

## ARTICLE 8

### ADMINISTRATION AND ENFORCEMENT

#### ***8.01.00 Development Officials***

At the option of the City Council, both of the positions established in this Section, that of the Development Director and the Building Official, may be assigned to one person.

#### ***8.01.01 Development Director***

The Development Director shall supervise and administer all staff activities regarding comprehensive planning, zoning, development review, issuance of permits, certificates of occupancy and code enforcement. He/she shall perform duties prescribed by this Code, as well as any others assigned by the City Administrator or the City Council. The Development Director shall be duly qualified for these responsibilities through appropriate education and work experience. The Development Director shall have a thorough knowledge of the provisions of the Comprehensive Plan and this Code, and shall have the authority to interpret the intent and meaning of this Code in situations where its applicability is not clear. Appeals of administrative decisions of the Development Director may be made to the Board of Adjustment and Appeals.

Other specific duties of the Development Director are as follows:

- (A) Advise and cooperate with the City Administrator in the implementation, amendment and enforcement of this Code and the Comprehensive Plan.
- (B) Attend all public hearings at which zoning and comprehensive planning matters are discussed, including meetings of the Planning and Zoning Board, Board of Adjustment and Appeals, and City Council. He will attend meetings of the Code Enforcement Board when necessary.
- (C) Accept and process all applications for amendments to the Comprehensive Plan, zoning actions, and variances.
- (D) Certify the accuracy of the Official Zoning Map and amendments thereto.
- (E) Collect and account for all required application fees.
- (F) Grant such administrative approvals as are allowed under the provisions of this Code for a Small Scale Site Development Plan, Tent Permit, Antenna/Dish Permit, Sign Permit and others as identified in this Code.
- (G) Receive applications and application fees for Comprehensive Plan Amendment, Rezoning, Planned Unit Development, Landscaping Plan, Site Development Plan,

Subdivision Plat, Conditional Use Permit, Special Exception Use Permit, Request for a Variance and others as identified in this Code.

- (H) Evaluate each proposed Comprehensive Plan Amendment, Rezoning, Planned Unit Development, Site Development Plan, Subdivision Plat, Conditional Use, Special Exception Use, Request for a Variance, for consistency with this Code and the Comprehensive Plan and others as identified in this Code.
- (I) Evaluate each application for a Development Order, including Building Permits, to determine whether it meets applicable Concurrency requirements.
- (J) Ensure that all time limits prescribed by this Code are met.
- (K) Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons.
- (L) Any other duties assigned by the City Administrator.

#### **8.01.02 Building Official**

The Building Official shall be responsible for review of building construction plans, the issuance of Building Permits and certificates of occupancy, and the inspection of construction sites and buildings under construction. He/she shall have a working knowledge of the Southern Standard Building Code and be familiar with electrical, fire, zoning and other codes having a bearing on building construction in Wauchula. The Building Official shall have experience as an architect, engineer, building inspector or building contractor. Alternatively, the City may retain a licensed professional contractor/builder on a part-time basis to perform technical review of building activities.

#### **8.02.00 Administrative Approvals by the Development Director and Building Official**

The Development Director and/or Building Official shall have the authority to approve the following, subject to conditions set forth below and in applicable provisions of this Code:

##### **8.02.01 Building Permit**

A Building Permit is required prior to construction or alteration.

- (A) It shall be unlawful to commence any excavation or construction or any alteration of any structure until the Development Director or Building Official has issued a building permit authorizing such work.
- (B) If no building permit has been issued and a builder begins or continues to build, a stop work order may be issued by the administrative official or a restraining order may be obtained upon application to the proper court of record, and evidence of

the lack of a building permit shall establish a prima facie case for the issuance of the restraining order.

- (C) *Application for a Building Permit.* In applying to the Development Director or Building Official for a Building permit, the applicant shall submit a plat along with the application, drawn to scale, and showing:
  - (1) the dimensions of the lot to be built upon;
  - (2) the outside dimensions of all structures;
  - (3) setbacks;
  - (4) off-street parking, if required;
  - (5) landscaping placement and stormwater retention ponds, if required;
  - (6) easements; and
  - (7) any other information necessary for determining conformance with this Code.
- (D) The Development Director or the Building Official shall act upon applications for Building Permits within two weeks from the date of their submission.
- (E) *Duration of Permit*
  - (1) Construction shall commence within six months from date of issuance.
  - (2) The permit expires after one calendar year. If the work is not completed, work must cease until a new building permit is obtained.
  - (3) One or more extensions may be granted by the Development Director or the Building Official, not to exceed 90 days each.

### **8.02.02 Certificate of Occupancy**

- (A) The Development Director is the enforcement officer for all regulations contained in this Code. The Development Director shall implement a procedure for periodic inspection of development work in progress to insure compliance with the development permit and final development order that authorized the activity.
- (B) Upon completion of work authorized by a development permit or development order, and before the development is occupied, the developer shall apply to the Building Official for a Certificate of Occupancy. The Building Official shall inspect the work and issue the certificate, if all work is found to be in conformity with the permit or order.
- (C) A nonconforming use shall not be maintained, renewed, changed or extended until a certificate of use shall have been issued by the administrative official, stating specifically the matters wherein the nonconforming use differs from the provisions of this ordinance and, to the extent that a nonconforming use may be subject to amortization, the duration and conditions of amortization. Application for such certificate of use shall be made by the owner or occupant of every

nonconforming use within three months after adoption of this ordinance or any amendment under which nonconforming uses are created. After said three month period, failure to have made such application shall be presumptive evidence that the property was not being used as a nonconforming use at the time of adoption of, or amendment to, this ordinance and such nonconforming use shall immediately cease.

### **8.02.03 Administrative Approval of Minor Field Adjustments**

A minor field adjustment is a deviation from a final development order that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

- (A) Alteration of the location of any road, walkway, landscaping or structure by not more than five feet.
- (B) Reduction of the total amount of open space by not more than 5%, or reduction of the yard area or open space associated with any single structure by not more than 5%; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.
- (C) If the work is found to have one or more minor field adjustments, the Development Director shall request a revised site plan from the applicant showing the deviations and amend the development order to conform to actual development. The Development Director may, however, refer any minor field adjustment that significantly affects the development's compliance with the purposes of this Code to the Planning and Zoning Board for treatment as a major deviation.
- (D) *Major Deviation Defined.* A major deviation is a deviation other than a minor field adjustment, from a final development order.

### **8.02.04 Major Deviation from Development Permits and Development Orders**

- (A) If the work is found to have one or more major deviations, the Development Director shall:
  - (1) Place the matter on the next agenda of the City Council, allowing for adequate notice, and recommend appropriate action for the Commission to take.
  - (2) Issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the Development Director determines

that work or occupancy may proceed pursuant to the decision of the Planning and Zoning Board.

- (3) Refer the matter to the code inspector, if it appears that the developer has committed violations within the jurisdiction of the Code Enforcement Board.
- (B) The Code Enforcement Board shall hold a public hearing on the matter and shall take one of the following actions:
- (1) Order the developer to bring the development into substantial compliance (i.e. having no or only minor deviations) within a reasonable period of time. The development order or permit may be revoked if this order is not complied with.
  - (2) Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.
  - (3) Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

#### ***8.02.05 Revocation of Development Order***

Should a development order or permit be revoked, development activity shall not proceed on the site until a new development order or permit is granted in accordance with procedures for original approval.

#### ***8.02.06 Setback Adjustments***

- (A) In single family zoning districts, the Development Director may approve reduction of side and rear setbacks for principal and accessory structures (excluding swimming pools) by no more than 10% subject to the following conditions:
- (1) The setback requirement is established by the zoning district and no other section of this Code;
  - (2) The total structural coverage of the lot or building site shall not exceed 65%;

- (3) The approval would not result in the encroachment of a structure into an existing utility or drainage easement held by the City;
- (4) A certified survey shall be submitted by the applicant verifying building locations and structural coverage;
- (B) Lots of record less than 51 feet in width and more than 25 feet in width shall have a minimum side yard setback of five feet. For a single family home on these small lots, the Development Director may vary the front and rear setbacks so as not to render the lot “unbuildable.”
- (C) At his discretion, the Development Director or Building Official may deny the approval and refer the application to the Board of Adjustment and Appeals as a Variance or to the Planning and Zoning Board as approval of a Site Development Plan.

**8.02.07 Temporary Office or Construction Trailer**

The Development Director or Building Official may authorize the use of a manufactured home or other temporary structure not meeting the requirements of the Southern Standard Building Code at the construction site of an approved Site Development Plan. The temporary structure may be used only as an office, tool shed or other facility in support of construction work, and shall not be used for living accommodations, for sales/rental of lots or offices, or for any other purpose.

The applicant shall designate the exact location of the temporary structure on the Site Development Plan, and shall place it only in the approved location. The temporary structure shall not be installed prior to issuance of the building permit for the development site, and shall be removed upon expiration of the building permit or issuance of the Certificate of Occupancy, whichever comes first. If a manufactured home is to be used, the wheels and axles shall not be removed.

**8.02.08 Temporary Manufactured Home Or Recreational Vehicle for Use During Construction of a Residence or as Disaster Relief**

The Development Director or Building Official may authorize the use of a manufactured home or recreational vehicle as a temporary residence during construction of a permanent residence or in the case of a disaster situation such as fire, flood or hurricane, with the following conditions:

- (A) The lot or building site is at least one-quarter acre in size;
- (B) The applicant has received approval of a building permit for construction of a single family residence on the property;

- (C) The foundation and rough plumbing for the permanent structure have been completed and approved by a City building inspector;
- (D) The temporary unit shall be placed at least 20 feet from all lot lines, and 10 feet from any other existing or planned structure and shall be located in the side or rear yard;
- (E) The unit must be connected to a public sewer system or have received a septic tank permit from the Hardee County Health Department;
- (F) Wheels and axles shall not be removed;
- (G) The manufactured home shall be removed from the building site prior to issuance of the Certificate of Occupancy for the permanent residence, or at the end of a one-year period commencing at the date of its installation, whichever comes first; and
- (H) This administrative approval may not be renewed or granted a second time for the same building site.

*[RESERVED]*

## **8.03.00 Development Boards**

### **8.03.01 Planning and Zoning Board**

#### *(A) Functions, Powers and Duties*

- (1) Act as Local Planning Agency pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, 163, Part II, F.S., and perform the functions and duties prescribed herein.
- (2) Review and make recommendations to the governing body on any matter relating to the planning of the City, including the evaluation and appraisal of the Comprehensive Plan, Comprehensive Plan Amendments, the development and amendment of the Unified Land Development Code, also known as the land development regulations, and other matters the City Council may defer or refer to the said Board.
- (3) Consider the need for revision or addition of regulations in this Code, and recommend changes to the City Council.
- (4) Consider the need for revision of the Comprehensive Plan, and recommend changes to the City Council.
- (5) Submit annually to the City Administrator a list of recommended capital improvement items, no later than March 1st, prior to the beginning of the budget year. The list shall be arranged in order of preference, with recommendations as to which projects shall be completed in which year.

#### *(B) Appointment of Members*

- (1) The Planning and Zoning Board shall have five members, all of whom shall be appointed by the City Council. Every member shall be a voting member of the Board when in attendance.
- (2) All five of the members of the Planning and Zoning Board shall be residents of the City.
- (3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, three members shall be appointed for a term of one year, one member shall be appointed for a term of two years, and one member shall be appointed for a term of three years.
- (4) Reappointment to fill vacancies shall be made so as to continue the staggered pattern and shall be for terms of three years for all members.

- (5) Any member may be removed from office by the City Council upon written charges and after public hearing.
- (6) At the first meeting held after January 1 of each year, the Board shall elect a Chairman, Vice-Chairman and Secretary. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.
- (7) The Chairman may establish subcommittees and appoint members as needed to carry out the purposes of the Board.
- (8) If any member fails to attend three consecutive meetings, the Board may declare the member's office vacant and notify the City Council.
- (9) All vacancies, whether by resignation, dismissal or expiration of the term of office, shall be filled within 30 days by the City Council.

(C) *Procedure for Meetings of the Board*

- (1) The Board shall adopt procedures or by laws to carry out its purposes. All rules must conform to this Code, other City ordinances, and State law.
- (2) The Board shall meet once each month when business is placed on the agenda. The Chairman may cancel a regular monthly meeting of the Board for lack of an agenda.
- (3) A sound recording of the meetings shall be made and kept on file with the city clerk's office, as well as summary minutes of the decisions and recommendations by the Board. The Secretary shall keep the minutes of the proceedings of the Planning and Zoning Board, indicating the attendance of each member, and the decision on every question.
- (4) Three members shall constitute a quorum.
- (5) Each decision of the Board must be approved by a majority vote of the members present.

### **8.03.02 Board of Adjustment and Appeals**

- (A) *Functions, Powers and Duties.* The Board of Adjustment and Appeals is governed by Chapter 166, F.S. and has two basic functions, which are listed below. The criteria for granting variances is found in Article 7, Section 7.10.01, "Criteria for Granting a Variance."
- (1) Dimensional Variance. The Board shall have the power to hear and decide requests for variances where, by reason of the exception of narrowness, shallowness or unusual shape of a site on the effective date of this ordinance, or by reason of exceptional topographic conditions, or some other extraordinary situation or condition of that site, the literal enforcement of the dimensional requirements (height or width of building or size of yards, but not dwelling unit or population density) of this Code would deprive the applicant of reasonable use of the land in a manner enjoyed by other landowners in the same zoning district. The Board may impose any reasonable conditions or restrictions in granting said variance.
  - (2) Administrative Official's Decisions. The Board shall have the power to hear and decide on appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this ordinance. This power shall include the hearing of any appeal of an administrative official's decision concerning the amortization of any nonconforming use or any calculation of amortization thereunder. In addition, the Board shall have the power to hear and decide on any other decisions specifically delegated to it by the provisions of this ordinance.
- (B) The Board shall hear applications for variances on, but not limited to, the following:
- Zoning district boundaries;
  - Off-street parking, loading and unloading space required;
  - General environmental control criteria and performance standards; and
  - Setbacks.
- (C) *Appointment of Members*
- (1) The Board of Adjustment and Appeals shall have seven members, to be appointed by the City Council, and three alternates.
  - (2) Each member of the Board shall be a utility customer of the City, which includes areas outside the "official" city limits and within the service area of the City; and which includes employees of businesses that are utility customers of the City.

- (3) Each member shall be appointed to a three year term. In the event that all members are appointed at the same time, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years.
- (4) Reappointment to fill vacancies shall be made so as to continue the staggered pattern and shall be for terms of three years for all members.
- (5) Any member may be removed from office by the City Council upon written charges and after public hearing.
- (6) At the first meeting held after January 1 of each year, the Board shall elect a Chairman, Vice-Chairman and Secretary. The Chairman, or in his absence the Vice-Chairman, shall preside over all meetings of the Board. Officers shall serve terms of one year.
- (7) Members shall not be compensated, but may be reimbursed for travel and other expenses incurred on Board business.
- (8) If any member fails to attend three consecutive meetings, the Board may declare the member's office vacant and notify the City Council.
- (9) All vacancies, whether by resignation, dismissal or expiration of the term of office, shall be filled within 30 days by the Mayor with the approval of the City Council.

(D) *Procedure of Meetings of the Board*

- (1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and State law.
- (2) The Board shall meet at least once each month, unless a meeting is canceled by a decision of the Board at a regular meeting or by decision of the Chairman.
- (3) A sound recording of the meetings shall be made and kept on file with the city clerk's office, as well as a written record of the proceedings. The Secretary shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.
- (4) Three members shall constitute a quorum.
- (5) Each decision of the Board must be approved by an affirmative vote of majority of the members present.
- (6) All decisions of the Board of Adjustment and Appeals are final. Variance

requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.

(7) Any person or persons aggrieved by any decision of the Board of Adjustment and Appeals, may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.

(E) *Exercise of Power.* In exercising its powers, the Board may, upon appeal and in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the administrative official in the enforcement of this ordinance. The concurring vote of at least four members of the Board shall be necessary to decide in favor of the applicant on any matter upon which the Board is required to pass under this ordinance.

*[RESERVED]*

### **8.03.03 Code Enforcement Board**

A Code Enforcement Board is hereby created to enforce the provisions of this Code pursuant to Chapter 162 and 166 F.S. It is the intent of this Section to promote, protect, and improve the health, safety and welfare of the citizens of the City of Wauchula by providing an equitable, expeditious, effective and inexpensive method of enforcing the Land Development Code of the City of Wauchula.

(A) *Powers and Duties*

- (1) Adopt rules for the conduct of its hearings.
- (2) Subpoena evidence, witnesses, and alleged violators.
- (3) Take testimony under oath.
- (4) Issue orders, having the force of law, commanding those actions necessary to bring a violation into compliance.
- (5) Establish fines.

(B) *Appointment of Members*

- (1) The Code Enforcement Board shall have five members and two alternates, to be appointed by the City Council.
- (2) Each member of the Code Enforcement Board shall be a utility customer of the City, which includes areas outside the “official” city limits and within the service area of the City; and which includes employees of businesses that are utility customers of the City.

Members of the Code Enforcement Board shall have experience or an interest in zoning and building control. The membership of the Board shall, whenever possible, consist of an architect, a businessperson, an engineer, a general contractor, a subcontractor, and a realtor.

- (3) The initial terms of the members of the Board shall be as follows:
  - a. Three members and two alternate members shall be appointed for a term of one year from the date of their initial appointment;
  - b. Two members shall be appointed for a term of two years from the date of their initial appointment; and,
  - c. Two members shall be appointed for a term of three years from the date of their initial appointment.

Thereafter, the appointments shall be for a term of three years.

- (4) Members may be reappointed for one successive term upon the concurrence of the City Council. Appointment to fill any vacancy of the Board shall be for the remainder of the unexpired term of office.
- (5) Members shall serve without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be incurred.
- (6) If any member of the Board fails to attend two out of three consecutive meetings without cause and without prior approval of the Chairman, the Board shall declare the member's office vacant and the City Council shall promptly fill such vacancy.
- (7) Alternate members of the Board may attend all meetings, but shall act only in the absence, disability or disqualification of a regular member. In the absence of a member, the first alternate shall be substituted, and in the absence of two or more members, both alternates shall be substituted. In the absence of a member and the first alternate, the second alternate shall be substituted. When an alternate member acts, the minutes of the Board shall reflect the name of the absent, disabled or disqualified member in whose place the alternate is acting.
- (8) The members shall serve in accordance with the ordinances of the City and may be removed for cause as provided in such ordinances for removal of members of the City Boards.

(C) *Hearing Procedures*

- (1) The Board shall adopt procedures to carry out its purposes. All rules must conform to this Code, other City ordinances, and state law.
- (2) Meetings of the Board shall occur at such time or times as the Board has business to come before it, upon call of the Chairman, or the vice-chairman, or upon call of any three members.
- (3) The Board shall keep minutes of its proceedings, indicating the attendance of each member, and the decision on every question.
- (4) Four members shall constitute a quorum.
- (5) Each decision of the Board must be approved by a majority vote of the members present at a meeting in which a quorum is present and voting.
- (6) Each case before the Board shall be presented either by the City Attorney

or his assistant, or by an employee or a commissioner of the City of Wauchula; however, in no case shall the City Attorney or his assistant present cases before the Board while at the same time serving as counsel to the Board.

- (7) All testimony shall be under oath and shall be recorded. The Board shall take testimony from the code inspector, the violator and any other person familiar with the case or having knowledge about the case. The Board shall not be bound by formal rules of evidence; however, it shall act to ensure fundamental due process in each of its hearing cases.
  - (8) At the conclusion of each hearing, the Board shall issue findings of fact and conclusion of law, based on the evidence of record, and its orders shall provide relief consistent with Section 8.03.03(A). Each finding shall be by motion approved by a majority of those present and voting, except that at least four members of the Board present at the hearing must vote in order for the action to be official.
  - (9) The City Administrator shall render to the City Council a monthly status report of the Board's activities.
- (D) *Enforcement Procedures.* Except where the inspector charged with enforcing a particular technical code identified herein has reason to believe that a code violation presents a serious threat to the public health, safety and welfare, the code enforcement procedure under this Section shall be as follows:
- (1) It shall be the duty of the code inspector to initiate the enforcement proceedings with respect to each technical code.
  - (2) Where the code inspector finds or is made aware of a code violation, he shall provide in writing no more than 30 days within which to correct the violation. Should the violation continue beyond the time specified in the correction notice, then the code inspector shall issue a citation. A copy shall be sent to the Board. The Board shall assign a case number and mail a copy of affidavit of violation and notification of the date, time and place of the hearing to the violator. "Reasonable time" is defined as 10 days; however, where a different time period in which to correct the violation is provided for by the ordinance being enforced, that time period shall constitute reasonable time for that particular violation; or, in cases of more complexity, a greater time period may be granted.
  - (3) If the code inspector has reason to believe a violation presents a serious threat to the public health, safety and welfare, the code inspector may proceed to request an emergency hearing before the Code Enforcement Board without notifying the violator.

- (4) The City Administrator shall appoint the code inspectors, and shall develop and publish written procedures for the filing of complaints to be heard by the Code Enforcement Board.

(E) *Fines, Liens, and Foreclosures*

- (1) Upon being notified by the code inspector that a previous order of the Board has not been complied with by the set time, the Board may order the violator to pay a fine to the City of Wauchula not to exceed \$250.00 for each day that the violations continue past the date set for compliance.
- (2) A certified copy of an order imposing the fine provided for herein may be recorded in the public records of Hardee County, and thereafter such order shall constitute a lien against the land on which the violation existed or, if the violator does not own the land, upon any other real or personal property owned by the violator, and may be enforced in the same manner as a court judgment by the sheriffs of this State, including levy against the personal property, but shall not be deemed otherwise to be a judgment of a court, except for enforcement purposes.
- (3) After one year from the filing of any such lien that remains unpaid, the Board may authorize the City Attorney to foreclose on such lien in the manner provided by statute for the foreclosure of any other municipal liens.
- (4) No lien provided by this Section shall continue for a longer period than two years after the certified copy of an order imposing a fine has been recorded, unless within that time an action to foreclose on the lien is commenced in a court of competent jurisdiction. The continuation of the lien effected by the commencement of the action shall not be good against creditors or subsequent purchasers for valuable consideration without notice, unless a notice of lis pendens is recorded.

- (F) *Appeal.* Any aggrieved party, including the City, may appeal a ruling or order of the Code Enforcement Board to the Circuit Court of Hardee County. The appeal provided for herein shall be filed within 30 days of the order to be appealed. The record shall be presented to the Court on appeal.

- (G) *Notices.* All notices required to be provided by this Section shall be by certified mail, return receipt requested, or, where mail would not be effective, by hand delivery of the code inspector.

### **8.04.00 Duties of City Council**

- (A) *Powers and Duties in the Areas of Development and Land Use Regulation*

- (1) Adopt and amend the Comprehensive Plan.
- (2) Adopt and amend the Land Development Code.
- (3) Appoint members of the Planning and Zoning Board, Board of Adjustment and Appeals and Code Enforcement Board.
- (4) Determine the need for and appoint members of additional boards, committees and subcommittees to investigate and make decisions on various land use and development issues.
- (5) Establish fees for Application for a Comprehensive Plan Amendment, zoning actions, Site Development Plan Review, Landscape Plan Review, Application for a Conditional Use, Application for a Variance, Application for a Special Exception, and other activities carried out under the provisions of this Code.
- (6) Make final decisions on requested changes to the Comprehensive Plan, Zoning Ordinance and Map, Planned Unit Developments, and Conditional Uses.
- (7) Accept the Final Plat for a new subdivision.

#### **8.05.00 Official Zoning Map**

- (A) The zoning districts listed in Article 2 and the boundaries thereof are shown upon the Official Zoning Map or series of maps of the City enacted as law immediately upon enactment of this Code and made a part thereof, such maps being designated as the "Official Zoning Map of the City of Wauchula." This map or maps and all notations, references and other information properly inscribed thereon are hereby incorporated as a part of this Article.
- (B) The boundaries of such districts as are shown on the Official Zoning Map, together with all regulations in this Code that are applicable in such districts, are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown upon said map(s).
- (C) Within twenty working days of action by the City Council, Planning and Zoning Board or Board of Adjustment and Appeals, the Official Zoning Map will be amended to reflect all approved changes in zoning classifications, land uses, variances, and any other relevant information pertaining to permitted uses or development standards in the City of Wauchula.
- (D) The legal description advertised for public hearing purposes on a zoning action or variance on any parcel of property shall override any and all of the rules 8.05.01 (A) through (F) for interpretation of district boundaries.

### **8.05.01 Rules of Interpretation of District Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (A) boundaries indicated as approximately following the center lines of streets, highways or alleys shall be construed to follow such center lines;
- (B) boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- (C) boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- (D) boundaries indicated as following shore lines shall be construed to follow the high water line, and in the event of a lowering of the water level shall be construed as moving downward to the current water level;
- (E) boundaries indicated as following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines; and
- (F) boundaries indicated as parallel to or extensions of features indicated in subsections (A) through (E) above shall be so construed.

### **8.06.00 Public Hearings/ Public Notice**

*Due Public Notice.* No change in land use classification or designation, zoning classification or designation, variance, plan amendment or amendment to this Code, may be considered by the Planning and Zoning Board or Board of Adjustment and Appeals or the City Council until due public notice has been given of a public hearing; and, all changes, except variances, are made by ordinance. Public Hearings for Comprehensive Plan amendments are regulated under Section 8.07.00. An emergency ordinance or a resolution may not be used to make these changes. Specific regulations pursuant to Chapter 166.041, F.S., are listed below.

- (A) All ordinances and resolutions acted on by the City must be read on two separate days and shall, at least 10 days before adoption, be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the municipality where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All requests shall be submitted in writing to the Development Director, together with applicable fees, which will have been established by the City Council.

**8.06.01 Less Than 10 Contiguous Acres of City Affected**

- (A) Petitioner Initiated Cases. In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or the actual zoning map designation for a parcel(s) of land involving less than 10 contiguous acres of the total land area of the municipality, shall be enacted pursuant to paragraph (A) above.
- (B) City Initiated Cases. In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or changes the actual zoning map designation for a parcel(s) of land involving less than 10 contiguous acres of the total land area of the municipality, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land will be redesignated by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. Notice shall be mailed to all property owners whose land will be affected at least 30 days prior to the date of the public hearing.
- (C) Contents of the Notice. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. A copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk. Upon the conclusion of the second public hearing, the governing body may immediately adopt the ordinance.
- (D) Other Local Government Notification. When a proposed zoning action or Variance or Special Exception lies within 200 feet of the jurisdiction of another local government, the Planning and Zoning Board or governing body of that local government shall be notified, so that it may have an opportunity to send a representative to the public hearing to speak on its behalf.

**8.06.02 Advertisement of Public Hearings for Actions Involving 10 Acres or More**

- (A) In cases in which the proposed ordinance changes the actual list of permitted, conditional or prohibited uses within a zoning category or the actual zoning map designation for a parcel(s) of land involving 10 contiguous acres or more of the total land area of the municipality: the governing body shall hold two advertised public hearings on the proposed ordinance.
- (B) At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day, and the first hearing shall be held at least seven days after the day that the first advertisement is published. The second hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. The day, time and place at which the second public hearing

will be held shall be announced at the first public hearing.

- (C) The required advertisements shall be no less than two columns wide by ten inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general circulation in the City and of general interest and readership in the municipality.
- (D) Advertisement Form.

<p>NOTICE OF <u>(TYPE OF)</u> CHANGE</p> <p>The City of Wauchula proposes to adopt the following ordinance: <u>(title of the ordinance)</u>.</p> <p>A public hearing on the <u>ordinance</u> will be held on <u>(date and time)</u> at <u>(meeting place)</u>.</p>
--

- (E) Except for amendment which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map that clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.
- (F) Mail-out May Be Done. In lieu of publishing the advertisement as outlined above, the City may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance.

### **8.07.00 Statutory Requirements for Plan Amendments**

There are two general types of Plan Amendments: text amendments and map amendments (large and small scale). All requests for Plan Amendments shall be submitted in writing to the Development Director, together with applicable fees, which will have been established by the City Council. Specific regulations for Plan Amendments applications are detailed in Article 7, Section 7.02.00. Plan Amendments may be submitted by the City to DCA **no more than twice yearly** for review and according to the procedures established in Chapter 163 F.S., except small scale amendments. See Section 8.07.05 for specific regulations regarding small scale amendments. Small scale amendments are defined by Florida Statute as:

- Encompasses the use of 10 or fewer acres of any land use category;
- Residential densities are limited to 10 or fewer units per acre;

Does not involve the same property more than once per year;  
Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months;  
Does not include any text change to the Plan's goals, objectives, and policies;  
Is not located within an area of critical state concern; and  
The local government can approve the amendment without exceeding its yearly maximum of 80 acres of small scale amendments.

**8.07.01 Public Hearing for a Plan Amendment**

As outlined in Chapter 163.3184, F.S., a public hearing is required proposing to adopt an Ordinance to amend the Comprehensive Plan and to transmit to DCA, by Resolution, the proposed Comprehensive Plan amendment and attached Evaluation and Appraisal Report. All procedures for advertisement of a public hearing to adopt an ordinance or resolution must be followed as adopted by the City and set forth in Section 8.06.00 above. According to State Law, the following sections (A) and (B) must be adhered to:

- (A) 7 Day Notice. This public hearing shall be held on a weekday at least seven days after the day that the first advertisement is published. The intention to hold and advertise a second public hearing when the amendment comments are returned from DCA, shall be announced at the first public hearing.
  
- (B) Advertisement Form:

<p>NOTICE OF (CHANGE OF LAND USE AND AMENDMENT TO THE MAPS OF THE COMPREHENSIVE PLAN or TEXT AMENDMENT TO THE COMPREHENSIVE PLAN)</p> <p>The City of Wauchula proposes to adopt the following ordinance: (title of the ordinance).</p> <p>A public hearing on the <u>(change of land use or text amendment)</u> will be held on <u>(date and time)</u> at <u>(meeting place)</u>.</p>
---

- (C) Except for amendments which change the text of the Comprehensive Plan, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposal. The map shall include major street names as a means of identification of the area.

#### **8.07.02 Transmittal to DCA**

Immediately following the public hearing, the City shall transmit six copies of the plan amendment and attached Evaluation and Appraisal Report to DCA for written comment. The City shall transmit one copy to each of the following:

Central Florida Regional Planning Council;  
Southwest Florida Water Management District;  
Florida Department of Transportation; and  
Florida Department of Environmental Protection.

- (A) DCA will notify the local government and other agencies, and any other person who has requested notice of an affirmative decision by DCA to review the amendment, within 30 days of receipt of complete amendment.
- (B) Upon receipt of state agency comments, DCA shall have 45 days to provide its own written comments to the City, stating its objections to the Plan Amendment, if any, and recommendations for modification.

#### **8.07.03 Public Hearing After Receipt of DCA Comments, and Adoption**

Upon receipt of DCA comments, the City shall have 60 days to adopt the Ordinance to amend the Comprehensive Plan as proposed or with changes. According to State Law, the following sections (A), (B) and (C) must be adhered to:

- (A) 5 Day Advance Notice. A public hearing shall be held for adoption Ordinance to amend the Comprehensive Plan, and shall take place on a weekday approximately 5 days after the advertisement is published.
- (B) Contents of Advertisement and Advertisement Form shall be the same as described in 8.07.01 (B).
- (C) Vote to Transmit. At this Public Hearing, the City Council shall vote to transmit the adopted ordinance to DCA for final compliance review.

#### **8.07.04 Transmittal of Adopted Amendment to DCA**

- (A) The City Council shall transmit the adopted Ordinance to DCA within ten days of adoption. Upon receipt of the adopted Ordinance, DCA shall have 45 days to review and determine whether or not the plan amendment is in compliance with Chapter 163, F.S. During this period, DCA shall issue a Notice of Intent (NOI)

indicating a finding of compliance or noncompliance.

- (B) If DCA finds the amendment not in compliance, the NOI is forwarded to the Division of Administrative Hearings for a hearing pursuant to Chapter 120.57 F.S. The hearing officer assigned by the division shall submit a recommended order to the Administration Commission for final agency action.
- (C) If the Administration Commission (Governor and Cabinet) finds that the plan amendment is not in compliance with this act, the Commission shall specify remedial actions which would bring the comprehensive plan or plan amendment into compliance.

### **8.07.05 Small Scale Plan Amendments Exempt from DCA Review**

Plan amendments that are defined as Small Scale Amendments are exempt from the annual quota allowed by DCA and do not have to be submitted to DCA for review. The amendment is adopted by ordinance and sent to DCA and the Regional Planning Council. DCA will not issue a Notice of Intent for the small scale amendment.

- (A) *Definition.* Small Scale Plan Amendments are defined by Florida Statue as:

Encompassing the use of **10 or fewer acres** of any land use category; and  
Residential densities are limited to **10 or fewer units per acre**; and  
Does not involve the same property more than once per year; and  
Does not involve the same owner's property within 200 feet of property granted a land use change within the past 12 months; and  
Does not include any text change to the Plan's goals, objectives, and policies;  
Is not located within an are of critical state concern; and  
The local government can approve the amendment without exceeding its **yearly maximum of 80 acres** of small scale amendments.

- (B) *Reviewing Board.* Proposed Small Scale Plan Amendments are heard by the Planning and Zoning Board and are recommended to the City Council by the Board. Then the amendments are heard at two Public Hearings and are adopted by Ordinance. The amendments become law after the waiting period for the ordinance has expired, which is 31 days after adoption.

- (C) *Public Notice Requirements.* The public notice required for the amendment is:

A newspaper notice as for ordinary, non-rezoning ordinances; and

The City must mail the owners of the property notice; and

There is no size requirements for the newspaper advertisement; and

Notice must be given of: the date, place and time of the meeting; the title of the

proposed ordinance; the location where the proposed ordinance can be inspected by the public; and that interested parties can appear and be heard.

- (D) *Challenges.* Challenges will be heard by the Division of Administrative Hearings. In any action brought under this section, the DCA may intervene and become a party if granted that right by the hearing officer. If the hearing officer recommends that the amendment be found "in compliance," and DCA agrees, the DCA will enter the final order. If DCA does not agree, the recommended order will be forwarded to the Administration Commission (Governor and Cabinet) for rendering the final order.

### **8.08.00 Public Records**

All resolutions, ordinances and records involving permitted land uses, development regulations and development approval are hereby declared to be public information and shall be maintained in an orderly fashion by the Development Director or his designee(s). Such materials shall be available for public inspection between the hours of 8 a.m. and 5 p.m. on weekdays at City Hall. Copies shall be made available at a price reflecting the City's reproduction costs.

### **8.09.00 Fees**

The City Council shall, by separate resolution, establish and revise as necessary a schedule of fees for zoning changes, review/approval of plans, administrative approvals, and other actions undertaken under the provisions of this Code. All fees shall be set, at a minimum, at levels that cover the City's costs of administration, inspection, and enforcement.

*[RESERVED]*