

AGENDA
ESCAMBIA COUNTY PLANNING BOARD
May 2, 2017–8:35 a.m.
Escambia County Central Office Complex
3363 West Park Place, Room 104

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.
4. Approval of Minutes.
 - A. A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the April 4, 2017 Rezoning and Regular Planning Board Meeting.
 - B. Planning Board Monthly Action Follow-up Report for April 2017.
 - C. Planning Board 6-Month Outlook for May 2017.
5. Acceptance of Planning Board Meeting Packet.
6. Public Hearings.
 - A. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Location and Use Regulations

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Article 4, Airport and Airfield Environs and Chapter 6, Definitions to incorporate necessary information to implement airport protection zoning regulations in compliance with Florida Statute 333.

B. A Public Hearing Concerning the Review of an Ordinance Amending the 2030 Comprehensive Plan Chapter 3 Definitions, and Chapter 8 Mobility Element

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Comprehensive Plan Chapters 3, Definitions and Chapter 8, Mobility, to include definitions and to establish a permitting process for airport obstruction notification zones.

C. A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 4 Regarding Clustering Dwelling Units

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption an Ordinance amending the Land Development Code (LDC), Chapters 3 and 4, to establish conditions for the clustering of dwelling units when avoiding significant protected resources.

7. Action/Discussion/Info Items.

A. Spot Zoning Discussion.

B. HC/LI Zoning Within MU-S Future Land Use Discussion.

C. Dog Friendly Dining Discussion.

8. Public Forum.

9. Director's Review.

10. County Attorney's Report.

11. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, June 6, 2017 at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

12. Announcements/Communications.

13. Adjournment.



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

4. A.

Meeting Date: 05/02/2017

Agenda Item:

A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the April 4, 2017 Rezoning and Regular Planning Board Meeting.

B. Planning Board Monthly Action Follow-up Report for April 2017.

C. Planning Board 6-Month Outlook for May 2017.

Attachments

Draft April 4, 2017 Planning Board Rezoning Meeting Minutes

Draft April 4, 2017 Planning Board Regular Meeting Minutes

Monthly Action Follow-Up

Six Month Outlook

DRAFT

RESUMÉ OF THE ESCAMBIA COUNTY PLANNING BOARD QUASI-JUDICIAL REZONING April 4, 2017

CENTRAL OFFICE COMPLEX
3363 WEST PARK PLACE, BOARD CHAMBERS
PENSACOLA, FLORIDA
(8:31 A.M. – 10:00 A.M.)
(10:10 A.M. - 11:55 A.M.)

Present: Reid Rushing
Jay Ingwell
Wayne Briske, Chairman
Patty Hightower
Eric Fears
William Clay
Stephen Opalenik

Absent: Timothy Pyle
Edwin Howard

Staff Present: Allyson Cain, Urban Planner, Planning & Zoning
Caleb MacCartee, Urban Planner, Planning & Zoning
Horace Jones, Director, Development Services
John Fisher, Senior Urban Planner, Planning & Zoning
Juan Lemos, Senior Planner, Planning & Zoning
Kayla Meador, Sr Office Assistant
Bobbi Ellis-Wiggins, Assistant County Attorney

1. Call to Order.
2. Wayne Briske led the Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.

Motion by Reid Rushing, Seconded by Eric Fears

Motion was made to approve the proof of publication and to waive the reading of the legal advertisement.

Vote: 4 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)
William Clay (ABSENT)

4. Approval of Minutes.
 - A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 7, 2017 Planning Board Rezoning Meeting.

Motion by Eric Fears, Seconded by Reid Rushing

Motion was made to approve the minutes from the March 7, 2017 Rezoning Planning Board meeting.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

5. Acceptance of Rezoning Planning Board Meeting Packet.

Motion by Eric Fears, Seconded by Jay Ingwell

Motion was made to accept the Rezoning Planning Board meeting packet for April 4, 2017.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

6. Quasi-judicial Process Explanation.

7. Public Hearings.

- A. Case #: Z-2016-13
Applicant: Wiley C. "Buddy" Page,
Agent for Shaun Romero,
Owner
Address: 6013 Hilburn Road
Property Size: 1.52 (+/-) acres
From: HDR, High Density
Residential district (18
du/acre)
To: Com, Commercial district
(25 du/acre, lodging unit
density not limited by
zoning)

No planning board member acknowledged visiting the site.

No planning board member acknowledged any ex parte communication regarding this item.

No planning board member abstained from voting on this matter due to any conflict of interest.

Motion by Reid Rushing, Seconded by Eric Fears

Motion was made to accept Staff's Findings of Fact and deny the rezoning request to Commercial.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

Motion by Reid Rushing, Seconded by Eric Fears

Applicant requested to rezone to HDMU instead of Com. Motion was made to recommend approval of HDMU and accept Staff's Findings of Fact for the change of rezoning request to HDMU.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

B. Case #: Z-2017-02
Applicant: Joseph Dhaiti, Agent for
Katia Lamothe, Owner
Address: 1300 Block Blue Angel
Parkway
Property
Size:
From: MDR, Medium Density
Residential district (10
du/acre)
To: HDMU, High Density
Mixed-use district (25
du/acre)

No planning board member acknowledged visiting the site.

No planning board member acknowledged any ex parte communication regarding this item.

No planning board member abstained from voting on this matter due to any conflict of interest.

Motion by Jay Ingwell, Seconded by Reid Rushing

Motion was made to accept Staff's Findings of Fact and recommend denial the rezoning request.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

C. Case #: Z-2017-03
Applicant: Wiley C. "Buddy" Page,
Agent for Ali Ramzan,
Owner
Address: 101 Beverly Parkway
Property 0.172 +/- acres
Size:
From: HDMU, High Density
Mixed-use district (25
du/acre)
To: HC/LI-NA, Heavy
Commercial and Light
Industrial district,
prohibiting the subsequent
establishment of any
microbreweries,
microdistilleries,
micowineries, bars,

nightclubs, or adult entertainment uses (25 du/acre, lodging unit density not limited by zoning)

Eric Fears acknowledged visiting the site.

No planning board member acknowledged any ex parte communication regarding this item.

No planning board member abstained from voting on this matter due to any conflict of interest.

Motion by Eric Fears, Seconded by Jay Ingwell

Motion was made to accept Staff's Findings of Fact and recommend denial of the rezoning request, since the request is incompatible with 3 out of the 6 criteria.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

- D. That the Planning Board review and make recommendation to the Board of County Commissioners (BCC) on the following Vested Rights case:

Case No.: VRD-2017-01
Project 9300 Blk Gibson Road
Address:
Property 24-3N-32-1301-001-001
Reference
No.:
Zoning Agr
District:
FLU AG
Category:
Vested Land Use
Rights for:
Applicant: Constance Parker

Motion by Reid Rushing, Seconded by Jay Ingwell

Motion was made to accept Applicant Exhibit A into evidence.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

Motion by Eric Fears, Seconded by Reid Rushing

Motion was made to accept County Exhibit A into evidence.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

Motion by Reid Rushing, Seconded by Eric Fears

Motion was made to accept Applicant Exhibit B into evidence.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

Motion by Reid Rushing, Seconded by Eric Fears

Motion was made to recommend approval of the vested rights determination.

Vote: 4 - 1 Approved

Voted No: Jay Ingwell

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

8. Adjournment.

DRAFT

MINUTES OF THE ESCAMBIA COUNTY PLANNING BOARD April 4, 2017

CENTRAL OFFICE COMPLEX
3363 WEST PARK PLACE, BOARD CHAMBERS
PENSACOLA, FLORIDA
(11:55 A.M. – 1:10 P.M.)

Present: Reid Rushing
Jay Ingwell
Wayne Briske, Chairman
Eric Fears
William Clay
Stephen Opalenik

Absent: Timothy Pyle
Edwin Howard
Patty Hightower

Staff Present: Allyson Cain, Urban Planner, Planning & Zoning
Andrew Holmer, Division Manager, Planning & Zoning
Griffin Vickery, Urban Planner, Planning & Zoning
Horace Jones, Director, Development Services
John Fisher, Senior Urban Planner, Planning & Zoning
Juan Lemos, Senior Planner, Planning & Zoning
Kayla Meador, Sr Office Assistant
Bobbi Ellis-Wiggins, Assistant County Attorney

1. Call to Order.
2. Pledge of Allegiance to the Flag.
3. Proof of Publication and Waive the Reading of the Legal Advertisement.

Motion by Reid Rushing, Seconded by Jay Ingwell

Motion was made to approve the proof of publication and to waive the reading of the legal advertisement.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

4. Approval of Minutes.

A. **RECOMMENDATION:** That the Planning Board review and approve the Meeting Resume' Minutes of the March 7, 2017 Planning Board Regular Meeting.

B. Planning Board Monthly Action Follow-up Report for March 2017.

C. Planning Board 6-Month Outlook for April 2017.

Motion by Reid Rushing, Seconded by Jay Ingwell

Motion was made to approve the minutes from the Regular Planning Board Meeting held on March 7, 2017.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

5. Acceptance of Planning Board Meeting Packet.

Motion by Eric Fears, Seconded by Reid Rushing

Motion was made to accept the April 4, 2017 Regular Planning Board Meeting packet.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

6. Public Hearings.

A. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Section 4-5.5

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Section 4-5.5, Marine Estuarine and Riverine Shorelines (MERS) to modify the construction requirements for armored shorelines.

Motion by Reid Rushing, Seconded by Jay Ingwell

Motion was made to withdraw item per Administration.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

B. A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Article 2, Floodplain Management Definitions

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Article 2, Section 4-2.10, Definitions, amending the definition for Coastal High Hazard Area to include specific areas in Perdido Key.

Motion by Eric Fears, Seconded by Jay Ingwell

Motion was made to recommend approval of the ordinance to the BCC.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

C. A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 5, Regarding Lots of Record

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption an Ordinance amending the Land Development Code (LDC), Chapters 3 and 5, to establish conditions for dividing lots of record and authorizing single-family dwellings thereon.

Motion by Jay Ingwell, Seconded by William Clay

Motion was made to recommend approval of the ordinance to the BCC.

Vote: 4 - 0 Approved

Other: Reid Rushing (ABSENT)
Timothy Pyle (ABSENT)
Edwin Howard (ABSENT)

D. A Public Hearing Concerning the Review of an Ordinance Amending, Chapter 3, Section 3-3.7, the Scenic Highway Overlay

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 3, Section 3-3.7, Scenic Highway Overlay, refining the setback for structures.

Motion by Eric Fears, Seconded by Jay Ingwell

Motion was made to recommend approval of the ordinance to the BCC.

Vote: 5 - 0 Approved

Other: Timothy Pyle (ABSENT)

Edwin Howard (ABSENT)

7. Action/Discussion/Info Items.

A. Spot Zoning Discussion.

Board Members want this item brought back to them as a discussion next month for more information.

B. Clustering Discussion.

Board Members want this item brought back to them as an ordinance for a public hearing next month.

8. Public Forum.

9. Director's Review.

10. County Attorney's Report.

11. Scheduling of Future Meetings.

The next Regular Planning Board meeting is scheduled for **Tuesday, May 2, 2017 at 8:30 a.m.**, in the Escambia County Central Office Complex, Room 104, First Floor, 3363 West Park Place, Pensacola, Florida.

12. Announcements/Communications.

13. Adjournment.

BOARD OF COUNTY COMMISSIONERS ESCAMBIA COUNTY, FLORIDA



DEVELOPMENT SERVICES DEPARTMENT
3363 WEST PARK PLACE
PENSACOLA, FLORIDA 32505
PHONE: 850-595-3475
FAX: 850-595-3481
www.myescambia.com

Memorandum

TO: Planning Board
FROM: Kayla Meador, Board Clerk
DATE: April 20, 2017
RE: Monthly Action Follow-Up Report for April 2017

The following is a status report of Planning Board (PB) agenda items for the prior month of April. Some items include information from previous months in cases where final disposition has not yet been determined. Post-monthly actions are included (when known) as of report preparation date. Items are listed in chronological order, beginning with the PB initial hearing on the topic.

PROJECTS, PLANS, & PROGRAMS

Russo PUD

03-07-17 PB recommended approval
04-06-17 BCC approved

COMMITTEES & WORKING GROUP MEETINGS

COMPREHENSIVE PLAN AMENDMENTS

- **Text Amendments:**

- **CPA-2016-03**

- Definition added for "Limited Ag Uses"
10-06-16 PB recommended approval
11-03-16 BCC approved transmittal to DEO
05-25-17 BCC meeting to adopt

- **Map Amendments:**

- **LSA-2016-03**

- Beulah Road
02-07-17 PB recommended approval
03-02-17 BCC transmitted to DEO
05-25-17 BCC meeting to adopt

- **LSA-2016-04**

- McDonalds Property
01-03-17 PB recommended approval
01-19-17 BCC transmitted to DEO
04-20-17 BCC approved

LAND DEVELOPMENT CODE ORDINANCES

Residential Uses in Zoning Districts

09-6-16 PB recommended more review by staff
On hold – waiting for input from County Attorney's Office

OSP-2017-01 (formerly 2016-01)

09-06-16 PB recommended approval
12-08-16 BCC wanted to reschedule for DEO to be in attendance to meeting
03-07-17 PB recommended approval
03-16-17 BCC transmitted to DEO

Spot Zoning

12-06-16 PB dropped item and wanted more discussion

CHHA Ordinance

04-04-17 PB recommended approval
05-04-17 BCC meeting

Lots Divided by ROW

04-04-17 PB recommended approval
05-04-17 BCC meeting

Scenic Hwy Overlay

04-04-17 PB recommended approval
05-04-17 BCC meeting

VRD-2017-01

04-04-17 PB recommended approval
05-04-17 BCC meeting

REZONING CASES

1. Rezoning Case Z-2016-11

02-07-17 PB recommended approval
05-25-17 BCC meeting

2. Rezoning Case Z-2016-13

12-06-16 PB recommended approval
01-05-17 BCC remanded back to PB
02-07-17 PB recommended approval
03-02-17 BCC remanded back to PB
04-04-17 PB recommended approval to the BCC rezoning to HDMU instead of Com

3. Rezoning Case Z-2016-15

01-03-17 PB recommended approval
On Hold - BCC to review contingent upon LSA-2016-4
04-20-17 BCC approved

4. Rezoning Case Z-2017-01

03-07-17 PB recommended approval
04-06-17 BCC approved

- 5. **Rezoning Case Z-2017-02**
 - 04-04-17 PB recommended denial
 - 05-04-17 BCC meeting
- 6. **Rezoning Case Z-2017-03**
 - 04-04-17 PB recommended denial
 - 05-04-17 BCC meeting

PLANNING BOARD MONTHLY SCHEDULE SIX MONTH OUTLOOK FOR MAY 2017

(Revised 4/20/17)

A.H. = Adoption Hearing T.H. = Transmittal Hearing P.H. = Public Hearing

* Indicates topic/date is estimated—subject to staff availability for project completion and/or citizen liaison

Meeting Date	LDC Changes and/or Public Hearings	Comprehensive Plan Amendments	Rezoning	Reports, Discussion and/or Action Items
Tuesday, May 2, 2017	<ul style="list-style-type: none"> • Civilian Airport • Clustering 	<ul style="list-style-type: none"> • CPA-2017-01 		<ul style="list-style-type: none"> • Spot Zoning • Dog Friendly Dining • HC/LI zoning w/in MU-S Future Land Use
Tuesday, June 6, 2017		<ul style="list-style-type: none"> • Comp Plan Annual Report 	<ul style="list-style-type: none"> • Z-2017-04 	<ul style="list-style-type: none"> • PUDs
Tuesday, July 11, 2017				
Tuesday, August 1, 2017				
Tuesday, September 5, 2017				
Tuesday, October 1, 2017				

Disclaimer: This document is provided for informational purposes only. Schedule is subject to change. Verify all topics on the current meeting agenda one week prior to the meeting date.

** Residential Uses Ordinance – waiting on input from the County Attorney’s Office

** Signs Ordinance – waiting on input from the BCC

** CPA-2016-01 Extraction and Reclamation – on hold



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

6. A.

Meeting Date: 05/02/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending Ch. 4, Location and Use Regulations

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending Chapter 4, Location and Use Regulations

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Land Development Code (LDC) Chapter 4, Article 4, Airport and Airfield Environs and Chapter 6, Definitions to incorporate necessary information to implement airport protection zoning regulations in compliance with Florida Statute 333.

BACKGROUND:

F.S. 333.03 Requirement to adopt airport zoning regulations. Every political subdivision having an airport hazard area within its territorial limits SHALL adopt, administer, and enforce, under the police power and in the manner and upon the conditions prescribed in this section airport protection zoning regulations for such airport hazard area.

If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R. part 77, subpart C, the political subdivisions shall either by interlocal agreement, adopt, administer, and enforce a set of airport protection zoning regulations; or create a joint airport protection zoning board.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board’s goal “to increase citizen involvement in, access to, and approval of, County government activities.”

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney’s Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: Airport zoning protection language

Date: 4/20/17

Date requested back by: _____

Requested by: JC Lemos

Phone Number: 595-3467



(LEGAL USE ONLY)

Legal Review by M. Crawford

Date Received: 4/20/17

Approved as to form and legal sufficiency.

Not approved.

Make subject to legal signoff.

Additional comments:

1 Article 4, Airport and Airfield Environs, is hereby amended as follows: (words underlined
2 are additions and words ~~stricken~~ are deletions)

3
4 **Article 4 Airport and Airfield Environs**

5 **Sec. 4-4.1 Purpose of article.**

6 This article establishes land use regulations that implement Comprehensive Plan
7 policies requiring the prevention of airport and airfield hazards and incompatible land
8 uses around those facilities. It is the intent of these regulations to ensure the
9 continued safe and efficient use of navigable airspace and operation of airports,
10 airfields and other air navigation or communication facilities within the county. Airport
11 and airfield hazards effectively reduce the size of areas available for the landing,
12 taking off and maneuvering of aircraft, tending to destroy or impair both the present
13 and future utility of aviation facilities and any public investment in them. Incompatible
14 uses and activities have the potential for being hazardous to persons and property on
15 the ground as well as aircraft operations.

16
17 The County shall enforce its airport regulations to assure compliance with the
18 requirements set forth in Chapter 333, Florida Statutes, as amended, to meet the intent
19 of the Federal Aviation Administration's reviewed and accepted noise exposure maps,
20 and to prevent encroachment into airport operational areas.

21
22 **Sec. 4-4.2 General provisions.**

23 **(a) Approval required.** All land uses and development activities in proximity to
24 airports and airfields require county review, permitting, and approval for
25 compliance with the regulations of this article unless the use or activity is
26 specifically identified in the LDC as exempt from these regulations. The
27 regulations include both obstruction limitations for flight safety and land use
28 restrictions for areas exposed to noise and accident risk.

29 **(b) Modification of regulations.** Variances to the strict application of the regulations
30 of this article may only be granted as specifically allowed by the variance
31 provisions of this article and the compliance review processes of Chapter 2.

32 **(c) Applicable airports and airfields.** The following facilities, each with an
33 established elevation of the highest point above mean sea level of its runways or
34 landing areas, are protected by the provisions of this article:

35 Pensacola International Airport: 121 feet

36 Ferguson Airport: 27 feet

37 Naval Air Station (NAS) Pensacola, Sherman Field: 28 feet

38 ~~Navy Outlying Landing Field (NOLF) Site 8: 110 feet~~

39 Any new airport as may be developed within the County.

1 **(d) Source standards.** The obstruction provisions of this article are derived from
2 federal obstruction standards in *Safe, Efficient Use, and Preservation of the*
3 *Navigable Airspace*, 14 CFR pt. 77, and Unified Facilities Criteria (UFC) 3-260-01,
4 *Airfield and Heliport Planning and Design*. The land use compatibility provisions
5 are derived from *Airport Noise Compatibility Planning*, 14 CFR pt. 150, and the Air
6 Installations Compatible Use Zones (AICUZ) program as described in OPNAV
7 Instruction 11010.36C. However, whenever the provisions of this section
8 reference federal standards or recommendations, the latest version is intended
9 unless the context clearly indicates otherwise.

10 **(e) Notifications.**

11 **(1) Federal Aviation Administration.** Any person proposing any construction or
12 alteration requiring notice to the Federal Aviation Administration (FAA) shall file
13 such notice according to the applicability, form and time of notice requirements
14 established in federal “preservation of navigable airspace” regulations.
15 Subsequently, the FAA will make a determination of any hazard to air
16 navigation

17 and the appropriateness of any obstruction marking and lighting or other
18 measures necessary for the continued safety of air navigation. However, FAA
19 determinations are not approvals or permits for any construction or
20 development. Approval and permitting remain responsibilities of the state and
21 county which have authority to require the air safety measures recommended
22 by the FAA and to deny a construction or alteration permit regardless of FAA
23 determinations.

24 **(2) State of Florida.** All variances to airport or airfield provisions of the LDC, or
25 any amendments to them, shall be filed with the State of Florida in compliance
26 with the provisions of this article. Any state permits required for structures
27 exceeding federal standards for obstructions to air navigation shall be obtained
28 according to Florida Statutes.

29 **(3) Airport and airfield officials.** Notification to airport or airfield officials is
30 required for any property that is within a designated airport or airfield height
31 limitation zone or planning district and is the subject of an application for
32 rezoning, all site development, subdivision or Board or Adjustment (BOA)
33 approval, or as otherwise determined appropriate by the Planning Official.
34 Those officials identified in the interlocal agreement between Escambia
35 County and the U.S. Navy shall be notified regarding military airfields, and the
36 director of the Pensacola International Airport shall be notified regarding that
37 facility.

38 Notification shall include access to application documents, a request to
39 review and comment on proposed actions, and a request for
40 recommendations to the county regarding application approval.

41 **(f) Interior noise reduction.** In areas of high noise exposure from normal airport and
42 airfield operations, interior noise reduction methods are required to maintain

1 compatibility for some uses. Anticipated high noise exposure is represented by
2 noise zones according to a FAA standard measure of the 24-hour day-night
3 average sound level (Ldn). Noise reduction required by the applicable noise zone
4 shall be identified on building construction plans and accomplished according to
5 nationally accepted sound attenuation methods. For the habitable space within
6 any new building or building addition, the following noise reductions are required
7 by exposure:

8 **(1) Below 65 Ldn.** For noise exposures less than 65 Ldn, no interior noise
9 reduction is required.

10 **(2) Between 65 and 70 Ldn.** For noise exposures between 65 and 70 Ldn, an
11 interior noise level reduction of at least 25 decibels (dB) is required for
12 residential uses or educational facilities, and is recommended for other noise
13 sensitive uses.

14
15 **(3) Between 70 and 75 Ldn.** For noise exposures between 70 and 75 Ldn, an
16 interior noise level reduction of at least 30 dB is required for residential,
17 educational, public assembly or reception, office, and other noise sensitive
18 uses.

19 **(4) Above 75 Ldn.** For noise exposures above 75 Ldn, residential and
20 educational uses are prohibited regardless of noise reduction measures, but
21 an interior noise level reduction of at least 35 dB is required for public
22 assembly or reception, office, and other noise sensitive uses.

23 **(g) Divided parcels and buildings.** Generally, when a parcel is divided by an airport
24 or airfield planning district boundary, only that portion of the parcel within the
25 district is subject to district requirements. Requirements of the areas or zones
26 that make up a planning district are similarly limited. However, when any part of a
27 parcel is within an airfield planning district, the aviation easement provisions
28 apply to the entire parcel. For any new building or addition proposed within more
29 than one noise zone, the more stringent sound reduction requirements apply to the
30 entire building or addition.

31 **(h) Transfer of development rights.** At such time as the county may establish a
32 comprehensive program for transfer of development rights, parcels within the
33 airport and airfield planning districts shall be eligible as sending parcels, but shall
34 not be included in that program as receiving parcels.

35 36 **Sec. 4-4.3 Hazards to air navigation.**

37 **(a) Hazards prohibited.** No permit or other approval to construct a new structure or
38 establish a new use shall be granted that would allow the establishment or
39 creation of an airport or airfield hazard. Additionally, no approval shall be granted
40 that would allow a nonconforming use, structure or site condition to become a
41 higher obstruction or greater hazard to air navigation.

1 **(b) Obstruction hazards.** A hazard to air navigation is presumed to exist when an
2 object of natural growth or terrain, or of permanent or temporary construction or
3 alteration, including mobile objects and equipment or materials used, exceeds any
4 federally established standards for identifying obstructions to air navigation or
5 navigational aids or facilities. Those standards apply regardless of other LDC
6 height limits. An object is not considered an obstruction hazard by the FAA or the
7 county if an aeronautical study by the FAA concludes that the object is not a
8 hazard to air navigation.

9 **(1) Height limit maps.** An object is or would be an obstruction to air navigation if
10 it is of greater height than any of the federally established limits for airports
11 and airfields. Those limits are mapped for each of the airports and airfields
12 identified in this article and are specifically adopted here by reference as the
13 *Airport and Airfield Height Limitation Zone Maps* of Escambia County. The
14 maps are declared to be part of the LDC, with the information shown on them
15 having the same force and effect as the text of the LDC. The height limitation
16 zone maps represent the primary, clear zone, approach, horizontal, conical,
17 transitional and other imaginary surfaces applicable to the takeoff and landing
18 areas of each
19 airport or airfield. The maps are maintained digitally in the county's
20 "Geographic Information System" (GIS).

21 **(2) Other height limits.** In addition to the established height limit surfaces for
22 each airport and airfield, an object is or would be an obstruction to air
23 navigation if it is of greater height than any of the following federally
24 established height limits related to airports and airfields:

25 **a. Site of object.** A height of 499 feet above ground level at the site of
26 the object.

27 **b. From airport/airfield.** A height that is 200 feet above ground level or
28 above the established airport/airfield elevation, whichever is higher, within
29 three nautical miles of the established reference point (approximate
30 geometric center of runways) of Pensacola International Airport, NAS
31 Pensacola Sherman Field and that height increasing at the rate of 100
32 feet for each additional nautical mile from the airport or airfield, up to a
33 maximum of 499 feet.

34 **c. Other heights.** Other established heights, including those relating to the
35 traverse ways of vehicles and other mobile objects, and airport and
36 airfield approach, departure, takeoff and landing areas.

37 **(3) (1) Exceeding height limits.** Except as otherwise provided, no object shall be
38 constructed or altered in such a way as to exceed the height limitations
39 established here unless a variance is first obtained according to the provisions
40 of this article.

41 **(4) (2) Obstruction marking and lighting.** Any permit granted for an obstruction
42 to air navigation shall, as a condition of approval, require the owner to install,

1 operate, and maintain at their expense any marking or lighting of the
2 obstruction that has been recommended in a FAA aeronautical study
3 determination, or as otherwise required by Florida Statutes. The county may
4 also condition permit approval on any other obstruction marking and lighting
5 recommendations provided by the operators of airports or airfields within the
6 county.

7 **(c) Non-obstruction hazards.** The use or development of land shall not create or
8 contribute to interference with the operation of aircraft, including the following
9 non-obstruction hazards to air navigation:

10 **(1) Dangerous lighting.** No lights or illumination, whether for streets, parking,
11 signs or other structures, shall be arranged and operated in a manner that is
12 misleading or dangerous to aircraft operating from or in the vicinity of an airport
13 or airfield, as determined by the operator of the airport or airfield.

14 **(2) Smoke or glare.** No operations of any type shall produce smoke, glare or
15 other visual hazards within three statute miles of any designated airport or
16 airfield, or any usable runway, with the exception of permitted projects or
17 activities.

18 **(3) Electronic interference.** No operations of any type shall produce electronic
19 interference with navigation signals or radio communication between an airport
20 or airfield and any aircraft.

21 **(4) Landfills.** No sanitary landfill shall be operated within 10,000 feet from the
22 nearest point of any runway used or planned to be used by ~~turbojet turbine or~~
23 ~~turboprop~~ aircraft, or within 5,000 feet of any runway used by only non-turbine
24 piston engine aircraft; or outside those perimeters, but still within the lateral
25 limits of the civil patrol imaginary surfaces defined in 14 C.F.R. s.77.19, as may
26 be amended. Additionally, no landfill of any type shall be located so that it
27 attracts or sustains hazardous bird movements from feeding, water or roosting
28 areas into or across the runways or approach and departure patterns of
29 aircraft. County approval of proposed landfill locations meeting these
30 restrictions remains subject to conditions recommended by the operators of
31 any affected airports or airfields.

32
33 **(d) Airport Obstruction Notification Zone.**

34
35 **(1) Purpose.** The purpose of the Airport Obstruction Notification Zone is to
36 regulate obstructions for air navigation which affects the safe and efficient use
37 of navigable airspace or the operation of planned or existing air navigation and
38 communication facilities.

39
40 **(2) Location and map zone.**

41 a. An Airport Obstruction Notification Zone is established around Pensacola
42 International Airport (PNS) and consists of an imaginary surface extending from

1 any point of the PNS runway at a slope of 100 to 1 at a horizontal distance of
2 20,000 ft. and a height of 200 ft. above ground level. The Airport Obstruction
3 Notification Zone map may be reviewed annually by the Airport staff and
4 updated/amended by the Airport Executive Director in conjunction with the
5 County Development Services Department as needed to ensure currency.

6 b. An Airport Obstruction Notification Zone is established around Ferguson
7 Airport and consists of any imaginary surface extending from any point of the a
8 Ferguson runway at a slope of 50 to 1 at a horizontal distance of 10,000 ft. The
9 Airport Obstruction Notification Zone map may be reviewed annually by the
10 Airport staff and updated/amended by the Airport Executive Director in
11 conjunction with the County Development Services Department as needed to
12 ensure currency.

13 c. An Airport Obstruction Notification Zone may be established around any new
14 airport or airfield as necessary for the health, safety, and welfare of the public.

15 **(3) Development Compliance:** No object, structure, or alteration to a structure will
16 be allowed within an Airport Obstruction Notification Zone at a slope exceeding
17 100 to 1 for a horizontal distance of 20,000 from the nearest PNS runway or a
18 slope exceeding 50 to 1 for a horizontal distance of 10,000 feet from the
19 nearest Ferguson Airport or 200 feet above ground level within these horizontal
20 distances without an approved Permit issued by the Airport.

21 **Sec. 4-4.4 Airport and airfield planning districts.**

22 ~~**(a) Pensacola International Airport Planning District.** The Pensacola~~
23 ~~International Airport Planning District (PNSPD) is established to provide~~
24 ~~enhanced protection in support of the continued operation of the Pensacola~~
25 ~~International Airport for areas that are close enough to the airport to influence or~~
26 ~~be influenced by its activities. The PNSPD imposes additional restrictions on~~
27 ~~surrounding development that primarily address noise and safety concerns~~
28 ~~created by flight operations and potential interferences with those operations.~~

29 ~~**(1) Establishment.** The PNSPD is established through its definition and adoption~~
30 ~~within the LDC. The Pensacola International Airport Influence Planning District~~
31 ~~Overlay maps for noise zones and educational facility restrictions are~~
32 ~~specifically adopted here by reference and declared to be part of the LDC,~~
33 ~~with the information shown on the maps having the same force and effect as~~
34 ~~the text of the LDC. The PNSPD maps are maintained digitally in the county's~~
35 ~~"Geographic Information System" (GIS).~~

36 ~~**(2) Real estate disclosure.** All real estate transactions for property within the~~
37 ~~*Pensacola International Airport Real Estate Disclosure Area* shall include a~~
38 ~~form disclosing the proximity of the site to the airport. The disclosure is~~
39 ~~intended to inform a potential property owner or occupant of the nearby airport~~
40 ~~and alert them to possible incompatibilities of the intended property use with~~
41 ~~airport operations. The disclosure form shall be attached to all listing~~
42 ~~agreements, sales and rental contracts, subdivision plats, and marketing~~

1 materials provided to prospective buyers, renters and lessees. The form need
2 not be included in advertisements directed to the public at large. Disclosure is
3 required as soon as practicable, but shall occur before the making or
4 acceptance of an offer to buy, rent or lease.

5 **(b) Military airfield Influence planning districts.** Airfield influence planning districts
6 (AIPDs) are established to provide enhanced protection in support of the continued
7 operation of military airfields for areas that are close enough to those airfields to
8 influence or be influenced by their activities. AIPDs impose additional restrictions
9 on surrounding development that primarily address noise and safety concerns
10 created by flight operations and potential interferences with those operations. If
11 military operations permanently cease at an airfield, the supplemental
12 requirements of its AIPDs will no longer apply to surrounding lands.

13
14 **(1) General characteristics.** Airfield influence planning districts are combinations of
15 noise zones, clear zones, accident potential zones, and other areas of influence
16 that overlap and combine to define a broad range of airfield influences on
17 surrounding land use. The range of influences is divided between two planning
18 districts: AIPD-1 composed of areas closest to an airfield and, therefore, with
19 highest noise exposure and accident risk; and AIPD-2 composed of areas further
20 from the airfield than AIPD-1, but that still may influence or be influenced by
21 airfield operations.

22 **(2) Clear zones and accident potential zones.** Clear zones and accident potential
23 zones identify areas near airfield runways where aircraft accidents are most likely,
24 if they do occur. The zones are defined by the type of aircraft for which the
25 runway is primarily used. Clear zones extend immediately beyond the ends of
26 runways and designate areas of high accident potential. Accident potential zones
27 (APZs) generally extend beyond clear zones and designate areas that remain
28 impacted by accident potential. APZ-1 identifies areas that retain a significant
29 potential for accidents. APZ-2 identifies areas beyond APZ-1 that retain lower but
30 measurable potential for accidents.

31 **(3) Establishment.** AIPDs and their constituent zones and areas are established
32 through their definition and adoption within the LDC. The Airfield Influence
33 Planning District Overlay maps for NAS Pensacola and NOLF 8 are specifically
34 adopted here by reference and declared to be part of the LDC, with the
35 information shown on the maps having the same force and effect as the text of
36 the LDC. The AIPD maps are maintained digitally in the county's "Geographic
37 Information System" (GIS).

38 **(4) General AIPD requirements.**

39 **a. Real estate disclosure.** All real estate transactions for property within an
40 AIPD shall include a form disclosing the proximity of the site to the military
41 airfield. The disclosure is intended to inform a potential property owner or
42 occupant of the nearby airfield and alert them to possible incompatibilities of

1 the intended property use with airfield operations. The disclosure form shall
2 be attached to all listing agreements, sales and rental contracts, subdivision
3 plats, and marketing materials provided to prospective buyers, renters and
4 lessees. The form need not be included in advertisements directed to the
5 public at large. Disclosure is required as soon as practicable, but shall occur
6 before the making or acceptance of an offer to buy, rent or lease.

7 **b. Avigation easement.** For any parcel within an AIPD where subdivision or any
8 site plan approval is requested, the application shall include an executed
9 avigation easement or proof of the public recording of an executed easement.
10 The purpose of the easement is to grant a clear property right to maintain flight
11 operations in the airspace above the property. The easement shall be in a
12 form approved by the County Attorney and recorded with the property deed to
13 run in perpetuity with the land.

14
15 **c. Rezoning.** Rezoning is allowed within AIPDs, but density remains limited to
16 the maximum density allowed by the AIPD, regardless of the zoning. The
17 AIPD density limits shall govern.

18 **(5) AIPD-1 requirements.** Airfield Influence Planning District 1 (AIPD-1) defines
19 areas of greatest protection for an airfield. AIPD-1 lies within a boundary
20 connecting the outermost limits of an installation's clear zones, accident potential
21 zones, or other areas necessary to achieve adequate protections. The following
22 requirements apply to all lands within an AIPD-1 district:

23 **a. Prohibited concentrations of population.** Any use at such a scale that
24 gatherings concentrating more than 25 people per acre and within a structure
25 would be expected on a regular basis is prohibited. Such uses include sports
26 stadiums, amphitheaters, auditoriums, clubhouses, churches, schools,
27 hospitals, assisted living facilities, hotels and motels, restaurants, nightclubs
28 and other establishments.

29 **b. Residential density.** Residential density is limited by the applicable zone or
30 area with the AIPD according to the following:

31 **1. Clear zones.** Areas designated as "Clear Zone" are allowed no residential
32 density except vested single-family dwellings on existing lots of record.

33 **2. Area A.** Areas designated as "Area A" are allowed no residential density
34 except vested single-family dwellings on existing lots of record.

35 **3. APZ-1.** Areas designated as "Accident Potential Zone 1" (APZ-1) and
36 aligned with airfield runways are allowed no residential density except
37 vested single-family dwellings on existing lots of record. All other APZ-1
38 areas are limited to one dwelling unit per 2.5 acres.

39 **4. APZ-2.** Areas designated as "Accident Potential Zone 2" (APZ-2) and
40 aligned with airfield runways are limited to two dwelling units per acre. All
41 other APZ-2 areas are limited to three dwelling units per acre.

1 ~~5. **Area B.** Areas designated as “Area B” are limited to three dwelling units~~
2 ~~per acre and only subject to the minimum lot area of the applicable zoning~~
3 ~~district.~~

4 ~~c. **Dwellings.** Residential development is limited to detached single-family~~
5 ~~dwellings, including manufactured (mobile) homes if allowed by applicable~~
6 ~~zoning district. No single-family attached or multifamily dwellings are~~
7 ~~permitted. The planning district also prohibits the clustering of dwellings,~~
8 ~~including mobile home parks, whether by density transfers, planned unit~~
9 ~~development or other means.~~

10 ~~d. **Minimum lot area.** The required minimum lot area shall be the inverse of the~~
11 ~~established maximum density except where noted. For example, a maximum~~
12 ~~density of three dwelling units per acre inversely requires at least one acre~~
13 ~~per three dwelling units, so the minimum lot size for one dwelling unit is one-~~
14 ~~third acre.~~

15 ~~e. **Parks and recreational facilities.** Outdoor sports facilities, parks and~~
16 ~~recreation areas are permitted, but all their structures are restricted to those~~
17 ~~that are accessory to the outdoor use, such as bleachers, backstops, picnic~~
18 ~~tables, public restrooms, concession stands, etc.~~

19 ~~f. **Conditional uses.** The following uses require conditional use approval by~~
20 ~~the Board of Adjustment (BOA), regardless of whether they are permitted~~
21 ~~within the applicable zoning district:~~

22 ~~1. Borrow pits and borrow pit reclamation.~~

23 ~~2. Solid waste collection points, transfer stations, or processing facilities.~~

24 ~~3. Salvage yards.~~

25 ~~g. **Prohibited uses.** The following uses are prohibited:~~

26 ~~1. Animal feedlots and similar facilities that concentrate animal feed~~
27 ~~and waste.~~

28 ~~2. Electrical transmission lines above ground.~~

29 ~~3. Stables designed to house more than four horses or other~~
30 ~~domesticated equine.~~

31 ~~4. Telecommunications towers.~~

32 ~~5. Outdoor storage if permanent, excluding farm equipment.~~

33 ~~6. Motor vehicle sales, new or used.~~

34 ~~(6) **AIPD-2 requirements.** AIPD-2 is additional areas extended beyond AIPD-1~~
35 ~~that is sufficiently close to the airfield to require some protections. AIPD-2~~
36 ~~requirements are the same for all airfields. Densities and minimum lot sizes of~~
37 ~~the underlying zoning districts are not modified by AIPD-2.~~
38

1 **Sec. 4-4.4– Airport Hazard Structure Permit**

2 **(a) Permitting**

3 (1) Any individual seeking to alter, construct, or place any structure or development
4 within any airport hazard area or runway protection zone or any land on, adjacent
5 to, or in the immediate vicinity of airports or any individual seeking a building permit,
6 development order, subdivision approval, rezoning, conditional use, comprehensive
7 plan amendment, non-conforming use approval, variance, or other official action by
8 the County that will have the effect of permitting a development or alteration of land
9 or a structure shall submit an application for Airport Hazard Review to the
10 Development Services Department (DSD) for determination as to the need for an
11 Airport Hazard Structures Permit.

12 (2) DSD shall make the initial determination with respect to whether the proposed
13 development exceeds the height and surface within the Airport Obstruction
14 Notification Zone based upon on the maps in Appendix C as an element of the
15 review. The review shall include the zoning, development order, and building permit
16 application processes. If DSD determines the proposed development or alteration,
17 including any associated use of temporary construction equipment, exceeds an
18 Airport Obstruction Notification Zone surface or height threshold, then the applicant
19 is required to obtain an Airport Hazard Structures Permit from DSD prior to the
20 issuance of any further development orders or permits. DSD shall obtain technical
21 input from the applicable airport as part of the permitting process. This provision
22 applies to all development or improvements to land, including new development,
23 redevelopment, building or use modifications, or similar actions.

24 (3) The permitting procedures for an Airport Hazard Structures Permit are outlined
25 as follows. If an Airport Hazard Structures Permit application is deemed necessary
26 by DSD as determined through the use of the Airport Obstruction Notification Zone
27 map, the following procedures will apply:

28 a. After an initial review and the determination that a permit is required, DSD will
29 give a written notice to the applicant that an Airport Hazard Structures Permit is
30 required and that no further permits or development orders can be obtained from
31 the County until an Airport Hazard Structures Permit is obtained.

32 b. The applicant must submit a completed Airport Hazard Structures Permit
33 application to DSD at the Central Office Complex located at 3363 W Park Place,
34 Pensacola, Florida 32505. DSD will complete a sufficiency review and then route
35 the application to the affected airport. The affected airport will review the
36 application and provide comment to DSD.

37 c. Upon receipt of a complete permit application, DSD shall provide a copy of the
38 application to the State of Florida, Department of Transportation (FDOT) Aviation
39 Office by certified mail, return receipt requested, or by a delivery service that
40 provides a receipt evidencing delivery.

1 d. The permit application shall also be provided to the City of Pensacola within
2 ten (10) calendar days of the filing of the application.

3 e. The affected airport, FDOT, and the City will review the application to evaluate
4 technical consistency with this subsection. The County shall allow the airport, the
5 Department of Transportation, and the City a 15-day review period following
6 receipt of the application. This review period shall run concurrently with the local
7 government permitting process. DSD shall consider any comments from the
8 affected airport, FDOT, and the City in processing permit applications under this
9 Section.

10 (3) In determining whether to issue or deny a permit, DSD shall consider the
11 following, as applicable:

12 a. The safety of persons on the ground and in the air.

13 b. The safe and efficient use of navigable airspace.

14 c. The nature of the terrain and height of existing structures.

15 d. The effect of the construction or alteration on the state licensing standards for
16 a public-use airport contained in Chapter 330, Florida Statutes, as may be
17 amended, and rules adopted thereunder.

18 e. The character of existing and planned flight operations and developments at
19 public-use airports.

20 f. Federal airways, visual flight rules, flyways and corridors, and instrument
21 approaches as designated by the Federal Aviation Administration.

22 g. The effect of the construction or alteration of the proposed structure on the
23 minimum descent altitude or the decision height at the affected airport.

24 h. The cumulative effects on navigable airspace of all existing structures and all
25 other known proposed structures in the area

26 (4) Approval of a permit will not be based solely on the determination by the
27 Federal Aviation Administration that the proposed structure is not an airport hazard.

28 (b) The County shall enforce the issuance or denial of any permit or other
29 determination related to Air Hazard Permit applications by any means provided,
30 authorized, or allowed by law or ordinance, including Florida Statutes and Chapter 30,
31 Code Enforcement, Part 1, Escambia County Code of Ordinances. More particularly:

32 (1) Procedural remedies. Failure to comply with LDC provisions may result in
33 application denial, delay of application approval, conditional application approval,
34 voiding an application approval, delay of use, or penalties as additionally may be
35 prescribed by the LDC.

36 (2) Civil Remedies. The BCC or any aggrieved party, as defined by state law,
37 may apply to the Circuit Court of Escambia County, Florida, to enjoin and restrain
38 any person violating the provisions of this Section.

1 (3) Criminal Remedies. Any person who violates, disobeys, omits, neglects, or
2 refuses to comply with, or who resists the enforcement of, any of the provisions
3 of the LDC, shall be subject to a misdemeanor punishable by fine and/or
4 imprisonment according to state law. Upon conviction the person shall
5 additionally pay all expenses of the county in the case. Each day a violation
6 exists shall constitute a separate offense.

7 (c) Permitting by the County for the construction or alteration of structures dangerous
8 to air navigation or for structures governed by Title 14, CFR, Part 77 shall consider
9 whether or not a permit has been obtained from FDOT Aviation or FDOT Aviation has
10 confirmed that no FDOT permit is necessary.

11 **Sec. 4-4.5 Airport and airfield planning districts.**

12
13 **(a) Pensacola International Airport Planning District.** The Pensacola International
14 Airport Planning District (PNSPD) is established to provide enhanced protection in
15 support of the continued operation of the Pensacola International Airport for areas that
16 are close enough to the airport to influence or be influenced by its activities. The
17 PNSPD imposes additional restrictions on surrounding development that primarily
18 address noise and safety concerns created by flight operations and potential
19 interferences with those operations.

20 **(1) Establishment.** The PNSPD is established through its definition and adoption
21 within the LDC. The Pensacola International Airport Influence Planning District
22 Overlay maps for noise zones and educational facility restrictions are
23 specifically adopted here by reference and declared to be part of the LDC,
24 with the information shown on the maps having the same force and effect as
25 the text of the LDC. The PNSPD maps are maintained digitally in the county's
26 "Geographic Information System" (GIS).

27 **(2) Real estate disclosure.** All real estate transactions for property within the
28 *Pensacola International Airport Real Estate Disclosure Area* shall include a
29 form disclosing the proximity of the site to the airport. The disclosure is
30 intended to inform a potential property owner or occupant of the nearby airport
31 and alert them to possible incompatibilities of the intended property use with
32 airport operations. The disclosure form shall be attached to all listing
33 agreements, sales and rental contracts, subdivision plats, and marketing
34 materials provided to prospective buyers, renters and lessees. The form need
35 not be included in advertisements directed to the public at large. Disclosure is
36 required as soon as practicable, but shall occur before the making or
37 acceptance of an offer to buy, rent or lease.

38 **(b) Military Airfield Influence Planning Districts.** Airfield Influence Planning Districts
39 (AIPDs) are established to provide enhanced protection in support of the continued
40 operation of military airfields for areas that are close enough to those airfields to
41 influence or be influenced by their activities. AIPDs impose additional restrictions
42 on surrounding development that primarily address noise and safety concerns
43 created by flight operations and potential interferences with those operations. If

1 military operations permanently cease at an airfield, the supplemental
2 requirements of its AIPDs will no longer apply to surrounding lands.
3

4 **(1) General characteristics.** Airfield Influence Planning Districts are combinations of
5 noise zones, clear zones, accident potential zones, and other areas of influence
6 that overlap and combine to define a broad range of airfield influences on
7 surrounding land use. The range of influences is divided between two planning
8 districts: AIPD-1 composed of areas closest to an airfield and, therefore, with
9 highest noise exposure and accident risk; and AIPD-2 composed of areas further
10 from the airfield than AIPD-1, but that still may influence or be influenced by
11 airfield operations.

12 **(2) Clear zones and accident potential zones.** Clear zones and accident potential
13 zones identify areas near airfield runways where aircraft accidents are most likely,
14 if they do occur. The zones are defined by the type of aircraft for which the
15 runway is primarily used. Clear zones extend immediately beyond the ends of
16 runways and designate areas of high accident potential. Accident potential zones
17 (APZs) generally extend beyond clear zones and designate areas that remain
18 impacted by accident potential. APZ-1 identifies areas that retain a significant
19 potential for accidents. APZ-2 identifies areas beyond APZ-1 that retain lower but
20 measurable potential for accidents.

21 **(3) Establishment.** AIPDs and their constituent zones and areas are established
22 through their definition and adoption within the LDC. The Airfield Influence
23 Planning District Overlay maps for NAS Pensacola and NOLF 8 are specifically
24 adopted here by reference and declared to be part of the LDC, with the
25 information shown on the maps having the same force and effect as the text of
26 the LDC. The AIPD maps are maintained digitally in the county's "Geographic
27 Information System" (GIS).

28 **(4) General AIPD requirements.**

29 **a. Real estate disclosure.** All real estate transactions for property within an
30 AIPD shall include a form disclosing the proximity of the site to the military
31 airfield. The disclosure is intended to inform a potential property owner or
32 occupant of the nearby airfield and alert them to possible incompatibilities of
33 the intended property use with airfield operations. The disclosure form shall
34 be attached to all listing agreements, sales and rental contracts, subdivision
35 plats, and marketing materials provided to prospective buyers, renters and
36 lessees. The form need not be included in advertisements directed to the
37 public at large. Disclosure is required as soon as practicable, but shall occur
38 before the making or acceptance of an offer to buy, rent or lease.

39 **b. Avigation easement.** For any parcel within an AIPD where subdivision or any
40 site plan approval is requested, the application shall include an executed
41 avigation easement or proof of the public recording of an executed easement.
42 The purpose of the easement is to grant a clear property right to maintain flight

1 operations in the airspace above the property. The easement shall be in a
2 form approved by the County Attorney and recorded with the property deed to
3 run in perpetuity with the land.

4
5 **c. Rezoning.** Rezoning is allowed within AIPDs, but density remains limited to
6 the maximum density allowed by the AIPD, regardless of the zoning. The
7 AIPD density limits shall govern.

8 **(5) AIPD-1 requirements.** Airfield Influence Planning District 1 (AIPD-1) defines
9 areas of greatest protection for an airfield. AIPD-1 lies within a boundary connecting
10 the outermost limits of an installation's clear zones, accident potential zones, or other
11 areas necessary to achieve adequate protections. The following requirements apply
12 to all lands within an AIPD-1 district:

13 **a. Prohibited concentrations of population.** Any use at such a scale that
14 gatherings concentrating more than 25 people per acre and within a structure
15 would be expected on a regular basis is prohibited. Such uses include sports
16 stadiums, amphitheaters, auditoriums, clubhouses, churches, schools,
17 hospitals, assisted living facilities, hotels and motels, restaurants, nightclubs
18 and other establishments.

19 **b. Residential density.** Residential density is limited by the applicable zone or
20 area with the AIPD according to the following:

21 **1. Clear zones.** Areas designated as "Clear Zone" are allowed no residential
22 density except vested single-family dwellings on existing lots of record.

23 **2. Area A.** Areas designated as "Area A" are allowed no residential density
24 except vested single-family dwellings on existing lots of record.

25 **3. APZ-1.** Areas designated as "Accident Potential Zone 1" (APZ-1) and
26 aligned with airfield runways are allowed no residential density except
27 vested single-family dwellings on existing lots of record. All other APZ-1
28 areas are limited to one dwelling unit per 2.5 acres.

29 **4. APZ-2.** Areas designated as "Accident Potential Zone 2" (APZ-2) and
30 aligned with airfield runways are limited to two dwelling units per acre. All
31 other APZ-2 areas are limited to three dwelling units per acre.

32 **5. Area B.** Areas designated as "Area B" are limited to three dwelling units
33 per acre and only subject to the minimum lot area of the applicable zoning
34 district.

35 **c. Dwellings.** Residential development is limited to detached single-family
36 dwellings, including manufactured (mobile) homes if allowed by applicable
37 zoning district. No single-family attached or multifamily dwellings are
38 permitted. The planning district also prohibits the clustering of dwellings,
39 including mobile home parks, whether by density transfers, planned unit
40 development or other means.

1 **d. Minimum lot area.** The required minimum lot area shall be the inverse of the
2 established maximum density except where noted. For example, a maximum
3 density of three dwelling units per acre inversely requires at least one acre
4 per three dwelling units, so the minimum lot size for one dwelling unit is one-
5 third acre.

6 **e. Parks and recreational facilities.** Outdoor sports facilities, parks and
7 recreation areas are permitted, but all their structures are restricted to those
8 that are accessory to the outdoor use, such as bleachers, backstops, picnic
9 tables, public restrooms, concession stands, etc.

10
11 **f. Conditional uses.** The following uses require conditional use approval by
12 the Board of Adjustment (BOA), regardless of whether they are permitted
13 within the applicable zoning district:

14 **1. Borrow pits and borrow pit reclamation.**

15 **2. Solid waste collection points, transfer stations, or processing facilities.**

16 **3. Salvage yards.**

17 **g. Prohibited uses.** The following uses are prohibited:

18 **1. Animal feedlots and similar facilities that concentrate animal feed and**
19 **waste.**

20 **2. Electrical transmission lines above ground.**

21 **3. Stables designed to house more than four horses or other domesticated**
22 **equine.**

23 **4. Telecommunications towers.**

24 **5. Outdoor storage if permanent, excluding farm equipment.**

25 **6. Motor vehicle sales, new or used.**

26 **(6) AIPD-2 requirements.** AIPD-2 is additional areas extended beyond AIPD-1 that
27 is sufficiently close to the airfield to require some protections. AIPD-2
28 requirements are the same for all airfields. Densities and minimum lot sizes of the
29 underlying zoning districts are not modified by AIPD-2.

30
31 **Sec. 4-4.5 4-4.6 Variances.**

32 **(a) General eligibility.** A variance to the airport and airfield regulations of the LDC is
33 generally contrary to the safe and efficient use of navigable airspace and the
34 operation of airports and airfields. However, where compliance with the
35 requirements creates an exceptional hardship on an applicant for development
36 approval, the Board of Adjustment (BOA) may, in compliance with Florida Statutes
37 and the quasi-judicial variance process prescribed in Chapter 2, approve or deny a
38 request for a site-specific modification to the air navigation obstruction standards
39 of this article for the erection, alteration, or modification of any structure that

1 would cause those standards to be exceeded. Additionally, a variance to the
2 educational facility construction prohibition associated with the Pensacola
3 International Airport may be requested. No other variances, however, are
4 applicable to the requirements of the airport and airfield environs.

5 **(b) Specific limitations.** In addition to the general variance review and approval
6 requirements prescribed in Chapter 2, available variances to airport and
7 airfield environs provisions shall comply with all of the following conditions:
8

9 **(1) State review.** As required by state regulations, the applicant shall provide a
10 copy of the variance application to the Florida Department of Transportation (FDOT)
11 by certified mail to allow a 45-day opportunity for department comment. The county
12 may proceed with consideration of the application in a public hearing only upon
13 receipt of FDOT review comments or a waiving of that right.

14 **(2) Required findings.** A variance may only be granted where the applicant
15 demonstrates, and the BOA establishes in its findings, all of the following
16 conditions as applicable:

17 **a. No hazard.** For an obstruction to air navigation, a valid aeronautical study by
18 the FAA has concluded that the object is not a hazard to air navigation.

19 **b. Public policy.** For a prohibited educational facility, the public policy reasons
20 for allowing the construction outweigh the health and safety concerns
21 prohibiting such a location.

22 **c. No objections.** U.S. Navy officials, the director of the Pensacola
23 International Airport, or other operators of airports or airfields within the
24 county have no substantial objections to the variance, or their objections will
25 be addressed through conditions of the variance approval.

26 **d. Hardship.** A literal application or enforcement of the regulations would result
27 in practical difficulty or unnecessary hardship.

28 **e. Public interest.** The relief granted would not be contrary to the public
29 interest.

30 **f. Intent.** The relief granted would do substantial justice and be in accordance
31 with the intent of county and state regulations.

32 **(3) Conditions of approval.** Any variance granted by the BOA is subject to the
33 following conditions:

34 **a.** Any reasonable conditions that the BOA finds necessary to accomplish the
35 purposes of county and state regulations.

36 **b.** A variance granted for an obstruction to air navigation shall require the owner
37 to install, operate and maintain at his expense any marking or lighting of the
38 obstruction that has been recommended in a FAA aeronautical study
39 determination, or as otherwise required by Florida Statutes. The BOA may
40 also condition approval on any other obstruction marking and lighting

1 recommendations provided by the operators of airports or airfields within the
2 county.

- 3 c. The applicant shall provide FDOT a copy of the county decision on an
4 obstruction variance application within ten days of issuance of the decision.
5

6 **Sec. 4-4.7. Nonconforming Structures**

7 If any nonconforming structure is determined to be an airport hazard and the owner
8 will not remove, lower, or otherwise eliminate it or the approach protection necessary
9 cannot, because of constitutional limitations, be provided by airport zoning
10 regulations, or it appears advisable that the necessary approach protection be
11 provided by acquisition of property rights rather than by airport zoning regulations,
12 then DSD shall notify the County Attorney's Office and County Administrator in order
13 to conduct an analysis related to public acquisition either by purchase, grant, or
14 condemnation, in the manner provided in Chapter 73 and Chapter 74, Florida
15 Statutes.

16 **Sec. 4-4.8- Appeals**

17 (a) Any individual, political subdivision or its administrative agency, or a joint airport
18 zoning board that contests a decision made on an improper application of airport
19 zoning regulations may appeal the decision.

20 (b) All appeals shall be heard by the Escambia County Board of Adjustment (BOA). All
21 appeals shall be made within 15 days after the date of the official's decision
22 according to the provisions for appeal of administrative decisions as prescribed in
23 Article 6. Upon notice of appeal, the Building Official and Planning and Zoning
24 Official shall forthwith transmit to the BOA all the papers constituting the record upon
25 which the appeal was taken.

26 (c) The BOA shall fix a reasonable time for hearing appeals, and shall give public notice
27 and provide notice to the interested parties. The BOA shall render a decision within
28 a reasonable time. The BOA shall notify in writing the airport manager and NAS
29 facilities management office, FDOT, and the City of Pensacola of all meetings in
30 which an appeal under this Section is scheduled. During the hearing before the
31 BOA, any party may appear in person, by agent, or by attorney.

32 (d) The BOA may, in conformity with the provisions of this chapter, reverse or affirm, in
33 whole, or in part, or modify the order, requirement, decision or determination, as may
34 be necessary.

35 (e) If the final determination of the BOA is denial, no new application for the same use
36 on the same parcel can be accepted for review until at least 180 days from the date
37 of the denial. A final determination of the BOA may be appealed by petitioning the
38 circuit court for judicial review within 30 days after date of the board's decision, and
39 providing a copy of the petition to the clerk of the board.
40

1 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land Development
2 Code of Escambia County, Chapter 6, Definitions, Sections “A”, “P”, and “Q & R” are
3 hereby amended as follows: (words underlined are additions and words ~~stricken~~ are
4 deletions)

5
6 **6-0.3 Terms defined.**

7 As used within the LDC, the following terms have the meanings established here:

8 **- A -**

9 **Abandoned sign.** Any sign face which advertises a business no longer conducted or
10 product no longer sold. In making the determination that a sign advertises a business no
11 longer being conducted, the enforcement official shall consider the existence or absence
12 of a current occupational license, utility service deposit or account, use of the premises
13 and relocation of the business. An abandoned sign is prohibited and shall be removed by
14 the owner of the premises when there is a lack of maintenance or sign faces are missing,
15 or as otherwise provided for in this article.

16 Any sign structure which has not been used for business purposes for over 90 days, and
17 is nonconforming as to existing codes regarding height, setback or maintenance.

18 Any previously permitted portable or temporary sign for which the permit has expired.

19 **Accessory structure.** A building or other structure that is subordinate in extent and
20 purpose and customarily incidental to the principal structure on the same lot, and is
21 typically detached from it.

22 **Accessory dwelling unit.** A dwelling unit that is an accessory structure to a single-
23 family dwelling.

24
25 **Accessory use.** A use of land or structure that is subordinate in extent and purpose,
26 and is customarily incidental to the principal use on the same lot. The term “accessory
27 use” includes support services and functions for employees, customers, tenants and
28 visitors customarily associated with the principal use.

29 **Act of God.** An act caused by the direct, immediate, and exclusive operation of the
30 forces of nature, uncontrolled and uninfluenced by the power of man, without human
31 intervention, and of a character that it could not have been prevented or escaped from
32 by any amount of foresight or reasonable degree of care or diligence.

33 **Addition.** As applicable to building construction, any walled and roofed expansion of
34 a building that increases the existing building height, length, width, floor area, or site
35 coverage. If an expansion is connected to a building by a firewall, or is separated by
36 independent perimeter load-bearing walls, it is considered new construction and not an
37 addition.

1 **Adult day care center.** A state licensed facility, whether operated for profit or not,
2 which provides basic services for part of a day to three or more persons who are 18
3 years of age or older, who are not related to the facility owner or operator, and who
4 require such services. As used here, basic services include providing a protective
5 setting that is as non-institutional as possible, therapeutic programs of social and
6 health activities and services, leisure activities, self-care training, rest, nutritional
7 services, and respite care.

8 **Adult entertainment establishment.** An adult theater, adult bookstore, adult
9 performance establishment, or other adult use or activity as defined in the *Adult*
10 *Entertainment Code* of Chapter 18, *Businesses*, Part I, Escambia County Code of
11 Ordinances.

12 **Adult family-care home.** A state licensed, full-time, family-type living arrangement in
13 a private home under which a person who owns or rents the home provides room,
14 board, and personal care on a 24-hour basis for no more than five disabled adults or
15 frail elders who are not relatives. An adult family-care home is a form of household
16 living.

17 **Affordable housing.** Housing with monthly rents or monthly mortgage payments,
18 including taxes, insurance, and utilities, that do not exceed 30 percent of that amount
19 which represents the percentage of the median adjusted gross annual income
20 established by the state for extremely-low-income, very-low-income, low-income,
21 and moderate-income households as applicable.

22 **Agent.** A person authorized by contract or other valid authority to act for and under the
23 direction of another person, the agent's principal, when dealing with third parties, and
24 who can enter into binding agreements on the principal's behalf.

25 **Agricultural-related activity.** An activity in support of or accessory to agriculture.

26 **Agricultural processing, major.** Activities involving a variety of processing
27 operations on crops after harvest, or on livestock, which typically generate dust, noise,
28 odors, pollutants, or visual impacts that can adversely affect adjacent properties. Such
29 activities include feedlots, slaughterhouses, rendering plants, large-scale mills,
30 refineries, canneries, and milk processing plants.

31 **Agricultural processing, minor.** Activities involving a variety of processing operations
32 on crops after harvest to prepare them for market, or for further processing or
33 packaging out of the agricultural area, and which cannot be characterized as major
34 agricultural processing. Such activities include cleaning, sorting, drying, roasting,
35 hulling, shelling, baling, custom milling, cotton ginning, packing and storing.

36 **Agriculture or agricultural use.** The active production of plants, animals or their
37 products through cultivation of soil, growing and harvesting of crops, or raising of

1 livestock. Agricultural crops include grains, legumes, oil seeds, roots and tubers, fibers,
2 fruits, nuts, vegetables and forages. Agricultural livestock includes dairy and beef
3 cattle, sheep, goats, pigs, poultry and horses. The terms “agriculture” or “agricultural
4 use” also include bees and apiary products, plant nursery and greenhouse products, the
5 breeding of animals, the storage of harvested products, and land devoted to soil
6 conservation. However, the terms do not include agricultural processing or packaging,
7 waste composting, silviculture or timber harvesting, aquiculture, or farm worker
8 housing.

9 ***Airfield.*** Any area of land or water that is designed and set aside for the landing and
10 taking off of military aircraft.

11 ~~***Airport.***~~ Any area of land or water that is designed and set aside for the landing and
12 ~~taking off of civilian aircraft.~~ Any land or water designed and set aside for the landing
13 and taking off of aircraft and used or to be used in the interest of the public for such
14 purpose.

15 ~~***Airport or airfield hazard.***~~ Any structure, object of natural growth, or use of land which
16 would exceed federal obstruction standards, which obstructs the airspace required
17 for the flight of aircraft in taking off, maneuvering, or landing, and for which no person
18 has previously obtained a permit or variance according to Florida Statutes. An
19 obstruction to air navigation which affects the safe and efficient use of navigable airspace
20 or the operation of planned or existing air navigation.

21 ~~***Airport hazard area.***~~ Any area of land or water upon which an airport hazard might be
22 established.

23 ~~***Airport land use compatibility zoning.***~~ Airport zoning regulations governing the use of
24 land on, adjacent to, or in the immediate vicinity of airports.

25 ~~***Airport master plan.***~~ A comprehensive plan of an airport which typically describes
26 current and future plans for airport development designed to support existing and future
27 aviation demand.

28 ~~***Airport obstruction.***~~ Any existing or proposed object, terrain, or structure construction or
29 alteration that exceed the federal obstruction standards contained in 14 C.F.R. part 77,
30 subpart C, as may be amended. The term includes: any object of nature growth or terrain;
31 permanent or temporary construction or alteration, including equipment or materials used
32 and any permanent or temporary apparatus; or alteration of any permanent or temporary
33 existing structure’s height, including appurtenances, lateral dimensions, and equipment or
34 materials used in the structure.

35 ~~***Airport protection zoning regulations.***~~ Airport zoning regulations governing airport
36 hazards.

1 **Alcoholic beverage.** Any liquor, beer, wine, or other distilled spirits or beverages
2 containing one-half of one percent or more alcohol by volume.

3 **Alley.** A public or private right-of-way that affords a secondary means of access to
4 the back or the side of a lot otherwise abutting a street, and not intended or used for
5 general traffic circulation.

6 **All-weather surface.** A hard driving surface (e.g., asphalt, concrete, compacted
7 gravel or shell) designed and constructed to ensure adequate runoff of stormwater
8 under normal rainfall conditions and capable of withstanding normal weather
9 conditions during ordinary use without substantial deterioration.

10 **Alteration.** For the purpose of regulating structures, any change or modification that
11 would result in a change in height or lateral dimensions of an existing structure,
12 including cosmetic improvements, repairs, remodeling, and structural support
13 changes.

14 **Amusement, commercial.** Any facility that is maintained or operated for the provision
15 of amusement, entertainment or recreation to the general public for a fee. Indoor
16 amusements include pinball machines, video games, and other games of skill or scoring
17 such as billiards. Outdoor amusements include miniature golf, automobile race tracks,
18 waterslides and amusement rides.

19 **Amusement arcade.** A business establishment open to the public and offering
20 games, rides, shows, or similar facilities and devices DRAFT , typically operated by
21 coin or token, for entertainment or amusement purposes only. Such facilities and
22 devices do not include bingo games, gambling devices, or any devices prohibited by
23 law.

24 **Animal grooming service.** A business providing bathing, clipping, combing or similar
25 grooming services to enhance the appearance or health of domestic animals, but not
26 including any overnight boarding of animals.

27 **Animal shelter.** A facility used to house or board stray, homeless, abandoned or
28 unwanted animals and that is operated by a public agency or a recognized non-profit
29 organization devoted to the welfare, protection, and humane treatment of animals.

30 **Applicant.** Any person, including the person's agent, who submits an application to
31 the county requesting development approval or other consideration according to any
32 of the compliance review processes prescribed by the LDC.

33 **Aquaculture.** The growing and harvesting of freshwater and saltwater populations of
34 aquatic organisms such as fish, crustaceans, mollusks, and aquatic plants under
35 controlled conditions.

1 **Aquifer.** A groundwater bearing geologic formation that contains enough saturated
2 permeable material to yield significant quantities of water.

3 **Arcade amusement center.** A place of business operating as an arcade amusement
4 center in compliance with Florida Statutes and any county ordinances that define or
5 regulate such businesses.

6 **Area of special flood hazard.** The land within a floodplain subject to a one percent
7 or greater chance of flooding in any given year (the base flood), designated on the
8 community's Flood Insurance Rate Map (FIRM) as zone A, AE, AO, AH, V, or VE.

9 **Assisted living facility.** Any state licensed private home, boarding home, home for
10 the aged, or other residential facility, whether operated for profit or not, which provides
11 housing, meals, and one or more personal services for a period exceeding 24 hours to
12 one or more adults who are not relatives of the owner or administrator. As used here,
13 personal services means direct physical assistance with or supervision of the activities
14 of daily living, the self-administration of medication and other services which the state
15 may define, but not the provision of medical, nursing, dental, or mental health services.
16 An assisted living facility may be either household living or group living, according to
17 the type of facility and form of residential occupancy and may also be known as
18 personal care or residential care.

19 **Automobile rental.** The renting or leasing of passenger cars, vans, or light trucks
20 (gross vehicle weight rating no more than 8500 lbs), without drivers, for purposes of
21 routine conveyance of passengers, generally for short periods of time. Rental facilities
22 may include incidental storage or parking, and washing and servicing of vehicles for
23 rent or lease.

24 **Automobile sales.** The use of any building or land for the display and sale of new or
25 used passenger cars, vans, or light trucks (gross vehicle weight rating no more than
26 8500 lbs). Sales facilities may include vehicle preparation, repair work, rental, or
27 leasing conducted as an accessory use.

28 **Avigation easement.** An easement that gives a clear property right to maintain aircraft
29 flight operations in the airspace above the property.

30 **Awning.** A roof-like structure that projects from the wall of a building, cantilevered or
31 otherwise entirely supported from the building, and composed of a lightweight rigid or
32 retractable skeleton over which a cover is attached, typically to protect a doorway or
33 window from the elements.

34 **Awning, canopy or marquee sign.** A sign that is mounted or painted on, or attached
35 to, an awning, canopy, or marquee that is otherwise permitted by county ordinance.
36 The sign shall not project above, below or beyond the awning, canopy or marquee.

37 - P -

1 **Parcel.** A unit of land within legally established property lines, or a lot or contiguous
2 group of lots, in single ownership or under single control, and considered a unit for
3 purposes of development.

4 **Park.** Any public or private land that is predominantly open space with natural
5 vegetation and landscaping, and used primarily for active or passive not-for-profit
6 recreational purposes.

7 **Parking lot.** An open area at ground level providing off-street parking spaces,
8 excluding residential driveways.

9 **Parking lot, commercial.** A parking lot that is not an accessory use to any other use
10 and provides parking for a fee.

11 **Park trailer.** A type of recreational vehicle constructed on a single chassis to American
12 National Standards Institute (ANSI) or U.S. Department of Housing and Urban
13 Development (HUD) standards, consisting of a transportable unit with body width not
14 exceeding 14 feet, designed to provide seasonal or temporary living quarters when
15 connected to utilities necessary for operation of installed fixtures and appliances, and
16 as may otherwise be defined by Florida Statutes.

17 **Pawnshop.** Any location at which a pawnbroker conducts the business of making
18 pawns; that is, providing any advancement of funds on the security of pledged goods
19 on condition that the pledged goods are left in the possession of the pawnbroker for
20 the duration of the pawn and may be redeemed by the pledgor on the terms and
21 conditions of the pawn.

22 **Pensacola Beach.** That part of Santa Rosa Island under the jurisdiction of the Board
23 of County Commissioners of Escambia County, Florida.

24 **Perdido Key.** The barrier island and coastal areas extending westward from
25 Pensacola Pass to the Florida/Alabama state line.

26 **Permitted use.** Any use authorized or of right in a particular zoning district or land use
27 category.

28 **Personal services.** Non-medical retail services involving the care of a person or his
29 personal goods or apparel, such as the services of a barber shop, beauty or tanning
30 salon, health club or spa, pet groomer, laundromat or dry cleaner, tailor, psychic reader,
31 or tattoo parlor, but not including repair services or professional services as defined in
32 this chapter.

33 **Pervious surface.** Any surface that easily allows the infiltration of water. Such
34 permeable or porous surfaces include natural or landscaped vegetation and other
35 surfaces for which runoff coefficients no greater than 0.25 are typically used for
36 stormwater management calculations.

1 **Pier.** See “Dock.”

2 **Place of worship.** A building that is used primarily for worship or religious assembly
3 on a regular basis and may include related facilities such as classrooms and
4 administrative offices, but does not include facilities used exclusively for residences,
5 schools, day care, shelter, recreation or other uses not normally associated with
6 worship. Places of worship include churches, chapels, cathedraDRAFT ls,
7 synagogues, temples, and mosques.

8 **Planned unit development (PUD).** An process for providing flexibility in LDC
9 regulations governing the planning and design of subdivisions that permits and
10 encourages greater creativity for the mutual benefit of developers and the public not
11 anticipated by the strict application of those regulations.

12 **Planning Board.** The advisory authority appointed by the Board of County
13 Commissioners to serve as the local planning agency (LPA) for Escambia County, and
14 whose scope of authority and specific duties are established within the Comprehensive
15 Plan and LDC.

16 **Plat.** A map or delineated representation of the subdivision of land, being a
17 complete, exact representation of the subdivision and including other information in
18 compliance with the requirements of the LDC and Florida Statutes (Chapter 177,
19 Part I).

20 **Political sign.** A temporary sign announcing or supporting political candidates or
21 issues in connection with any national, state, or local election.

22 **Porch.** A roofed structure attached to a building and open on two or more sides which
23 may be screened, and having direct access to or from the building.

24 **Political sign.** A temporary sign announcing or supporting political candidates or
25 issues in connection with any national, state, or local election.

26 **Portable sign.** Any sign not permanently attached to the ground or other permanent
27 structure, or a sign designed to be transported, including, but not limited to, signs
28 designed to be transported by means of wheels; including such signs even though the
29 wheels may be removed and the remaining chassis or support structure converted to
30 A- frames or T-frames; menu and sandwich board signs; balloons used as signs;
31 umbrellas used for advertising unless part of an outdoor restaurant; and signs
32 attached to or painted on vehicles parked and visible from the public right-of-way,
33 unless said vehicle is used in the normal day-to-day operations of business, the sign
34 area is less than two square feet per side and there is no reasonable alternative
35 storage space.

36 **Portable storage container.** Any container, pod, trailer or other unit that is designed
37 to temporarily store items and to be transported to and stored off site, typically by a

1 private moving or storage company at a centralized warehouse. The term “portable
2 storage container” does not include solid waste dumpsters or tool sheds.

3 **Positive drainage outfall.** A conveyance system with adequate capacity to contain,
4 control, and transmit stormwater runoff to a creek, stream, river, bay, gulf, ocean, or
5 other waters of the state, or waters of the United States, or to any approved Escambia
6 County or Florida Department of Transportation drainage system having sufficient
7 capacity.

8 **Post-incarceration reentry facility.** A facility providing assistance with substance
9 abuse, mental and physical health issues, job training and placement, and other
10 services to individuals reentering communities from correctional facilities.

11 **Power plant.** An electrical power generation facility operated by a public utility or
12 independent power producer that converts one or more energy sources to provide
13 electricity to the electrical transmission grid and distribution system. The term “power
14 plant” refers to an industrial facility and does not include small-scale
15 generation systems of customers that may sell surplus power back to the franchised
16 power provider through their metered service.

17 **Predominantly commercial development.** Development for which more than two-
18 thirds of the development parcel area and more than two-thirds of all gross floor area
19 within the parcel is devoted to commercial use.

20 **Predominantly residential development.** Development for which more than two-
21 thirds of the development parcel area and more than two-thirds of all gross floor area
22 within the parcel is devoted to residential use.

23 **Premises.** Any parcel together with any improvements thereon.

24 **Primary dune.** The first natural or manmade dune located landward of the beach with
25 sufficient vegetation, height, continuity, and configuration to offer protective value to
26 upland property. The landward extent occurs at the point where there is a distinct
27 change from a relatively steep slope to a relatively mild slope.

28 **Prime farmland.** One of several classes of land defined in the *Soil Survey of*
29 *Escambia County, Florida*, U.S. Department of Agriculture, as having the best
30 combination of physical and chemical characteristics for producing food, feed, forage,
31 fiber, and oilseed crops, and available as cultivated land, pastureland, forestland or
32 other lands not built upon or urbanized.

33 **Principal structure.** The structure that is occupied by or otherwise defines the
34 principal use of a parcel.

1 **Principal use.** The main or predominant purpose for which a structure or parcel of
2 land is used, occupied, maintained, designed, arranged, or intended, as distinguished
3 from an accessory use.

4 **Processing.** As applicable to solid waste, any technique designed to change the
5 physical, chemical, or biological character or composition of any solid waste so as to
6 render it safe for transport; amenable to recovery, storage, or recycling; safe for
7 disposal; or reduced in volume or concentration.

8 **Professional services.** Specialized work by members of recognized professions
9 trained and engaged in such work for a career, typically requiring a license or other
10 legal authorization to perform, and predominantly provided on the premises of an
11 office or clinic. Professional services include the work of insurance agents, realtors,
12 bankers, accountants, stock brokers, financial advisors, engineers, architects, land
13 surveyors, dentists, physicians, therapists, attorneys, and other professionals, but do
14 not include the provision of “personal services” as defined in this chapter.

15 **Prohibited use.** Any use not identified as a permitted or conditionally permitted use
16 by the applicable zoning district, and not otherwise determined to be such a permitted
17 use according to the use classification provisions of the LDC.

18 **Property line.** The recorded boundary of a lot or other tract of land.

19 **Projecting sign.** A sign that is wholly or partly dependent upon a building for support
20 and which projects more than 24 inches from such building.

21 **Protected tree.** A living tree that, according to the provisions of the LDC, cannot be
22 removed or otherwise willfully harmed without first obtaining appropriate authorization
23 from the county.

24 **Pruning.** The act of removing tree branches, limbs, or roots to remedy a hazard or to
25 maintain or improve the form or health of a tree, performed in a careful and systematic
26 manner according to standard arboricultural practices so as not to damage other parts
27 of the of the tree or other trees. Standard practices include those outlined in American
28 National Standards Institute (ANSI) standard A300, Part 1-2001, *Tree Care Operations*
29 - *Tree, Shrub and Other Woody Plant Maintenance - Standard Practices*.

30 **Public facilities.** Major capital improvements, including transportation, sanitary
31 sewer, solid waste, stormwater management, potable water, educational, and
32 recreational facilities.

33 **Public lodging establishment.** A unit, group of units, building, or group of buildings
34 within the same complex which is rented to guests as a transient accommodation
35 (more than three times in a calendar year for periods less than 30 days), rented as a
36 non- transient accommodation (for periods of at least 30 days), or is advertised or
37 offered to the public as a place regularly rented to guests for such accommodations.

1 Public lodging establishments include hotels, motels, resort condominiums, bed and
2 breakfast inns, and boarding or rooming houses, but do not include dormitories,
3 campgrounds, or recreational vehicle parks.

4 **Public use airport.** means an airport, publicly or privately owned, licensed by the State,
5 which is open for use by the public.

6 **Public utilities.** See “Utilities, public.”

7 - Q & R -

8 **Quadruplex.** A four-unit multi-family dwelling.

9 **Quasi-judicial hearing.** A public hearing before an administrative board or official held
10 to obtain testimony or comment regarding the application of adopted policy to a specific
11 development application or land use decision, and subject to specific due process
12 procedural requirements to assure fact-based decisions by the board or official.

13 **Real estate sign.** A sign pertaining to the sale or lease of the premises, or a portion of
14 the premises, in which the sign is located.

15 **Reclamation.** The restoration or rehabilitation to useful purposes and safe and
16 healthful conditions of lands adversely affected by mining, excavation, erosion, land
17 clearing, or other processes. Reclamation may include filling, reshaping, revegetation
18 and other activities to achieve the long-term stability of the affected lands and
19 protection of surrounding uses and natural resources.

20 **Record drawings.** Construction drawings certified by the engineer of record and
21 provided to the county for the purpose of documenting improvements as actually
22 constructed.

23 **Recovered materials.** Metal, paper, glass, plastic, textile, or rubber materials that have
24 known recycling potential, can be feasibly recycled, and have been diverted and source
25 separated or have been removed from the solid waste stream for sale, use, or reuse as
26 raw materials, whether or not the materials require subsequent processing or
27 separation. Recovered materials as described here are not solid waste and does not
28 include materials destined for any use that constitutes disposal.

29 **Recovered materials processing facility (RMPF).** A facility engaged solely in
30 the storage, processing, resale, or reuse of recovered materials.

31 **Recreation, active.** Leisure time activity, indoor or outdoor, that usually requires some
32 constructed facilities, is typically structured and organized to take place at prescribed
33 places, and is usually performed with others. Active recreation uses include
34 campgrounds, recreational vehicle parks, off-highway vehicle trails, shooting ranges,

1 swimming pools, ice and roller skating rinks, baseball and other sport fields, skateboard
2 parks, bowling lanes, tennis courts, golf courses, and playgrounds.

3 **Recreation, passive.** Leisure time activity that generally does not require a
4 developed site, has minimal impact on the recreation site, typically involves existing
5 natural resources or amenities, and has low potential for nuisance to adjacent
6 properties. Passive recreation uses include walking, jogging, hiking, primitive camping,
7 bird watching, bicycling, board and table games, and picnicking.

8 **Recreational vehicle.** A motor vehicle primarily designed as temporary living quarters
9 for recreational, camping, or travel use and which either has its own motive power or is
10 mounted on or drawn by another vehicle. Recreational vehicles include travel trailers,
11 camping trailers, truck campers, motor homes, private motor coaches, park trailers,
12 and other vehicles as defined in Florida Statutes DRAFT For the purposes of floodplain
13 management, a recreational vehicle additionally is one built on a single chassis, four
14 hundred square feet or less when measured at the largest horizontal projection, and
15 designed to be self-propelled or permanently towable by a light-duty truck.

16 **Recreational vehicle park.** A place set aside and offered for the parking,
17 accommodation, or rental of five or more recreational vehicles or tents used as
18 seasonal or temporary living quarters for six months or less. See also "Campground."

19 **Recycling.** Any process by which solid waste, or materials that would otherwise
20 become solid waste, are collected, separated, or processed and reused or returned to
21 use in the form of raw materials or products.

22 **Redevelopment.** The removal and replacement, rehabilitation, or adaptive reuse of an
23 existing structure or structures, or the rehabilitation or adaptive reuse of land from which
24 previous improvements have been removed.

25 **Registered professional.** A professional registered or licensed by and in the State of
26 Florida and who possesses the expertise and experience necessary for the competent
27 preparation, submittal and certification of documents and materials, and performing of
28 other services required in support of permitting, constructing, altering, inspecting, and
29 operating a proposed or existing regulated use. Registered professionals include
30 engineers, architects, surveyors and mappers, and geologists.

31 **Repair services.** Services to mend or restore items after their extended use, decay,
32 breakdown, damage, or partial destruction. Repair services include motor vehicle
33 repair, bicycle repair, appliance and electronic device repair, gunsmiths, locksmiths,
34 upholstery services, furniture refinishing and repair, small engine and motor repair, and
35 watch, clock and jewelry repair, but do not include construction trades or building repair
36 activities.

37 **Research facility.** A facility for the conduct of investigation, study, examination,
38 development, testing, and similar inquiries in various fields of science and engineering.

1 **Residential use.** Any regular use of a building by its occupants as a permanent home
2 or place of abode, whether for household living or group living. Residential uses
3 include single-family detached or attached dwellings, two-family and multi-family
4 dwellings, dormitories, and nursing homes, but do not include any public lodging, tents,
5 tourist cabins, day care, hospitals, correctional facilities, homeless shelters, or
6 recreational vehicles.

7 **Resort.** A facility for transient guests where the primary attractions are recreational
8 features or activities.

9 **Resource recovery.** The process of recovering materials or energy from solid waste,
10 excluding those materials or solid waste under the control of the Nuclear Regulatory
11 Commission.

12 **Restaurant.** A retail establishment in which the principal use is the preparation and
13 sale of food and beverages, typically served and consumed on the premises and
14 within the principal building, but also including take-out, fast food, drive-in and other
15 forms of service and consumption.

16 **Restrictive covenants.** Private restrictions recorded with a subdivision plat
17 or parcel deed which limit or otherwise govern the use, intensity, and development
18 patterns of the land within the subdivision or parcel for a specified time.

19 **Retail sales.** The direct selling or renting of new or used goods or merchandise
20 primarily to the general public for personal or household use or consumption, but also
21 to businesses and other end users, and the provision of services incidental to such
22 sales or rentals. Retail trade is characterized by an establishment that is usually a
23 place of business and engaged in activity to attract buyers, that buys and receives as
24 well as sells merchandise, that sells to customers for their own use, and that may
25 process or manufacture some products incidental or subordinate to the principal
26 selling activities.

27 **Retail services.** Services provided directly and primarily to the general public for
28 personal or household use, but also to business and industry, and including products
29 that are incidental to the services and usually consumed on the premises. The term
30 "retail services" includes restaurants, public lodging, personal services, professional
31 services, and repair services.

32 **Rezone or rezoning.** An amendment to the Official Zoning Map of Escambia County
33 to effect a change in the adopted zoning district of a designated parcel or land area.

34 **Right-of-way.** An area of land occupied or intended to be occupied by a street,
35 walkway, railroad, utility, drainage facility, or similar use. For the purposes of platting,
36 the term "right-of-way" refers to land that is separate and distinct from adjoining
37 parcels. Most generally, the term refers to the specific right of a person to pass over
38 the land of another.

1 **Road or roadway.** See "Street."

2 **Roof sign.** A sign that is mounted on the roof of a building or which is wholly
3 dependent upon a building for support and which projects above the point of a building
4 with a flat roof, the eave line of a building with a gambrel, gable or hip roof of the deck
5 line of a building with a mansard roof.

6 **Runway protection zone.** An area at ground level beyond the runway end to
7 enhance the safety and protection of people and property on the ground.

8 **Riverine system.** A generally linear aquatic community of non-tidal waters with a
9 discrete channel, including rivers, tributaries, creeks, and intermittent streams. The
10 landward extent of a riverine system is defined by ordinary high water.

11 **Runway.** The defined area on an airport or airfield prepared for landing and takeoff of
12 aircraft along its length.

13 **Rural.** A sparsely developed area where most land is undeveloped or primarily used for
14 agricultural purposes.

15 **Section 3. Severability.**

16 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
17 unconstitutional by any Court of competent jurisdiction, then said holding shall in no way
18 affect the validity of the remaining portions of this Ordinance.

19
20 **Section 4. Inclusion in Code.**

21 It is the intention of the Board of County Commissioners that the provisions of this
22 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
23 subsections and other provisions of this Ordinance may be renumbered or re-lettered
24 and the word "ordinance" may be changed to "section," "chapter," or such other
25 appropriate word or phrase in order to accomplish such intentions.

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Section 5. Effective Date.

This Ordinance shall become effective upon filing with the Department of State.

DONE AND ENACTED this _____ day of _____, 2017.

**BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA**

By: _____

D.B. Underhill, Chairman

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

By: _____
Deputy Clerk

(SEAL)

**ENACTED:
FILED WITH THE DEPARTMENT OF STATE:
EFFECTIVE DATE:**



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

6. B.

Meeting Date: 05/02/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending the 2030 Comprehensive Plan Chapter 3 Definitions, and Chapter 8 Mobility Element

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending the 2030 Comprehensive Plan Chapter 3 Definitions, and Chapter 8 Mobility Element

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption, an Ordinance to the Comprehensive Plan Chapters 3, Definitions and Chapter 8, Mobility, to include definitions and to establish a permitting process for airport obstruction notification zones.

BACKGROUND:

If an airport is owned or controlled by a political subdivision and if any other political subdivision has land upon which an obstruction may be constructed or altered which underlies any surface of the airport as provided in 14 C.F.R. part 77, sub-part C, the political subdivisions shall either by inter-local agreement, adopt, administer, and enforce a set of airport protection zoning regulations; or create a joint airport protection zoning board.

Florida Statute 333.03(2)-Political subdivision shall adopt, administer, and enforce land use compatibility zoning regulations, which a minimum address:

- Landfills
- Prohibition of incompatible uses where airport has conducted a noise study in accordance with 14 C.F.R. part 150 or another public study approved by FAA.
- Criteria should address prohibition of residential construction and any educational facility.
- Political subdivision should also develop criteria for incompatible uses within runway protection zones.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith D. Crawford, Assistant County Attorney. Any recommended legal comments are attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

The proposed Ordinance is consistent with the Board’s goal “to increase citizen involvement in, access to, and approval of, County government activities.”

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the board.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney’s Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: CPA-2017-01 Airport language

Date: 4/20/17

Date requested back by: _____

Requested by: JC Lemos

Phone Number: 595-3467



(LEGAL USE ONLY)

Legal Review by M. Crawford

Date Received: 4/20/17

Approved as to form and legal sufficiency.

Not approved.

Make subject to legal signoff.

Additional comments:

ORDINANCE NUMBER 2017-____

AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING PART II OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE ESCAMBIA COUNTY COMPREHENSIVE PLAN: 2030, AS AMENDED; AMENDING CHAPTER 3 DEFINITIONS, SECTION 3.04, TO INCLUDE DEFINITIONS RELATED TO AIRPORTS, AIRPORT HAZARDS, AIRPORT OBSTRUCTION NOTIFICATION ZONES, AND RUNWAY PROTECTION ZONES; AMENDING CHAPTER 8, MOBILITY ELEMENT, CREATING SECTION MOB 4.1.2, ESTABLISHING PERMITTING PROCESSES FOR AIRPORT OBSTRUCTION NOTIFICATION ZONES AND RUNWAY PROTECTION ZONES; AMENDING MOB 4.13, INCOMPATIBLE DEVELOPMENT, TO INCLUDE RUNWAY PROTECTION ZONES; PROVIDING FOR A TITLE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 163, Part II, Florida Statutes, Escambia County adopted its Comprehensive Plan on April 29, 2014; and

WHEREAS, Chapter 125, Florida Statutes, empowers the Board of County Commissioners of Escambia County, Florida to prepare, amend and enforce comprehensive plans for the development of the County; and

WHEREAS, the Board of County Commissioners finds that modifying the language to meet the requirements of Chapter 333, Florida Statutes, is necessary and serves an important public purpose; and

WHEREAS, the Escambia County Planning Board conducted a public hearing and forwarded a recommendation to the Board of County Commissioners to approve this amendment to its Comprehensive Plan; and

WHEREAS, the Board of County Commissioners of Escambia County, Florida finds that the adoption of this amendment is in the best interest of the County and its citizens;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Escambia County, Florida, as follows:

Section 1. Purpose and Intent

This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set out in, the Community Planning Act, Sections 163.3161 through 163.3215, Florida Statutes.

1
2 **Section 2. Title of Comprehensive Plan Amendment**

3
4 This Comprehensive Plan amendment shall be entitled – "CPA 2017-01-Airport
5 Language Text Amendment."
6

7 **Section 3. Amendment to Definitions**

8
9 Chapter 3, Section 3.04, Definitions of the Escambia County Comprehensive Plan 2030
10 is hereby amended as follows: (deletions shown as ~~strike-thru~~; additions are underlined)
11

12 **Section 3.04 Definitions.**

13
14 **Airport:** Means any area of land or water designed and set aside for the landing and
15 taking off of aircraft and use or to be used in the interest of the public for such purpose.
16

17 **Airport hazard:** Means an obstruction to air navigation which affects the safe and
18 efficient use of navigable airspace or the operation of planned or existing air navigation
19 and communication facilities.
20

21 **Airport hazard area:** Means any area of land or water upon which an airport hazard
22 might be established.
23

24 **Airport obstruction:** Means any existing or proposed object, terrain, or structure
25 construction or alternation that exceeds the federal obstruction standards contained in
26 the 14 C.F.R. part 77, subpart C, as may be amended. This term includes: any object of
27 natural growth or terrain; permanent or temporary construction or alteration, including
28 equipment or materials used and any permanent or temporary apparatus; or alteration
29 of any permanent or temporary existing structure by a change in the structure's height,
30 including appurtenances, lateral dimensions, and equipment or materials used in the
31 structure.
32

33 **Airport Obstruction Notification Zone:** A zone established around any airport to
34 regulate airport hazard areas and airport obstructions.
35

36 **Avigation easement:** An easement that gives a clear property right to maintain flight
37 operations in the airspace above the property.

38 **Buffer:** A designated area with natural and/or manmade features functioning to
39 minimize or eliminate adverse impacts on adjoining land uses or wetlands, as defined
40 by Florida Statutes.

41 **Commercial use:** Any non-residential use that is typically carried out for the
42 purpose of monetary gain, including, but not limited to, any business use or
43 activity at a scale greater than a home occupation.

- 1 **Compact development:** A development pattern typically featuring narrow
2 streets, multifunction structures (such as residential over retail), multifamily
3 housing, front porches, small lots, wide sidewalks, neighborhood parks,
4 community landscaping, easily walkable distances from residences to local
5 commercial uses, places of employment, and schools.
- 6 **Concurrency:** The condition or circumstance that, at the time that new demands are
7 placed on public facilities, facility capacities will meet or exceed the adopted level of
8 service (LOS) standards established by the Comprehensive Plan.
- 9 **Conservation:** The act of preserving, guarding, or protecting; keeping in a safe or
10 entire state; preservation.
- 11 **Conservation subdivision:** A form of residential subdivision characterized by
12 clustered compact lots, common open space and natural features, used to protect
13 agricultural lands, open space or other natural or historical resources while allowing for
14 the maximum number of dwellings under applicable zoning and subdivision regulations.
- 15 **Deficiencies:** Inadequacies, insufficiencies, or the falling short of a prescribed norm.
- 16 **Density:** An objective measurement of the number of people or residential units
17 allowed per unit of land, such as residents or employees per acre. -
- 18 **Development:** The carrying out of any building activity or mining operation, the making
19 of any material change in the use or appearance of any structure or land, or the
20 dividing of land into three or more parcels. Specific activities or uses involving or
21 excluded from development are defined in Florida Statutes.
- 22 **Enhance:** To make greater, as regards value, beauty, or effectiveness; to augment.
- 23 **Environmentally sensitive lands:** Those areas of land or water that are determined
24 by the BCC as being necessary to conserve or protect natural habitats and ecological
25 systems. The following classifications are those that have been determined by
26 Escambia County to be environmentally sensitive:
- 27 a. Wetlands as defined herein and wetlands as defined by the U.S. Army
28 Corps of Engineers.
- 29 b. Shoreline Protection Zones.
- 30 c. Aquatic preserves and the Escambia River Management Area.
- 31 d. Outstanding Florida Waters as defined by Rule 62.302.700 Florida
32 Administrative Code and as defined and approved by the Florida
33 Legislature.
- 34 e. Habitats of threatened or endangered species as defined by the
35 U.S. Fish and Wildlife Service (USFWS), the Florida Fish and Wildlife
36 Conservation Commission (FWC), or other state or federal agencies.
- 37 f. Essential Fishery Habitat (EFH), including seagrasses.
- 38 g. Floodplain areas defined on the FEMA Flood Insurance Rate Map (FIRM)
39 as areas of special flood hazard subject to a one percent annual chance of
40 flooding.

1 h. Potable water wells, cones of influence, and potable water well fields.

2
3 **Existing communities:** Established residential or mixed-use areas; developed land
4 that contains homes, businesses, and/or other civic and community uses.

5 **Farm worker:** A person who works on, but does not own, a farm; an agricultural
6 laborer (may be permanent or temporary).

7 **Financial feasibility:** The ability of a proposed land use or change of land use to
8 justify itself from an economic point of view.

9 **Floodway:** The channel of a river or other watercourse and the adjacent land areas
10 that must be reserved to discharge the base flood without cumulatively increasing
11 the water surface elevation more than one foot.

12 **Floor Area Ratio (FAR):** A standard measure of the intensity of non-residential land
13 use, calculated by dividing the total gross floor area of all structures on a lot by the total
14 area of the lot.

15 **Group home/group home facility:** An occupied residence, licensed by the State of
16 Florida, in which a family living environment is provided for six or fewer unrelated
17 residents with developmental disabilities as defined in Florida Statutes, including such
18 supervision and care by support staff as may be necessary to meet the physical,
19 emotional, and social needs of its residents.

20 **Hazardous material:** A poison, corrosive agent, flammable substance, explosive,
21 radioactive chemical, or any other material that can endanger human or animal health
22 or wellbeing if handled improperly.

23 **Hazardous waste:** Material or a combination of materials that require special
24 management techniques because of their acute and/or chronic effects on air and
25 water quality; on fish, wildlife, or other biota; or on the health and welfare of the public.
26 Such materials include, but are not limited to, volatile, chemical, biological, explosive,
27 flammable, radioactive and toxic materials regulated pursuant to Chapter 62-730,
28 Florida Administrative Code.

29 **Historic/cultural resource:** Any prehistoric or historic district, site, building, object, or
30 other real or personal property of historical, architectural, or archaeological value as
31 well as all folk life resources. These properties or resources may include, but are not
32 limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned
33 settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts,
34 or other objects with intrinsic historical or archaeological value, or any part thereof,
35 relating to the history, government, and culture of the state.

36 **Impervious surface:** Any surface that does not allow, or that minimally allows, the
37 penetration of water and that is highly resistant to infiltration by water.

1 **Impervious surface ratio:** A standard measure of the intensity of land use calculated
2 by dividing the total area of all impervious surfaces within a lot by the total area of the
3 lot.

4 **Incompatible/compatible development:** Incompatible development is new
5 development proposed to be constructed next to existing development wherein the
6 proximity of the two kinds of development would each diminish the usefulness of the
7 other or would be detrimental to existing operations. The incompatibility can arise
8 from either land use or structure size and design.

9 Compatible development is new development proposed to be constructed next to
10 existing development in which the proximity of the two kinds of development would
11 each complement or enhance the usefulness of the other.

12 **Infill development:** The development of new housing or other land uses on vacant or
13 underutilized land in existing developed areas which focuses on the reuse and
14 repositioning of obsolete or underutilized buildings and sites.

15 **Infrastructure:** Facilities and services needed to sustain land use activities, including
16 but not limited to roads, potable water service, wastewater service, solid waste
17 facilities, stormwater management facilities, power grids, telecommunication facilities,
18 and public schools.

19 **Invasive species:** A non-indigenous or exotic species that is not native to the
20 ecosystem under consideration and that has the ability to establish self-sustaining,
21 expanding, free-living populations that may cause economic and/or environmental
22 harm or harm to human health.

23 **Low-impact landscaping:** Landscape design practices that apply Florida-Friendly
24 landscaping principles to reduce water consumption, the use of horticultural chemicals,
25 the loss of native vegetation and wildlife habitat, stormwater runoff, and other negative
26 environmental impacts.

27 **Mitigation:** Methods used to alleviate or lessen the impact of development.

28 **Mixed-use:** Any use that includes both residential and nonresidential uses.

29 **Mobile/manufactured home:** A complete, factory-built, single-family dwelling
30 constructed in accordance with the federal Manufactured Housing Construction and
31 Safety Standards (the HUD Code) and transportable in one or more sections on a
32 permanent chassis for site installation with or without a permanent foundation. *Mobile*
33 *home* is the term used for manufactured homes built prior to June 15, 1976 when the
34 HUD Code became effective.

35 **Multi-family development:** Residential development containing multi-family dwellings
36 exclusively or predominantly.

37
38 **Multi-modal:** A transportation system that involves multiple methods of transporting
39 people and/or goods; this may include pedestrian activity, bicycling, transit (buses
40 and/or rail), and the automobile.

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2 **Native vegetation:** Vegetation that exists naturally, without intervention by humans, in
3 a specific geographic area.

4 **Natural resources:** Resources provided by the natural environment, including air,
5 water, soils, wetlands, beaches, flood plains, forests, fisheries, wildlife, and any other
6 such environmental resource identified by Florida Statutes for conservation and
7 protection.

8 **Non-conforming use:** Any lawfully established use of a structure, land, or water, in
9 any combination that does not conform to the land use regulations of the zoning district
10 or future land use category in which the use is located.

11 **Non-residential use:** A use characterized by the absence of residences and the
12 presence of primary land uses that include retail, commercial, office, industrial, civic or
13 recreation uses.

14 **Open space:** Land or portions of land preserved and protected, whether public or
15 privately owned and perpetually maintained and retained for active or passive
16 recreation, for resource protection, or to meet lot coverage requirements. The term
17 includes, but is not limited to, required yards, developed recreation areas and
18 improved recreation facilities, natural and landscaped areas, and common areas.

19 **Paratransit system:** A form of public transportation service characterized by the
20 flexible routing and scheduling of small vehicles such as taxis, vans and small buses,
21 to provide shared-occupancy, doorstep or curbside personalized transportation
22 service.

23 **Performance-oriented controls:** A set of criteria or limits relating to certain
24 characteristics that a particular use or process may not exceed; these regulations are
25 based upon the intensity and impacts of an activity, rather than land use.

26 **Preserve:** To protect natural resources and/or historic and cultural resources from the
27 negative impacts of human activity, including land development or natural resource
28 extraction, such as mining or logging. Preservation may include permanently
29 protecting land, structures and/or wetlands and water bodies via purchase,
30 conservation easement, regulations, or other methods, and it may include the
31 restoration and management of natural or historic resources.

32 **Primary dune:** The first natural or manmade dune located landward of the beach with
33 sufficient vegetation, height, continuity, and configuration to offer protective value. The
34 landward extent occurs at the point in which there is a distinct change from a relatively
35 steep slope to a relatively mild slope.

36 **Public use airport:** Means an airport, publicly or privately owned, licensed by the State,
37 which is open for use by the public.

38
39 **Redevelopment:** The removal and replacement, rehabilitation, or adaptive reuse of
40 an existing structure or structures or of land from which previous improvements have
41 been removed.

- 1
- 2 **Residential use:** Any use for residences, domiciles, or dwellings, including, but
- 3 not limited to, single-family houses, townhouses, condominiums, and apartments.
- 4 **Restoration:** The act of repairing damage to a site with the aim of restoring the site as
- 5 closely as possible to its natural condition before it was disturbed.
- 6 **Revitalization:** The renewal and improvement of older commercial and residential
- 7 areas through any of a series of actions or programs that encourage and facilitate
- 8 private and public investment.
- 9 **Runway protection zone:** Means an area at ground level beyond the runway end to
- 10 enhance the safety and protection of people and property on the ground.
- 11
- 12 **Rural:** A sparsely developed area in which the land is primarily used for agricultural
- 13 purposes.
- 14 **Shoreline, Natural:** Undeveloped or restored areas of shoreline fronting the waters of
- 15 marine, estuarine, or riverine systems such as bays, bayous, rivers, and streams.
- 16 **Sprawl:** Haphazard growth of dispersed, leap-frog and strip development in suburbs
- 17 and rural areas and along highways; typically, sprawl is automobile- dependent, single
- 18 use, resource-consuming, and low-density development in previously rural areas and
- 19 disconnected from existing development and infrastructure.
- 20 **Street, collector:** A street providing service that is of relatively moderate traffic
- 21 volume, moderate trip length, and moderate operating speed and which distributes
- 22 traffic between local streets or arterial streets.
- 23 **Street, major arterial:** A street providing service that is relatively continuous and of
- 24 relatively high traffic volume, long trip length, and high operating speed. Note: Every
- 25 United States numbered highway is an arterial street.
- 26 **Street, minor arterial:** A street providing connections between major activity centers
- 27 of the county, which augments the major arterial system for local and inter-county
- 28 traffic by feeding traffic from collector and local street systems onto major arterials.
- 29 **Suburban area:** A predominantly low-density residential area located immediately
- 30 outside of an urban area or a city and associated with it physically and
- 31 socioeconomically.
- 32 **Threatened and endangered species habitat:** An area that contains, or shows
- 33 factual evidence of, a species that is listed as threatened, endangered, or a species of
- 34 special concern, including all such areas that are classified as critical habitat by the
- 35 Florida Fish and Wildlife Conservation Commission (FFWC).
- 36 **Urban area:** A highly developed area that contains a variety of industrial, commercial,
- 37 residential, and cultural uses.
- 38 **Urban forest:** Collectively, the trees and other vegetation within and around the
- 39 developed areas of the county.

1 **Water-dependent uses:** Uses that require access to water bodies, such as
2 commercial boating or fishing operations.

3 **Water-related uses:** Uses that do not require a waterfront location to function but are
4 often essential to the efficient functioning of water-dependent uses and can be
5 essential to their economic viability, such as shops, restaurants, parking, boat sales,
6 or fish processing plants.

7 **Wetlands:** Areas that are inundated or saturated by surface water or groundwater at a
8 frequency and duration sufficient to support, and that under normal circumstances do
9 or would support, a prevalence of vegetation typically adapted for life in saturated soils.
10 Soils present in wetlands generally are classified as hydric or alluvial, or they possess
11 characteristics that are associated with reducing soil conditions. The prevalent
12 vegetation in wetlands generally consists of facultative or obligate hydrophytic
13 macrophytes that are typically adapted to areas having the soil conditions described
14 above. These species, due to morphological, physiological, or reproductive
15 adaptations, have the ability to grow, reproduce, or persist in aquatic environments or
16 anaerobic soil conditions. Florida wetlands generally include, but are not limited to,
17 swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies,
18 riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove
19 swamps, and other similar areas. Florida wetlands generally do not include longleaf or
20 slash pine flatwoods with an understory dominated by saw palmetto.

21 **Wildlife habitat:** An area that offers feeding, roosting, breeding, nesting, and refuge
22 areas for a variety of existing and future native wildlife species.

23 24 **Section 4. Amendment to Chapter 8 Mobility Element**

25
26 Chapter 8, Mobility Element, Section OBJ MOB 4.1 Airport Master Plan of the Escambia
27 County Comprehensive Plan 2030 and Sections MOB 4.1.2 through MOB 4.1.5 are
28 hereby amended as follows: (deletions shown as ~~strike thru~~; additions are underlined)

29 30 **OBJ MOB 4.1 Airport Master Plan**

31 **Support the implementation activities set forth in the adopted airport master**
32 **plan for the Pensacola ~~Gulf Coast Regional~~ International Airport as directed by**
33 **the BCC.**

34 35 **POLICIES**

36
37 MOB 4.1.1 **Coordinated Land Uses.** Escambia County will coordinate adjacent
38 land uses with the City of Pensacola and the airport master plan to provide
39 development patterns that are compatible with airport development.

40
41 MOB 4.1.2 **Permitting.** Escambia County will develop and implement permitting
42 processes for Airport Obstruction Notification and Runway Protection Zones through

1 coordination with the City of Pensacola and the Pensacola International Airport. as
2 required by Chapter 333, Florida Statutes, as amended.

3
4 **MOB 4.1.23 Incompatible Development.** Escambia County will enforce adopted land
5 development regulations that restrict the height, density and intensity of development in
6 areas adjacent to the airport boundaries, runway protection zones, and clear zones to
7 ensure that incompatible land uses will not be allowed to encroach on airport facilities
8 and hinder airport activities.

9
10 **MOB 4.1.3 4 County Review.** Escambia County may review and comment on
11 proposed airport development and/or expansion that may impact the County.

12
13 **MOB 4.1.4 5 Stormwater Management.** Escambia County will work with the City of
14 Pensacola and Florida Department of Environmental Protection (FDEP) to ensure that
15 adequate stormwater management techniques are provided for existing and future
16 airport development.

17 **Section 5. Severability**

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19
20 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
21 unconstitutional by any Court of competent jurisdiction, the holding shall in no way affect
22 the validity of the remaining portions of this Ordinance.

23 **Section 6. Inclusion in the Code**

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25
26 It is the intention of the Board of County Commissioners that the provisions of this
27 Ordinance shall be codified as required by Section 125.68, Florida Statutes, and that
28 the sections, subsections and other provisions of this Ordinance may be renumbered or
29 re-lettered and the word "ordinance" may be changed to "section," "article," or such
30 other appropriate word or phrase in order to accomplish such intentions.

31 **Section 7. Effective Date**

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33
34 Pursuant to Section 163.3184(3)(c) 4, Florida Statutes, this Ordinance shall not become
35 effective until 31 days after the Department of Economic Opportunity notifies Escambia
36 County that the plan amendment package is complete. If timely challenged, this
37 Ordinance shall not become effective until the Department of Economic Opportunity or
38 the Administration Commission enters a final order determining the Ordinance to be in
39 compliance.

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DONE AND ENACTED this _____ day of _____, 2017.

BOARD OF COUNTY COMMISSIONERS
OF ESCAMBIA COUNTY, FLORIDA

By: _____
D. B. Underhill, Chairman

ATTEST: PAM CHILDERS
CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

(SEAL)
ENACTED:
FILED WITH THE DEPARTMENT OF STATE:

EFFECTIVE DATE:



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular

6. C.

Meeting Date: 05/02/2017

Issue: A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 4 Regarding Clustering Dwelling Units

From: Horace Jones, Director

Organization: Development Services

RECOMMENDATION:

A Public Hearing Concerning the Review of an Ordinance Amending LDC Chapters 3 and 4 Regarding Clustering Dwelling Units

That the Board review and recommend to the Board of County Commissioners (BCC) for adoption an Ordinance amending the Land Development Code (LDC), Chapters 3 and 4, to establish conditions for the clustering of dwelling units when avoiding significant protected resources.

BACKGROUND:

It is recognized that significant presence of wetlands, floodways, and other protected county resources within development parcels may reduce developable area and the resulting number of dwelling units possible under the site and building requirements of the applicable zoning. Measured flexibility in these requirements can aid in the clustering of dwelling units to more fully develop available residential density outside of such resources. Currently, the LDC identifies several conditions for clustering to avoid wetlands, but it does not identify those site and building requirements that may be varied and to what degree. Amendment of the LDC is necessary to create functional dwelling unit clustering provisions and expand them to other valued resources.

BUDGETARY IMPACT:

No budgetary impact is anticipated by the adoption of this Ordinance.

LEGAL CONSIDERATIONS/SIGN-OFF:

The attached Ordinance has been reviewed and approved for legal sufficiency by Meredith Crawford, Assistant County Attorney. Any recommendations or legal sufficiency comments made in that review are also attached herein.

PERSONNEL:

No additional personnel are required for implementation of this Ordinance.

POLICY/REQUIREMENT FOR BOARD ACTION:

Amendment of the LDC requires public hearing review and recommendation by the Board prior to action by the BCC. The proposed Ordinance is consistent with the Board’s goal “to increase citizen involvement in, access to, and approval of, County government activities.”

IMPLEMENTATION/COORDINATION:

This Ordinance, amending the LDC, will be filed with the Department of State following adoption by the BCC.

Implementation of this Ordinance will consist of an amendment to the LDC and distribution of a copy of the adopted Ordinance to interested citizens and staff.

The proposed Ordinance was prepared by the Development Services Department, in cooperation with the County Attorney’s Office and all interested citizens. The Development Services Department will ensure proper advertisement.

Attachments

Draft Ordinance

LEGAL REVIEW

(COUNTY DEPARTMENT USE ONLY)

Document: LDC Dwelling Unit Clustering

Date: 04-11-2017

Date requested back by: 04-13-2017

Requested by: Griffin Vickery

Phone Number: 595-3471



(LEGAL USE ONLY)

Legal Review by M. Cranford, JCA

Date Received: 4/12/17

X Approved as to form and legal sufficiency.

_____ Not approved.

_____ Make subject to legal signoff.

Additional comments:

1 **Section 1.** Part III of the Escambia County Code of Ordinances, the Land Development
2 Code of Escambia County, Chapter 3, Zoning Regulations, Article 1, General
3 Provisions, is hereby amended as follows (words underlined are additions and words
4 ~~stricken~~ are deletions):

5 **Sec. 3-1.5 Site and building requirements.**

6 **(a) Generally.** Each zoning district establishes its own site and building requirements
7 which define physical limits to the development of district parcels. These
8 requirements, in combination with other district provisions, the use and location
9 regulations of Chapter 4, and the general development standards of Chapter 5,
10 define the limits for all development within the district.

11 **(b) Modifications.** Except as may be authorized in this article for the clustering of
12 dwelling units, modifications~~Variances~~ to the strict application of site and building
13 requirements may only be granted according to the compliance review processes
14 prescribed in Chapter 2, and only if the variances maintain the stated purposes of
15 the applicable zoning district and are not otherwise excluded by provisions of the
16 LDC.

17 **(c) Street frontage.** For the application of site and building requirements and other
18 LDC provisions to any lot with no street frontage the Planning Official shall
19 determine a front lot line in consideration of lot orientation, access, and other
20 relevant conditions. The Planning Official shall also determine the appropriate rear
21 lot line for any lot with multiple street frontages.

22 **(d) Density.** The number of dwelling or lodging units allowed within a parcel is
23 determined by the product of the total development parcel area and the maximum
24 density allowed by the applicable zoning district. When the calculated number of
25 allowable units for a parcel results in a fraction greater than or equal to 0.5 units,
26 rounding to the next whole number is permitted to allow a maximum of one
27 additional unit. Regardless of the maximum density allowed, each existing lot of
28 record is vested for a single-family dwelling as the principal use.

29 **(e) Lot width and area.** All new lots shall provide the minimum width and area required
30 by the applicable zoning, except that parcels created for public utilities or preserved
31 for recreation, conservation, or open space need only have width sufficient for
32 access to that limited use. Any existing lot of record that contains less width or area
33 than required by the applicable zoning district may be used for any use allowed
34 within that district if the use complies with all other applicable regulations, including
35 buffering and use-specific minimum lot area.

36 **(f) Lot coverage.** The maximum amount of impervious and semi-impervious coverage
37 allowed for any lot is established by the minimum percent pervious lot coverage
38 required by the applicable zoning district. The amount allowed by zoning remains
39 subject to other limitations of the LDC and any approved stormwater management
40 plan for the lot.

1 **(g) Setbacks and yards.** The minimum setbacks and yards for structures are those
2 required by the applicable zoning district or as otherwise may be stipulated in SRIA
3 lease agreements for lands on Pensacola Beach.

4 **(1) Nonconformance.** For a structure that is nonconforming with regard to any
5 zoning required setback, a structural alteration, enlargement, or extension to it
6 that creates no greater encroachment by distance into the substandard setback
7 is not considered an increase in nonconformance and does not require a
8 variance.

9 **(2) Accessory structures.** Accessory structures shall be limited to side and rear
10 yards and be at least five feet from any interior side or rear lot line except where
11 specifically allowed as encroachments. Accessory dwellings shall be limited to
12 the setbacks required for the principal dwelling.

13 **(3) Distance between dwellings.** Where the applicable zoning district allows more
14 than one dwelling on a single lot, the minimum horizontal distance between such
15 dwellings shall not be less than twice the side yard distance required by the
16 district, and the minimum distance between any structures shall not be less than
17 the minimum required by the Florida Building Code.

18 **(4) Encroachments by building features.** Every part of a required yard shall be
19 open from its lowest point to the sky, unobstructed except for the ordinary
20 projection of sills, belt courses, cornices, buttresses, awnings, eaves and similar
21 building features. No such projection shall extend more than 24 inches into any
22 yard, except roof overhangs, awnings, outside stairways, and balconies which
23 may extend up to 48 inches into any yard provided the building setback is
24 otherwise at least 10 feet

25 **(5) Encroachment of porch or terrace.** An open, unenclosed and uncovered
26 paved terrace or a covered porch may extend into the required front yard no
27 more than 10 feet.

28 **(h) Structure heights.** The maximum structure heights allowed by the applicable
29 zoning district are modified by the following:

30 **(1) Agricultural structures.** Structures such as cotton gins, granaries, silos, and
31 windmills associated with permitted agricultural uses may exceed the district
32 height limits if not in conflict with any applicable airport or airfield height
33 restrictions.

34 **(2) Rooftop structures.** The district height limits do not apply to belfries, chimneys,
35 church spires, cooling towers, elevator bulkheads, flag poles, television reception
36 antennae, roof-mounted tanks, mechanical equipment rooms, or similar rooftop
37 structures that comply with all of the following conditions:

38 a. They do not separately or in combination with other rooftop structures exceed
39 10 percent of the horizontal roof area.

40 b. They do not exceed applicable airport or airfield height restrictions.

- 1 c. They do not exceed otherwise applicable height limitations by more than 15
2 feet or 10 percent of actual building height, whichever is greater.

3 **Sec. 3-1.7—Density bonuses.**

4 ~~(a) Generally.~~ A system for residential density bonuses is established to provide an
5 incentive for the private sector to voluntarily achieve some of the policies of the
6 Comprehensive Plan. Within system limits, increased densities are allowed for
7 properties in the LDR, MDR, HDR, HDMU, and Perdido Key zoning districts.
8 Proposed development that exceeds LDC requirements and standards is eligible for
9 density bonuses based on the options established in this section.

10 ~~(b) Point system.~~ For each point earned in compliance with the options of the density
11 bonus system, a 0.4 percent increase is authorized in the maximum density
12 otherwise allowed by the applicable zoning district, up to the maximum density
13 allowed by the applicable FLU category. For example, if 12 points are earned for
14 development with a 10 dwelling units per acre (du/acre) zoning district limit, the
15 bonus density is $0.004 \times 12 \times 10$ du/acre or 0.48 additional dwelling units per acre.
16 Density bonus points are earned through one or more of the following options:

17 ~~(1) Environmentally sensitive lands.~~ Donation of environmentally sensitive lands
18 to a public agency approved by the county, or dedication of a conservation
19 easement in perpetuity which encompasses environmentally sensitive lands,
20 earns two points per acre donated or reserved.

21 ~~(2) Public access to waters, beaches, and shores.~~ Donation of land to a public
22 agency approved by the county, or dedication and maintenance of a minimum
23 15-foot wide public access easement, for the provision of public access to public
24 waterways, beaches, or shores earns four points per accessway.

25 ~~(3) Water conservation.~~ Appropriate use of low water demand plants and native
26 vegetation in all landscaped areas earns two points per site or one point per acre
27 of qualifying land. The use of drip irrigation or other low water use methods of
28 landscape irrigation earns one point per site, and the use of treated wastewater
29 or "grey" water for irrigation earns one point per site or one point per acre
30 irrigated.

31 ~~(4) Affordable housing.~~ In a development that includes at least 30 dwelling units,
32 10 percent of the units assured by the approved plan to be affordable housing for
33 low to moderate income families earns three points, and 20 percent assured
34 affordable earns six points. If the development contains 50 or more dwelling units
35 and 20 percent qualify as affordable for low to moderate income, the applicant
36 may directly obtain a 5 percent increase in density. No more than 20 percent of
37 the units in a conventional housing development shall be credited for affordable
38 housing bonus points.

39 ~~(5) Redevelopment or adaptive reuse.~~ Existing non-residential structures
40 proposed for reuse as residential earn one point per five dwelling units. For
41 rehabilitation of existing multi-family residential structures and participation in
42 state or federal weatherization programs, one point is earned per five dwelling

1 units. These bonuses only apply to structures for which no notices of violation of
2 building or life safety codes have been issued, or where all deficiencies identified
3 in an initial notice have been corrected within the time specified in the notice and
4 no subsequent violation notices issued.

5 ~~(6) Provision of sidewalks and bikeways.~~ The provision of sidewalks or the
6 provision of bicycle paths or lane markings in developments where such facilities
7 are not otherwise required earns three points. If the facilities connect to an
8 existing commercial, office, service, or public recreation area within one-half mile
9 of the development, four points are earned.

10 ~~(7) Protection of historic resources.~~ Donation of land to a public agency
11 approved by the county for the purpose of preservation of sites or artifacts with
12 known archaeological or historic value, or the dedication of a conservation
13 easement in perpetuity for the preservation of such sites or artifacts, earns two
14 points per acre or site donated.

15 ~~(8) Provision of underground utilities.~~ The provision of underground utilities
16 earns one point for every four dwelling units served.

17 ~~(9) Clustering outside prime farmland.~~ Subdivision of parcels containing prime
18 farmland which plats lots entirely outside of that farmland and designates such
19 lands for agricultural or open space use earns three points per acre of prime
20 farmland set aside.

21 ~~(10) Clustering outside wetlands.~~ Subdivision of parcels containing jurisdictional
22 wetlands which plats lots entirely outside of the wetlands and designates such
23 lands for conservation or open space uses earns three points per acre of
24 wetlands set aside.

25 ~~(11) Tree preservation in subdivisions.~~ In subdivisions where at least 75 percent of
26 the protected trees within the required yards and any common open space are
27 preserved, one bonus point is earned for each 10 lots with protected trees on
28 them.

29 ~~(12) Retention ponds as amenities.~~ Wet retention ponds for subdivision stormwater
30 management which also provide true scenic amenities to the subdivision earn
31 one point for each four subdivision lots.

32 **Sec. 3-1.7 Clustering dwelling units.**

33 **(a) Purpose.** Where the presence of wetlands, floodways, and other protected
34 resources reduces the developable area of a parcel and effectively limits
35 development of the available number of dwellings units within the parcel, site and
36 building requirements of the applicable zoning district may be modified as prescribed
37 in this section through the applicable site plan or subdivision review process to
38 facilitate the clustering of additional units within the reduced area.

39 **(b) Eligible areas.** The provisions of this section apply to all areas of the county except
40 the Perdido Key and Pensacola Beach zoning districts, Airfield Influence Planning
41 Districts (AIPDs) as defined in Article 4 of Chapter 4, and any other area specifically

1 excluded by the LDC. Additionally, the adopted provisions of the Escambia County
2 Mid-West Optional Sector Plan prevail for any development subject to that plan.

3 **(c) Eligible development.** The provisions of this section apply to any dwelling units,
4 attached or detached, within any proposed predominantly residential development
5 allowed by the applicable zoning and on contiguous lands under unified control as
6 these terms are defined in Chapter 6.

7 **(d) Eligible resources.** The provisions of this section apply to protected resources
8 within eligible areas and development. Except as may be authorized through the
9 PUD process prescribed in Chapter 2, modifications to facilitate clustering require
10 that the contiguous area of one of the following resources comprises no less than 25
11 percent of the gross development parcel area and complies with the other conditions
12 applicable to that resource:

13 **(1) Environmentally sensitive lands.** For lands containing wetlands or the habitat
14 of threatened or endangered species as defined for the natural resources
15 regulations in Chapter 4, the platting of lots and all other development must be
16 largely upland of the wetlands and outside of the habitat. No less than 90
17 percent of the resource area must remain undisturbed and preserved as more
18 particularly prescribed in the environmental provisions of the DSM.

19 **(2) Floodways.** For lands containing a floodway as defined for the floodplain
20 management regulations in Chapter 4, the platting of lots and all other
21 development must be entirely outside of the floodway.

22 **(3) Prime farmland.** For lands containing prime farmland as defined in Chapter 6,
23 the platting of lots and all other development must be entirely outside of the
24 prime farmland. Additionally, any subdivision shall designate the resource area
25 on the plat for agricultural or undeveloped open space use.

26 **(4) Historical resources.** For lands containing historical or archeological resources
27 as defined for those resource regulations in Chapter 4, the platting of lots and all
28 other development must be entirely outside of those resource areas.
29 Additionally, the sites and artifacts of those resources shall be protected by the
30 dedication of a perpetual conservation easement for their preservation, or by the
31 donation of land to a public agency approved by the county for the preservation
32 of resources with known historical or archaeological value.

33 **(e) Eligible modifications.** The provisions of this section apply to modifications of
34 specific site and building requirements of the applicable zoning district. The
35 maximum number of dwelling units available within a development remains the
36 product of the gross development parcel area and the maximum density of the
37 district, but the following requirements may be modified within the stated limits:

38 **(1) Lot width.** Except within the LDR zoning district, the minimum lot width may be
39 reduced by up to 10 percent, but to no less than 20 feet for cul-de-sac lots and
40 40 feet for all other lots.

41 **(2) Side setbacks.** The minimum side structure setbacks may be reduced by up to
42 10 percent, but to no less than five feet.

1 **(3) Distance between buildings.** The minimum distance between dwellings on the
2 same parcel, prescribed in this article as twice the minimum side structure
3 setback, may be reduced by up to 10 percent based on the unmodified side
4 setback of the zoning district and subject to any prevailing structure separation
5 requirements of the Florida Building Code.

6
7 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land Development
8 Code of Escambia County, Chapter 4, Location and Use Regulations, Article 5, Natural
9 Resources, is hereby amended as follows (words underlined are additions and words
10 ~~stricken~~ are deletions):

11 **Sec. 4-5.2 General provisions.**

12 **(a) Approval required.** All land uses and development activities which impact
13 environmentally sensitive lands require prior county review and approval for
14 compliance with the regulations of this article unless the use or activity is specifically
15 identified in the Land Development Code (LDC) as exempt from these regulations.
16 The Board of County Commissioners (BCC) has determined the following land and
17 water resources to be environmentally sensitive lands:

18 **(1)** Wetlands as defined by the State of Florida.

19 **(2)** Shoreline protection zones as defined in this article.

20 **(3)** Aquatic preserves and the Escambia River Wildlife Management Area as defined
21 or authorized by Florida Statutes.

22 **(4)** Outstanding Florida Waters as listed in the rules of Florida Administrative Code
23 (Ch. 62-302.700).

24 **(5)** Habitats of threatened and endangered species as defined by the U.S. Fish and
25 Wildlife Service (FWS), the Florida Fish and Wildlife Conservation Commission
26 (FWC), or other state or federal agencies.

27 **(6)** Essential fish habitat, including seagrasses, defined as those waters and
28 substrate necessary for fish to spawn, breed, feed, or grow to maturity. (See
29 Magnuson-Stevens Act, 16 U.S.C. 1802 (101)).

30 **(7)** Floodplain areas identified on the Federal Emergency Management Agency's
31 Flood Insurance Rate Map as areas of special flood hazard subject to a one
32 percent or greater annual chance of flooding.

33 **(8)** Wellhead protection areas as defined in this article, including potable water wells,
34 cones of influence, and potable water well fields.

35 **(9)** Surface waters identified as impaired under Section 303(d) of the Clean Water
36 Act

37 **(b) Modification of regulations.** Variances to the strict application of the regulations of
38 this article may only be granted according to the compliance review processes of

1 Chapter 2, and only if such modifications maintain the stated purposes of this article,
2 are specifically allowed by its provisions, and comply with all stated conditions.

3 **(c) Environmental trust fund.** The Escambia County Environmental Lands Trust Fund
4 (ECELTF) is established for use in managing wetlands and other environmentally
5 sensitive lands in the county. The county is authorized and directed here to
6 establish the fund and to receive and disburse all monies according to the following
7 provisions:

8 **(1) Fund sources.** The ECELTF shall receive monies from the following sources:

9 a. All revenues collected pursuant to mitigation and enforcement of this article.

10 b. All monies accepted by Escambia County in the form of grants, allocations,
11 donations, contributions, or appropriations for the acquisition, restoration,
12 enhancement, management, mapping, and/or monitoring of environmentally
13 sensitive lands.

14 c. All interest generated from the deposit or investment of ECELTF monies.

15 **(2) Fund maintenance and disbursements.** The ECELTF shall be maintained in
16 trust by the county solely for the purposes prescribed here, in a separate and
17 segregated fund of the county that shall not be commingled with other county
18 funds until disbursed, and only disbursed for the following purposes:

19 a. Acquisition (including by eminent domain), restoration, enhancement,
20 management, mapping, and/or monitoring of environmentally sensitive lands
21 and conservation easements within Escambia County.

22 b. All costs associated with acquisitions, including appraisals, surveys, title
23 search work, real property taxes, documentary stamps, surtax fees, and other
24 transaction costs.

25 c. Costs of administering the activities enumerated in this section.

26 **(d) Resource identification.** Where the potential for on-site wetlands or the habitat of
27 threatened or endangered species is indicated, a site-specific survey shall be
28 conducted and shall include the delineation of all such lands on the subject parcel.
29 The survey shall be evaluated for the protection of significant resources prior to
30 clearing, grading or other alterations, and the delineations shall be used in the
31 determination of buildable area on the lot or parcel.

32 **(e) Avoidance, minimization, and mitigation.** If a proposed land use or development
33 activity includes impacts to protected natural resources, the application for county
34 compliance review and approval shall include written documentation that adverse
35 impacts to those resources have been avoided to the maximum extent practicable.
36 For unavoidable adverse impacts, the application shall demonstrate that the impacts
37 have been minimized to the greatest extent practicable. Only with such
38 demonstration will the county review and consider a mitigation plan for those
39 impacts.

40 **(1) Clustering.** Where lands proposed for predominantly residential development
41 contain wetlands or the habitat of threatened or endangered species,

1 ~~development dwelling units may be clustered within non-environmentally~~
2 ~~sensitive areas as prescribed in Article 1 of Chapter 3 to more fully develop~~
3 ~~available density on the remainder of the parcel and avoid adverse impacts on~~
4 ~~the resources. to avoid adverse impacts and promote full utilization of property~~
5 ~~rights. This provision overrides any provision in Chapter 3 zoning regulations~~
6 ~~that would otherwise prohibit clustering, with the exclusion of any AIPD areas.~~

7 **(2) Mitigation.** A land use or development activity shall not cause a net adverse
8 impact on resource functions that is not offset by mitigation. Methods to
9 compensate for adverse direct or indirect impacts are required when uses or
10 activities degrade estuaries, wetlands, surface waters, submerged aquatic
11 vegetation, threatened and endangered species habitat and other protected
12 natural resources.

13 **(3) Mitigation plans.** A mitigation plan shall be submitted to the County and
14 include provisions for the replacement of the predominant functional values of
15 the lost resources, specify the criteria by which success will be measured, and
16 specify any necessary maintenance entity and its responsibilities.

17
18 **Section 3.** Part III of the Escambia County Code of Ordinances, the Land Development
19 Code of Escambia County, Chapter 4, Location and Use Regulations, Article 6,
20 Historical and Archaeological Resources, is hereby amended as follows (words
21 underlined are additions and words ~~stricken~~ are deletions):

22 **Sec. 4-6.2 General provisions.**

23 **(a) Identification of resources.** The potential for on-site historical and archeological
24 sites shall be determined through review of the Florida Master Site File, Florida's
25 official inventory of historical and cultural resources maintained by the Florida
26 Department of State, and probability maps found in the technical manual.

27 **(b) Protection required.** To protect historical and archeological sites, land uses and
28 development activities require prior county review and approval for compliance with
29 the regulations of this article unless the use or activity is specifically identified in the
30 LDC as exempt from these regulations. Additionally, these regulations apply to any
31 historical or archeological artifact discovered during any phase of construction until
32 such time as the artifact has been protected or proven insignificant.

33 **(c) Cessation of activities.** Any time historical or archeological artifacts or resources
34 are discovered during the process of construction or development activities, such
35 activities impacting the artifact or resource shall immediately cease until such time
36 as a determination of significance has been provided.

37 **(1) Partial cessation.** If the location of the artifact or resource is such that the area
38 can be protected while construction or development activities continue elsewhere
39 on the site, such protection shall be allowed. However, if the location or nature of
40 the artifact or resource is such that any site disturbing activities would impact the
41 artifact or resource, then activities on the entire site shall cease.

1 **(2) Extension of approval time.** If the cessation of construction or development
2 activities goes beyond the time limits established by development orders,
3 building permits or any other county approvals issued according to the provisions
4 of the LDC, then the time for completion of such activities shall be extended to
5 allow for the successful completion of the development or construction.

6 **(d) Determination of significance.**

7 **(1) Artifacts.** The determination of whether or not an artifact is of significant
8 importance and afforded protection by federal or state regulation shall be
9 concluded no later than ten business days after discovery and notification to the
10 county.

11 **(2) State approved.** The determination of the significance of any artifact or
12 historical or archeological evidence found on any construction site or on any site
13 listed on the Florida Master Site File shall be made by those persons, firms or
14 corporations approved to make such determination by the Florida Department of
15 State, Division of Historical Resources.

16 **(e) Available resources.** The county shall use any available resources of the Florida
17 Department of State, Division of Historical Resources, in the identification of historic
18 structures within the county. The county will utilize guidance, direction and technical
19 assistance received from the agency to insure protection of identified historic
20 structures, sites and areas. Additionally, the county will utilize state assistance
21 together with the assistance of the University of West Florida and others in
22 identifying newly discovered historic or archeological resources. The identification
23 will include an analysis to determine the significance of the resource.

24 **(f) Clustering.** Where lands proposed for predominantly residential development
25 contain historical or archeological resources, the dwelling units may be clustered as
26 prescribed in Article 1 of Chapter 3 to more fully develop available density on the
27 remainder of the parcel and avoid adverse impacts on the resources. ~~Clustering~~
28 ~~provisions found in Article 5 may be utilized for this resource.~~

29
30 **Section 4. Severability.**

31 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
32 unconstitutional by any Court of competent jurisdiction, then said holding shall in no way
33 affect the validity of the remaining portions of this Ordinance.

34
35 **Section 5. Inclusion in Code.**

36 It is the intention of the Board of County Commissioners that the provisions of this
37 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
38 subsections and other provisions of this Ordinance may be renumbered or re-lettered
39 and the word "ordinance" may be changed to "section," "chapter," or such other
40 appropriate word or phrase in order to accomplish such intentions.

1 **Section 6. Effective Date.**

2 This Ordinance shall become effective upon filing with the Department of State.

3

4 **DONE AND ENACTED** this _____ day of _____, 2017.

5

6

**BOARD OF COUNTY COMMISSIONERS
ESCAMBA COUNTY, FLORIDA**

7

8

9

By: _____

10

D. B. Underhill, Chairman

11

12

**ATTEST: PAM CHILDERS
Clerk of the Circuit Court**

13

14

15

By: _____

16

Deputy Clerk

17

(SEAL)

18

19

ENACTED:

20

FILED WITH THE DEPARTMENT OF STATE:

21

EFFECTIVE DATE:

22



BOARD OF COUNTY COMMISSIONERS
Escambia County, Florida

Planning Board-Regular
Meeting Date: 05/02/2017

7. A.

Agenda Item:

Spot Zoning Discussion.

Attachments

Draft Ordinance

1 The review and reconsideration of current rezoning conditions was prompted
2 largely by the uncertain meaning and allowance of so-called “spot zoning.” More
3 particularly, whether is a legal term referring to an invalid practice, or only a
4 descriptive term that refers to zoning that may be valid or invalid depending on
5 particular facts and circumstances. The condition of spot zoning is included
6 among the proposed changes, but it is not central to those changes. The focus of
7 the ordinance is the entire set of conditions necessary to recommend and approve
8 an amendment to the zoning district map (rezoning).

9 This is a discussion version of the ordinance that includes bracketed notes
10 following most proposed changes to explain the intent of those changes.

11
12 **ORDINANCE NUMBER 2017-_____**

13
14 **AN ORDINANCE OF ESCAMBIA COUNTY, FLORIDA, AMENDING**
15 **PART III OF THE ESCAMBIA COUNTY CODE OF ORDINANCES, THE**
16 **LAND DEVELOPMENT CODE OF ESCAMBIA COUNTY, FLORIDA, AS**
17 **AMENDED; AMENDING CHAPTER 2, DEVELOPMENT AND**
18 **COMPLIANCE REVIEW, ARTICLE 7, LDC AND COMPREHENSIVE**
19 **PLAN AMENDMENT, TO MODIFY APPROVAL CONDITIONS FOR**
20 **ZONING MAP AMENDMENT (REZONING APPLICATION); AMENDING**
21 **CHAPTER 6, DEFINITIONS, TO DEFINE “SPOT ZONING”; PROVIDING**
22 **FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE;**
23 **AND PROVIDING FOR AN EFFECTIVE DATE.**

24
25 **WHEREAS**, the Legislature of the State of Florida has, in Chapter 125, Florida
26 Statutes, conferred upon local governments the authority to adopt regulations designed
27 to promote the public health, safety, and general welfare of its citizenry; and

28 **WHEREAS**, the Escambia County Board of County Commissioners finds that
29 logical and orderly land development patterns promote the public health, safety, and
30 general welfare; and

31 **WHEREAS**, the Board has, within the regulations of the Land Development
32 Code, established zoning districts to implement the general land development patterns
33 prescribed by the future land use categories of the Comprehensive Plan; and

34 **WHEREAS**, the Board has, within the Land Development Code, established a
35 rezoning process to amend existing zoning district boundaries where such amendments
36 demonstrate the rezoning would contribute to or result in a logical and orderly
37 development pattern; and

38 **WHEREAS**, the Board recognizes that within the rezoning process there remains
39 confusion regarding use of the term “spot zoning” and, if used, whether the term is only
40 descriptive or is a legal term of art referring to a practice that is invalid; and

1 **WHEREAS**, the Board finds that isolated or spot zoning, while requiring greater
2 justification within the rezoning process, may serve a beneficial purpose and need not
3 be prohibited; and

4 **WHEREAS**, the Board finds that, since the April 16, 2015, adoption of the Land
5 Development Code, amendments to more effectively evaluate rezoning applications on
6 the basis of logical and orderly development patters are beneficial to the public;

7
8 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
9 **COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA:**

10
11 **Section 1.** Part III of the Escambia County Code of Ordinances, the Land Development
12 Code of Escambia County, Chapter 2, Development and Compliance Review, Article 7,
13 LDC and Comprehensive Plan Amendment, is hereby amended as follows (words
14 underlined are additions and words ~~stricken~~ are deletions):

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

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

26 **(b) Zoning map amendment (Rezoning application).** Small-scale zoning map
27 amendment (rezoning) that affects a limited number of identifiable parties and
28 interests is evaluated first through quasi-judicial public hearings by the Planning
29 Board, or the Santa Rosa Island Authority (SRIA) for property on Pensacola Beach,
30 and then by the BCC. Large-scale comprehensive changes to the zoning map set
31 policy and require enactment through the legislative procedures of the BCC.

32 **[NOTE: The purpose of the quasi-judicial rezoning review and approval process is**
33 **identified and distinguished from legislative rezoning.]**

34 **(1) Application.** ~~An application for a rezoning through the quasi-judicial process~~
35 ~~shall be submitted to the clerk of the Planning Board at least 30 business days~~
36 ~~prior to the scheduled meeting of the reviewing board meeting at which the~~
37 ~~applicant requests to be heard. If the application concerns property under the~~
38 ~~jurisdiction of the Santa Rosa Island Authority (SRIA), the application shall be~~
39 ~~submitted to the clerk of the SRIA at least 30 business days prior to the~~
40 ~~scheduled board meeting. The application shall provide the information required~~
41 ~~by the adopted rezoning procedures of the reviewing board. A pre-application~~

1 meeting of the applicant with the staff for the board is recommended to discuss
2 the process and review county, board, and applicant responsibilities.

3 **[NOTE: The application may vary but the review process is the same regardless**
4 **of the reviewing board.]**

5 **(2) Public participation.** Hearings to consider a rezoning application shall be open
6 to the public. Prior to any such hearing, the clerk of the reviewing board shall
7 provide reasonable notice to the public as required by Florida Statutes and the
8 Comprehensive Plan.

9 **[NOTE: The public participation paragraph does not include notification changes**
10 **that may have been made recently by the BCC for this compliance review**
11 **process.]**

12 **(3) Compliance review.** A quasi-judicial public hearing shall be conducted by the
13 appropriate reviewing board to consider a requested rezoning according to the
14 provisions of this article. At the conclusion of the hearing, based on the record
15 evidence, the reviewing board shall submit a recommendation to the BCC for
16 rezoning approval, denial, or if appropriate and acceptable to the applicant,
17 approval of a district with less intensive uses than the requested zoning.

18 **(4) Approval conditions.** The applicant has the burden of presenting competent
19 substantial evidence to the reviewing board ~~that establishes each~~ establishing
20 that the requested zoning district would contribute to or result in a logical and
21 orderly development pattern as demonstrated by all of the following conditions:

22 **[NOTE: The intent of the revisions is to make the maintaining of a logical and**
23 **orderly development pattern the fundamental purpose of rezoning approval**
24 **conditions, and to consolidate and restate those conditions as the essential**
25 **questions to answer in the record of the rezoning public hearing.]**

26 **a. Consistent with Comprehensive Plan.** The proposed zoning is
27 consistent with the future land use (FLU) category as prescribed in LDC
28 Chapter 3, and with all other applicable goals, objectives, and policies of
29 the Comprehensive Plan. If the rezoning is required to properly enact a
30 proposed FLU map amendment transmitted for state agency review, the
31 consistency is with the proposed FLU and conditional to its adoption. ~~The~~
32 ~~proposed rezoning is consistent with the goals, objectives, and policies of~~
33 ~~the Comprehensive Plan and not in conflict with any of its provisions.~~

34 **[NOTE: Consistency with the Comp Plan is refocused on FLU and other**
35 **provisions specifically applicable to the proposed zoning rather than a**
36 **general and abstract “any provisions” of the Plan. The allowance is required**
37 **by Florida Statute 163.3184(12) for pending FLU amendment.]**

38 **b. Consistent with LDC district provisions.** The proposed zoning is
39 consistent with the purpose and intent, location criteria, and any other
40 zoning establishment provisions prescribed by the proposed district in
41 Chapter 3. ~~The proposed rezoning is consistent with the stated purposes~~
42 ~~and intent of the LDC and not in conflict with any of its provisions.~~

1 [NOTE: Consistency with the LDC is refocused on the zoning establishment
2 provisions of the specific district sought. Consistency of the permitted uses
3 of that district is evaluated within the compatibility condition. Compliance
4 with other LDC regulations and standards would be evaluated during
5 development plan review for development of a rezoned parcel. Those code
6 provisions include subdivision, district site and building requirements,
7 wetland & habitat impacts, stormwater management, landscaping & tree
8 protection, parking, site access, floodplain management, and signs.]

- 9 **c. Compatibility Compatible with surroundings.** All of the permitted uses
10 of the proposed zoning, not just those anticipated by the rezoning applicant,
11 are compatible, as defined in Chapter 6, with the surrounding uses. The
12 uses of any surrounding undeveloped land shall be considered as the
13 permitted uses of the applicable district. Compatibility is not considered
14 with potential conditional uses or with any nonconforming or unapproved
15 uses. Also, in establishing the compatibility of a residential use, there is no
16 additional burden to demonstrate the compatibility of specific residents or
17 activities protected by county, state, or federal fair housing law (e.g.,
18 affordable housing). All land uses, development activities, and conditions
19 allowed by the proposed zoning are compatible with the surrounding
20 conforming uses, activities and conditions and are able to coexist in
21 relative proximity to them in a stable fashion over time such that no use,
22 activity, or condition negatively impacts another. The appropriateness of
23 the rezoning is not limited to any specific use that may be proposed but is
24 evident for all permitted uses of the requested zoning. This condition shall
25 not apply to any conditional uses of the proposed district or compatibility
26 with nonconforming or unapproved uses, activities, or conditions.

27 [NOTE: Compatibility is restated to address vacant property. Fair housing
28 law is included to avoid inappropriate discussion of who may occupy
29 dwellings on a rezoned site.]

- 30 **d. Appropriate as spot zoning.** Where the proposed zoning would establish
31 or reinforce a condition of spot zoning as defined in Chapter 6, the isolated
32 district would nevertheless be transitional in character between the
33 adjoining districts, or the differences with those districts would be minor or
34 sufficiently limited. The extent of these mitigating conditions demonstrates
35 a site-specific balancing of interests appropriate to the characteristics of
36 the isolated district.

37 [NOTE: Although “spot zoning” is not a term currently used in the LDC, it
38 continues to be part of rezoning discussions; so, the term is being given a
39 definition in Chapter 6 and a place among rezoning conditions which will
40 allow the isolated zoning that is defined, but will require greater justification
41 to establish or enlarge that condition.]

- 42 **de. Appropriate with Changed changing conditions.** The area surrounding
43 the property of to which the proposed rezoning would apply has changed,
44 or is changing, to such a degree that the permitted uses of the proposed
45 district are not premature for the area and not likely to create or contribute

1 to urban sprawl it is in the public interest to encourage new uses, density,
2 or intensity in the area through rezoning.

3 **[NOTE: Clarification to the intended focus on changing conditions of the**
4 **surrounding area, not changes to the subject parcel.]**

5 ~~e. **Development patterns.** The proposed rezoning would contribute to or~~
6 ~~result in a logical and orderly development pattern.~~

7 **[NOTE: Condition restated as the principal intent of all rezoning approval**
8 **conditions.]**

9 ~~f. **Effect on natural environment.** The proposed rezoning would not increase~~
10 ~~the probability of any significant adverse impacts on the natural~~
11 ~~environment.~~

12 **[NOTE: The condition has no specific frame of reference like compatibility of**
13 **potential uses with adjoining land uses. Development of an individual lot**
14 **typically has highly significant impacts on the limited environment of the lot**
15 **(e.g., vegetative cover replaced with impervious surfaces), but to the larger**
16 **environments of the neighborhood or county there is typically much less**
17 **significance. Environmental impacts are best addressed through established**
18 **development standards that limit impacts and require mitigation, as with**
19 **protected trees, wetlands, habitat of protected/endangered species,**
20 **floodways, and other resources.]**

21 **(5) Board Action.** ~~When~~ If the reviewing board finds from the record of the hearing
22 that the applicant has presented competent substantial evidence establishing
23 the required conditions, the board shall then consider whether maintaining the
24 current zoning will serve a greater public interest. If both of the following
25 conditions are confirmed and no greater public interest is otherwise found in
26 maintaining the current zoning, the board shall recommend approval of the
27 rezoning request to the BCC ~~recommend approval of the rezoning request to~~
28 ~~the BCC, unless the board determines that maintaining the current zoning will~~
29 ~~prevent the following:~~

30 **[NOTE: The board's responsibility to consider when retaining the existing zoning**
31 **may be in the best interest of the public remains and is emphasized, but is reduced**
32 **to two considerations which incorporate previously identified useful criteria from**
33 **other jurisdictions.]**

34 **a.** No new uses, density, or intensity of use will likely diminish quality of life,
35 reduce property values, confer a special benefit on the subject property to
36 the detriment of the community as a whole, or create other adverse impacts
37 upon surrounding properties more than the uses, density, or intensity of the
38 current zoning.

39 **b.** Greater consideration has been given to the protection of established
40 conforming investments than to projected investments, and future beneficial
41 use is encouraged rather than the sale of land for mere speculation.

42 ~~a. **Premature development or sprawl.** The land uses and development~~
43 ~~activities allowed by the proposed rezoning are premature, or the rezoning~~

1 would likely create or contribute to an urban sprawl pattern of
2 development more than the current zoning.

3 **[NOTE: Condition included in evaluation of changing conditions.]**

4 ~~**b. Isolated districts.** The proposed rezoning would create or contribute to
5 an isolated zoning district that is neither related to the adjacent and
6 nearby zoning districts nor an appropriate transition between them.~~

7 **[NOTE: Condition addressed in evaluation of spot zoning.]**

8 ~~**c. Intrusion of non-residential uses.** The proposed rezoning would allow an
9 intrusion of commercial or industrial uses into a platted residential
10 subdivision or other established residential area more than the current
11 zoning.~~

12 **[NOTE: Condition considered in more general evaluation of adverse impacts.]**

13 ~~**d. Property value impacts.** The land uses, development activities and
14 conditions allowed by the proposed rezoning would likely result in
15 significant adverse impacts upon the property values of adjacent properties
16 or those in the immediate area more than the types of use, activities, and
17 conditions permitted by the current zoning.~~

18 **[NOTE: Condition considered in more general evaluation of adverse
19 impacts.]**

20 ~~**e. Nuisance-based impacts.** The land uses, development activities and
21 conditions allowed by the proposed rezoning would likely adversely impact
22 the character of existing development or quality of life in the general area or
23 neighborhood by creating excessive traffic, noise, lights, vibration, fumes,
24 odors, dust, physical activities, or other detrimental effects or nuisances
25 more than the types of uses, activities and conditions permitted by the
26 current zoning.~~

27 **[NOTE: Condition considered in more general evaluation of adverse
28 impacts.]**

29 **(6) Final determination.** The BCC at its scheduled hearing shall adopt, modify, or
30 reject the recommendation of the Planning Board or SRIA or return the rezoning
31 case to the board with instructions for additional facts or clarification. The staff
32 of the recommending board shall inform the board of all formal actions taken by
33 the BCC on the rezoning request.

34 **(7) Appeals.** Actions by the BCC adopting, rejecting, or modifying the
35 recommended rezoning of the reviewing board are final. Any party seeking
36 judicial review of the final determination shall do so according to the general
37 provisions of Article 1. Additionally, written notice of the filing of any such
38 petition for judicial review shall be promptly provided by the petitioner through
39 the county to each owner of real property with any portion within a 500-foot
40 radius of the rezoning subject property.

41

1 **Section 2.** Part III of the Escambia County Code of Ordinances, the Land
2 Development Code of Escambia County, Chapter 6, Definitions, is hereby amended
3 as follows (words underlined are additions and words ~~stricken~~ are deletions):

4 **Sec. 6.0-3 Terms defined.**

5 **Spot zoning.** Zoning applied to an area of land, regardless of its size, that is different
6 from the zoning of any directly adjoining land. Such isolated or “spot” zoning is usually
7 higher in its density or intensity of use than the adjoining zoning and may, therefore,
8 extend privileges not generally extended to property similarly located in the area. Spot
9 zoning is not by itself prohibited, but due to its potentially adverse impacts on adjoining
10 zoning it carries a higher burden of demonstration that, if authorized, it will contribute to
11 or result in the logical and orderly development required of all zoning.

12 **[NOTE: The definition establishes the position for the LDC that spot zoning is only a**
13 **descriptive term referring to zoning that may be valid or invalid depending on particular**
14 **facts and circumstances, not unlike authorizing a conditional use. The definition is**
15 **purposely like the description of a literal “spot” of different color on a zoning district**
16 **map, but it refers to characteristics on which the validity of such isolated zoning can be**
17 **evaluated.]**

18
19 **Section 4. Severability.**

20 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
21 unconstitutional by any Court of competent jurisdiction, then said holding shall in no way
22 affect the validity of the remaining portions of this Ordinance.

23
24 **Section 5. Inclusion in Code.**

25 It is the intention of the Board of County Commissioners that the provisions of this
26 Ordinance shall be codified as required by F.S. § 125.68 (2016); and that the sections,
27 subsections and other provisions of this Ordinance may be renumbered or re-lettered
28 and the word “ordinance” may be changed to “section,” “chapter,” or such other
29 appropriate word or phrase in order to accomplish such intentions.

30
31 **Section 6. Effective Date.**

32 This Ordinance shall become effective upon filing with the Department of State.

33
34 **DONE AND ENACTED** this _____ day of _____, 2017.

35
36 **BOARD OF COUNTY COMMISSIONERS**
37 **ESCAMBIA COUNTY, FLORIDA**
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By: _____
D. B. Underhill, Chairman

ATTEST: PAM CHILDERS
Clerk of the Circuit Court

By: _____
Deputy Clerk

(SEAL)

ENACTED:
FILED WITH THE DEPARTMENT OF STATE:
EFFECTIVE DATE:

