30	Sec. 2-8.1	Purpose of article
31	Sec. 2-8.2	Generally
32	Sec. 2-8.3	Criteria for inclusion
33		
34		

1 **Article 1 General Provisions**

2 **Sec. 2-1.1 Purpose of chapter.**

3 The purpose of this chapter is to establish county review requirements necessary to  
4 effectively document compliance with the LDC and authorize the use and development  
5 of land accordingly. The administrative authorities described in Chapter 1 evaluate LDC  
6 compliance of land uses and development activities. More specifically, this chapter is  
7 intended to: [2.01.00]

8 (1) Identify county and applicant responsibilities in LDC development and  
9 compliance review.

10 (2) Provide public notice requirements.

11 (3) Establish criteria for the evaluation of variances, conditional uses, vested rights,  
12 LDC and Comprehensive Plan amendments, and other discretionary review  
13 processes.

14 (4) Provide a mechanism for appeals of in county land use and development  
15 decisions.

16 **Sec. 2-1.2 Purpose of article.**

17 The purpose of this article is to establish general provisions that apply broadly to all  
18 LDC development and compliance review within the chapter. The compliance review  
19 applicable to specific land uses and development activities is prescribed in the  
20 remaining articles of this chapter.

21 **Sec. 2-1.3 General compliance review provisions.**

22 (a) **Prior county approval required.** No land use or development activity regulated by  
23 the LDC is allowed prior to obtaining all applicable county approvals according to the  
24 provisions of the LDC. No county administrative authority may approve uses,  
25 activities, or other actions that are not found to comply fully with the requirements of  
26 the LDC. Additionally, any time the LDC or other regulations require authorizations  
27 by the Planning Board, Board of Adjustment (BOA), Board of County Commissioners  
28 (BCC), or other local authorities prior to final county approval of an application, those  
29 authorizations shall be evidenced in advance of final approval and not deferred in a  
30 condition of that approval. [2.02.00, 2.02.02, 4.01.00]

31

32 **(b) Non-county approvals.**

33 (1) **Generally.** State, federal, and other non-county entities, including homeowners  
34 associations, may also regulate, govern, or otherwise influence the use or  
35 development of land. It is solely the responsibility of each landowner, regardless  
36 of LDC compliance review, to determine whether other agencies or entities have  
37 jurisdiction or responsibilities in the use of their property or activities upon it and  
38 to adequately communicate with them. Although the county may approve a land-  
39 use application, that approval does not constitute, advocate, or assure approval

1 by any other entity, nor does the approval of another entity relieve a person of  
2 the need to obtain appropriate county approval. [2.02.03 and 7.15.16.]

3 **(2) State and federal permits.** As prescribed by Florida Statutes, the county may  
4 not require as a condition of a development permit that an applicant obtain a  
5 permit or approval from any state or federal agency unless the agency has  
6 issued a final agency action that denies the federal or state permit before the  
7 county action on the local development permit.

8 **(c) Applicable review.** The Planning Official shall confirm the correct processes and  
9 direct applicants to the appropriate reviews prescribed by the LDC.

10 **(d) Concurrent review.** To assist applicants in coordinating and expediting all county  
11 review, land uses and development activities shall be reviewed for compliance with  
12 other applicable county land development regulations during LDC compliance  
13 review. Those other regulations include accessibility requirements, fire safety  
14 regulations, and applicable health and safety policies.

15 **(e) Single-family lots.** Any existing lot of record may have a single-family dwelling  
16 permitted on it regardless of how the lot was created, the condition or legal status of  
17 the access, or the minimum lot area or width required by the applicable zoning  
18 district. [4.01.02.C, 4.01.03.C, 6.04.08]

19 **(f) Comprehensive Plan limits.** No permit may be issued for any development if it  
20 would cause any requirement in the Comprehensive Plan to be violated. [4.01.02.F]

21 **(g) Authority to determine LDC meaning.** The Planning Official shall, upon request or  
22 his/her own initiative, review the meaning and intent of LDC provisions as applied by  
23 county review personnel and, with due regard to the stated purposes and  
24 requirements of the LDC, clarify or revise that meaning as needed. Where  
25 additional technical or specialized knowledge is necessary to make an accurate  
26 interpretation, the Planning Official shall rely on the recommendations of those  
27 personnel having such knowledge.

28 **(h) Building code compliance.** Although the LDC establishes setback, height, floor  
29 area ratio, and other land use regulations for structures and prescribes development  
30 standards for the sites they occupy, the review and approval of construction plans  
31 for structures shall be according to Part I, Escambia County building code. The  
32 construction, erection, alteration, modification, repair, equipment, use and  
33 occupancy, location, maintenance, removal, and demolition of any building,  
34 structure, or facility or any appurtenances connected to such buildings, structures, or  
35 facilities shall be in compliance with the Florida Building Code. Site development  
36 plan approval is required to confirm LDC compliance, but separate review and  
37 approval is required to confirm building code compliance. [2.02.00, 4.03.05 & 06]

38 **(i) Split jurisdiction.** When a land use or development activity is proposed within the  
39 jurisdictional boundaries of the county and another governing body, such as the City  
40 of Pensacola, Santa Rosa Island Authority, and Town of Century, an application for  
41 the use or activity must be submitted as required by both jurisdictions. Each  
42 governing body has exclusive jurisdiction to approve the use or activity within its

1 boundaries unless the governing bodies having the jurisdictions agree that  
2 application to and compliance review by only one is mutually acceptable.

### 3 **Sec. 2-1.4 General provisions of compliance review.**

4 **(a) Generally.** The LDC establishes compliance review provisions to authorize land  
5 uses and development activities that demonstrate compliance with applicable LDC  
6 requirements. The procedures vary with the complexity of issues evaluated, but  
7 each requires: (1) an application for county approval, (2) an opportunity for public  
8 participation, (3) an evaluation of LDC compliance, (4) a final compliance  
9 determination, and (5) an opportunity to appeal that determination. The general  
10 requirements established in this section shall be combined with the specific  
11 requirements prescribed in the remaining articles of this chapter to obtain  
12 compliance review appropriate for the uses or activities proposed.

13 **(b) Application.** Anyone requesting approval of a land use or development activity  
14 regulated by the LDC must initiate the appropriate compliance review action  
15 prescribed in this chapter by submission of a complete application for review  
16 according to the adopted procedures for the application. Those procedures and all  
17 necessary application forms, checklists, and schedules shall be made conveniently  
18 available to the public by the reviewing authority. Guidance to assist applicants in  
19 meeting application requirements shall also be provided and obtained from the  
20 appropriate governing body. [2.02.01, 2.05.01, 2.08.02.C, 2.13.02.A, 4.02.02,  
21 4.02.04.B, 4.02.05.A, 4.06.04.A, 7.15.09]

22 **1) Pre-application inquiries.** Prior to application for approval through a LDC  
23 compliance review, representatives of the reviewing authority shall be available  
24 to discuss with applicants any of the processes, regulations, and standards  
25 related to development objectives. Anyone unfamiliar with LDC requirements is  
26 strongly encouraged to consult the LDC and make sufficient inquiries to the  
27 county before submitting an application to avoid delays or penalties. As  
28 identified in this chapter, a meeting with review personnel is required for certain  
29 development review activities but are encouraged for all..

30 Applicants for any land use or development activity on Pensacola Beach property  
31 for which a pre-application meeting is not required shall nevertheless consult with  
32 staff of the SRIA to review for any lease conditions that may affect the proposed  
33 use or activity.

34 **2) Authority to apply.** An applicant for compliance review shall be the owner of  
35 the subject land or be appropriately authorized by the landowner to submit an  
36 application. Where a proposed use or activity involves multiple parcels, common  
37 ownership or similar unified authorization shall be documented. For Pensacola  
38 Beach leaseholds the applicant shall be the lessee or authorized by the same.  
39 Authority to apply may be confirmed through public records or other means  
40 established and appropriate for the specific approval requested. For all  
41 applications it remains solely the responsibility of the applicant to obtain valid  
42 authorization of the landowner. [2.13.02.A.2, 4.06.04.A]

1       **3) Fees.** Where authorized by the BCC, payment of fees will be required at the  
2 time of application or at the time the requested approval or other service is  
3 provided, according to the adopted procedures of the reviewing authorities.  
4 Authorized fees include those for compliance review and related services and  
5 those specific to an approved use or activity. [2.13.02.A.3, 2.09.05, 2.11.02,  
6 4.06.04.B, 4.02.09, 6.04.15, 7.15.10]

7 **(c) Final determination.** The final determination on an application typically follows the  
8 applicant’s final response to review comments or the conclusion of any required  
9 public hearing testimony. The time necessary for an application to conclude with a  
10 final determination varies with the reviewing authority and compliance review..  
11 [2.13.02]

12 **(1) Approval.** Confirmation that a requested land use or development activity  
13 complies with all applicable LDC provisions is recognized through the issuance of  
14 a written document of final approval. At a minimum, the document shall identify  
15 the subject site, the action approved, the approving authority, the date and period  
16 of approval, and any site-specific conditions of the approval. Approval authorizes  
17 the applicant, subject to the continuing obligation of the approval terms and  
18 conditions, to commence the proposed use or activity. Use or activity other than  
19 that approved, or failure to comply with approval terms and conditions, is a  
20 violation of the LDC and is subject to enforcement and the penalties prescribed.  
21 [4.06.13]

22 **(2) Approval conditions.** The LDC prescribes both general and specific conditions  
23 of approval. It may authorize other reasonable conditions considered necessary  
24 to address impacts of approvals and carry out the purposes of the LDC.  
25 However, after final county approval, no new conditions can be imposed and no  
26 existing conditions can be removed except by the established appeal provisions.  
27 Additionally, except as required by Florida Statutes for requested zoning changes  
28 necessary to properly enact a proposed comprehensive plan amendment, no use  
29 or activity may be approved conditional to a proposed change in either the future  
30 land-use category or zoning district. The following conditions apply to all  
31 approvals: [2.13.02.F.3.c]

- 32       **a. Substantial conformance.** The implementation of an approval shall  
33 be in substantial conformance with the terms and conditions of the  
34 approval.
- 35       **b. Compliance inspections.** All approved development is subject to  
36 county inspections for compliance with the conditions of its approval,  
37 including any approved plan. All engineering designs shall require “as  
38 built” certification by a Florida registered professional engineer prior to  
39 final inspection.
- 40       **c. Other approvals.** All applicable state and federal permits shall be  
41 obtained before commencement of the approved development.

42 **(3) Denial.** For each application denied by the reviewing authority, the county shall  
43 inform the applicant in writing of the basis of the denial. Unless modified or

1 overturned on appeal, a denial closes the original application. Any subsequent  
2 review for approval requires a new application and may require a waiting period  
3 prior to any reapplication for materially the same requested approval.

4 **(4) Risk in proceeding.** The decisions of approving authorities in the LDC  
5 compliance review are final unless overturned through a valid appeal process.  
6 The county shall issue authorizations for uses and activities according to the  
7 decisions of these authorities, the applicant, bears all risk in proceeding with an  
8 approved use or activity while the approval remains subject to appeal. [2.04.02]

9 **(5) Modification of approvals.** It is unlawful to modify, amend, or otherwise deviate  
10 from an approval without first obtaining written authorization from the approving  
11 authority. And, unless specifically established in the LDC or provided through a  
12 successful appeal, modification of an approval, including its terms and  
13 conditions, requires a new application for review. Approved uses or activities  
14 modified without authorization are subject to the penalties and increased fees  
15 specified by the BCC. No certificate of occupancy or similar acceptance of site  
16 conditions by the county shall be issued for any unauthorized land use or  
17 development activity. Modifications to approvals may be requested by the  
18 applicant as prescribed in this chapter, but requests for modifications to certified  
19 engineering designs shall only be accepted from the engineer of record and  
20 require approval by the County Engineer. [2.13.02.F]

21 **(d) Appeal.** Any LDC compliance review applicant, or other aggrieved party as defined  
22 by Florida law, may appeal the decision of an administrative official or board in their  
23 administration of the LDC as prescribed in this chapter. Decisions subject to appeal  
24 include formal interpretations of LDC provisions by the Planning Official and the final  
25 approvals, conditions of approval, or denials of development applications. However,  
26 recommendations of administrative officials or boards in any matter are not subject  
27 to appeal. Avenues of appeal are as follows: [2.13.02.F, 13.18.00]

28 **(1) County officials.** A decision of a county official in his administration of the LDC  
29 may be appealed by application to the Board of Adjustment (BOA) for review  
30 within 15 days after the date of the official's decision according to the provisions  
31 for appeal of administrative decisions as prescribed in Article 6. Appeal of  
32 decisions made by the Building Official in his administration of the building code  
33 shall be according to the provisions of the Escambia County Code of Ordinances,  
34 Part I.

35 **(2) Board of Adjustment.** If the final determination of the BOA is denial, no new  
36 application for the same use on the same parcel can be accepted for review until  
37 at least 180 days from the date of the denial. [2.05.07] A final determination of  
38 the BOA may be appealed by petitioning the circuit court for judicial review within  
39 30 days after the date of the board's decision, and providing a copy of the petition  
40 to the clerk of the board. Appeal is limited to an applicant or to an adversely  
41 affected person who appeared before the BOA in the quasi-judicial hearing and  
42 asserted a position on the merits of the application. [2.04.01.C, 2.05.07.A]

43 **(3) Santa Rosa Island Authority.** Review of a Santa Rosa Island Authority (SRIA)  
44 Board decision may be undertaken by the Board of County Commissioners

1 (BCC) as provided for in the Laws of Florida (ch. 79-457) or appeal may be made  
2 directly to the circuit court. A decision of a SRIA official made in his  
3 administration of the LDC may be appealed to the BOA in the same manner  
4 prescribed for appeal of a decision of a county official. [13.18.02]

5 **(4) Planning Board.** The recommendations of the Planning Board are the local  
6 planning agency's advice to the BCC on county growth management issues and  
7 are therefore not subject to appeal.

8 **(5) Board of County Commissioners.** A decision of the BCC may be appealed by  
9 petitioning the circuit court for judicial review within 30 days after the date of the  
10 board's decision. [2.05.07.A]

11

1 **Article 2 Verifications and Confirmations**

2 **Sec. 2-2.1 Purpose of article.**

3 The purpose of this article is to establish the review criteria necessary to verify or  
4 confirm certain conditions affecting the authorization of land uses and development  
5 activities regulated by the LDC. These verification and confirmation procedures are  
6 defined by the general provisions of Article 1 and the specific provisions of this article.  
7 They do, however, provide necessary documentation for the processes that grant such  
8 authorizations. More specifically, this article includes review to verify permitted land use  
9 and lot conformance, name streets and assign addresses, confirm alcoholic beverage  
10 zoning compliance, confirm statutory vesting, interpret LDC meaning, and confirm land-  
11 use compatibility.

12 **Sec. 2-2.2 Permitted land use.**

13 **(a) Generally.** Verification of permitted land use is required to authorize any use or  
14 development of land regulated by the LDC. The procedure to verify land use is  
15 established to document the site-specific conformance of existing uses or potential  
16 new uses. Verification does not grant authorization to proceed with a land use or  
17 development activity, but is only a measure of the potential for a use or activity under  
18 the provisions of the LDC.

19  
20 **(b) Verification of allowable or permitted uses.** Application for permitted land-use  
21 verification shall be submitted for review to the offices of the Planning Official. The  
22 applicant shall provide the required information.

23 **Sec. 2-2.3 Lot conformance.**

24 **(a) Generally.** Verification of lot conformance is required to authorize the use and  
25 development of existing lots when they cannot be verified as valid lots of record.  
26 The provisions to verify conformance is established here to document that an  
27 individual lot created and conveyed without prior documented compliance review  
28 and authorization is, nevertheless, a physically conforming lot. This provision,  
29 however, is not a substitute for proper LDC compliance review and approval of the  
30 subdivision of land, and it is not an alternative means to create or establish a lot of  
31 record. Additionally, lot conformance verification is limited to lots that are used  
32 solely as the homestead of the owner-applicant who is not the owner of the parent  
33 parcel from which the lot was divided.

34 **(b) Verification for lot conformance.** Application for lot conformance verification shall  
35 be submitted for review to the offices of the Planning Official.

36 **Sec. 2-2.4 Street names and addresses.**

37 Street naming and address assignment is required to authorize the use and  
38 development of land. The application shall be submitted for review to the offices for  
39 the county Geographic Information System (GIS). The assigning of street names  
40 and addresses are to provide and document proper site identification necessary for  
41 the approval of land-use applications and the subsequent provision of emergency

1 response, postal delivery, utility connection, and other essential services. However,  
2 the verification or assignment of an address or the approval of a street name neither  
3 provides nor assures any land-use or development activity approval, vested right, or  
4 capacity allocation.

5 **Sec. 2-2.5 Alcoholic beverage zoning.**

6 Confirmation of alcoholic beverage zoning compliance is required by the State of Florida  
7 for licensing the sale or on-premise consumption of alcoholic beverages. Application for  
8 alcoholic beverage zoning compliance confirmation shall be submitted for review to the  
9 offices of the Planning Official. Any subsequently licensed sales shall comply with  
10 relevant provisions of the Escambia County Code of Ordinances. [7.14.00]

11 **Sec. 2-2.6 LDC interpretation.**

12 **(a) Generally.** Interpretation of LDC meaning by the Planning Official is required  
13 when formal documentation of the meaning of a provision is needed prior to or  
14 without a final determination on another compliance review application. The  
15 interpretation of LDC provisions are established primarily to create appealable  
16 decisions of the Planning Official regarding land development regulations without  
17 regard to development review applications. An interpretation is not intended as a  
18 substitute to seeking an understanding of the LDC through pre-application  
19 meetings and the ordinary process of compliance review by authorized county  
20 personnel. The applicant shall provide any fees and information required by the  
21 adopted interpretation procedures which will include specific conditions, prior  
22 meaning and the insufficiency or error of the prior meaning provided.

23 **(b) Interpretation process.**

24 **Application.** Application for interpretation of a LDC provision shall be submitted  
25 for review to the offices of the Planning Official. The applicant shall provide any  
26 authorized fees and the information required by the adopted interpretation  
27 procedures. That information shall include the following:

- 28 **a. Conditions.** A description of the specific conditions to which the  
29 interpretation will apply.
- 30 **b. Prior meaning.** The meaning of the provision previously provided by  
31 authorized county review personnel.
- 32 **c. Insufficiency or error.** A description of how the prior meaning provided is  
33 thought to be insufficient or in error.

34 **Sec. 2-2.7 Use compatibility.**

35 **(a) Generally.** A compatibility analysis to confirm that a proposed land use or  
36 development activity will be compatible with adjacent uses or conditions is required  
37 to allow some authorizations of site development or rezoning as prescribed in the  
38 LDC. The requirements to evaluate compatibility is established here to document  
39 whether a proposed use or activity, or uses permitted by a rezoning, will be  
40 compatible where proposed. The confirmation process may be a requirement of site

1 development compliance review or rezoning criteria, but it does not substitute for  
2 compliance review, and confirmation of compatibility does not assure development  
3 plan or rezoning approval.

4 **(b) Confirmation for compatibility.** Application for land-use compatibility confirmation  
5 shall be submitted for review to the offices of the Planning Official.

## 6 **Article 3 Land Disturbance Activities**

### 7 **Sec. 2-3.1 Purpose of this article.**

8 The purpose of this article is to establish the review necessary to confirm LDC  
9 compliance and authorize site-specific land disturbance activities that are not evaluated  
10 separately by the other review procedures of this chapter. These land disturbance  
11 review are defined by the general provisions of Article 1 and the specific provisions of  
12 this article. They provide appropriate evaluations of activities that have the potential for  
13 producing adverse off-site impacts, especially regarding storm water, if not properly  
14 planned and managed. More specifically, this article includes review for demolition of  
15 structures, work in county rights-of-way, removal of protected trees, and sand and  
16 aggregate use on barrier islands. Borrow pits and other site development, not limited to  
17 land disturbance activity, require compliance review according to the provisions of  
18 Article 4. [2.13.02, 4.06.00]

### 20 **Sec. 2-3.2 General land disturbance.**

21 **(a) Generally.** A general land disturbance permit is required prior to beginning any  
22 activity involving the clearing, cutting, excavating, filling, or grading of land, or any  
23 other activity that alters land topography or vegetative cover and is not authorized by  
24 the other land disturbance permits of this article. The purpose for authorizing  
25 general land disturbance is to assure that such activities, especially those with the  
26 potential to significantly change stormwater surface runoff patterns, comply with the  
27 stormwater management standards found in Chapter 5 of the LDC and in the  
28 Engineering Design Standards Manual (EDSM). Also, such activities must not result  
29 in adverse impacts on adjoining properties, surface waters, environmentally  
30 sensitive lands, roadways, or drainage systems.

31 **(b) Permit for land disturbance.** Application for a general land disturbance permit  
32 shall be submitted for compliance review to the offices of the Planning Official.

### 33 **Sec. 2-3.3 Pre-construction site work.**

34 **(a) Generally.** Except for single-family and two-family development, a pre-construction  
35 site work permit is required prior to beginning any land disturbance activity regulated  
36 by the LDC and proposed by an approved site development plan if the building  
37 permit has not been issued or no building permit is required.

38 **(b) Permit for pre-construction site work.** Application for a pre-construction site work  
39 permit shall be submitted for compliance review to the offices of the Building Official.

1 **Sec. 2-3.4 Construction in county right-of-way.**

2 Unless construction in a county right-of-way is authorized by a residential driveway  
3 permit or other county approval, a county right-of-way work permit is required prior to  
4 disturbing the paved portion, or any area beneath the paved portion, of any county  
5 right-of-way; or prior to installing underground facilities in a county right-of-way; or  
6 prior to work, other than maintenance, on a driveway connection within a county  
7 right-of-way. A permit is not required for work or improvements included within  
8 approved subdivision infrastructure construction plans or site development plans, or  
9 for any exempt activities identified by the procedure for making road cuts, within  
10 *Local Public Improvements*, Escambia County Code of Ordinances.

11 **Sec. 2-3.5 Residential driveways.**

12 A residential driveway permit is required prior to construction of any driveway  
13 connection from the lot of a single-family or two-family dwelling to any county street,  
14 paved or unpaved, unless the connection is to a street with curb and gutter and is  
15 constructed during the valid period of the building permit for the dwelling. A  
16 driveway permit is also required prior to any work, other than maintenance, on an  
17 existing residential driveway connection to a county street. Application for a  
18 residential driveway permit shall be submitted for compliance review to the offices of  
19 the Planning Officials.

20 **2-3.6 Removal of protected trees.**

21 A tree removal permit is required prior to removing or otherwise causing unnatural  
22 decline by irreparable injury to any tree protected by the provisions of the LDC  
23 unless that activity is authorized through site development or other compliance  
24 review provisions of this chapter. The process to authorize the removal of a  
25 protected tree is established in the ESM.

26

27 **Sec. 2-3.7 Sand and aggregate on barrier islands. [12.05.01.A, 12.05.06]**

28 A sand and aggregate use permit is required prior to placement on Santa Rosa Island  
29 or Perdido Key of any sand, aggregate, or other construction or landscaping materials  
30 regulated by the LDC, regardless of any other land disturbance permits issued or other  
31 approvals granted through LDC compliance review. The process to authorize the  
32 placement of these regulated materials is established, in the EDSM, to prevent the  
33 importation, use, and relocation of red clay and other prohibited materials that tend to  
34 discolor, darken, or stain the natural white sands of those barrier islands.

35

36 **Article 4 Site Development**

37 **Sec. 2-4.1 Purpose of article.**

38 The purpose of this article is to establish the provisions necessary to confirm LDC  
39 compliance and authorize forms of site-specific development that propose more than

1 land disturbance activities but do not include the subdivision of land. These site  
2 development review provisions are defined by the general provisions of Article 1 and the  
3 specific provisions of this article. They evaluate a wide range of land uses and  
4 development activities. More specifically, this article includes major and minor review  
5 provisions for the establishment or change of uses and for the construction of structures  
6 and supporting infrastructure, whether principal or accessory, residential or non-  
7 residential, permanent or temporary. However, site development plan approval is not a  
8 permit to construct any structure that is regulated by the Florida Building Code.

9 **[2.13.02, 4.06.00]** If all the applicable regulations concerning the proposed project for a  
10 major or minor development are met, a Development Order shall be issued, with or  
11 without conditions, by the approving authority which shall be a continuing obligation to  
12 comply with the specifications of the plan and the terms and conditions of that approval.

### 13 **Sec. 2-4.2 Site development review.**

14 **(a) Approval required.** Any site development regulated by the LDC requires county  
15 review and approval of a major or minor site development plan, according to the  
16 provisions of this article, unless the development is evaluated by other compliance  
17 review processes of this chapter or is specifically identified in the LDC as exempt  
18 from these processes. And, if site development is anticipated to occur in phases  
19 beyond the valid period of an individual site plan approval, review and approval of a  
20 master plan may be advisable to secure certain development conditions prior to the  
21 separate review and approval of multiple phase plans.

22 **(b) Timing of building plan review.** Although it may be advisable, it is not necessary  
23 for an applicant to delay the building construction plan compliance review until the  
24 site development plan is reviewed and approved. However, once the building code  
25 compliance review begins, the applicant bears all risk in the possibility of a  
26 modification to the building construction plans required by a modification in the site  
27 development plans and the expense for review of revised and resubmitted  
28 construction plans.

29 **(c) Documentation by site plan.** Site development compliance review requires the  
30 submission of a site plan to provide standardized documentation of compliance with  
31 county land development regulations. The form and content of a site plan shall be  
32 appropriate to the documentation necessary for the proposed site changes. Once  
33 approved, the site plan also documents how completed site changes comply with  
34 approved changes. The wide range of site plan content identified in this section is an  
35 indication of the types of documentation that may be required for compliance review.  
36 In general, as much information as is reasonably necessary to document LDC  
37 compliance shall be required on a site development plan, increasing with the  
38 complexity of site uses and improvements to be evaluated. However, the minimum  
39 information required for any specific compliance review process shall be according  
40 to the adopted procedures.

41  
42 **(1) Existing conditions.** The compliance review of a land-use or development  
43 activity must consider what is already on and around the site and any  
44 jurisdictional constraints. Consequently, a site development plan shall document

1 existing conditions that will likely affect or be affected by the use or activity, even  
2 conditions for which no change is anticipated. .

3 **(2) Proposed changes.** A site development plan shall document the temporary or  
4 permanent construction or placement of site improvements and other proposed  
5 changes to existing conditions. For a development constructed in phases, the  
6 plan shall document the sufficiency of each phase to comply with the LDC,  
7 without regard to uncompleted changes of the remaining phases.

8 **(3) Supporting information.** The effective documentation of existing conditions  
9 and proposed changes typically requires other supporting site information, along  
10 with a supporting checklist.

### 11 **Sec. 2-4.3 Minor site development.**

12 **(a) Generally.** Minor site plan approval is required to authorize those land uses or  
13 development activities categorized as a “minor” site development in this section.  
14 The process to approve a minor site development is established to evaluate uses  
15 and activities that typically produce fewer and/or less complex LDC compliance  
16 conditions than major development. As a result, compliance usually requires less  
17 documentation and fewer resources to confirm. Minor review primarily verifies that  
18 the use is permitted, the lot conforms, structures are appropriately placed, site  
19 access is adequate, public facilities are provided, and no adverse off-site impacts  
20 are created.

21 **(b) Categories of minor development.** Minor site development is limited to the  
22 following categories:

23 **(1) Single-family and two-family residential.** Residential site development in  
24 which any combination of single-family and two-family dwellings results in no  
25 more than four dwelling units on a lot. The category includes all uses and  
26 structures customarily accessory to such dwellings, including fences, enclosures,  
27 swimming pools, carports, and portable storage containers, and includes the  
28 conversion of a non-residential building to a one- or two-family dwelling.

29 **[4.06.01]**

30 **(2) Non-residential change of use.** Change of use in which the site development  
31 changes any non-residential use of a non-residential structure or site to another  
32 non-residential use, provided that any additional trip generation is minor and  
33 modifications are limited to those of the minor non-residential and minor multi-  
34 family category in this section. For these purposes, minor trip generation  
35 corresponds to a less than a 25 percent increase in the minimum parking  
36 required by the applicable unmodified base parking ratios in Chapter 5 and  
37 EDSM. **[4.06.02.C]**

38 **(3) Temporary non-residential.** Temporary establishment of a non-residential use  
39 or structure, including portable storage containers, portable shelters, mobile  
40 vending units, amusement structures, temporary constructions, sales offices, and  
41 other temporary uses and structures prescribed in Chapter 4. **[4.06.02.E]**

1       **(4) Minor non-residential and multi-family.** Minor additions and modifications and  
2       accessory uses and structures for existing non-residential or multi-family  
3       development if the net increase in site impervious cover from all sources is less  
4       than 1000 square feet. Repeated additions of impervious surface constructed  
5       since the adoption of the LDC shall be combined for the application of this limit.  
6       Accessory uses include fences and signs.

7       **(c) Approval process.**

8             Checklists from the appropriate department will be provided so the applicant will  
9             have quick and ready access to the requirements of this article.

10       **Sec. 2-4.4 Major site development.**

11       **(a) Generally.** Major site plan approval is required to authorize those land uses or  
12       development activities categorized as a “major” site development in this section.  
13       The process to approve a major site development is established to evaluate uses  
14       and activities that typically produce greater and/or more complex LDC compliance  
15       conditions than minor development. As a result, compliance usually requires more  
16       documentation and greater resources to confirm.

17       **(b) Categories of major review.** Major site development is limited to the following  
18       categories:

19       **(1) Multi-family residential.** Residential site development in which there are five or  
20       more dwelling units in any combination on a lot. The category also includes uses  
21       and structures customarily accessory to multi-family developments, such as  
22       fences, swimming pools, carports, mail kiosks, maintenance sheds, and  
23       clubhouses when they are not eligible for review as minor site developments.  
24       The conversion of a non-residential building into a multi-family dwelling is also  
25       included in this category.

26       **(2) Residential change of use.** Change of use in which the site development  
27       changes any residential use of a structure to any non-residential use, in whole or  
28       part. The category applies to any principal or accessory residential structure but  
29       does not apply to home occupations or home-based businesses as defined by  
30       the LDC.

31       **(3) Major non-residential.** New principal and accessory uses and structures not  
32       reviewed by any other non-residential review category.

33       **(4) Master plans.** Master plans for phased site development. The plans of this  
34       category are intended to afford the developer with a modest level of confirmation,  
35       prior to further commitment of development resources, so that the development  
36       is properly planned according to the regulations and standards of the LDC. The  
37       plan helps to ensure integration with the surrounding land uses and development  
38       and the sufficiency of the supporting infrastructure at the completion of each  
39       phase.

40       **(5) PUDs.** Planned unit development (PUD) submitted under the PUD provisions of  
41       Article 6.

1 If all the applicable regulations concerning the proposed project for a PUD are  
2 met, a Development Order shall be issued, with or without conditions, by the  
3 approving authority which shall be a continuing obligation to comply with the  
4 specifications of the plan and the terms and conditions of that approval.

5 **(c) Approval process.**

6 Checklists from the appropriate department will be provided so the applicant will  
7 have quick and ready access to the requirements of this article.

8

9

1 **Article 5 Subdivision**

2 **Sec. 2-5.1 Purpose of article.**

3 The purpose of this article is to establish the review provisions necessary to confirm  
4 LDC compliance and authorize the subdivision of land. These subdivision review  
5 requirements are defined by the general provisions of Article 1 and the specific  
6 provisions of this article. They evaluate subdivisions to avoid the creation of lots with  
7 unnecessary constraints on their subsequent development, including inadequate  
8 access, buildable areas, potable water supply, sewage disposal, and fire protection.  
9 More specifically, this article includes review processes for minor subdivisions, master  
10 plans, preliminary plats, infrastructure construction plans, final recorded plats, and plat  
11 vacation. Subsequent development on individual lots created by a subdivision is  
12 evaluated and authorized through the applicable compliance review processes  
13 established in the other articles of this chapter.

14 **Sec. 2-5.2 Subdivision review and platting.**

15 **(a) Approval required.** The division of a parcel of land into three or more lots requires  
16 county review and approval, unless the subdivision is specifically identified in the  
17 LDC as exempt. Prior to recording any final plat, review and approval of a  
18 preliminary plat with an infrastructure construction plan is required if infrastructure  
19 improvements are proposed. And, if subdivision construction and platting are to  
20 occur in phases, review and approval of a master plan are required prior to a  
21 separate review and approval of the individual phases. [4.02.04, 4.06.01] [4.01.00,  
22 4.02.01]

23 **(b) Exemptions from subdivision review.** Exemptions from the subdivision  
24 compliance review of this article accommodate limited special conditions in the  
25 division of land.

26 **(1) Boundary line changes.** Conveyances of land that are executed solely to  
27 increase the size of adjoining parcels or to resolve boundary line disputes but  
28 which do not create additional parcels separate and apart from the existing  
29 parcels are not subject to the review of this article unless proposed through a  
30 subdivision replat. [4.01.03.F]

31 **(2) Family conveyance.** The subdivision of land for family conveyance, according  
32 to the land division standards of Chapter 5, does not need to obtain approval  
33 through the review of this article. [4.01.02.E, 4.01.03.D]

34 **(3) Individual conforming lot.** An individual lot verified as a conforming lot,  
35 according to the provisions of Chapter 2, does not need to obtain approval  
36 through the subdivision review of this article.

37 **(c) Replatting land.** The proposed replatting of all or part of the land of a recorded plat  
38 shall follow the same review process as the initial subdivision platting. [4.05.00.A]

39  
40

1 **Sec. 2-5.3 Minor subdivisions. [4.01.05]**

2 **(a) Generally.** Minor subdivision approval is a limited option for the subdivision of land  
3 where the final plat is not recorded in the public records of the county and, therefore,  
4 not subject to the platting requirements of Florida statutes. One of the requirements  
5 is that the supporting infrastructure required by the LDC is already in place. More  
6 specifically, a minor subdivision shall fulfill all of the following criteria:

7 **(1) Number of lots.** If any subdivision lots are less than four acres, the net increase  
8 in the number of individual lots is limited to five.

9 **(2) Existing street frontage.** All subdivision lots front on an existing public or  
10 private street, paved or unpaved, providing the minimum right-of-way prescribed  
11 in Chapter 5.

12 **(3) No new streets.** No new street (or any extension of an existing street) is  
13 proposed or required.

14 **(4) No dedications.** There is no dedication of public improvements. This does not  
15 preclude such acquisitions as additional right-of-way for an existing street to  
16 provide the minimum width prescribed by the LDC.

17 **(5) Lot grading plans.** No stormwater management plan is required according to  
18 the provisions of Chapter 5, but a lot grading plan is provided for each lot.

19 **(6) Effective period.** Approved minor subdivisions shall be effective and remain  
20 valid for period of 1 year from the date of approval. The minor subdivision plat  
21 shall expire and be void if each of the newly created lots are not recorded by  
22 deed or other legal instrument in the official records of Escambia County within  
23 the valid period of approval.

24 **(b) Approval process.**

25 Checklists from the appropriate department will be provided so the applicant will  
26 have quick and ready access to the requirements of this article.

27 **Sec. 2-5.4 Master plans.**

28 **(a) Generally.** Master plan approval is required for any phased subdivision of land.  
29 The requirements to approve a master plan is established to ensure integration of  
30 the subdivision with surrounding development and the sufficiency of supporting  
31 infrastructure at the completion of each phase. A master plan is intended to afford  
32 the developer with a modest level of confirmation, prior to further commitment of  
33 resources, so that the subdivision is properly planned according to the LDC. Master  
34 plan approval vests the approved land uses and density, but it does not reserve  
35 development standards, guarantee buildable density, or assure approval of any  
36 implementing plats or construction plans. Additionally, each implementing phase  
37 requires submission of a preliminary plat, construction plan, and final plat.

38 **(b) Approval process.**

39 Checklists from the appropriate department will be provided so the applicant will  
40 have quick and ready access to the requirements of this article.

1 **Sec. 2-5.5 Preliminary plats and construction plans.**

2 **(a) Generally.** Preliminary plat and construction plan approval is required to map the  
3 proposed subdivision of land and document the design of infrastructure to  
4 adequately serve the created lots. The requirements to approve a preliminary plat  
5 with its construction plan are established to ensure that both the division of land and  
6 provision of services are consistent with the land-use regulations and design  
7 standards of the LDC. The approval allows the construction of the subdivision  
8 infrastructure to proceed, but it does not allow development on the individual  
9 subdivision lots prior to the recording of a final plat, except for temporary uses as  
10 specifically provided in Chapter 4.

11 **(b) Approval process.**

12 Checklists from the appropriate department will be provided so the applicant will  
13 have quick and ready access to the requirements of this article.

14 **Sec.2-5.6 Final plats.**

15 **(a) Generally.** Final plat approval is required to map the proposed subdivision of land  
16 in compliance with the platting requirements of Florida Statutes, such that, upon its  
17 recording, all land shown on the plat and that is a part of the subdivision is identified  
18 and may be conveyed by reference to the plat, including the dedication of rights-of-  
19 way and easements. The approval of a final plat is established to allow the  
20 recording of the plat in the public records when its content and form are consistent  
21 with state and county requirements and with any applicable conditions of its  
22 approved preliminary plat and infrastructure construction plan.

23 **(b) Approval process**

24 Checklists from the appropriate department will be provided so the applicant will  
25 have quick and ready access to the requirements of this article.

26 **Sec. 2-5.7 Plat vacation.**

27 **(a) Generally.** Plat vacation approval is required to vacate a subdivision plat in  
28 whole or part after the plat has been recorded in the public records of the county.  
29 The approval to vacate a final plat is established to accommodate a replat or a  
30 return to acreage for the subject land, according to Florida Statutes (Chapter  
31 177).

32 **(b) Application for the final plat** An application shall be submitted for compliance  
33 review to the office of the Planning Official. For subdivisions requiring preliminary  
34 plat and construction plan approval, applications shall be submitted within two  
35 years from the date of that approval, or otherwise allowed by an approved  
36 extension.

37 **(c) Approval process.**

38 Checklists from the appropriate department will be provided so the applicant will  
39 have quick and ready access to the requirements of this article.

1 **Article 6 Special Conditions and Circumstances**

2 **Sec. 2-6.1 Purpose of article.**

3 The purpose of this article is to establish the review provisions necessary to consider  
4 and authorize limited development alternatives under conditions and circumstances not  
5 evaluated by the other provisions of this chapter. The review for special conditions and  
6 circumstances are defined by the general provisions of Article 1 and the specific  
7 provisions of this article. The processes are predominantly discretionary and quasi-  
8 judicial, as per Florida Statutes and any other applicable regulations. They provide  
9 opportunities beyond those of other LDC review processes for applicants to  
10 demonstrate that sufficient conditions exist (or may be created) to support the requested  
11 special approvals.

12 **Sec. 2-6.2 Review by quasi-judicial hearing. Generally.** Many of the  
13 processes established in this article require a compliance review through a quasi-  
14 judicial public hearing to evaluate the presence and significance of special  
15 conditions or circumstances. The decisions must be supported by a record of  
16 findings evaluated and adopted at the hearing. The findings are determined through  
17 the investigation of facts, weighing of evidence, and drawing of conclusions. Quasi-  
18 judicial hearings are required to make the final determinations on applications for  
19 appeals of administrative decisions, substantial hardship variances, conditional  
20 uses, non-legislative zoning map amendments (rezoning), and other reviews as  
21 prescribed within this article.

22 **Basic proceedings.** Each quasi-judicial hearing required by the LDC shall be  
23 conducted according to all applicable requirements of the State of Florida for public  
24 hearings and according to all requirements of this article for the specific purpose of  
25 the hearing.

26 **Sec. 2-6.3 Applicant-initiated Zoning map amendment (Rezoning application)**

27 **(a) Generally.** All provisions of the Land Development Code are established, modified,  
28 or repealed by ordinance of the Board of County Commissioners (BCC). Zoning  
29 map amendments may be proposed by persons other than the county according to  
30 the ordinance enactment procedures prescribed by Florida Statutes and the  
31 provisions of this section. These map amendment provisions are established for the  
32 county to authorize appropriate changes to its land development regulations.

33 **[2.08.00, 2.08.03]**

34 **(b) Application.** An application for a rezoning shall be submitted to the clerk of the  
35 reviewing board at least 30 business days prior to the scheduled board meeting. A  
36 pre-application meeting of the applicant with the staff for the board is recommended  
37 to discuss the process and review county and applicant responsibilities.

38 **(c) Public participation.** The clerk of the reviewing board shall ensure public notice is  
39 consistent with Florida Statutes and the Comprehensive Plan.

40 **(d) Compliance review.** The reviewing board shall conduct a quasi-judicial public  
41 hearing as noticed to consider the requested rezoning according to the provisions of  
42 this article. At the conclusion of the hearing, based on the record of evidence, the

1 reviewing board shall adopt a recommendation to the BCC for rezoning approval,  
2 denial, or if possible and acceptable to the applicant, approval of a district with less  
3 intensive uses than the requested zoning. [2.08.02.C.4]

4 **(e) Approval conditions.** The applicant has the burden of presenting competent  
5 substantial evidence to the reviewing board that establishes each of the following  
6 conditions: [2.08.02.D.6 & 7]

7 **(1) Consistent with Comprehensive Plan.** The proposed rezoning is consistent  
8 with the goals, objectives, and policies of the Comprehensive Plan and not in  
9 conflict with any of its provisions. [2.08.02.D.6.a, and 7]

10 **(2) Consistent with LDC.** The proposed rezoning is consistent with the stated  
11 purposes and intent of the LDC and not in conflict with any of its provisions.  
12 [2.08.02.D.6.b, and 7]

13 **(3) Compatibility.** All land uses, development activities, and conditions allowed by  
14 the proposed zoning are compatible with the surrounding conforming uses,  
15 activities, and conditions and able to coexist in relative proximity to them in a  
16 stable fashion over time such that no use, activity, or condition is unduly  
17 negatively impacted by another. The appropriateness of the rezoning is not  
18 limited to any specific use that may be proposed but is evident for all permitted  
19 uses of the requested zoning. This condition shall not apply to any conditional  
20 uses of the proposed district or compatibility with nonconforming or unapproved  
21 uses, activities, or conditions. [2.08.02.D.6.c]

22 **(4) Changed conditions.** The area to which the proposed rezoning would apply  
23 has changed, or is changing, to such a degree that it is in the public interest to  
24 encourage new uses, density, or intensity in the area through rezoning.  
25 [2.08.02.D.6.d]

26 **(5) Development patterns.** The proposed rezoning would contribute to or result in  
27 a logical and orderly development pattern. [2.08.02.D.6.f]

28 **(6) Effect on natural environment.** The proposed rezoning would not increase the  
29 probability of any significant adverse impacts on the natural environment.  
30 [2.08.02.D.6.e]

31 **(f)** The planning board shall recommend approval of the rezoning request to the board  
32 of county commissioners, unless the planning board determines that maintaining the  
33 current zoning designations shall prevent the following:

34 **(1) Premature or sprawl.** The land uses and development activities allowed by the  
35 proposed rezoning are not premature, and the rezoning otherwise would not likely  
36 create or contribute to an urban sprawl pattern of development more than the  
37 current zoning. [2.08.02.D.7.a]

38 **(2) Isolated district.** The proposed rezoning would not create or contribute to an  
39 isolated zoning district that is neither related to the adjacent and nearby zoning  
40 districts nor an appropriate transition between them. [2.08.02.D.7.b]

- 1 **(3) Intrusion of non-residential uses.** The proposed rezoning would not allow an  
2 intrusion of commercial or industrial uses into a platted residential subdivision or  
3 other established residential area more than the current zoning. [2.08.02.D.7.c]
- 4 **(4) Property value impacts.** The land uses, development activities, and conditions  
5 allowed by the proposed rezoning would not likely result in significant adverse  
6 impacts upon the property values of adjacent properties or those in the immediate  
7 area more than the types of use, activities, and conditions permitted by the current  
8 zoning. [2.08.02.D.7.d]
- 9 **(5) Quality of life impacts.** The land uses, development activities, and conditions  
10 allowed by the proposed rezoning would not likely adversely impact the character of  
11 existing development or quality of life in the general area or neighborhood by  
12 creating excessive traffic, noise, lights, vibration, fumes, odors, dust, physical  
13 activities, or other detrimental effects or nuisances more than the types of uses,  
14 activities, and conditions permitted by the current zoning. [2.08.02.D.7.e]

15 **Sec. 2-6.4 Variance of LDC standards.** [2.05.03, 6.08.00, 8.07.06, 11.01.03]

16 **(a) Generally.** For any standard specifically identified in the LDC as eligible, a variance  
17 may be requested according to the provisions of this section where a landowner  
18 asserts that the strict application of the standard creates an unnecessary difficulty on  
19 a site. A variance allows site use in a manner that is not otherwise allowed by the  
20 dimensional or physical requirements of the LDC, but it cannot authorize uses that  
21 are prohibited by zoning or remedy general hardship conditions that extend to other  
22 sites. And since the granting of a variance also affects the integrity of the adjusted  
23 standard and may infringe on the safety, welfare, or other rights of neighboring  
24 property owners, no applicant is automatically entitled to a variance.

25 Minor variances of 20% or less that are of mutual benefit to the public and the  
26 applicant are evaluated by the Planning Official. All other variances shall be  
27 evaluated as substantial hardships through quasi-judicial public hearing review by  
28 the Board of Adjustment (BOA) or by the SRIA for Pensacola Beach properties. .

29 **(1) Limits on variances.** Variances are available and may be granted only for the  
30 LDC standards that specifically provide the option and only as allowed by the  
31 provisions of the LDC. No variances are available to any provisions of chapters  
32 1, 2, or 6. Additionally, variances cannot be granted to any provisions that  
33 establish the allowable uses or densities in a zoning district or to any conditions  
34 of approval imposed by an approving authority.

35 **(b) General variance conditions.** All variances shall satisfy the following conditions:

- 36 **(1)** Special conditions and circumstances exist which are peculiar to the land,  
37 structure or building and which are not applicable to other lands, structures or  
38 buildings in the same zoning district.
- 39 **(2)** The special conditions and circumstances do not result from the actions of the  
40 applicant.

- 1 (3) Granting the variance requested will not confer on the applicant any special  
2 privilege that is denied by this land development code to other lands, buildings or  
3 structures in the same zoning district.
- 4 (4) Literal interpretation of the provisions of the land development code would  
5 deprive the applicant of rights commonly enjoyed by other properties in the same  
6 zoning district under the terms of the land development code and would create  
7 an unnecessary and undue hardship on the applicant.
- 8 (5) The variance granted is the minimum variance that will make possible the  
9 reasonable use of the land, building or structure.
- 10 (6) The granting of the variance will be in harmony with the general intent and  
11 purpose of the land development code and that such variance will not be  
12 injurious to the area or otherwise detrimental to the public welfare.

13

14 **(d) Substantial hardship variance provisions.** A substantial hardship variance may  
15 be requested to consider limited relief for a hardship arising from conditions peculiar  
16 to a specific property. The process to approve a substantial hardship variance is  
17 established here for the BOA and SRIA to consider whether there is a deficiency in  
18 real property that creates a substantial undue hardship for the property owner by  
19 preventing development of the property in compliance with a LDC standard and  
20 whether a requested adjustment in the standard should compensate for that  
21 deficiency.

22 **(1) Application.** An application for substantial hardship variance approval shall be  
23 submitted for compliance review to the clerk of the reviewing board within the  
24 deadline stated in the application. A pre-application meeting with staff is  
25 recommended.

26 **(2) Public participation.** Prior to any hearing to consider a substantial hardship  
27 variance, the clerk of the reviewing board shall ensure public notice consistent  
28 with Florida Statutes.

29 **(3) Compliance review.** The reviewing board shall conduct a quasi-judicial public  
30 hearing as noticed to consider the requested substantial hardship variance  
31 according to the provisions of this article.

32 **a. Exceptional conditions.** There are exceptional conditions or circumstances  
33 that are unique to the land in question, not ordinarily found on other lands in  
34 the vicinity and not a result of the owner's intentional action. Unique  
35 conditions or circumstances include exceptional narrowness, shallowness,  
36 shape, or topographic conditions of the land or the presence of  
37 environmentally sensitive lands in or around the land. [2.05.02.B]

38 **b. Substantial hardship.** Under the unique land conditions or circumstances  
39 prompting the variance request, the strict application of LDC standards  
40 causes an exceptional practical difficulty or undue physical hardship to the  
41 owner that effectively prohibits a permissible principal use or denies rights

1 and privileges legally enjoyed by owners of other properties in the vicinity or  
2 within the same zoning district.

3 **(4) Final determination.**

4 **a. Action of board.** If the reviewing board finds from the established record of  
5 the hearing that there is a compelling demonstration by the applicant of  
6 competent substantial evidence proving the required conditions, the board  
7 shall grant a variance. However, a variance may only be granted to the  
8 extent supported by the evidence presented.

9 **b. Period of valid approval.** If not otherwise reduced as a condition of  
10 approval, a variance is valid for two years from the date of approval. If within  
11 that period the variance is not part of an approved site development  
12 application or one continuing in good faith as determined by the Planning  
13 Official and no application for its extension has been submitted according to  
14 the provisions of this article, the variance approval expires and is void. Once  
15 the variance is part of an approved site development plan, however, the  
16 variance will remain valid through the approved plan. [2.05.01.D]

17 **c. Other conditions of approval.** In granting a variance, the reviewing board  
18 shall have the authority to attach any conditions directly related to the  
19 variance as the board may find necessary for satisfaction of the variance  
20 conditions and preservation of the intent of the subject standard. [MO 107.3]

21 **Sec. 2-6.5 Conditional uses.**

22 **(a) Generally.** The LDC may conditionally allow other uses in addition to the permitted  
23 uses within each zoning district. Conditional use approval allows a use by review  
24 where it is not otherwise permitted by right, but it cannot authorize uses that are  
25 prohibited. The process to grant conditional uses is established here for the Board  
26 of Adjustment (BOA) or the SRIA for Pensacola Beach properties to consider in a  
27 quasi-judicial public hearing whether and under what conditions designated  
28 conditional uses may be appropriate. [2.05.03, 6.08.00, 8.07.06, 11.01.03]

29 **(b) Limits on conditional uses.** Conditional uses are subject to the following  
30 limitations:

31 **(1) Availability.** Conditional uses are available and may be granted only to land for  
32 which that option is specifically provided by the applicable zoning district or other  
33 provisions of the LDC. [2.05.03]

34 **(2) Invalid reasons.** Nonconforming, unapproved, or unlawful uses, structures, or  
35 conditions are not considered special conditions or other valid reasons for  
36 granting any conditional use.

37 **(3) Site specific.** A conditional use can only be granted based on a site-specific  
38 review of an individual lot of record or development parcel. Conditional uses are  
39 not available to subdivisions or other groups of individually developed lots.

40 **(4) Multiple uses.** If more than one conditional use is proposed, the conditions shall  
41 be addressed for each use.

1 **(c) Conditional use provisions.**

2 **(1) Application.** Application for conditional use approval shall be submitted for  
3 compliance review to the clerk of the reviewing board within the time period  
4 stated in the application. A pre-application meeting with staff for the board is  
5 recommended. [2.05.01.A, 2.05.03.A]

6 **(2) Public participation.** Prior to any hearing to consider a conditional use, the  
7 clerk of the reviewing board shall ensure public notice consistent with Florida  
8 Statutes. **Final determination.**

9 **a. Action of board.** If the reviewing board finds from the established record of  
10 the hearing that there is a compelling demonstration by the applicant of  
11 competent substantial evidence proving the required conditions, the board  
12 shall grant a conditional use but only to the extent supported by the evidence  
13 provided.

14 **b. Period of valid approval.** A conditional use approval is valid for a period of  
15 four years from the date of approval. If within that period the conditional use  
16 is not part of an approved site development application or one continuing in  
17 good faith review as determined by the Planning Official, the conditional use  
18 approval expires and is void. No extension of the initial approval is available.  
19 However, once the conditional use is part of an approved site development  
20 plan, the conditional use approval will remain valid through the approved plan.  
21 [2.05.01.D]

22 **c. Other conditions of approval.** In granting a conditional use, the reviewing  
23 board shall have the authority to attach any conditions directly related to the  
24 use as the board may find necessary for satisfaction of the conditional use  
25 conditions and preservation of the intent of the applicable zoning district.  
26 Such conditions include setbacks, height, impervious cover, total floor area,  
27 building orientation, screening, buffering, site signage and lighting, and hours  
28 of operation.

29 **Sec. 2-6.6 Extensions of review, approval, and use periods.**

30 **(a) Generally.** The LDC requires good faith efforts in adhering to its established  
31 periods, but extension of an eligible LDC time limit may be requested according to  
32 the provisions of this section whereby a landowner asserts that the limit does not  
33 anticipate legitimate delays in compliance. However, no applicant is automatically  
34 entitled to any extension. Short-term (6 month) extensions are evaluated by the  
35 Planning Official, and longer extensions (one year) shall be evaluated through a  
36 quasi-judicial public hearing review by the Board of Adjustment (BOA). These  
37 extension processes are established for the county to allow additional time for  
38 concluding the compliance review, developing an approved use, and continuing or  
39 reestablishing some uses.

40 **(b) Limits on extensions.** Extensions to LDC periods are subject to the following  
41 limitations:

1 (1) **Availability.** Extensions are available and may be granted only for LDC periods  
2 that specifically provide that option, only if a complete application for the  
3 extension was submitted prior to the expiration of the period for which the  
4 extension is requested, and only as otherwise allowed by the provisions of the  
5 LDC.

6 (2) **Approving authority.** Extensions to any period not required by the LDC but  
7 imposed as a condition of approval by an approving authority cannot be granted  
8 by another approving authority.

9 (3) **Individual and multiple limits.** An extension can only be granted based on a  
10 specific review of an individual period. If an extension of more than one period is  
11 requested, the extension criteria shall be evaluated for each limit.

12  
13 **Sec. 2-6.7 Medical hardship temporary use of manufactured homes.**

14 (a) **Generally.** Temporary placement of a manufactured (mobile) home or park trailer  
15 may be requested according to the provisions of this section when a landowner  
16 asserts that existing medical conditions require in-home care and an accessory  
17 dwelling to reasonably provide it. The manufactured home may be placed within any  
18 mainland zoning district to remedy a medical hardship according to the temporary  
19 use provisions of Chapter 4, regardless of the density limits of the applicable zoning.  
20 The requirements to grant the temporary use of a manufactured home or park trailer  
21 as an accessory dwelling to provide in-home medical care is established for the  
22 Board of Adjustment (BOA) to consider in a quasi-judicial hearing whether conditions  
23 warrant such use. [2.05.06, 6.04.10]

24 (b) **Medical hardship temporary use**

25 (1) **Application.** An application for approval of the medical hardship temporary use  
26 of a manufactured home or park trailer shall be submitted for compliance review  
27 to the clerk of the BOA within the time frame provided in the application. A pre-  
28 application meeting with staff for the board is recommended. The applicant shall  
29 provide any authorized fees and the information required by the adopted medical  
30 hardship temporary use procedures. That information shall include a general site  
31 plan showing the proposed location of the manufactured home in relation to other  
32 site improvements and conditions and other documentation satisfying the  
33 medical hardship temporary use conditions established in this section.  
34 [2.05.01.A, 2.05.06, 2.05.06.G]

35 (2) **Public participation.** Prior to any hearing to consider the medical hardship  
36 temporary use of a manufactured home or park trailer, the clerk of the BOA shall  
37 ensure public notice consistent with Florida Statutes.

38 (3) **Compliance review.** The BOA shall conduct a quasi-judicial public hearing as  
39 noticed to consider the requested medical hardship temporary use of a  
40 manufactured home or park trailer according to the provisions of this article. The  
41 applicant has the burden of presenting competent substantial evidence to the  
42 board that establishes each of the following conditions: [2.05.06]

- 1 a. **Certified need.** A Florida-licensed physician certifies in writing the medical  
2 need, specifying the extent of the need for in-home medical care and the  
3 approximate length of time for such in-home medical care. [2.05.06.A]
- 4 b. **Minimum necessary.** Conditions and circumstances make it difficult or  
5 impossible for the recipient and provider of medical care to reside in the same  
6 dwelling and the temporary accessory dwelling is the minimum necessary to  
7 provide relief of that medical hardship. [2.05.06.I]
- 8 c. **Adequate public services.** The manufactured home or park trailer will have  
9 adequate water, sewer, solid waste removal, and electric services available.  
10 [2.05.06.F]
- 11 d. **Compatibility.** The temporary use will not produce adverse impacts on the  
12 uses of surrounding properties. [2.05.06.J]
- 13 e. **Standard conditions.** The temporary use can comply with the applicable  
14 standards of Chapter 4.

15  
16 **(4) Final determination.**

- 17 a. **Action of board.** If the BOA determines from the established record of the  
18 hearing that there is a compelling demonstration by the applicant of  
19 competent substantial evidence proving the required conditions, the board  
20 shall grant the temporary use of a manufactured home.
- 21 b. **Period of valid approval.** Approval of the medical hardship temporary use  
22 of a manufactured home or park trailer is valid for a period of one year from  
23 the date of approval. If within that period the temporary use is not part of an  
24 approved site development application or one continuing on good-faith review  
25 as determined by the Planning Official, the temporary use approval is void.  
26 Once the temporary use is part of an approved site development plan,  
27 however, the use approval will remain valid through the approved plan.
- 28 c. **Period of use.** The medical hardship temporary use of a manufactured  
29 home or park trailer is initially limited to two years from the date the certificate  
30 of occupancy for the home is issued. An extension to the period of use may  
31 be granted for a continuing medical need according to the extension  
32 provisions of this article. However, regardless of any extensions granted,  
33 whenever the medical hardship ends, the approval of the temporary  
34 placement and use of the manufactured home are void.
- 35 d. **Other conditions of approval.** In granting temporary use of a manufactured  
36 home or park trailer, the BOA shall have the authority to attach any conditions  
37 directly related to the use as the board may find necessary for protection of  
38 the general public, satisfaction of the temporary use criteria, and preservation  
39 of the intent of the applicable zoning district. These conditions are in addition  
40 to any use-specific standards prescribed by Chapter 4 for the temporary  
41 placement of a manufactured home.
- 42

1 **Sec. 2-6.8 Vested rights.**

2 **(a) Generally.** It is the intent of this section to provide a mechanism for the granting of  
3 an equitable vested right according to the provisions of this section when a  
4 landowner asserts that sufficient development activity, once lawful under applicable  
5 land-use regulations but now contrary to their terms, has occurred so that the  
6 landowner is entitled to a development right. [2.11.01, 2.11.06.A.1]

7  
8 **(b) Application.** Application for vested rights approval shall be submitted to the clerk of  
9 the Planning Board no later than 12 months following any act or omission on the part  
10 of the county that the landowner discovers and asserts as the basis for a vested  
11 right, or no later than 12 months following written county notification to the landowner of  
12 the need to apply for a determination, whichever occurs sooner.

13  
14 **(c) Public Participation.** Prior to any hearing to consider a vested right, the clerk of the  
15 Planning Board shall ensure public notice consistent with Florida Statutes.

16  
17 **(d) Compliance review.** The reviewing board shall conduct a quasi-judicial public  
18 hearing to consider the requested vested right according to the provisions of this  
19 article. The reviewing board shall adopt a recommendation to the BCC for vested  
20 right approval, approval with conditions, or denial based on the hearing record of  
21 evidence.

22  
23 **(e) Criteria for vested rights determination.** An owner shall be entitled to a  
24 determination of vested rights only if through substantial competent evidence it can  
25 be established that the proposed use of the property meets the concurrency  
26 provisions of article 5 and in addition one of the following criteria has been met:

27  
28 **(1)** The proposed use was authorized pursuant to a county development order, or  
29 equivalent, issued on or before the effective date of this Code, or a pertinent  
30 amendment thereto, and the development has commenced and is continuing in  
31 good faith. In a claim based upon this criterion, the owner must produce evidence  
32 of actions and accomplishments that substantiate timely and lawful progression  
33 towards the completion of the intentions and plans documented in the original  
34 order, or equivalent. In a claim based upon this criterion, the right to which the  
35 owner may be vested is a continuation of the original order, or equivalent.

36  
37 **(2)** The owner is determined to have acquired rights due to good faith reliance on an  
38 act of commission or omission of the county which has caused the owner to  
39 make such a substantial change in position or to incur such extensive obligations  
40 and expenses that it would be highly inequitable and unjust to destroy the rights  
41 acquired. In a claim based upon this criterion, the owner must document, and the  
42 county must verify, the obligations and expenses that are in jeopardy. The owner  
43 must produce evidence of actions and accomplishments that substantiate timely  
44 and lawful progression towards the completion of the intentions and plans that  
45 have been jeopardized. Evidence including, but not limited to, that which

1 demonstrates that such activity has not progressed in such a manner may be  
2 sufficient to negate a finding of good faith on the part of the owner and therefore  
3 invalidate the claim to vested rights.  
4

- 5 **(f) Limitation on vested rights.** A determination of vested rights shall expire and be  
6 null and void unless construction of improvements, if any, are commenced pursuant  
7 to a development order within 18 months after the issuance of the determination of  
8 vested rights.  
9

10 **Sec. 2-6.9 Planned unit developments.**

11 **(a) Generally.** Specific height, area, yard, size, and use requirements that may be  
12 different in any or all respects from those required by the applicable zoning district  
13 may be proposed through a planned unit development (PUD). A PUD proposing  
14 one or more such modifications to accomplish a better development for the county,  
15 developer, and users of the development may be approved within any zoning district  
16 or future land-use category. However, the PUD does not alter the density limitations  
17 of the applicable zoning or any provisions of the applicable future land use. The  
18 requirements to approve a planned unit development (PUD) are established for the  
19 Planning Board to consider in a quasi-judicial public hearing whether conditions  
20 warrant the proposed modifications and make recommendations regarding the  
21 proposal to the Board of County Commissioners (BCC) and for the BCC to consider  
22 and act on those recommendations. [6.06.06]

23 **(b) Application.** An application for PUD approval shall be submitted to the clerk of the  
24 reviewing board within the time frame provided in the application. A pre-application  
25 meeting with staff is recommended.

26 **(c) Public participation.** Prior to any hearing to consider a PUD, the clerk of the  
27 Planning Board shall ensure public notice consistent with Florida Statutes.

28 **(d) Compliance review.** The reviewing board shall conduct a quasi-judicial public  
29 hearing as noticed to consider whether conditions warrant the proposed  
30 modifications and make recommendations regarding the proposal to the Board of  
31 County Commissioners (BCC) and for the BCC to consider and act on those  
32 recommendations. [6.06.06]

33 **(e) Criteria for PUD approval.** The applicant has the burden of presenting competent  
34 substantial evidence to the board that establishes each of the following conditions  
35 for the PUD:

36 **(1) Planned community.** The development has characteristics of a planned  
37 community.

38 **(2) Creative Planning.** The development demonstrates flexible and creative  
39 concepts of site planning.

40 **(3) Natural amenities.** Natural amenities of the land are preserved through scenic  
41 and functional open space.

1       **(4) Desirable environment.** A more desirable environment in which to live or work  
2       is created than would be possible through the strict application of the minimum  
3       requirements of the LDC.

4       **(5) Efficient land use.** The plan provides for an efficient use of land resulting in  
5       smaller networks of streets and utilities. If street rights-of-way are proposed to  
6       be less than standard width, easements will provide adequate space to install  
7       and maintain utilities.

8       **(6) Compatibility.** The development will provide stable conditions and character  
9       compatible with surrounding areas.

10       **(7) Consistent with Comprehensive Plan.** The plan is not in conflict with the  
11       provisions of the applicable future land use category, or any other provisions of  
12       the Comprehensive Plan.

13       **(8) Consistent with LDC.** The plan is not in conflict with any provisions of the LDC  
14       not eligible for modification through the PUD process

15       **Sec. 2-6.10 Statutory development agreements.**

16       At the request of an applicant or the county, a voluntary development agreement may  
17       be entered into that would vest certain conditions agreed to by both parties according to  
18       the requirements of Florida Statutes. The form of the development agreement shall be  
19       approved through the County Attorney's Office. The Planning Board shall conduct the  
20       first of two public hearings required by law. The BCC shall conduct the second public  
21       hearing, with final adoption of the development agreement requiring a majority vote of  
22       the BCC. [\[4.02.02, 5.12.04\]](#)

23  
24  
25

1 **Article 7 LDC and Comprehensive Plan Amendment**

2 **Sec. 2-7.1 Purpose of article.**

3 The purpose of this article is to establish the review necessary to consider and  
4 authorize both text and map amendments to the Land Development Code (LDC) and  
5 Comprehensive Plan. These LDC and Comprehensive Plan amendment review are  
6 defined by the general provisions of Article 1 and the specific provisions of this article.  
7 The reviews are predominantly discretionary and provide opportunities to modify county  
8 land development goals, objectives, policies, and regulations within the limits prescribed  
9 by Florida Statutes. More specifically, this article includes review for amendment of the  
10 LDC zoning map (rezoning), the Comprehensive Plan future land use map (FLUM), and  
11 text amendments to the provisions of both the LDC and Comprehensive Plan.

12 **Sec. 2-7.2 LDC zoning map and text amendments.**

13 **(a) Generally.** All provisions of the Land Development Code are established, modified,  
14 or repealed by ordinance of the Board of County Commissioners (BCC). Zoning  
15 map and text amendments may be proposed by the county or others according to  
16 the ordinance enactment procedures prescribed by Florida Statutes and the  
17 provisions of this section. Since any LDC amendment is a change to implementing  
18 the land-use regulations of the county and can modify the requirements for  
19 subsequent authorizations of land uses and development activities, significant  
20 opportunities for public participation are provided. These map and text amendment  
21 processes are established for the county to authorize appropriate changes to its land  
22 development regulations. [2.08.00, 2.08.03]

23 **(b) County-initiated zoning map amendment (rezoning) provisions.** Large-scale  
24 comprehensive changes to the county zoning district map functionally set policy and  
25 are enacted through legislative procedures. Zoning map amendments (rezonings)  
26 that affect a limited number of identifiable parties and interests and are determined  
27 based on the application of facts to adopted policy are quasi-judicial. The  
28 requirements to approve quasi-judicial rezoning is established for the Planning  
29 Board, or the SRIA for Pensacola Beach properties, to make recommendations to  
30 the BCC regarding whether requested amendments to the Official Zoning Map of the  
31 county are necessary and appropriate and for the BCC to consider and act on those  
32 recommendations. The rezoning does not change the text of a zoning district or any  
33 other provisions of the LDC.

34 **(1) Application.** An application for a rezoning map amendment shall be submitted  
35 for compliance review to the clerk of the reviewing board at least 30 business  
36 days prior to the scheduled board meeting. A pre-application meeting with the  
37 staff for the board is recommended to discuss the process and review county and  
38 applicant responsibilities.

39 **(2) Public participation.** Prior to any hearing to consider a rezoning, the clerk of  
40 the reviewing board shall ensure public notice consistent with Florida Statutes  
41 and the Comprehensive Plan.

1 **(3) Compliance review.** The reviewing board shall conduct a quasi-judicial public  
2 hearing as noticed to consider the requested rezoning according to the  
3 provisions of this article. At the conclusion of the hearing, based on the record of  
4 evidence, the reviewing board shall adopt a recommendation to the BCC for  
5 rezoning approval, denial, or if possible and acceptable to the applicant, approval  
6 of a district with less intensive uses than the requested zoning. [2.08.02.C.4]

7 **(4) Final determination.** The BCC at its scheduled hearing shall adopt, modify, or  
8 reject the recommendation of the reviewing board or return the rezoning case to  
9 the board with instructions for additional facts or clarification. The staff of the  
10 recommending board shall inform the board of all formal actions taken by the  
11 BCC on the rezoning request. [2.08.02.E.3]

12 **a. No new testimony.** The BCC shall not hear new testimony in its  
13 consideration of the reviewing board's hearing record and recommendation.  
14 Only a person of record in the proceedings of the reviewing board will be  
15 afforded the right to address the BCC, and only to speak to the correctness of  
16 the findings of fact or conclusions of law as based on the record. [2.08.02.E.1]

17 **b. Rejection and modification.** Findings of fact or findings regarding legitimate  
18 public purpose may not be rejected or modified by the BCC unless they are  
19 clearly erroneous or unsupported by the record. When rejecting or modifying  
20 conclusions of law, the BCC must state with particularity its reasons for  
21 rejecting or modifying the conclusions of the reviewing board and must make  
22 a finding that the conclusion of law it substituted is equally or more  
23 reasonable than the conclusion it rejected or modified. However, the BCC  
24 may not approve rezoning to a district that allows a more intensive use (as  
25 measured by density and/or permitted uses) than the district requested by the  
26 applicant or given public hearing notice. [2.08.02.E.1]

27 **c. Return to reviewing board.** A remanded case requires the Planning Board,  
28 or SRIA as applicable, to hold a second quasi-judicial public hearing for the  
29 purpose of hearing testimony and receiving evidence relevant to the  
30 additional facts and clarification requested by the BCC. The hearing shall be  
31 at the next available scheduled meeting of the reviewing board. Public notice  
32 shall be the same as provided for the initial hearing and include those  
33 interested persons who appeared at the initial hearing. Within 15 days of the  
34 hearing on remand, the reviewing board shall submit a supplemental  
35 recommendation for BCC review at the next available scheduled meeting of  
36 the BCC. [2.08.02.E.2]

37 **d. Return to BCC.** When the supplemental recommendation is considered by  
38 the BCC, the entire record relating to both the initial and supplemental  
39 hearings of the reviewing board shall be presented. All persons who were  
40 furnished a copy of the original recommendation shall be furnished a copy of  
41 the supplemental recommendation. Public notice shall be the same as  
42 provided for the initial BCC hearing and include those persons who testified or  
43 gave evidence at either hearing of the reviewing board. [2.08.02.E.2]

1 e. **Approval.** If the BCC approves a rezoning, it shall amend the Official Zoning  
2 Map of Escambia County to reflect its final decision according to the  
3 ordinance procedures prescribed by Florida Statutes.

4 f. **Denial.** If the final determination of the BCC is denial of the rezoning, no new  
5 application for identical action on the same parcel shall be accepted for  
6 consideration within a period of 180 days from the date of the denial.

7 [2.08.02.F.2]

8 (5) **Appeal.** Actions by the BCC adopting, rejecting, or modifying the recommended  
9 rezoning of the reviewing board are final. Any party seeking judicial review of the  
10 final determination shall do so according to the general provisions of Article 1.  
11 Additionally, written notice of the filing of any such petition for judicial review shall  
12 be promptly provided by the petitioner through the county to each owner of real  
13 property with any portion within a 500-foot radius of the rezoning subject  
14 property. [2.08.02.F.1]

15 (c) **LDC Text amendment provisions.** Changes to the text of the LDC set policy and  
16 are legislative in nature. The requirements to approve a text amendment are  
17 established for the Planning Board to make recommendations to the BCC regarding  
18 whether requested changes to LDC text are necessary and appropriate and for the  
19 BCC to consider and act on those recommendations. The text amendment process  
20 does not amend the content of zoning district maps, technical standards, and other  
21 maps or documents adopted by reference within the LDC. [2.08.04]

22 (1) **Application.** Where a text amendment is requested by petition to the Planning  
23 Board, application shall be submitted for compliance review to the clerk of the  
24 Planning Board at least 30 business days prior to the scheduled board meeting.  
25 A pre-application meeting of the petitioner with staff for the board is  
26 recommended to discuss the process and review county and petitioner  
27 responsibilities.

28 (2) **Public participation.** Prior to any meeting to consider a text amendment, the  
29 clerk of the Planning Board shall ensure public notice consistent with Florida  
30 Statutes and the Comprehensive Plan.

31 (3) **Compliance review.** The Planning Board shall consider a requested text  
32 amendment during the noticed meeting of the board and determine any  
33 subsequent action. If the text is to be evaluated as an amending ordinance, the  
34 board shall conduct a public hearing. At the conclusion of the hearing the  
35 Planning Board shall adopt a recommendation to the BCC for adoption, adoption  
36 with modification, or rejection of the amendment.

37 a. **Planning Official's evaluation.** For any amending ordinance, or as may be  
38 requested by the Planning Board for any other text amendment proposal, the  
39 Planning Official shall review and evaluate the proposal according to the  
40 required amendment conditions. The evaluation shall be provided to the  
41 Planning Board for consideration with the proposed text amendment.

42 b. **Recommendation to BCC.** For any amending ordinance, the clerk of the  
43 Planning Board shall forward the board's recommendation to the BCC for

1 consideration in a public hearing at the next available scheduled meeting of  
2 the BCC. The clerk of the Planning Board shall ensure public notice of the  
3 BCC hearing consistent with Florida Statutes and the notice required for  
4 hearings of the Planning Board.

5 **(4) Final determination.** The BCC shall consider the amending ordinance at a  
6 public hearing as noticed and adopt, modify, or reject the recommendation of the  
7 Planning Board. At its discretion, the BCC may return the amending ordinance to  
8 the board with instructions for modifications. If the amending ordinance is  
9 returned for modifications, the Planning Board shall hold another public hearing  
10 for the purpose of considering any revisions. The hearing shall be at a  
11 scheduled meeting of the Planning Board, with public notice the same as that  
12 provided for the initial hearing. Within the time requested by the BCC, the  
13 Planning Board shall resubmit the amending ordinance with any revisions it may  
14 propose for BCC consideration. The clerk of the Planning Board shall again  
15 ensure proper public notice of the hearing at the next available scheduled  
16 meeting of the BCC. In the hearing, the BCC shall again consider the amending  
17 ordinance for adoption, modification, or rejection.

18 **(d) Consistency with Comprehensive Plan.** A challenge by a “substantially affected  
19 person” (as defined by the state) of any land development regulation within the LDC  
20 on the basis that it is inconsistent with the Comprehensive Plan shall be made  
21 according to the administrative review provisions of Florida Statutes.

## 22 **Sec. 2-7.3 Comprehensive Plan future land use and text amendments.**

23 **(a) Generally.** All provisions of the Comprehensive Plan are established, modified, or  
24 repealed by ordinance of the Board of County Commissioners (BCC). Future land  
25 use map (FLUM) and text amendments may be proposed by the county or others  
26 according to ordinance enactment and plan amendment procedures prescribed by  
27 Florida Statutes and the provisions of this section. Since any Comprehensive Plan  
28 amendment is a change in the foundational growth management plan guiding county  
29 economic growth, land development, resource protection, and the provision of public  
30 services and facilities, significant opportunities for public participation are provided.  
31 **[2.09.00]**

32 **(b) Applicant expenses and responsibilities.** Any person requesting consideration of  
33 an amendment to the Comprehensive Plan shall be responsible for all costs and  
34 supporting information associated with preparation of the request that may be  
35 required by the county or the state. **[2.09.05]**

36 **(c) State review.** A Comprehensive Plan amendment adopted by the BCC shall follow  
37 the applicable state statute. An amendment qualifies as a small scale if it is less  
38 than ten acres in size or a large scale if it is greater than ten acres in size.

39 **(d) Amendment requirements.** Amendments to both the text and the future land-use  
40 map of the Comprehensive Plan functionally set policy and are legislative in nature.  
41 The requirements to approve a comprehensive plan amendment are established for  
42 the Planning Board to make final recommendations to the BCC regarding whether

1 requested amendments to the Comprehensive Plan of the county are necessary and  
2 appropriate and for the BCC to consider and act on those recommendations.

3 **(1) Application.** An application for a Comprehensive Plan amendment approval  
4 shall be submitted for compliance review to the clerk of the Planning Board at  
5 least 30 business days prior to the scheduled board meeting. A pre-application  
6 meeting of the applicant with staff for the board is recommended to discuss the  
7 process and review county and applicant responsibilities.

8 **(2) Public participation.** Prior to any hearing to consider a comprehensive plan  
9 amendment, the clerk of the Planning Board shall ensure public notice consistent  
10 with Florida Statutes and the Comprehensive Plan.

11 **(3) Compliance review.** The Planning Board shall consider a requested  
12 Comprehensive Plan amendment during the noticed meeting of the board and  
13 determine any subsequent actions. At the conclusion of the hearing, the  
14 Planning Board shall adopt a recommendation to the BCC for adoption, adoption  
15 with modification, or rejection of the amendment.

16 **a. General amendment conditions.** All amendments to the Comprehensive  
17 Plan shall demonstrate the following general conditions, allowing that where  
18 an amendment is imposed by a state or federal requirement it need only  
19 demonstrate the conditions to the greatest extent practicable under that  
20 requirement:

21 **1. Need and benefit.** There is an identified land-use need particular to the  
22 scope and function of the Comprehensive Plan for which an amendment is  
23 clearly warranted.

24 **2. Professional practices.** The proposed amendment applies  
25 contemporary planning principles, engineering standards, and other  
26 professional practices to provide an effective and efficient remedy for the  
27 identified land-use problem or need.

28 **b. FLUM amendment conditions.** In addition to the general amendment  
29 conditions, a future land-use map amendment shall be based upon analyses  
30 by Florida Statute.

31 **c. Comprehensive Plan text amendment.** A comprehensive plan text  
32 amendment shall demonstrate any applicable governing regulations.

33 **d. Planning Official's report.** For any amending ordinance, or as may be  
34 requested by the Planning Board for any other amendment proposal, the  
35 Planning Official shall review and evaluate the proposal according to the  
36 required amendment conditions. The evaluation shall be provided to the  
37 Planning Board for consideration with the proposed text amendment.

38 **e. Recommendation to BCC.** For any amending ordinance, the clerk of the  
39 Planning Board shall forward the board's recommendation to the BCC for  
40 consideration in a public hearing at the next available scheduled meeting of  
41 the BCC. The clerk of the Planning Board shall ensure public notice of all

1 BCC hearings regarding the amendment consistent with Florida Statutes and  
2 the notice required for hearings of the Planning Board.

3  
4 **(4) Final determination.** Requirements for a final determination on a proposed  
5 Comprehensive Plan amendment shall be as prescribed by Florida Statutes and  
6 summarized in the following actions:

7 **a. Initial action of BCC.** The BCC shall consider the amending ordinance at its  
8 noticed public hearing and accept, modify, or reject the recommendation of  
9 the Planning Board. The initial hearing of the BCC shall be for transmittal if  
10 the amendment is following the expedited state review or state coordinated  
11 review process. If the amendment qualifies as small in scale, the initial  
12 hearing shall be the adoption hearing for the ordinance.

13 **b. Initial transmittal.** As may be approved by the BCC at the initial public  
14 hearing, and as prescribed for the expedited state review and state  
15 coordinated review processes, the county shall transmit the amendment and  
16 appropriate supporting data and analysis to state and other reviewing  
17 agencies for comment.

18 **c. Response of BCC.** After county receipt of reviewing agency comments, the  
19 BCC shall hold a second noticed public hearing within the time prescribed by  
20 statute to consider adoption of the ordinance. At the hearing, the BCC shall  
21 adopt, modify, or reject the amending ordinance. Failure to hold a second  
22 hearing in a timely manner shall be considered withdrawal of the amendment.

23 **d. Adoption transmittal.** As may be approved by the BCC at a public hearing,  
24 and as prescribed for the applicable state review process, the county shall  
25 transmit the adopted amendment and appropriate supporting data and  
26 analysis to state and any other reviewing agencies that provided timely  
27 comment. An adopted amendment becomes effective no sooner than 31  
28 days after adoption and, if subject to a timely challenge, it does not become  
29 effective until the state issues a final order determining compliance.

30 **e. Landowner dispute resolution.** If the county denies a landowner's request  
31 for an amendment to the comprehensive plan that is applicable to the owner's  
32 land, the county must afford the owner an opportunity for informal mediation  
33 or other alternative dispute resolution. The costs of the mediation or other  
34 alternative dispute resolution shall be borne equally by the county and the  
35 owner. If the owner requests mediation, the time for bringing a judicial action  
36 is tolled until the completion of the mediation or 120 days, whichever is  
37 earlier.

1 **Article 8 Manual and Procedures**

2 **Sec. 2-8.1 Purpose of article.**

3 The County has established and adopted procedures, standards and guidelines to work  
4 in conjunction with the LDC in the form of supplemental manuals. The intent and  
5 purpose of this section is to provide procedures and general standards for use in the  
6 development and management of the supplemental manuals.

7 The supplemental manuals, which are to be used during review of development activity  
8 and other applications requiring County review, will provide detailed site-specific  
9 regulations and technical requirements. All applications for development approval shall  
10 comply with these applicable procedures standards provided in the supplemental  
11 manuals as related to the LDC and as may be required by other federal, state, or local  
12 regulations.

13 Decisions regarding the application of design and environmental standards are the  
14 responsibility of the Engineering or Environmental Official (or his or her designee).

15  
16 **Sec. 2-8.2 Generally.**

17 The LDC support documents can be known collectively as the Land Development  
18 Manual (LDM) and will be located in the LDC as an attachment. To date, the County  
19 has established the following documents to be used to supplement the LDC and be  
20 provided as part of the LDM:

- 21                   Engineering Design Standards Manual (EDSM)
- 22                   Environmental Standards Manual (ESM)

23  
24  
25  
26 These manuals outline the steps and processes or standards to be followed at each  
27 stage of the development process. By providing submittal checklists, standard notes,  
28 sheet layout specifications, and technical specifications, these manuals are intended to  
29 be used in conjunction with the LDC and cover all aspects of development planning,  
30 design, and construction.

31  
32 **Sec. 2-8.3 Criteria for Inclusion.**

33 These manuals are not intended to replace the LDC but are meant to allow for flexibility,  
34 streamlining, and efficiency within the site plan review process. The information  
35 provided in the manuals, including checklists, applications, technical guidelines, and  
36 standards, must meet one of the following criteria to qualify for inclusion:

- 37
- 38                   a. Provides specific and general design requirements
- 39                   b. Provides process configurations, general equipment/material
- 40                   requirements, or subjective design choices
- 41                   c. Provides design criteria that, in all cases, meet or exceed
- 42                   mandatory regulatory or industry design requirements

- 1  
2 d. Provides background information related to a design requirement or  
3 guideline  
4 e. Provides a sample calculation  
5 f. Details specific information (application form title, application  
6 submittal timelines, documentation requirements, etc.) regarding  
7 development applications  
8  
9

10 **Sec. 2-8.4 Engineering Design Standards Manual.**

11 The Engineering Design Standards Manual (EDSM) establishes the standards meant to  
12 provide minimum technical guidelines and standards for the design and construction of  
13 any facilities located within Escambia County. The County Engineer shall be  
14 responsible for the administration, oversight, and development of the manual. In  
15 addition to the County Engineer, an Engineering Professional Advisory Committee shall  
16 be established to review and revise the manual. Details regarding the committee's  
17 structure and responsibilities have been provided in the EDSM.  
18

19 **Sec. 2-8.5 Environmental Standards Manual.**

20 The Environmental Standards Manual (ESM) establishes the standards meant to  
21 provide minimum environmental guidelines and standards for the design and  
22 construction of any facilities located within Escambia County. The Environmental  
23 Director shall be responsible for the administration, oversight, and development of the  
24 manual. In addition to the Director, an Environmental Professional Advisory Committee  
25 shall be established to review and revise the manual. Details regarding the committee's  
26 structure and responsibilities have been provided in the ESM.  
27

28 **Se Sec 2-8.6**

29  
30 **Sec. 2-8.7 Amendments or changes ESM and EDSM.**

31 On occasion, it becomes necessary to clarify or correct specific terms, requirements,  
32 and standards within the ESM and EDSM. When it is determined that the changes are  
33 only minor in nature, the following minor corrections and changes shall be authorized by  
34 the County Engineer or Environmental Director or his or her designee. The minor  
35 changes are as follows:

- 36 • Change to clarify definitions and concepts  
37 • Modifications to technical specifications and engineering standards or  
38 requirements based on local, state, and federal guidelines or prevailing  
39 professional standards  
40 • Endorsement of new technology and techniques  
41

42 The said manuals will be reviewed annually and updated accordingly based on new  
43 standards, technology, or procedural changes by the PAC. Furthermore, additions,  
44 deletions, or revisions to Design Standards may be made by the County  
45 Engineer/Environmental Manager or designee as necessary when required for  
46 compliance with mandatory regional, state, or federal regulations. By meeting the

1 above criteria in section 2-8.3, the information, requirements, and guidelines provided in  
2 the manual do not require formal board action (including but not limited to the BCC,  
3 BOA, or Planning Board).

4  
5  
6