

Chapter 102

ADMINISTRATION AND ENFORCEMENT

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Sec. 102-1. Purpose and intent.

- (a) *Generally.* The public health, safety, comfort, and welfare require the harmonious, orderly, and progressive development of land within the incorporated areas of the City of Eustis. The development of the land is a vital step in the process of community development. Once land has been developed, the correction of defects is costly and difficult. Substantial public responsibility is created by each new development, involving the maintenance of streets and drainage facilities and the provision of additional public

services. As the general welfare, health, safety, and convenience of the community are thereby directly affected by the development of land, it is in the direct interest of the public that site development be conceived, designed, and developed in accordance with sound rules and proper minimum standards. Consideration shall be given to the character of an area and the availability of public facilities within a given geographic unit.

(b) The purpose and intent, therefore, of this Chapter is to insure or secure:

- (1) The establishment of standards for site design which will encourage the development of sound and stable areas within the incorporated areas of the City of Eustis.
- (2) Installation to prescribed standards by the land developer of those required improvements which ought not to become a charge on the citizens and taxpayers of already existing areas.
- (3) The adequate and efficient supply of utilities, streets and services to new land developments.
- (4) The prevention of traffic hazards and congestion which result from narrow or poorly aligned streets and from excessive ingress and egress points along major traffic arteries, and the provision of safe and convenient traffic circulation, both vehicular and pedestrian, in new land development.
- (5) Safety from fire, panic, and other dangers, to promote health and the general welfare.
- (6) To minimize flooding hazards and insure proper water management.
- (7) To coordinate land development in accordance with orderly physical patterns and general plans and policies adopted by the City Commission, in particular, the Comprehensive Plan.
- (8) To help protect the natural and scenic resources of the City of Eustis, including surface waters and ground water recharge areas.
- (10) To serve as one of the several instruments of land use control authorized by the Florida Legislature.

Sec. 102-2. Applicability.

- (a) These Land Development Regulations apply to all Development, as defined in Section 100-1 Definitions.

- (b) Where there are conflicts between these Land Development Regulations and other City policies, regulations, or the Comprehensive Plan, the more restrictive provision shall apply and supersede.

Sec. 102-2.1. Administrative Site Plan Review and Approval

- (a) To increase business activity in abandoned and inactive buildings and to provide an abbreviated review and approval process for minor redevelopment, small redevelopment projects and minor expansions of existing development shall be reviewed administratively in accordance with the provisions of this section. For the purposes of this section, redevelopment means a change in use from non-use or an existing use to a different permitted use in the applicable Land Use District. Redevelopment does not include existing vacant land regardless of whether the existing vacant land had building(s) or structure(s). Redevelopment means a 25% increase or less in the square footage of any structure and/or an increase in impervious surface subject to vehicular traffic of less than 4,000 sq. ft. If the square footage of any structure on the property being developed is increased by more than 25% or the impervious surface subject to vehicular traffic is increased by 4,000 sq. ft. or more, then the administrative site plan review option will not apply and the site plan must be submitted in accordance with the other provisions of these Land Development Regulations.

The Development Review Committee (DRC) shall have the authority to review, approve, and deny Administrative Site Plans as provided for in this section. The DRC may also grant waivers for current conditions that do not conform to the Land Development Code and for code requirements that cannot be reasonably accommodated on the site. All waivers must be noted on the final approved plan. The minimum submittal requirements are as follows:

1. A general location map
2. A recent aerial of the site and the surrounding area within 200 feet, noting road access points, adjacent land use designations and design districts
3. A boundary survey or scaled delineation of the property and existing structures and improvements with setbacks noted
4. Proposed redevelopment plan with land uses and structures noted, including off-street parking, impervious coverage, designated open space, and other proposed improvements
5. Proposed landscape plan
6. Proposed public utilities including method of providing solid waste removal, potable water, and wastewater

The Director of Development Services may request additional information and/or waive requirements for signed and sealed documents depending upon the size, nature, and complexity of the project.

A decision of the DRC may be appealed to the City Commission if the applicant files a request for hearing within 60 days of the DRC decision. The City Commission shall hear the appeal at a public hearing within 30 days after the applicant requests the appeal.

The City Commission may remand the matter back to the Director of Development Services with instructions, may deny the proposed site plan, may approve the proposed site plan as submitted, or may approve the proposed site plan with additional conditions agreed to by the applicant.

Sec. 102-2.2. Conversion of Single-family Homes to Residential Duplexes or Residential Multi-family Residential Units Prohibited.

- (a) To ensure the stability of the City's single family neighborhoods, conversion of a single family residence to a residential duplex or a multi-family residential unit is prohibited. For the purposes of this Section only, "duplex" and "multi-family residential unit" are defined as any one of the following:
- (1) A single undetached structure which has more than one physical mailing address, separate water meter, or separate electrical connection and electric billing address, or
 - (2) A single undetached structure which is intended to be rented separately to two or more individuals where the single structure has been separated or divided by a wall, door, or other opaque material which has been permanently sealed to prevent one individual tenant from entering the space rented to the other tenant(s), or
 - (3) A single undetached structure which has separate designated entrances for each tenant with doors requiring separate keys for each entrance.
- (b) For the purpose of this Section only, a tenant is one who pays money or other consideration to an owner of land in exchange for permission to reside, stay, or sleep on the owner's property.

Sec. 102-3. Development Review Committee.

- (a) *Establishment and purpose.* There is hereby established a Development Review Committee which shall be responsible for the enforcement of the provisions of this Land Development Code.
- (b) *Composition of Committee.* The Development Review Committee shall be designated by the City Commission and shall be composed of the following personnel or their designee or designees: the Director of Public Works, the Director of Utilities, the Building Official, the Director of Development Services, the Public Safety Director and such other personnel as may be designated or assigned by the City Manager for the purpose of reviewing land development proposals and other related issues. The Development Services Director shall chair the Development Review Committee.
- (c) *Duties and responsibilities.*
- (1) Reviewing all site plans.

- (2) Reviewing all Planned Unit Development Master Plans.
- (3) Reviewing all proposed subdivision plats.
- (4) Reviewing items appearing before the City Commission on Land Use Matters.
- (5) Reviewing all proposed specific amendments to the comprehensive plan.
- (6) Preparing and reviewing proposed changes to land development code.
- (7) Reviewing and approving Final Engineering/Construction Plans
- (8) Providing information and analysis to applicants, review boards, and the City Commission prior to meetings and public hearings.

(d) *Meetings.*

- (1) The Development Review Committee shall meet at least monthly unless there are no review items for the agenda.
- (2) An agenda shall be prepared and distributed to each member in advance of the meeting.

Sec. 102-4. Pre-application Conference.

- (a) *Pre-application conference.* Prior to filing for site plan or preliminary plat review, which is required for all nonresidential development, multi-family developments, and residential subdivisions, the developer shall meet with the Development Services Director to discuss the development review process. The purpose of the conference is to acquaint the applicant with the requirements and procedures of the Land Development Regulations and to determine the appropriate application process as provided for in this Chapter.
- (b) A pre-application conference is encouraged for all submittals and required for the following:
 - (1) All new development except:
 - a. Subdivisions with less than twenty-five (25) lots, or
 - b. Conditional uses of accessory structures or home occupations
 - (2) Redevelopment resulting in an increase in square footage as set forth in Section 102-2.1 of these Land Development Regulations.
 - (3) Any PUD
 - (4) Any other matter as determined by City staff

- (c) The minimum submittal requirements for review at the pre-application conference are as follows:
 - (1) A map showing the general location of the property
 - (2) An aerial map of the property
 - (3) A boundary survey or other scaled delineation of the parcel
 - (4) A map of the land use designations for the site and the surrounding area within five hundred (500) feet of the property
 - (5) A map of the design district designations for the site and the surrounding area within five hundred (500) feet of the property, including existing and proposed streets
 - (6) A conceptual layout (if applicable)
- (d) With the consent of the applicant, the Director can waive the pre-application conference requirement, if in the Director's opinion, the conference is unnecessary.
- (e) During the pre-application conference, the Director may waive submittal requirements under these Land Development Regulations, if, in the Director's opinion, the submittal requirements are unnecessary based upon the size, nature, and complexity of the proposal.
- (f) No person may rely upon any comment concerning a proposed site plan, or any expression of any nature about the proposal made by the participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

Sec. 102-5. Optional Review of Conceptual Plan by Development Review Committee.

- (a) After the pre-application conference, an applicant has the option to be placed on Development Review Committee agenda for review of the applicant's conceptual plan for proposed development.
- (b) The submittal requirements for the optional review by the Development Review Committee are as follows:
 - (1) A map showing the general location of the property
 - (2) An aerial map of the property
 - (3) A boundary survey or other scaled delineation of the parcel

- (4) A map of the land use designations for the site and the surrounding area within five hundred (500) feet of the property
- (5) A map of the design district designations for the site and the surrounding area within five hundred (500) feet of the property, including proposed streets
- (6) A conceptual site plan or lot layout that includes the following:
 - a. Number and type of dwelling units
 - b. Total acreage
 - c. Total developable acreage (total acreage less water bodies and wetlands)
 - d. Total open space required and provided
 - e. Net density calculation
 - f. Required buffers
 - g. Requested waivers
 - h. Vehicular and pedestrian connections and access points
- (c) The applicant shall pay a fee for the optional conceptual plan review by the Development Review Committee.

Sec. 102-6. Community Meeting.

- (a) *Generally.* To increase community awareness and participation, applicants seeking specified types of developments shall hold a community meeting to address community concerns related to the proposed development prior to submittal of the application.
- (b) A community meeting is required for the following proposed developments, unless specifically waived by the Director of Development Services based on a determination that the meeting is not necessary:
 - (1) Residential subdivisions requesting a density variation greater than twenty-five (25) percent under Section 110-3.2 (c) (2) a. 1. and Section 110-3.3 (c) (2) a. 1.
 - (2) Multi-use developments
 - (3) Conditional uses
 - (4) Proposed commercial and industrial uses adjacent to residential land use properties
 - (5) Any PUD

- (6) Design District change
 - (7) Comprehensive Plan Amendment
 - (8) Any other matter as determined by City staff or upon request of a City Commissioner
- (c) The minimum submittal requirements for review at the community meeting are as follows:
- (1) A map showing the general location of the property
 - (2) An aerial map of the property
 - (3) A boundary survey or other scaled delineation of the parcel
 - (4) A map of the land use designations for the site and the surrounding area within five hundred (500) feet of the property
 - (5) A map of the design district designations for the site and the surrounding area within five hundred (500) feet of the property, including proposed streets
 - (6) A conceptual site plan or lot layout that includes the following:
 - a. Number and type of dwelling units and lot sizes if applicable
 - b. Total acreage
 - c. Total developable acreage (total acreage less water bodies and wetlands)
 - d. Total open space required and provided
 - e. Net density calculation
 - f. Required buffers
 - g. Requested waivers
 - h. Vehicular and pedestrian connections and access points
- (d) City staff must approve the time and location for the community meeting.
- (e) The applicant is responsible for complying with the Notice requirements for the community meeting set forth in Section 102-7 and for coordinating the time and location of the meeting with City Staff.
- (f) City Staff shall prepare a report summarizing the attendance and discussion at the community meeting within thirty (30) days of the meeting.
- (g) The applicant shall include the City's report with its application.

Sec. 102-7. Notice Requirements for All Land Use Matters.

The minimum notice shall be that required pursuant to Florida law and the City Charter. The

notice requirements for specific types of applications are set forth in the following chart:

TYPE OF APPLICATION	NOTICE OF HEARING	NEWSPAPER AD	SITE POSTED	MAIL LETTERS
Community Meeting	Yes, at least one week in advance by posting in three City locations	Yes, in either the Daily Commercial or Lake Sentinel	Yes, facing all rights of way or access points for the property, at least 14 days before community meeting. The sign shall be at least 18 inches by 24 inches in size and note, "Eustis Community Meeting"	Yes, to all owners within 500 feet at least 14 days before community meeting
Site Plan	Yes, at least one week in advance by posting in three City locations	Yes	Yes	Yes
Final Engineering/ Construction Plan	No.	No	No	No
Preliminary Plat	Yes, at least one week in advance by posting in three City locations	Yes	Yes	Yes
Final Plat	Yes, at least one week in advance by posting in three City locations	Yes	Yes	Yes

TYPE OF APPLICATION	NOTICE OF HEARING	NEWSPAPER AD	SITE POSTED	MAIL LETTERS
Conditional Use	Yes, at least one week in advance by posting in three City locations	Yes, per requirements for re-zoning under Florida law	Yes	Yes, to all owners within 500 ft.
PUD Overlay	Yes, at least one week in advance by posting in three City locations	Yes, per requirements for re-zoning under Florida law	Yes	Yes, to all owners within 500 ft.
Site Plan Modification –Substantial	Yes, at least one week in advance by posting in three City locations	Yes	Yes	Yes
Design District Change	Yes, at least one week in advance by posting in three City locations	Yes, per requirements for re-zoning under Florida law	Yes	Yes, to all owners within 500 ft.
Land Use Designation Change (Comprehensive Plan Amendment)	Yes, at least one week in advance by posting in three City locations	Yes, per requirements for Comprehensive Plan Amendments under Florida law	Yes	Yes, per requirements for Comprehensive Plan Amendments under Florida law
Any Waiver or Variance	Yes, at least one week in advance by posting in three City locations	Yes, per requirements for re-zoning under Florida law	Yes	Yes, to all owners within 500 ft.

The requirements for re-zoning under Florida law noted above are those requirements set forth in §166.041 (3) (c) *FLORIDA STATUTES*. The requirements for Comprehensive Plan Amendments under Florida law are set forth in §163.3184 *FLORIDA STATUTES*. Other actions affecting real property that require a vote of the City Commission must be posted on-site in accordance with the provisions herein and notice must be mailed to all property owners within 500 ft. of the

subject property.

When a site is required to be posted in accordance with this section, the sign(s) shall face all rights of way or access points for the property and be placed on-site at least 10 days before the hearing. The sign shall be at least 18 inches by 24 inches in size and note in letters no smaller than 4 inches, "Eustis Hearing".

Sec. 102-8. Application Procedures for Site Plans and Preliminary Plats.

(a) Site Plan and Preliminary Subdivision Plat Submittal Requirements.

Unless specifically waived by the Director of Development Services in writing, all site plans and preliminary subdivision plats shall be 24" x 36" in size on plain, white paper. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each. Each sheet must contain a title block, scale, north arrow, and date, including a revisions date block. The plans must be signed and sealed by an engineer, architect, or landscape architect licensed to practice in the State of Florida. The Site Plan and Preliminary Subdivision Plat submittals must include the information required to evaluate compatibility with adjacent land uses, consideration of natural environmental systems on site and adjacent to the site, internal and external connectivity of open space and vehicular and pedestrian access and conceptual compliance with the design standards and requirements of the Land Development Code. Specifically, the submittal shall be deemed sufficient if it includes the following:

- (1) General Information
 - a. Vicinity or location map drawn to scale
 - b. Name and contact information for owner, applicant, and consultant
 - c. Project name, date, scale, north arrow, and revision dates
 - d. Property address, parcel ID and/or Alternate Key number
- (2) Physical site assessment
 - a. Recent aerial of site and surrounding area within 500 ft. of the site
 - b. Soils Map, based on the most recent Lake County Soils Survey, drawn at the same scale as the site plan, clearly identifying all soil types, especially those areas which are not suitable for buildings or major structures due to soils limitations
 - c. Map of vegetative cover based on Florida Land Use Classification

- d. Topographical survey with contour lines, including wetland delineation and 100 year flood elevation if applicable Signed and sealed boundary survey with legal description and location of all easements
 - e. Tree survey (location, size and type of existing trees or clusters)
 - f. Environmental/wildlife habitat study including:
 - i. Description of the parcel
 - ii. Documentation of the data collected and reviewed
 - iii. Field survey (map, characterize, and describe natural habitats located on the site)
 - iv. Protected species survey to include direct sitings and indirect observations (record species that inhabit, cross, or utilize habitats within and immediately adjacent to the site.)
 - v. Report describing the methodology used, findings, and conclusions/recommendations including aerial photograph that maps and identifies the character and size of the habitats as well as the location of any protected species or signs of their presence. The report shall also describe the manner in which the habitats of protected species will be protected or mitigated.
 - vi. For any proposed site within the Wekiva River Protection Area as defined in Part II, Chapter 369, Florida Statutes, the environmental survey shall be conducted in accordance with the City-approved methodology to assess the impacts of development on ground and surface water quality, quantity, and hydrology, native vegetation and wildlife species, wetlands and associated uplands.
- (3) Land use assessment -- Map of site and surrounding area within 500 ft. of the site depicting existing land use with density/intensity, land use designations and assignment of design districts, including location of all streets (specified by type)
- (4) Traffic circulation
- a. Traffic analysis to meet preliminary concurrency assessment requirements as required by Lake Sumter MPO
 - b. Vehicular access points
 - c. Proposed off-site improvements

- (5) Utilities and services
 - a. Proposed method and source of water supply and wastewater disposal
 - b. Required capacity for water and wastewater
 - c. General location and size of service lines and connections
 - d. General direction of natural surface drainage flow
 - e. Preliminary drainage calculations and proposed stormwater management system
 - f. Location of on-site wells and septic tanks (if applicable)
 - g. Preliminary school concurrency assessment (residential uses only)

- (6) Proposed development plan
 - a. Proposed buildings, structures, and/or lot layouts as applicable
 - b. Off-street parking areas (if applicable)
 - c. Stormwater management locations and type
 - d. Location and dimensions of all yards, setbacks, buffers and distance between buildings (if applicable)
 - e. Identification, in general, of trees to be removed; with calculations of required replacement, if applicable
 - f. Designated Park areas (if applicable)
 - g. Designated open space
 - h. Location and material of screen walls and/or knee walls (if applicable)
 - i. Method and location of solid waste disposal
 - j. Table or list of the building and lot types proposed
 - k. Chart of calculations demonstrating compliance with Land Development Code including, but not limited to the following:
 - i. Gross acreage

- ii. Net acreage (less wetlands and water bodies)
 - iii. Net density (total units/net acreage)
 - iv. Open Space
 - v. Impervious area and percentage
 - vi. Non-residential square footage and floor area ratio (if applicable)
 - vii. Off-street parking
- l. Sign locations
 - m. Requested waivers (provide dimensional requirements and cross-sections).
- (7) Block Configuration (if applicable)
 - a. Perimeter calculation for each block
 - (8) Conceptual building elevations (not required for Preliminary Subdivision Plan)
 - (9) Phasing Plan (if applicable), including proposed completion of amenities and park requirements
 - (10) Conceptual landscape and lighting plan, noting compliance with code requirements; All landscape and irrigation plans shall be signed and sealed by a Landscape Architect licensed to practice in the State of Florida.
 - (11) Clearly identify and justify any design variations that are being requested from the specific standards in the Land Development Code, including lot types and street types.
 - (12) Proposed method of preservation and maintenance of common open space. All developments whose submitted plan indicates the existence of one (1) or more areas to be held in common by the property owners shall have established and maintained a homeowners association; membership in which will be required for all purchasers of lots or parcels of land within the plat. Said association shall be established by the developer at the time, and as a condition, of platting and shall be acceptable to the City.
 - (13) Demonstration of compliance with the design processes outlined in Chapter 115-3(g) and Chapter 110-3.3(f).

Sec. 102-9. Final Engineering Plans/Construction Plans.

The Final Engineering Plan / Construction Plan shall be consistent with the approved Site Plan or Preliminary Subdivision Plat and contain a level of detail necessary to ensure that

construction complies with all provisions of the City Code unless specifically otherwise approved. Unless specifically waived by the Director of Development Services in writing, all plans shall be 24" x 36" in size on plain, white paper. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each. Each sheet must contain a title block, scale, north arrow, and date, including a revisions date block. The plans must be signed and sealed by an engineer, architect, or landscape architect licensed to practice in the State of Florida. The submittal shall be deemed sufficient if it includes the following:

- (a) Copy of approved Site Plan or Preliminary Subdivision Plan
- (b) Final building elevations demonstrating compliance with the design standards of these Land Development Regulations
- (c) Engineering plans and specifications for streets, sidewalks, and driveways
- (d) Cross-sections at fifty-foot intervals or greater for off-site improvements
- (e) Signage
- (f) Location(s) and access provisions for refuse service, including pad screening, fencing, and landscaping
- (g) Landscaping plan, irrigation system plan, and provision for maintenance. Include size, type, and location of all landscaping, screens, walls, fences, and buffers. All landscape and irrigation plans shall be signed and sealed by a Landscape Architect licensed to practice in the State of Florida .
- (h) Photometric plan demonstrating compliance with Section 115-3.
- (i) Application for a tree removal permit(s), if applicable
- (j) Copies of all required Florida Department of Environmental Protection Water and Wastewater Permits
- (k) Copy of any required St. Johns River Water Management District Permit
- (l) Proposed Covenants, Conditions and Restrictions, if applicable
- (m) Grading and elevation information including:
 - (1) Provisions for the adequate control of erosion and sediment, indicating the location and description of the methods to be utilized during and after all phases of clearing, grading, and construction
 - (2) Grading plans specifically including perimeter grading.

- (3) Minimum floor elevations of buildings within any 100-year floodplain.
- (p) Potable water and wastewater systems information including:
- (1) The boundaries of proposed utility easements. If the development is to be initially served by individual on-site systems, include a description of how future centralized systems will be provided.
 - (2) Exact locations of on-site and nearby existing and proposed fire hydrants and fire lanes.
 - (3) Utility easements, setbacks, and rights-of-way necessary for providing future centralized water and wastewater services if individual on-site systems are initially proposed.
 - (4) The projected flows of the water and wastewater and pumping facilities, by phases, if applicable.
 - (5) The plan and profile of proposed distribution systems and sanitary sensors with grade and sizes indicated.
- (q) Wetlands. When wetland alteration is proposed, a wetland alteration permit from the regulatory agencies must be submitted which complies with the requirements of Chapter 115 of these Land Development Regulations.
- (r) Stormwater management.
- (1) Engineering plans and specifications for collection and treatment of storm drainage, including a description of the preservation of any natural features, such as, lakes and streams or other natural features
 - (2) If the development scheme contemplates independent associations for different phases, a master association should be formed to include all of the various associations with the master association having the responsibility to operate and maintain the stormwater management system for the entire project.
 - (3) Hydrologic boundaries, including all areas flowing to the proposed project.
 - (4) Sufficient topographical information with elevations to verify the location of all ridges, streams, etc. (one-foot contour intervals within the project's boundaries and for proposed off-site improvements.)
 - (5) Delineation and area of pre-development and post-development sub-basins.
 - (6) Delineate retention/detention areas and ingress/egress areas for facilities maintenance.

- (7) Description of current ground cover, land use, and imperviousness by sub-basin.
 - (8) Preliminary stormwater calculations justifying the location and sizing of retention ponds, signed and sealed by a professional engineer or landscape architect.
 - (9) The plan and profile of proposed stormwater with grade and sizes indicated.
- (s) Monuments.
- (1) Permanent reference markers and permanent control points shall be set in accordance with Chapter 177, Florida Statutes.
 - (2) All lot corners shall be staked with concrete markers. At least one front corner marker shall have a brass cap with both the established 100-year flood plain elevation and the M.S.L. elevation at the point inscribed thereon.
- (t) Subsoil investigation. A subsoil report shall be prepared by a geotechnical engineer or professional geologist experience in the preparation of this type of report. The contents of the subsoil report as a minimum shall include, but not be limited to, soil borings which indicate American Association of State Highway and Transportation Officials (AASHTO) soil classifications, gradation, determination of wet season water table, field determined vertical and horizontal soils permeability rates, soil porosity values, and the depth of the relative impermeable soil layer for determining the duration of the vertical infiltration. A minimum of two borings will be taken per retention/detention area. Soil boring locations shall be included in the report.
- (u) Proof of legal and operation entity for stormwater management systems. If the stormwater management systems are to be operated and maintained by an independent entity other than the City, the applicant must supply written proof in the appropriate form, by either letter or resolution, that the entity will accept the operation and maintenance of all of the stormwater management system, including lakes, easements, etc., prior to staff report approval. The following requirements are for properties which will be governed by or a Homeowners' Association, Condominium Association, Property Owner's Association, or any other Association charged with the duty to enforce deed restrictions encumbering the property.
- (1) If a Homeowners' Association, Condominium Owners' Association, Property Owners' Association, or any other Association charged with the duty to enforce deed restrictions encumbering the property is proposed, the permittee/developer must submit the draft articles of incorporation for the association, and draft Declaration of Restrictions, as well as a reference map if referred to in documents prior to approval. The Declaration of Restrictions shall contain the month, date, and year each community amenity offered by the permittee/developer will be completed. "Completed" means the amenity is fully operational and available for use by the owners and residents of the property. Within 30 days after approval of the final engineering/construction plans, the permittee/developer shall provide the City with a copy of the recorded

Declaration of Restrictions which shall be identical in substance to the draft Declaration of Restrictions and draft Articles of Incorporation submitted above.

- (2) If a property owner's association is proposed for a project which will be constructed in phases, and subsequent phases will utilize the stormwater management system for the initial phase or phases, the association should be created with the ability to accept future phases into the association.
- (v) Any additional data, maps, plans, or statements, as may be required, which is commensurate with the intent and purpose of this Chapter.

Sec. 102-10. Final Plats.

- (a) The final plat shall include the following information:
 - (1) All requirements set forth in Chapter 177, Florida Statutes.
 - (2) A metes and bounds description of lands to be subdivided, from which and without reference to the plat, the starting point and boundary can be determined.
 - (3) Every development shall be given a name by which it shall be legally known. The name shall not be the same as any other name appearing on any recorded plat except when the proposed development includes a subdivision that is subdivided as an additional unit or section by the same developer or his successors in title. Every subdivision name shall have legible lettering of the same size and type including the words "section", "unit", "replat", "amended", and the like. The name of the development shall be indicated on every page.
 - (4) All lots shall be numbered whether by progressive numbers or, if in blocks, progressively numbered or lettered, except that blocks in numbered additions bearing the same name may be numbered consecutively throughout several additions of the specific construction phase.
 - (5) All interior excluded parcels shall be clearly indicated and labeled "Not part of this plat/development."
 - (6) Development title, plat book, and page shall identify all contiguous properties, or if the land is unplatted, it shall be so designated. If a subdivision to be platted is a resubdivision of a part or the whole of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made. All abutting existing easements and rights-of-way must be indicated. The abutting existing rights-of-way must be indicated to the centerline.
 - (7) Restrictions pertaining to the type and use of existing or proposed

improvements, waterways, open spaces, building lines, buffer strips and walls, and other restrictions of similar nature, shall require the establishment of restrictive covenants and such covenants shall be submitted with the final plat for recordation.

- (8) Where the development includes private streets, ownership and maintenance association documents shall be submitted with the final development plan and the dedication contained on the development plan shall clearly indicate the roads and maintenance responsibility to the association without recourse to the City or other public agency.
- (9) All man-made lakes, ponds, and other man-made bodies of water which are located within the project, excluding retention/detention areas shown on the final site plans, shall be made a part of adjacent private lot(s) as shown in the plat.
- (10) All drainage, water and sewer utility easements shall be shown on the plat.
- (11) Space and form for the mayor's signature, attested to by the City Clerk, and the Lake County Clerk of the Circuit Court.

(b) *Procedure for review of final plat.*

- (1) The applicant shall submit the preliminary plan and supporting documentation to the department of development services.
- (2) After receipt of the above, the department of development services shall:
 - a. Determine that the application is complete and proceed with the review; or
 - b. Determine that the application is incomplete and inform the applicant. The applicant must submit a revised application, correcting deficiencies within 45 days of receipt of the letter of incompleteness, to proceed with the review.

The results of the review shall be transmitted to the applicant in writing,. The applicant shall have 45 days from the receipt of the review to respond or appeal to the City Commission as provided in these Land Development Regulations.

(c) *Guarantees and sureties for Plats and Site Plans with Publicly Dedicated Infrastructure.*

(1) *Applicability.*

- a. The provisions of this Section, 102-10 (c), apply to all proposed developments submitted by plat or site plan which contain public

infrastructure to be dedicated to the public.

- b. Nothing in this Section shall be construed as relieving a developer of any requirement relating to concurrency in Chapter 106 of these Land Development Regulations.

(2) *Improvements agreements required.*

- a. The developer or applicant must enter into a written agreement stating that all required public improvements shall be satisfactorily constructed within the period stipulated. The term shall not exceed five years from the recording of the plat or 30 percent occupancy of the development, whichever comes first.
- b. The projected total cost for each public improvement. Cost for construction shall be determined by either of the following:
 - 1. Estimate prepared and provided by the applicant's engineer.
 - 2. A copy of the executed construction contract provided.
- c. Specification of the public improvements to be made and dedicated together with the timetable for making improvements.
- d. Agreement that upon failure of the applicant to make the required public improvements (or to cause them to be made) according to the schedule for making those improvements, the City shall utilize the security provided in connection with the agreement.
- e. Provision of the amount and type of security provided to ensure performance.
- f. Provision that the amount of the security may be reduced periodically, but not more than two times during each year, subsequent to the completion, inspection and acceptance of improvements by the City.

(3) *Amount and type of security.*

- a. Security requirements may be met by but are not limited to the following:
 - 1. Cashiers check.
 - 2. Certified check.
 - 3. Developer/lender/City agreement.
 - 4. Interest bearing certificate of deposit.

5. Irrevocable letters of credit.

6. Surety bond.

b. The amount of security shall be 110 percent of the total construction costs for the required developer-installed public improvements. The City, commensurate with the completion and final acceptance of required improvements, may reduce the amount of security.

(4) *Completion of improvements.*

a. When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before the Director of Public Utilities recommends final acceptance. A recommendation for final acceptance shall be made upon receipt of a certification of project completion and one copy of all test results.

b. As required improvements are completed and accepted, the developer may apply for release of all or a portion of the security.

c. A certificate of occupancy will be not be issued until both the building and the site have been completed per approved permits.

(5) *Maintenance of improvements.*

a. A maintenance agreement and security shall be provided to assure the City that the developer according to the following requirements shall maintain all required public improvements:

1. The period of maintenance shall be a minimum of two years.

2. The maintenance period shall begin with the acceptance by the City of the construction of the improvements.

3. The security shall be in the amount of 15 percent of the construction cost of the improvements.

4. The Director of Public Utilities shall maintain the original agreement.

b. Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the City, a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.

1. When the proposed development is to be organized as a

condominium under the provisions of Chapter 718, Florida Statutes, common facilities and property shall be conveyed to the condominium's association pursuant to that law.

2. When no condominium is so organized, an owner's association shall be created, and all common facilities and property shall be conveyed to that association.
 3. No development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the City Attorney.
- c. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the City shall be created by covenants running with the land. Such covenants shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise, without first offering to dedicate the same to the City.

Sec. 102-10.1 Gated communities.

- (a) Definitions. For purposes of this section the following words shall have the following meanings:

Developer shall mean: (A) the person or entity that is the original declarant which records the declaration and plat for a gated community or (B) the person or entity that succeeds to the rights and liabilities of the person or entity which is the original declarant, or (C) in the absence of a written assignment of the developer rights recorded in the public records of Lake County, Florida, the person or entity that materially or substantially exercises the rights and liabilities of the original declarant including, but not limited to, controlling the board of directors of the homeowners association as hereinafter defined.

Gated community shall mean any subdivided real property access to which by the public is limited by the use of gates and the infrastructure of which is retained for the private use of the homeowners association or owners of lots within the community and not dedicated to the public.

Homeowners association or HOA shall mean a mandatory community association in which the owners of all lots, blocks, and tracts in the subdivision are required by the terms of the declaration to be members, as contemplated by F.S. § 720.301(7), 2002), with the ability and duty to impose and collect on assessments.

Project shall mean all real property that is or will be subject to the declaration and will ultimately be operated by the HOA.

Subdivision infrastructure shall mean those roadways, improvements, and other items which should otherwise be dedicated to the use of the public and/or the city in a typical subdivision, but which are retained for private use by the HOA or owners of lots in the gated community; however, subdivision infrastructure as used herein specifically excludes private amenities including, but not limited to entrance and exit gates, walls, swimming pools, clubhouses, parks and other recreation areas.

Transfer of control of subdivision infrastructure shall mean that point in time that maintenance and repair of the subdivision infrastructure as hereinafter defined becomes the responsibility of the HOA. Except as otherwise provided in this section, turnover of control of the HOA and transfer of control of subdivision infrastructure shall occur simultaneously.

Turnover of control of the HOA (also referred to as turnover) shall mean that point in time that members of the HOA (other than the developer, builders, contractors, or others who purchase property in the subdivision for the purpose of constructing improvements thereon for resale) are entitled to elect at least a majority of the board of directors of the HOA, and such election has occurred.

(b) Applicability. This section shall apply to all subdivisions for which a gated community is requested by the developer prior to approval of the final plat by the city. This section shall also apply to gated communities requested by existing homeowners associations and approved by the city after the final plat is recorded, but only if and to the extent required by the resolution of the city commission vacating the rights-of-way or by other instruments relating to the vacation of rights-of-way.

(c) Requirements.

(1) From time to time, the city commission may grant to a developer the privilege of platting and developing a residential subdivision as a "gated community" in which the subdivision infrastructure may be located on privately controlled easements or tracts, not public rights-of-way. The privilege of having a gated community runs with the land, but is subject to forfeiture for failure to comply with any of the requirements contained in this section. Upon a forfeiture of the privilege, the city may prohibit the closure of gates. Thereafter, if and when the subdivision rights-of-way are dedicated or otherwise conveyed to the city, the city shall assume responsibility for street and drainage-system maintenance.

(2) All gated communities approved by the city commission must comply with the following:

- a. Streets and stormwater detention/retention areas must be platted as separate tracts.
- b. Streets and stormwater detention/retention areas must be owned and maintained by an HOA.

- c. Access-easement rights over the platted roadway right-of-way tracts must be dedicated or otherwise granted to the owners of each lot within the subdivision and to all their successors in interest.
- d. The developer shall construct the streets and drainage systems to city standards and shall comply with the provisions of City of Eustis Code sections 102-10 regarding guarantees and sureties.
- e. Entryway gates may be required by the city to be equipped with an audio (siren) override device to allow emergency access to the subdivision by fire/rescue, police and other emergency-response personnel. The audio-override device must be submitted to the fire department for inspection and, the entrance gates may not be closed unless and until the department determines that the device is acceptable and in good working order.
- f. The entryway gate must include a box, labeled "City of Eustis", with a master-keyed padlock, and the box must contain a key, a card-key, a code, a remote-control device, or some other means by which animal control, code enforcement, and utility workers may gain access to the subdivision. The means of access must be approved by the city and the box must be installed prior to the city's issuance of the certificate of completion for the subdivision infrastructure. Any other utilities serving the subdivision must have similar access, and the names of such utilities must be on the outside of the box containing the means of access. In addition if the gates are operated by an electronic keypad, then the activation code to operate the gates shall be issued to the police, fire, utility service personnel and meter readers of the city.
- g. Prior to recording of the plat, a traffic law enforcement agreement pursuant to section 102-10.1(c)(2)h.14. between the City of Eustis and the owner of the private streets within the gated community must be executed and approved by the city commission.
- h. Simultaneous with the recording of the subdivision plat, the developer must record in the Public Records of Lake County, Florida, a document or documents (referred to in this section as the "declaration"). The declaration shall govern all platted lots within the subdivision, shall impose requirements and restrictions that run with the land, and shall address the responsibilities for the ongoing maintenance and repair of the subdivision infrastructure. The terms of the declaration shall be, to the city's satisfaction, legally sufficient and enforceable to accomplish or otherwise ensure, at a minimum, the following:
 - 1. Require the establishment and maintenance of an HOA account for annual routine maintenance and repair of the streets, sidewalks, and drainage system, including stormwater

detention/retention areas (referred to in this section as the "routine-infrastructure-maintenance account"), and impose the restrictions and requirements set forth in Section 102-10.1(d) regarding that account.

2. Require the establishment and maintenance of an HOA account for major capital repair and replacement of the subdivision's streets (referred to in this section as the "capital-repair/streets account"), and impose the restrictions and requirements set forth in section 102-10.1(d) regarding that account.
3. Require the establishment and maintenance of an HOA account for major capital repair and replacement of the subdivision's stormwater retention/detention facilities (referred to in this section as the "capital-repair/drainage pond account") and impose the requirements and restrictions set forth in section 102-10.1(d) regarding that account.
4. Require the establishment and maintenance of an HOA account for major capital repair and replacement of other subdivision infrastructure such as sidewalks, stormwater conveyance systems, curbing, bike paths, etc. (referred to in this section as the "capital-repair/other infrastructure account") and impose the requirements and restrictions set forth in section 102-10.1(d) regarding that account.
5. Establish the point at which the developer must turn over control of the HOA. Turnover may occur no sooner than the point in time at which certificates of occupancy have been issued for 70 percent of the platted lots in the project, and must occur no later than the point in time at which certificates of occupancy have been issued for 90 percent of the platted lots in the project. Notwithstanding the foregoing, if a project contains individually-platted subdivisions, each with its own HOA and declaration (which may also be a part of a master association under a master declaration), different turnover dates may be established in the declaration for each separate HOA.
6. Establish the point at which the developer must transfer control of the subdivision infrastructure. Where a phased project contains individually platted subdivisions which are subject to a common declaration and/or HOA, the date of transfer of control of subdivision infrastructure for each individually platted subdivision may occur no sooner than the point in time at which certificates of occupancy have been issues for 70 percent of the platted lots in the subdivision, and must occur no later than the point in time at which certificates of occupancy have been issued for 90 percent of

the platted lots in the subdivision.

7. Provide that:

- i. Until turnover of the HOA and/or transfer of control of subdivision infrastructure, all maintenance and repair of streets, sidewalks and the drainage system, including stormwater detention/retention areas, is the responsibility of the developer;
- ii. Prior to turnover of the HOA and/or transfer of control of subdivision infrastructure, the developer may expend monies in the routine-infrastructure-maintenance account for such maintenance and repair, but only with the written consent of the board of directors of the HOA; and
- iii. Insufficiency of monies in the routine-infrastructure-maintenance account shall not act to relieve the developer of any responsibility to maintain and repair the streets, sidewalks, and drainage system (including stormwater detention/retention areas) properly prior to turnover of the HOA and/or transfer of control of subdivision infrastructure.

8. Require that:

- i. no earlier than 180 days before turnover of the HOA and/or transfer of control of subdivision infrastructure, the HOA must retain the services of a Florida-registered engineer experienced in subdivision construction (other than the engineer of record for the subdivision as of the date of the city's approval of the subdivision infrastructure construction plans, and engineers who are principals of, employed by, or contractors of the same firm as the engineer of record) to inspect the streets, sidewalks and drainage system, including stormwater detention/retention areas, and prepare a report recommending the amount of scheduled maintenance and unscheduled repair that likely will be needed each year for the streets, sidewalks, and drainage system (including stormwater detention/retention areas), in accordance with standards that may be established and revised from time to time by the city engineer or his or her designee, which recommends the amounts of money that should be deposited each year in the routine-infrastructure-maintenance account, and determining what repairs, if any, are needed prior to turnover of the HOA;

- ii. The report required in subparagraph i. above be signed and sealed by the engineer;
 - iii. The HOA pay the cost of this initial engineer's report, and the HOA may pay such cost from the routine-infrastructure-maintenance account;
 - iv. A copy of the initial engineer's report be provided to all owners of lots, blocks, and tracts in the subdivision and to the city engineer within 15 days after it is completed;
 - v. Any needed repairs or replacements identified by the report be completed by the developer, at the developer's sole expense, prior to either the developer's turnover of the HOA to the property owners of the subdivision or transfer of control of subdivision infrastructure to the HOA, whichever occurs first; and
 - vi. If turnover of the HOA or transfer of control of subdivision infrastructure occurs and the foregoing requirements have not been fulfilled, the rights of the HOA, any of its members, and any and all owners of land in the subdivision to enforce these requirements against the developer shall survive the turnover of the HOA, with the prevailing party to be entitled to attorneys' fees and costs.
9. Require that, after turnover of control of the HOA, or turnover of control of the subdivision infrastructure:
- i. The HOA obtain an inspection of the streets, sidewalks and drainage systems, including stormwater detention/retention areas, by a Florida-registered engineer experienced in subdivision construction no less frequently than once every three years after the initial engineer's inspection; and
 - ii. Using good engineering practice, and in accordance with standards that may be established and revised from time to time by the city engineer or his or her designee, or in accordance with such other standards as may be adopted from time to time by the HOA with the consent of the city engineer, or in accordance with such standards as the HOA's engineer may determine to be appropriate with the consent of the city engineer, the inspection determine the level of maintenance and repair (both scheduled and unscheduled) needed, the amounts of funding needed

- each year for the next three years in the routine-infrastructure-maintenance account to pay for such maintenance and repair, and any repairs then needed;
- iii. That the inspection be written in a report format; and
 - iv. A copy of each engineering report be provided to each owner of property in the gated community within 15 days of completion of the report; and
 - v. Within 180 days of receipt of each tri-annual engineering report, the HOA complete all remedial work identified and recommended by the engineer.
10. The developer (so long as the developer retains control of the board of directors of the HOA) and the HOA expressly indemnify and hold the City of Eustis and its officers and employees harmless from any cost of maintenance, repair and reconstruction of, or tort liability or award of damages related to or arising in connection with, the streets, sidewalks, drainage system (including stormwater retention/detention area), and/or any other subdivision infrastructure.
 11. Expressly declare that property owners receive no discount in property or other taxes because of private streets or drainage system.
 12. Declare that upon any default by the HOA or the developer in any requirements of either this section or the declaration required under this section the city, at its option and after due notice of its declaration of a default and a reasonable time to cure, may prohibit closure of the gates and, upon dedication or conveyance of the rights-of-way to the city, assume responsibility for maintenance, using all HOA monies on deposit in the routine-infrastructure-maintenance account and the several capital-repair accounts or, if no monies exist or if an insufficient amount exists, using such other revenues or financing methods as the city may elect, including (but not limited to) special assessments against the subdivision lots, blocks and tracts.
 13. Require that the HOA carry an insurance policy insuring itself from liability from damages related to or arising in connection with the streets, sidewalks, drainage system (including detention/retention areas). The minimum amount of insurance required shall be established by resolution of the city commission.
 14. Require that enforcement of traffic laws within the gated

community, as requested by the HOA, shall be by the police department and that all costs of enforcement incurred by the police department shall be paid by the HOA.

15. Provide a procedure for non-binding mediation in the event of a dispute between any homeowner and the developer, or between the HOA and the developer, with respect to the repair and maintenance of the streets, sidewalks, and drainage system and/or funding for such maintenance and repair.
16. Provide that:
 - i. The HOA, any member of the HOA, and any and all owners of land in the subdivision shall have the right jointly and severally to enforce against the developer the requirements of this section and the provisions of the declaration required hereunder, with the prevailing party being entitled to attorneys' fees and costs;
 - ii. Any member of the HOA and any and all owners of land in the subdivision shall have the right to enforce against the HOA the requirements of this section and the provisions of the declaration required hereunder, with the prevailing party being entitled to attorneys' fees and costs; and
 - iii. Venue for any such enforcement action shall be in the Fifth Judicial Circuit of Florida in Lake County, Florida.
17. Provide that any transfer of subdivision infrastructure (including the property on which the subdivision infrastructure is located) to the City of Eustis or other governmental entity is prohibited without the concurrence of the owners of two-thirds (or such higher percentage as the declaration may provide) of the platted lots.
 - i. The declaration setting forth the gated-community requirements in this section must be in form acceptable to the city and in substance consistent with and in compliance with the minimum requirements of this section. The declaration must be submitted for review by the city prior to plat recording. Nothing in this section precludes the declaration from addressing other matters so long as the substance of each part of the declaration is not inconsistent with the requirements of this section.
 - j. This section does not require the establishment of accounts for either the routine maintenance or the capital repair and replacement of private amenities not related to subdivision infrastructure, including, but not limited to common area landscaping, entrance and exit gates, walls,

swimming pools, clubhouses, parks, other recreation areas, etc., but such accounts may be required by the declaration or may be established at the discretion of the HOA.

- k. The developer shall construct the development's water and sewer system to city standards and at the time of recording the final plat shall convey such systems to the city by bill of sale for \$1.00. Together with the water and sewer system improvements, the developer shall also convey utility easements of at least 15 feet in width over all properties within the development where water and sewer lines are located for purposes of allowing the city to maintain said lines.

(d) HOA accounts for maintenance and repair.

- (1) In addition to the several requirements of subpart 102-10.1(c)(2)h., the declaration for each subdivision approved as a "gated community" shall provide, at a minimum, the following requirements, restrictions, terms, conditions, and limitations with respect to the accounts required for the maintenance and repair of the streets, drainage, and other infrastructure for the subdivision and the monies on deposit in those accounts.
- (2) Required HOA asset accounts. The HOA must create, deposit monies into, retain in perpetuity, and replenish from time to time the following accounts, which are referred to in this section collectively as the "required HOA accounts":
 - a. A routine-infrastructure-maintenance account;
 - b. A capital-repair/streets account;
 - c. A capital-repair/drainage pond account; and
 - d. A capital-repair/other infrastructure account.

Each of these accounts must be asset accounts kept separate and apart from all other funds and accounts of the HOA, and for accounting purposes the HOA may not commingle these accounts, either with each other or with other funds and accounts of the HOA. However, notwithstanding the foregoing, the monies in the above accounts may be commingled with monies in other HOA accounts for banking and investment purposes, and may be pooled with other HOA monies in a common investment program, so long as the financial books and records of the HOA accounts for these monies separately and apart from all other HOA monies and keep such monies earmarked for the purposes set forth below. All earnings from the investment of monies in the required HOA accounts shall remain in their respective accounts and shall follow their respective principal.

- (3) Use of accounts.
- a. Routine-infrastructure-maintenance account. Monies on deposit in the routine-infrastructure-maintenance account, including any investment earnings, may be used by the HOA, or by the developer with the written consent of the board of directors of the HOA, only for scheduled maintenance and for unscheduled repair of the streets, drainage system, including the stormwater detention/retention areas, sidewalks, curbing, bike paths, traffic-control signage and other HOA infrastructure appurtenant to the private roads and drainage systems. If allowed by the declaration, the monies on deposit in the account may also be used for scheduled maintenance and unscheduled maintenance and repair of the entrance and exit gates and their related facilities, but the declaration shall require that the streets and drainage-system maintenance and repair take priority over the maintenance and repair of the gates and related facilities.
 - b. Capital-repair/streets account. Monies on deposit in the capital-repair/streets account, including any investment earnings, may be used by the HOA only for resurfacing and related reconstruction of the streets in the subdivision generally every 12 years after issuance by the city of the certificate of completion for the streets. The monies on deposit in the account may not be expended earlier than the 12th anniversary of the issuance of the certificate of completion without the consent of no less than a simple majority of the owners of platted lots (excluding the developer) in the subdivision, which consent may consist of written consent and/or voting consent at a meeting called in accordance with the bylaws of the HOA, and the consents will be valid only if obtained after turnover of the subdivision infrastructure to the HOA. Under no circumstances may the monies in the account be expended before the developer turns over control of the subdivision infrastructure to the HOA.
 - c. Capital-repair/drainage pond account. Monies on deposit in the capital-repair/drainage pond account, including any investment earnings, may be used by the HOA only for major repair and reconstruction of the stormwater detention/retention areas of the drainage system, generally every ten years after issuance by the city of the certificate of completion for the stormwater-drainage system. The reconstruction and repair of the detention/retention areas will include, but not be limited to, dredging and sediment removal. The monies on deposit in the account may not be expended earlier than the tenth anniversary of the issuance of the certificate of completion without the written consent of no less than a simple majority of the owners of platted lots (excluding the developer) in the subdivision, which consent may consist of written consent and/or voting consent at a meeting called in accordance with the bylaws of the HOA, and the consents will be valid only if obtained after turnover of the

subdivision infrastructure to the HOA. Under no circumstances may monies in the account be expended before the developer turns over control of the subdivision infrastructure to the HOA.

- d. Capital-repair/other infrastructure account. Monies on deposit in the capital-repair/other infrastructure account, including any investment earnings, may be used by the HOA only for major repair, reconstruction, resurfacing, and replacement of the other parts of the infrastructure related to the private streets and drainage systems, such as the stormwater conveyance systems, sidewalks, curbing, and bike paths. If allowed by the declaration, the monies on deposit in the account may also be used for the major repair, reconstruction, and replacement of the entrance and exit gates and related facilities, but the declaration must require that the repair, reconstruction, and replacement of the former items of infrastructure take priority over the repair, construction and replacement of the entrance and exit gates and their related facilities.
- (4) Required funding; required assessments.
- a. Routine-infrastructure-maintenance account. The HOA must deposit each year into the routine-infrastructure-maintenance account an amount of money sufficient to perform all scheduled maintenance and unscheduled repair of the streets, drainage systems, and other infrastructure during the subsequent year. The amount deposited, when added to investment earnings, must be no less than the amounts recommended by the engineer's report required in paragraphs 8.i. and 9.ii. of subpart 102-10.1(c)(2)h. If the declaration allows maintenance and repair of the entrance and exit gates and their related facilities to be paid from the routine-infrastructure-maintenance account, then the deposits each year must be increased by amounts sufficient to cover those costs.
 - b. Capital-repair/streets account. The HOA must deposit each year into the capital-repair/streets account an amount sufficient for the streets to be resurfaced and, as related to the resurfacing, reconstructed no less frequently than every 12 years, and the amount must be estimated by the developer and approved by the city prior to issuance of a certificate of completion for the streets. Deposits to the account must begin in the year in which the city issues its certificate of completion and must be completed no later than the year of the 12th anniversary of the issuance of the certificate. The amount deposited by the HOA must be no less than one-twelfth of the estimated approved by the city. However, after turnover of the HOA the schedule of deposits may be altered such that one or more annual deposits is less than one-twelfth of the estimate, but only if a simple majority or more of all owners of platted lots in the subdivision consent in writing and/or by voting at a meeting called in accordance with the bylaws of the HOA to approve the altered schedule. If the property owners in the subdivision consent in writing to a different

schedule of deposits, the revised scheduled must result in the aggregate amount of deposits during the 12-year period being equal to or in excess of the estimate approved by the city. At the end of each 12-year period, the HOA shall revise and update the estimated cost of resurfacing and, as related to the resurfacing, reconstructing the streets at the end of the next 12-year period, taking into consideration actual costs incurred and expected increases in road construction costs, and shall adjust the amount of its annual deposits to the account accordingly.

If for any reason expenditures are made from the account prior to the end of the 12-year period, the amount of deposits to the account in the remaining years shall be adjusted so as to ensure that the account contains an amount sufficient at the end of the 12-year period to pay the costs of all expected repair and/or reconstruction and resurfacing requirements.

- c. Capital-repair/drainage pond account. The HOA must deposit each year into the capital-repair/drainage pond account an amount sufficient for the stormwater detention/retention areas in the drainage system to be restored and repaired no less frequently than once every ten years, and the amount must be estimated by the developer and approved by the city prior to the issuance of a certificate of completion for the drainage system. Deposits to the account must begin in the year of which the city issues its certificate of completion for the drainage system and must be completed no later than the year of the tenth anniversary of the issuance of the certificate. The amount deposited each year by the HOA must be no less than one-tenth of the estimate approved by the city. However, after turnover of the HOA, the schedule of deposits may be altered such that one or more annual deposits is less than one-tenth of the estimate, but only if a simple majority or more of all owners of platted lots in the subdivision consent in writing and/or by voting at a meeting called in accordance with the bylaws of the HOA to approve the altered schedule. If the property owners consent to a different schedule of deposits, the revised schedule must result in the aggregate amount of deposits during the ten-year period, being equal to or in excess of the estimate approved by the city. At the end of each ten-year period, the HOA shall revise and update the estimate of the cost of restoring and repairing the stormwater detention/retention areas at the end of the next ten-year period, taking into consideration actual costs incurred and expected increases in drainage-system construction costs and shall adjust the amount of its annual deposits to the account accordingly. If for any reason expenditures are made from the account prior to the end of the ten-year period, the amount of deposits to the account in the remaining years will be adjusted so as to ensure that the account contains an amount sufficient at the end of the ten-year period to pay the costs of all expected restoration and repair requirements.

- d. Capital-repair/other infrastructure account. The HOA must deposit each year into the capital-repair/other infrastructure account an amount sufficient for other subdivision infrastructure related to the streets and drainage system, such as stormwater conveyance systems, sidewalks, curbing, and bike paths, to be reconstructed and/or repaired no less frequently than once every 50 years, and the amount must be approved by the city prior to the issuance of a certificate of completion for those improvements. Deposits to the account must begin in the year in which the city issues its certificate of completion for the improvements and must be completed no later than the 50th anniversary of the issuance of the certificate. The amount deposited each year by the HOA must be no less than one-fiftieth of the estimate approved by the city. However, after turnover of the HOA, the schedule of deposits may be altered such that one or more annual deposits is less than one-fiftieth of the estimate, but only if a simple majority or more of all owners of platted lots in the subdivision consent in writing and/or by voting at a meeting called in accordance with the bylaws of the HOA to approve the altered schedule. If the property owners consent to a differed schedule of deposits, the revised schedule must result in the aggregate amount of deposit during the 50-year period being equal to or in excess of the estimate approved by the city. At the end of each 50-year period, the HOA shall revise and update the estimate of the cost of reconstructing and/or repairing the improvements, taking into consideration actual costs incurred and expected increases in reconstruction and repair costs, and shall adjust the amount of its annual deposits to the account accordingly. If for any reason expenditures are made from the account prior to the end of the 50-year period, the amount of deposits to the account in the remaining years will be adjusted in a manner to ensure that the account contains an amount sufficient at the end of the 50-year period to pay the cost of all expected reconstruction and/or repair requirements.
- e. Required assessments. The obligation to collect and pay assessments shall commence as of the date on which the city issues its certificate of completion for the streets, drainage system, and other related improvements for the subdivision. However, if no plat has been recorded as of that date, the obligation to collect and pay assessments shall commence as of the date the plat is recorded in the public records of Lake County, Florida. The HOA shall impose and collect assessments against each platted lot in the subdivision, including lots owned or controlled by the developer and by any builder, without exception. The assessments must be uniform and equitable and must be imposed and collected in amounts sufficient, when added to investment earnings and other available revenues of the HOA, if any, to make all required deposits to each of the required HOA accounts.

Notwithstanding the foregoing, if in the opinion of the city engineer or

the city public works director, or their designees, the subdivision infrastructure has substantially deteriorated at the time a plat is approved, the city may require an additional payment of assessments by the developer to address the loss of useful life of the deteriorated subdivision infrastructure.

- (5) Financial reports and other requirements. Each year the HOA shall cause a financial report of the required HOA accounts to be performed and prepared, and a copy of the report shall be submitted to each owner of property in the subdivision within the time frame required under the "financial reporting" requirements of F.S. ch. 720 and to the city. At a minimum, the report shall confirm the existence of each of the required HOA accounts and report the amounts of deposits into and expenditures from the account during the period year, along with an itemization of the expenditures from the required HOA accounts. Finally, the financial report shall disclose whether any of the required HOA accounts has on deposit less than the amount required under the declaration.

Sec. 102-11. Minor Replats and Lot Splits.

- (a) *Submittals.* The department of development services shall consider a proposed minor replat upon the submittal of the following materials:
 - (1) An application form provided by the department of development services; and
 - (2) Three copies of the proposed minor replat; and
 - (3) A statement indicating whether water and/or sanitary sewer service is available to the property; and
 - (4) Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the state. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.
- (b) *Review procedure.*
 - (1) The department of development services shall transmit a copy of the proposed minor replat to any other appropriate departments of the city and the director of development services for review and comments.
 - (2) If the proposed minor replat meets the conditions of this Section and otherwise complies with all applicable laws and ordinances, the Director of Development Services shall approve the minor replat.

(c) *Review by the department of development services.* The department of development services may approve a minor replat that conforms to the requirements of this Section.

(d) *Recordation.* Upon approval of the minor replat, the department of development services shall record the replat on the appropriate maps and documents, and the developer shall, at the developer's expense, record the replat in the Official Records of Lake County, providing a copy to Development Services.

(e) *Standards and restrictions.*

(1) *Standards.* All minor replats shall conform to the following standards:

- a. Each proposed lot must conform to the requirements of this land development regulation.
- b. Each lot shall abut a public or private street (except as hereinafter provided) and shall conform to the required minimum lot dimensions for the land use district where the lots are located.
- c. If any lots abut a street right-of-way that does not conform to the design specifications provided in, or adopted by reference in, this land development regulation, the owner may be required to dedicate one-half the required right-of-way width necessary to meet the minimum design standards.

(2) *Restriction.* A minor replat may be approved only one time within a 12 month period per parcel. Any further division of a minor replat is not permitted under this Section, unless a site plan is prepared and submitted in accordance with this Chapter.

(f) *Lot Splits.* The department of development services may approve a lot split provided each lot created from the lot split meets the requirements of these Land Development Regulations and must have sufficient access to a public right of way. Any request for a lot split of an unplatted lot must include at least a survey and legal descriptions of the parent parcel and of each lot created from the lot split. The applicant shall record the Lot Split approval with all three legal descriptions in the Public Records of Lake County Florida. Each lot of record may be split only one time.

Sec. 102-12. PUD Overlay.

The intent and purpose of a Planned Unit Development (PUD) overlay is to provide for a diversity of land uses to create a planned, sustainable community. All mixed use developments more than five acres require a PUD overlay and must be developed according to the land uses, density, design, and phasing stipulated on an approved Master Plan. The City may impose specific conditions of approval upon any PUD. Such conditions shall be recommended for the

purposes of assuring consistency with the Comprehensive Plan or elements thereof; offsetting or minimizing impacts upon public improvements, surrounding land uses, and significant environmental features; and assuring the adequacy of public services and facilities which will specifically serve the proposed Planned Unit Development site. Conditions imposed upon an approved master planned unit development plan shall constitute the standards and guidelines against which the development of the Planned Unit Development site, or any increment or phase thereof, shall be reviewed.

(a) For any PUD overlay, an applicant shall submit a conceptual Master Plan in accordance with this section. After approval of a PUD Master Plan in accordance with this section, the right to develop shall be contingent upon compliance with all provisions of the Land Development Regulations and the approved Master Plan. The PUD shall comply with the density/intensity limitations of the underlying land use designation, the standards associated with the designated Design District, and other provisions of the Land Development Regulations, unless specifically approved otherwise in the Master Plan. The overall net density of the entire PUD Master Plan shall be used for the purpose of residential compatibility assessment.

(b) Application and submittal requirements for PUD overlay.

The applicant for a Planned Unit Development approval (hereinafter referred to as "applicant") shall provide a location map showing the relationship between areas proposed for development and surrounding developments or lots, including a current aerial photograph, with boundaries of the proposed development and roadway layout delineated. The applicant shall also provide the following information with all map products, shown at a scale of 1 inch equals 200 feet (1:200') unless a more appropriate scale is approved by the Director of Development Services:

(1) General Requirements

- a. The location of all existing and proposed major public roadway, rights-of-way, and easements adjacent to or within the property.
- b. A recent aerial of the site and surrounding areas within 500 feet of the site at a scale of 1:200.

(2) Physical Resources

- a. A topographic survey including mean annual and 100 year floodplain and wetland delineations. The most recent USGS Topographical Survey and USGS Flood Prone or FEMA Mapping may be used for topography on flood prone delineations. Lake County wetlands maps or aerial photography interpretation may be used for wetlands delineation.
- b. A soils survey, which may be based on the most recent Lake County Soils Survey, drawn to the same scale as the preliminary land use plan, clearly

identifying all soils types especially those areas which are apparently not suitable for buildings or major structures due to soils limitations.

- c. An environmental/wildlife habitat study which shall include the following: description of the parcel; documentation of data collected and reviewed (national wetland inventory, soils maps, Florida natural areas inventory, Florida land use and cover classification system, U.S. Fish and Wildlife, and Florida Fish and Wildlife Conservation Commission); field survey (map, characterize and describe natural habitats located on the site); protected species survey to include direct sightings and indirect observations (record species that inhabit, cross, or utilize habitats within and immediately adjacent to the site); and develop a report describing the methodology used, findings, and conclusions/recommendations. The reports shall include an aerial photograph that maps and identifies the character and size of the natural habitats as well as the location of any protected species or signs of their presence.

(3) Master Plan

- a. A Master Plan with topography, 100 yr. flood elevations, and wetlands, which clearly identifies proposed land uses, open space, proposed preservation or conservation areas, and the proposed location of major streets and thoroughfares, recreation areas, and other major facilities. The Master Plan shall also include a legend, title, and number of revision; date of plan and revision(s); scale of plan; north arrow; acreage in the tract; acreage of each land use; total number of residential units; square footage and intensity of all non-residential uses other than conservation, open space, and recreation; name, address, and telephone number of developer; owner; surveyor; and engineer; and all calculations and information necessary to demonstrate compliance with the Land Development Regulations.
- b. The Master Plan shall identify the adopted land use designation and the existing uses on the site and the surrounding areas within 500 feet of the site.
- c. The Master Plan shall include a phasing plan (when applicable) that describes the proposed timing for, location of, and sequence of phasing or incremental development and the proposed density/number of units for each such phase or increment of development.

(4) Development Character Description

- a. A preliminary description of uses in sufficient detail to determine the general intent of the Planned Unit Development with respect to the following:
 - i. The general purpose and character of the proposed development
 - ii. Land use by acreage and densities

- iii. Structural concepts, including height and anticipated building type
 - iv. Major landscaping concepts
 - v. Recreation and open space
 - vi. Facilities commitments
 - vii. Housing types
- b. A general indication of the perceived impact area for the commercial or industrial uses.
 - c. A statement indicating that legal instruments will be created providing for the management of common areas and facilities.

(5) Utilities and Services Plan

- a. Identify the location/source of sanitary sewers, potable water facilities and the approximate location of existing and proposed facilities on the Master Plan. Provide a statement identifying the supplier of the potable water facilities, and the method of disposal of sewage effluent.
- b. The general direction of natural surface drainage of the proposed Planned Unit Development site, including a definitive statement regarding the disposal of storm-water drainage.
- c. An analysis of the impact of the proposed Master Planned unit development on schools and other public facilities as provided in Chapter 106 of the Land Development Code.

(6) Transportation Management

- a. A transportation management plan that identifies the location of existing roads which will be utilized to serve the Planned Unit Development site, the proposed location of other roads which will be constructed for the purposes of serving the site and a description of the projected transportation impact of the Master Planned Unit Development at build-out, which description shall include projected average daily trips, direction of traffic, and projected levels of service for arterial roads servicing the site. The Transportation Management Plan shall also include a proposed bicycle/pedestrian plan.
- (c) Approval Process: Approval for a PUD overlay is a two-step process. The first step is the approval of a Master Plan through a public hearing by the City Commission noticed in accordance with Section 102-7 of the Land Development Regulations. The second step in the approval process is the submittal and approval of preliminary subdivision plans and/or site plans for each phase of the development in accordance with

applicable provisions of the Land Development Regulations. Within twelve (12) months of obtaining approval of a Master Plan, the applicant must submit a preliminary subdivision plan or site plan for Phase One of the development. Failure to meet the time limitation may result in the revocation, upon a majority vote of the City Commission, of the Master Plan approval, or any other remedy as the City Commission deems appropriate. The applicant may apply for extensions of time, not to exceed twelve (12) months per extension, provided the Master Plan complies with the most recent Land Development Regulations in effect at the time the City Commission considers the extension request and provided the development is deemed to be continuing in good faith by the City Commission.

- (d) Deviation from the approved Master Plan: The approved Master Plan may be modified in accordance with Section 102-15, but any unapproved deviation from the approved Master Plan shall cause the City Commission to immediately revoke the Master Plan approval until such time as the deviations are corrected or revisions are approved in accordance with Section 102-15.

Sec. 102-13. Conditional Uses.

- (a) *Purpose.* The purpose of this Section is to provide for uses that are generally compatible with the use characteristics of a land use district, but which require individual review of their location, design, intensity, configuration, and public facility impact in order to determine the appropriateness of the use of any particular site in the district and their compatibility with adjacent uses. Conditional uses may require the imposition of additional conditions to make them compatible in their specific contexts.
- (b) *Authority.* The City Commission may, in accordance with the procedures, standards, and limitations of these Land Development Regulations, grant conditional use permits for only those conditional uses set forth in Section 109-4.
- (c) *Standard of review for conditional use permits.* The proposed conditional use must be consistent with the general purpose, goals, objectives, and standard of these Land Development Regulations, the City Comprehensive Plan, the Code of Ordinances of the City, and in compliance with all additional standards imposed on it by the particular provisions of these Land Development Regulations authorizing such use.
- (a) *Application Procedures for Conditional Uses.* The application for a conditional use permit shall include a survey or map showing the following:
 - (1) All structures on the property
 - (2) Abutting rights of way
 - (3) Parking
 - (4) Landscape buffers

- (5) Setbacks from each boundary line
- (6) Adjacent land uses within five hundred (500) feet of the subject property
- (b) *Conditions on conditional use permits.* The City Commission, by ordinance, shall attach such conditions, limitations and requirements to a conditional use permit as are necessary to carry out the spirit and purpose of these Land Development Regulations and the City Comprehensive Plan; and to prevent or minimize adverse effects upon other property in the neighborhood, including but not limited to limitations on size, intensity of use, bulk and location, landscaping, lighting, the provision of adequate ingress and egress, duration of the permit, and hours of operation. Such conditions shall be set forth expressly in the ordinance granting the conditional use permit.

Sec. 102-14. Time Limitations and Revocation of Approval.

- (a) Within twelve (12) months of obtaining approval of a site plan or preliminary plat, an applicant must submit final engineering/construction plans or a final plat.
- (b) Within six (6) months of obtaining approval of final engineering/construction plans or final plat, a developer must begin construction, which shall be demonstrated by applying for and obtaining a building permit.
- (c) Violation of this Section may result in the revocation, upon a majority vote of the City Commission, of the prior approval of a site plan, preliminary plat, final engineering/construction plan, or final plat or any other remedy as the City Commission deems appropriate.
- (d) The applicant may apply for extensions of time, not to exceed twelve (12) months per extension, provided the underlying development order complies with the most recent Land Development Regulations in effect at the time the City Commission considers the extension request, and provided the development is deemed to be continuing in good faith by the City Commission.

Sec. 102-15. Modifications to Approved Site Plans and Final Plats.

The Director of Development Services is authorized to approve minor modifications in the approved PUD Master Plan, Site Plan or Final Plat, but shall not have the power to approve changes that are inconsistent with the minimum open space requirements or the maximum density, intensity or height of the applicable land use district or that constitute a substantial modification as defined herein. A substantial modification shall be processed in accordance with Section 102-7 of this code as applicable. Substantial modifications and minor modifications are defined as follows:

MINOR MODIFICATION

SUBSTANTIAL MODIFICATION

GENERAL	
---	Any change in a stipulation or condition specifically required by the City Commission as a part of the original approval.
---	Any alteration to uses approved in the Site Plan/ Master Plan that lie within 100 feet of the boundary of the property, or within 100 feet of any part of the property that has been constructed or sold to any owner or owners different from the applicant requesting the change, that is not specifically set forth in this table as a minor modification.
---	Any other modifications that affect the area depicted on the Site Plan/Master Plan or the perimeter of the proposed site that are not specifically set forth in this table as a minor modification.
USE	
--	Any addition of a use not previously approved in the Site Plan/Master Plan.
A change from multifamily to single-family use.	A change from single-family residential use to multifamily residential use; from any residential use to internal commercial use; or a change in the location of an internal commercial component.
BUILDING AREA/UNITS	
A decrease in total residential units or nonresidential square footage.	An increase in floor area of five percent or more.
A cumulative increase of five percent or less in residential dwelling units equal to a concurrent reduction in planned areas provided the increase does not occur within 100 feet of the boundary of the district.	A cumulative increase of greater than five (5) percent in the total number of residential dwelling units proposed for the Development.
A cumulative increase of five percent or less in the amount of nonresidential square footage equal to a concurrent reduction in planned areas provided the increase does not occur within 100 feet of the boundary of the district.	A cumulative increase in the size of areas proposed for nonresidential uses of more than five (5) percent.
An increase in structure height of less than 10 feet.	An increase in structure height of 10 feet or greater.
SITE CHARACTERISTICS	

MINOR MODIFICATION

SUBSTANTIAL MODIFICATION

<p>A modification of the size and configuration of perimeter stormwater lakes or any internal lakes.</p>	<p>--</p>
<p>A cumulative decrease in the amount of open space of less than five percent, provided the remaining open space is not less than that required in the district, and further provided the land was not designated as conservation or preservation land (including wetlands) on the Site Plan/Master Plan.</p>	<p>A reduction in the amount of open space, recreation areas, preservation areas or buffer areas that results in a cumulative reduction of more than five percent, or any change in the location of open space or recreational uses within 100 feet of the boundary of development, or within 100 feet of any part of a development that has been constructed or sold to any owner or owners different from the applicant requesting the change, or within 100 feet of the boundary of any portion of a development that has received final plat approval. Any change made following plat approval to the boundaries of open space, recreation or preservation areas previously recorded shall be considered a substantial modification.</p>
	<p>A reduction in the amount of open space, recreation areas, preservation areas or buffer areas or any change in the location of open space or recreational uses within 100 feet of the boundary of the development, or within 100 feet of any part of the development that has been constructed or sold to any owner or owners different from the applicant requesting the change, or within 100 feet of the boundary of any portion of a residential planned district that has received final plat approval. Any change made following plat approval to the boundaries of open space, recreation or preservation areas previously recorded shall be considered a substantial modification.</p>
<p>A modification to off-street parking layout provided all other City requirements for such facilities are met, provided no modification is within 100 feet of any residentially-zoned property.</p>	<p>--</p>

<u>MINOR MODIFICATION</u>	<u>SUBSTANTIAL MODIFICATION</u>
A modification to the configuration of lots in areas previously designated for outparcels, provided no modification is within 100 feet of any residentially-zoned property.	--
ACCESS	
A modification or addition to the external access points adjacent to nonresidential development or undeveloped residentially-zoned property provided the applicant demonstrates that the spacing is appropriate, safe, does not adversely affect the operation of the adjacent public roadway, and is approved by the City Engineer.	Addition or substantial relocation of an access point as shown on an approved Plan.
A modification to internal roads, internal bike lanes or sidewalks in residential projects, provided all other City requirements for such facilities are met.	--
INFRASTRUCTURE	
	Any cumulative change that would create an increase in traffic generation by more than ten percent.

*The measurement of distances in the table above shall include only abutting property, and shall not include any property across a street.

Sec. 102-16. Comprehensive Plan Amendment.

- (a) *Generally.* A property owner may apply to the City to amend the Comprehensive Plan in accordance with the procedures prescribed by these Regulations and controlling Florida law.
- (b) *State Law Controlling.* The procedures in this Section shall be followed in amending the Comprehensive Plan. This Section supplements the mandatory requirements of state law, which must be adhered to in all respects.
- (c) *Submittals.* The application shall include the following information:
 - (1) The applicant's name and address and, if the applicant is a Trust, the beneficiaries of the Trust by including a copy of the Trust and any amendments thereto with the application.
 - (2) A statement describing any changed conditions that would justify an amendment.

- (3) A statement describing why there is a need for the proposed amendment.
- (4) A statement describing whether and how the proposed amendment is consistent with the expressed policy in the Comprehensive Plan
- (5) A statement outlining the extent to which the proposed amendment:
 - a. Is compatible with neighborhood or surrounding land uses
 - b. Affects the capacities of public facilities and services, specifically the levels of service for public infrastructure and services as set forth in the Comprehensive Plan
 - c. Affects the natural environment
 - d. Will result in an orderly and logical development pattern
- (d) If the application requests an amendment to the Future Land Use Map, the applicant shall include:
 - (1) The street address and legal description of the property proposed to be reclassified.
 - (2) The applicant's interest in the subject property.
 - (3) The owner's name and address, if different than the applicant.
 - (4) The current land use district classification and existing land use activities of the property proposed to be reclassified
 - (5) The area of the property proposed to be reclassified, stated in square feet or acres.
- (e) Such other information or documentation as the City Manager or designee may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.
- (f) *Standards for Review.* In reviewing the application of a proposed amendment to the Comprehensive Plan, the Local Planning Agency and the City Commission shall consider:
 - (1) Whether the proposed amendment is consistent with all expressed policies the Comprehensive Plan.
 - (2) Whether the proposed amendment is in conflict with any applicable provisions of these Land Development Regulations.
 - (3) Whether, and the extent to which, the proposed amendment is inconsistent with existing and proposed land uses.

- (4) Whether there have been changed conditions that justify an amendment.
 - (5) Whether, and the extent to which, the proposed amendment would result in demands on public facilities, and whether, or to the extent to which, the proposed amendment would exceed the capacity of such public facilities, infrastructure and services, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.
 - (6) Whether, and the extent to which, the proposed amendment would result in significant impacts on the natural environment.
 - (7) Whether, and the extent to which, the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern.
 - (8) Whether the proposed amendment would be consistent with or advance the public interest, and in harmony with the purpose and interest of these Land Development Regulations.
 - (9) Any other matters that may be deemed appropriate by the Local Planning Agency or the City Commissioners, in review and consideration of the proposed amendment.
- (g) *Time for Amendments.* Amendments to the Comprehensive Plan may be made not more than two (2) times during any calendar year and must be made pursuant to Section 163.3187, Florida Statutes, or as amended by the Florida Legislature. The City Commission shall adopt a schedule for Comprehensive Plan amendments and no amendment shall be made outside of the adopted schedule with the exception of the following:
- (1) Emergency amendments approved pursuant to Section 163.3187, Florida Statutes.
 - (2) Amendments to approved Developments of Regional Impact (DRIs) and Florida Quality Developments approved pursuant to Section 380.061, Florida Statutes.
 - (3) Small scale development activities if the proposed amendment:
 - a. Encompasses the use of ten (10) or fewer acres of any land use category.
 - b. Residential densities are limited to ten (10) or fewer units per acre.
 - c. Does not involve the same property granted a change within the prior twelve (12) months.

- d. Does not involve the same owner's property within two hundred (200) feet of property granted a land use change within the past twelve (12) months.
- e. Does not include any text change to the Comprehensive Plan goals, objectives and policies.
- f. Is not located within an area of critical state concern.
- g. The cumulative annual effect of the acreage for all small scale development amendments adopted by the City shall not exceed eighty (80) acres.
- h. An amendment submitted to the state planning agency pursuant to a compliance agreement.
- i. The amendment directly relates to an inter-governmental coordination element pursuant to Section 163.3177, Florida Statutes.

Sec. 102-17. Design District Amendment.

- (a) Generally. A property owner in the City of Eustis or the City Commission may apply to the Development Services Director or designee for a change in Design District if in compliance with the procedures prescribed by these regulations. The application must identify, if the applicant is a Trust, the beneficiaries of the Trust by including a copy of the Trust and any amendments thereto. Each application for reassignment must also clearly identify the proposed assignment of design districts within the entire site. Section 109-3 Design districts identifies the definition, structure and form of each design district. The assignment of design district must follow the district pattern and intent. The following guidelines must be followed when proposing the reassignment of design district:
 - (1) Compatible intensities should face across streets. Changes in design districts should occur along rear alleys or lanes or along conservation edges.
 - (2) Where new development will abut an existing or approved neighborhood, the new development should establish similar or compatible transect conditions.
- (b) Application. Applications for a change in Design District are available from the Development Services Department. The application shall be signed by all property owners of the subject property and notarized. Signatures by agents will be accepted only upon express notarized written authorization from the actual owner(s) indicating that the agent has been granted the authority to act on the owner(s)' behalf concerning the amendment request. If the property is owned by a corporate entity or any other entity, the authorized agent with authority to bind the entity must note with the signature the legal name of the entity and the signor's title. Once determined to be sufficient, redistricting applications shall be presented to the City Commission for consideration. The application shall include the following information:

- (1) The applicant's name and address.
 - (2) A narrative describing the request which includes:
 - a. A description of the typical operations and/or activities conducted on the property.
 - b. A statement describing any changed conditions that would justify the redistricting.
 - c. A statement describing why there is a need for the proposed redistricting.
 - d. A statement describing whether and how the proposed redistricting is consistent with the Comprehensive Plan.
 - (3) A statement outlining the extent to which the proposed redistricting:
 - a. Is compatible with existing land uses.
 - b. Affects the capacities of public facilities and services.
 - c. Affects the natural environment.
 - d. Will result in an orderly and logical development pattern.
 - (4) A conceptual plan for all planned districts.
 - (5) Square footage of all structures along with the anticipated access for the property and the approximate location of all natural features such as wetlands, forests, water bodies and floodplains.
 - (6) If the redistricting request requires an amendment to the Future Land Use Map, the applicant shall follow the procedures outlined in Section 102-16, Land Development Regulations.
 - a. A complete legal description of the property.
 - b. Such other information or documentation as the Development Services Director or designee may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.
- (c) Standards for Review. In reviewing the application for amending a design district, the City Commission shall consider:
- (1) Whether the amendment is in conflict with any applicable provisions of the Code.

- (2) Whether the proposed amendment is consistent with all elements of the Comprehensive Plan.
- (3) Whether, and the extent to which, the proposed design district is consistent with existing and proposed land uses.
- (4) Whether there have been changed conditions that justify amending the design district.
- (5) Whether, and the extent to which, the proposed redistricting would result in demands on public facilities, and whether, or to the extent to which, the proposed change would exceed the capacity of such public facilities, including, but not limited to police, roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools, and fire and emergency medical facilities.
- (6) Whether, and the extent to which, the redistricting would result in significant impacts on the natural environment.
- (7) Whether, and the extent to which, the proposed redistricting would affect the property values in the area.
- (8) Whether, and the extent to which, the proposed redistricting would result in an orderly and logical development pattern.
- (9) Whether the proposed redistricting would be in conflict with the public interest, and in harmony with the purpose and intent of these regulations.
- (10) Any other matters that may be deemed appropriate by the City Commission, in review and consideration of the proposed redistricting.

Sec. 102-18. Waiver.

- (a) Except those matters which require a variance under 102-19 or 102-20, the City Commission may waive any development standards applying to site plans or preliminary plats according to the following standards:
 - (1) The applicant shall identify the specific Land Development Regulation provision for which the applicant is seeking the waiver and the reason why the waiver should be granted.
 - (2) The applicant shall specifically list any waivers on the first page of the site plan.
 - (3) The City Commission's consideration and granting of a waiver to the Land Development Regulations is a quasi-judicial proceeding.

Sec. 102-19. Major Variances.

- (a) *Generally.* A variance is a request that any provision of these Land Development Regulations concerning the type, size, dimension, or height of a sign, lot, building, or structure, not apply.
- (b) *Requirements for variance.* Variances may be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when the application of the regulation would create substantial hardship or would violate principles of fairness. For the purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal or other type of hardship such as the following:
- (1) There exist special circumstances and conditions which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same land use district. Land use violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed hardship relief.
 - (2) The special conditions and circumstances do not result from actions of the applicant, nor could the conditions or circumstances be corrected or avoided by the applicant.

For the purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the same regulation.

Financial loss, business competition, or purchase of property with intent to develop in violation of the restrictions of the Land Development Regulations shall not constitute grounds for approval.

Variances may also be granted to allow for the reconstruction, rehabilitation, or restoration of structures listed on, or classified as contributing to, a district listed on the National Register of Historic Places, Florida Master Site File, or local surveys of historic resources. In such cases the variance shall be the minimum necessary to protect the historic integrity of the structure and its site.

- (c) *Required findings:* In addition to meeting the requirements specified in paragraph (b), the City Commission must make the following findings in order to approve a variance to these land development regulations:
- a. The granting of relief does not create unsafe conditions or other detriments to the public welfare beyond the normal effects of development otherwise allowed.
 - b. The granting of relief does not confer upon the applicant any special privilege that is denied by this Land Development Regulation to the land, buildings, or structures in the same district.

- c. The granting of relief does not violate the general intent and purpose of these Land Development Regulations nor the policies of the Comprehensive Plan.
- d. The relief granted is the minimum degree of relief necessary to make possible the reasonable use of the land, building, or structure in compliance with all other applicable regulations.

Sec. 102-20. Minor Administrative Variances.

An applicant need not apply for a major variance under Section 102-19 and may instead apply for a minor administrative variance to be considered and granted or denied by the Department of Developmental Services for the following:

- (a) Setback variance(s) which do not deviate more than twenty (20) percent from the requirements set forth in these Land Development Regulations, or
- (b) Buffer variance(s) which do not deviate more than twenty (20) percent from the requirements set forth in these Land Development Regulations

Sec. 102-21. Damage and Destruction of Non-Conforming Buildings.

- (a) Should any non-conforming structure be damaged or destroyed through no fault of the owner, either by natural disaster, third party negligence, or otherwise, the owner may apply to the City Commission for a variance to rebuild, repair, replace or restore the damaged or destroyed structure without having to comply with these Land Development Regulations if the new structure's location is in the same location of the prior structure's footprint and the new structure's square footage is the same or less than prior structure's square footage. Compliance with the Building Code is still required.
- (b) A variance request under this Section shall contain a survey or sketch drawn to scale showing the location and square footage of the damaged or destroyed structure and the new location and square footage of the proposed new structure.
- (c) For the purpose of this Section only, convincing proof that the structure was damaged or destroyed through no fault of the owner is sufficient for the City Commission to grant the variance provided it is in the best interest of the City to do so.

Sec. 102-22. Map Interpretation For Property Lying Within Multiple Districts.

- (a) At the time these Land Development Regulations are adopted, if a property is determined to lie in more than one land use district with a majority of the property in one land use district, then the land use category that governs the majority of the property shall apply to the entire property.
- (b) At the time these Land Development Regulations are adopted, if a property is determined to lie in more than one land use district without a majority of the property

lying in any land use district, then the City Commission may determine the land use category that shall govern the entire property.

Sec. 102-23. Fees.

A schedule of fees may be established by ordinance of the City Commission in order to cover the costs of technical and administrative activities required pursuant to these Land Development Regulations. An applicant for any development that is subject to these Land Development Regulations shall bear the costs as set forth in such fee schedule on file with the City Clerk's office. The City Commission may waive any fee upon a showing by the applicant of extreme economic hardship.

Sec. 102-24. Violations, Remedies, and Penalties.

Should an owner or applicant violate any provisions of these Land Development Regulations the City Commission may, in its sole discretion, pursue any or all of the below remedies:

- (1) Seek damages or injunctive relief against the violator in the Circuit Court of Lake County, Florida, with all reasonable attorney's fees incurred being awarded to the prevailing party and to be paid by the losing party,
- (2) Refer the violations to Code Enforcement for enforcement,
- (3) Revoke, either permanently or temporarily, any permits, site plan approval, plat approval, development orders, or any other development rights granted by the City.

Sec. 102-25. Communications Relating to Land Use Proceedings.

- (a) In a quasi-judicial proceeding on local government land use matters, a person who appears before the City Commission who is not a party or party-intervenor shall be allowed to testify before the City Commission, subject to control by the Commission or City Attorney, and may be requested to respond to questions from the Commission or City Attorney, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The City Commission shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.
- (b) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communication directly with a member of the City Commission by application of ex parte communication prohibitions. Disclosure of such communications by a member of the City Commission is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the City Commission. All decisions of the City Commission in a quasi-judicial proceeding on local government land use matters must

be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

- (c) This Section does not restrict the authority of the City Commission to establish rules or procedures governing public hearings or contacts with local public officials.

Sec. 102-26. Application Withdrawal Six Month Bar to Reapply.

Any application for any action provided by this Chapter, 102, may be withdrawn by the applicant. However, if notice of the Commission hearing has already been published in the newspaper, the application must be withdrawn at a public hearing of the City Commission. Applications which were withdrawn by the applicant after notice of the Commission hearing was published in the newspaper shall not again be accepted by the City until six (6) months have passed from the date said application was withdrawn. Fees paid shall not be refundable if any expense has been incurred by the City Commission for public notice.

Sec. 102-27. Prohibition on multiple inconsistent applications.

If an application has been filed and is pending before the City, the City shall not accept another application which is inconsistent with the first application until the first application has been approved, denied, or withdrawn. The intent of this provision is to ensure that the applicant, the public, and the City are clear on the applicant's specific request and to avoid confusion that multiple inconsistent applications concerning the same property create.

Sec. 102-28. Interpretation and Severability.

Should any provision of these Land Development Regulations conflict, the more restrictive provision shall supersede and apply. At all times and in every instance, interpretation of the Land Development Regulations must be consistent with the City of Eustis Comprehensive Plan which supersedes and governs over any Land Development Regulation to the contrary. Should any provision of these Land Development Regulations be declared invalid by a court of competent jurisdiction, all other provisions shall remain in full force and effect.

Sec. 102-29. Appeals.

Any decision of the City staff can be appealed to the City Commission. A decision of the City Commission can be appealed to the Circuit Court of Lake County or to a federal court as provided under Florida and federal law.