

**CHAPTER THREE
NONCONFORMING DEVELOPMENT**

TABLE OF CONTENTS

	<u>PAGE NO</u>
3000. TYPES OF LAWFUL NONCONFORMING DEVELOPMENT	3
3100. NONCONFORMING USES AND STRUCTURES	3
3110. PURPOSE AND INTENT	3
3120. APPLICABILITY	3
3130. GENERAL PROVISIONS	3
3131. MOBILE HOMES WITHIN MOBILE HOME PROHIBITED LAND USE DISTRICTS	4
3132. NONCONFORMING DENSITIES	5
3133. NONCONFORMING WATERFRONT SETBACKS	5
3140. DISCONTINUANCE, TERMINATION, OR ABANDONMENT	5
3141. REPLACEMENT OF DAMAGED BUILDINGS	5
3150. PROCEDURE FOR ADMINISTRATIVE DETERMINATION OF VALID NONCONFORMING USES	6
3160. STANDARDS FOR VESTED RIGHTS	6
3161. PROCEDURES FOR DETERMINATION OF VESTED RIGHTS	8
3162. APPELLATE PROCEDURES	8
3163. LIMITATION OF DETERMINATION OF VESTED RIGHTS	8
3170. PROTECTION OF STRUCTURES AND USES WITH HISTORICAL OR CULTURAL VALUE	8
3180. PROTECTION OF COMMERCIAL STRUCTURES	9
3190. PROPERTIES AFFECTED BY EMINENT DOMAIN PROCEEDINGS	10
3191. PURPOSE ANND INTENT	10
3192. EMINENT DOMAIN IMPACTS RELATIVE TO CERTIEN CODE REQUIREMENTS	10
3193. SITE REDESIGN PLAN	11
3194. ADMINISTRATIVE VARIANCES REVIEW CRITERIA AND APPEALS	13
3195. VARIANCES THAT SHALL NOT BE GRANTED ADMINISTRATIVELY	13
3196. PROPERTIES SUBJECT TO APPROVED SITE PLAN	13
3200. PREVIOUSLY APPROVED DEVELOPMENTS	13
3210. PURPOSE AND INTENT	13
3220. DEVELOPMENT STANDARDS	14

	<u>PAGE NO</u>
3221. DEVELOPMENT STANDARDS FOR PREVIOUSLY APPROVED PLANNED DEVELOPMENTS	15
3300. VARIANCES	16
3310. PROCEDURE	16
3320. LIMITATIONS ON GRANTING VARIANCES	16
3321. INITIAL DETERMINATION	16
3322. REQUIRED FINDING	17
3323. EXECUTION OF PERMIT AUTHORIZED	17
3324. REHEARING OF APPLICATION FOR VARIANCE	17
3330. SPECIAL PROVISIONS WHERE VARIANCE IS SOUGHT TO REQUIREMENTS TO FLOOD DAMAGE PREVENTION REGULATIONS	18
3331. ADDITIONAL FINDINGS	18
3335. SPECIAL PROVISIONS FOR VARIANCES FROM WATERFRONT SETBACK REQUIREMENTS	19
3337. SPECIAL PROVISIONS FOR AN IMPERVIOUS SURFACE VARIANCE WITHIN THE FLOODPLAIN	20
3340. HISTORICAL PROPERTIES	21

3000. TYPES OF LAWFUL NONCONFORMING DEVELOPMENT

Development that does not conform to provisions of this LDC is called nonconforming development. Certain provisions of this LDC establish the means by which lawful nonconforming development may be allowed to continue and the means by which new development may lawfully deviate from the terms and conditions of this LDC. The types of nonconforming development include nonconforming uses and structures; development approved at the time of enactment of this LDC as a Planned Development but not completely constructed; development approved at the time of enactment of this LDC through a master plan, site plan, or subdivision plat but not completely constructed; or development proposed on or after the date of enactment of this LDC for which a variance is approved. Uses and structures not granted status as a lawful nonconformity shall be prohibited and are subject to removal according to provisions of this LDC.

3100. NONCONFORMING USES AND STRUCTURES

3110. Purpose and Intent

It is the intent of this section to provide for continuance of lawful nonconformities without unduly restricting their maintenance or improvement. It is the intent of this section to permit lawful nonconforming uses and structures created by adoption of this LDC to continue until removed by economic or other forces. It is not the intent of this section to encourage survival of these nonconformities due to incompatibility with the provisions of the Comprehensive Plan and this LDC.

One category of nonconformities includes those lots, uses, and structures that were illegal at the time of establishment and were not approved by any official action of Citrus County administrative or legislative officials. It is further the intent of this section to discourage and eliminate nonconformities that have been unlawful since their inception.

3120. Applicability

The provisions of this section shall apply to any use, structure, project, lot, or sign lawfully established prior to enactment of this LDC that do not conform to the requirements of this LDC.

3130. General Provisions

- A. To avoid undue hardship, nothing in this section shall be deemed to mandate change in plans, construction, or designated use of any building for which a lawful building permit has been secured prior to the date of enactment of this LDC.
- B. Normal maintenance and incidental repair of a lawful nonconformity shall be permitted provided that such maintenance and repair does not violate any other section of this LDC and is in full compliance with all building and technical codes.
 - 1. Nothing in this section shall be deemed to prevent strengthening or restoring of a structure to a safe condition in accordance with an order of a public official who is charged with protecting the public safety. That official may declare such structure to be unsafe and order its restoration to a safe condition provided that the restoration is the minimum necessary to bring the property to a safe condition.
 - 2. Nothing in this section shall be deemed to prevent an extension for the exclusive purpose of providing required off-street parking or loading spaces. Such extension shall not involve structural alteration or enlargement of the structure.

- C. When a lot of record, lawfully recorded prior to the adoption of this LDC, does not comply with the size or area requirement of the district in which it is located, the lot shall be construed to be a valid nonconforming lot and may be used for any purpose permitted in the district provided that setbacks and other requirements of the district shall conform to the regulations established herein.
- D. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure and use shall thereafter conform to requirements of this LCD.
- E. No use or structure that is accessory to a principal lawful nonconforming use or structure shall continue after such principal use or structure shall have ceased or terminated.
- F. When a building does not comply with all requirements of the district in which the property is located and the noncompliance was occasioned by a variance granted by the Zoning Board of Adjustment prior to adoption of this LDC such building shall, for the purposes of this section, be considered to be a valid nonconforming structure.
- G. When a building does not comply with all requirements of the district in which the property is located and the noncompliance was occasioned by the exercise of eminent domain or by voluntary or involuntary donation or sale of the land for a governmental purpose, such building shall not be considered a nonconforming structure.
- H. The burden of establishing that any nonconformity is lawful as defined in this LDC shall, in all cases, be upon the owner of such nonconformity and not upon Citrus County.
- I. The certification of valid nonconforming uses as required under prior Ordinances 80-05 and 86-12 shall be recognized as evidence of a lawful use under this section.

3131. Mobile Homes Within Mobile Home Prohibited Land Use Districts

- A. To avoid undue hardship, nothing in this section shall be deemed to prohibit the replacement of a mobile home within a mobile home prohibited land use district provided the following criteria is met:
 - 1. The replacement mobile home is of similar design i.e., a single wide is replaced by a single wide or a double wide is replaced by a double wide.
 - 2. The mobile home located on the lot of record is the only residential structure permitted on the property.
 - 3. The replacement mobile home maintains compliance with the preexisting setbacks of the original structure or the established setbacks for the land use district in which it is located.
 - 4. Compliance with the other standards within this LDC is maintained.
- B. When a mobile home is the only residential structure on the property, the following construction activities may be allowed provided compliance with the other standards within this LDC are maintained.
 - 1. Attached carport(s)
 - 2. Porches, decks, screen rooms, or other non-living area additions.

3132. Nonconforming Densities

- A. Residential lots of record containing more than one residential structure shall be deemed a valid nonconforming use. To avoid undue hardship nothing in this section shall be deemed to prohibit expansion of the site built principal structure provided the following criteria are met:
 - 1. The principal structure is owned and occupied by the property owner; **AND**
 - 2. The proposed expansion does not expand or create additional nonconforming conditions such as setbacks, impervious surface ratio (ISR), etc.; **AND**
 - 3. Compliance with the other standards within this LDC is maintained.
- B. Where the principal structure is a mobile home, replacement with a site built or modular home is permissible provided compliance with Section 3132.A.1. through 3. is maintained.

3133. Nonconforming Waterfront Setbacks

- A. Structures encroaching within the established waterfront setbacks contained within Section 4122.A. and 4163.B.4. of this LDC shall be deemed a valid nonconforming use. To avoid undue hardship, nothing in this section shall be deemed to prohibit replacement of the nonconforming structure provided the following criteria are met:
 - 1. The replacement structure is within the preexisting footprint and does not expand or create additional nonconforming conditions such as ISR, floor area ratio (FAR), etc.; **AND**
 - 2. A berm/swale is provided between the structure and the water body and/or a gutter system is installed that conveys the runoff to a controlled area outside the established setbacks; **AND**
 - 3. Compliance with the other standards within this LDC is maintained.

3140. Discontinuance, Termination, or Abandonment

Discontinuance of Nonconforming Uses

If a nonconforming use of a structure or land ceases (if the building becomes vacant or the business closes), or if that use has been discontinued for a period of 180 consecutive days or for any intermittent period amounting to 180 days in any one calendar year, use of the structure or the structure and land shall thereafter conform to the standards of this LDC.

3141. Replacement of Damaged Buildings

Any nonconforming building(s) or structure(s) which has been damaged or destroyed by fire, natural elements, or force may be reconstructed and used as before if it is reconstructed or building permits issued within 180 days after such damage has occurred. When the nonconforming structure is a mobile home used for residential purposes, it may be replaced with a mobile home of similar design. Upon written request submitted prior to the expiration date, the Director of the Department of Development Services or designee may grant an extension not to exceed 180 days.

3150. Procedures for Administrative Determination of Valid Nonconforming Uses

Any person or firm claiming to have a valid nonconforming use under the terms of this LDC shall apply to the Director of the Community Development Division for a determination and a Letter of Certification. The application shall consist of a statement, with the applicant's signature notarized, stating the nonconforming use and the dates that the use has been in existence. This statement shall be submitted along with a legal description of the property where the use is located and sufficient evidence to support the claim.

- A. Such evidence shall include any or all of the following:
1. Occupational licenses covering each year since the use became nonconforming.
 2. Business records such as sales receipts, invoices, tax receipts, ledger books, Internal Revenue Service filing forms, or other proof of continuous use.
 3. Affidavits from the owner and neighboring property owners who have knowledge of the existence of the use.
 4. Proof of ownership or tenancy (deed or lease). A contract to purchase shall be acceptable in lieu of a deed.

All evidence must reflect continuous operation by dates of not more than six-month intervals from the date that the use became nonconforming.

- B. When the Director of the Community Development Division is satisfied with the evidence submitted, he shall notify by mail each owner of abutting property that the claim or valid nonconforming use has been received and provide a period of 14 days for the evidence to be contested by response. If the evidence is contested by adjoining property owners, the Director of the Community Division shall contact the complainant to ascertain the facts pertaining to the claim.
- C. If the Director of the Community Development Division determines from the evidence that a claim is valid, he shall issue a Letter of Certification of Valid Nonconforming Use to the applicant. A copy of the letter and all supporting evidence shall be filed with the Department of Development Services. Copies of the letter shall be mailed to each abutting property owner or respondent to the original notice.
- D. If the Director of the Community Development Division determines that the claim is not valid, he shall so notify the applicant in writing with the reasons for the determination. This letter and all evidence submitted shall be filed with the Department of Development Services. Copies of the letter shall be mailed to each abutting property owner or respondent to the original notice.
- E. After the Director of the Community Development Division has rendered a decision in writing, affected persons shall have 30 days to file any appeal with the Hearing Officer pursuant to Sections 2450 through 2453. of this LDC.

3160. Standards for Vested Rights

Notwithstanding any other provision of this Code, an application for development approval may be approved if the applicant has demonstrated preexisting investment backed expectations, which are vested under the standards of this section.

- A. An applicant's right to develop is vested if the applicant can demonstrate that:
1. He owned the parcel proposed for development on the effective date of this Code; **AND**
 2. The parcel proposed for development is a lot of record as defined by this Code; **AND**

3. It is economically or physically impractical to assemble sufficient contiguous property to meet the lot size requirements of this Code; **OR**
 4. The proposed development conforms to all other minimum requirements of this Code and other ordinances regulating the development of the property.
- B. An applicant's right to develop is vested if the applicant can demonstrate **ALL** of the following:
1. The development expectations sought to be vested were reasonable and final when formulated.
 2. The development expectations are investment backed to a substantial degree. Substantiality is to be determined by an assessment of the proportion which the expenditures to date bear to the total expenditures, which would be required to complete the development.
 3. Development, in accordance with the strict terms of this Code, will deprive the applicant of a reasonable rate of return on his investment. The following criteria shall be considered to determine the reasonableness of the projected rate of return:
 - a. Expenditures for legal and other professional services that are unrelated to the design of construction of improvements shall not be considered as development expenditures.
 - b. Taxes paid shall not be considered development expenditures, except for any increase in taxes which result from the governmental approval or improvements actually constructed on the property.
 - c. Expenditures for initial acquisition of the land shall not be considered in the investment computation.
- C. The following development activity shall be presumed vested for density and concurrency purposes for the development rights and activities previously granted by development orders:
1. A Development of Regional Impact approved pursuant to Chapter 380, Florida Statutes, (F.S.)
 2. Any development previously approved subject to a Developer's Agreement entered into pursuant to Section 163.3220, etc. seq., F.S.
 3. Any development that has been issued a final local Development Order and development has commenced and is continuing in good faith. A final local Development Order includes:
 - a. An approved final plat.
 - b. A special exception or variance that has not expired.
 - c. A building permit that has not expired.
 - d. An unrecorded subdivision or minor subdivision previously approved.
 - e. Preliminary subdivision plats with approved improvement plans.

NOTE: For the purposes of this section, the following definitions shall apply:

Commencement means that all required permits necessary to continue the development have been obtained, permitted clearing and grading has commenced on any significant portion of the development subject to a single final Development Order, and the actual construction of water and sewer lines or streets or the Stormwater Management System on said portion of the property is complete or is progressing in a manner that significantly moves the entire development toward completion.

Continuing in good faith means the final Development Order for a project has not expired and no period of 180 consecutive days passes without the occurrence on the land of development activity which significantly moves the proposed development toward completion, unless the Developer established that such 180-day lapse in development activity was due to factors beyond the Developer's control, or unless development activity authorized by a final Development Order has been completed on a significant portion of the development subject to such final Development Order and has significantly moved the entire development toward completion.

4. Any other Development Order which approved the development of land for a particular use or uses at a specified intensity of use and which allowed development activity on the land for which the Development Order was issued.

NOTE: The Department of Development Services shall compile a list of those projects presumed vested; however, at any time the determination of vested status may be rebutted by competent substantial evidence.

3161. Procedures for Determination of Vested Rights

An application for determination of vested rights shall be submitted to the Department of Development Services. The Department will review the application and supporting documentation to determine if the criteria established in Section 3160. of this Code have been met. After consultation with the County Attorney, a determination will be rendered in writing.

3162. Appellate Procedures

Any individual, aggrieved by a preliminary determination by the Department of Development Services, may appeal to the Hearing Officer as provided in Section 2500. of this Code within 30 days of that decision by filing a notice of appeal with the Director of the Department of Development Services from whom the appeal is taken.

3163. Limitation of Determination of Vested Rights

- A. The relief granted under this part shall be the minimum relief necessary to provide the applicant with a reasonable rate of return on his investment made before a change in regulations.
- B. A determination of vested rights under the provisions of this Code shall expire and be null and void unless construction is actually commenced within one year of the date the determination is made.

3170. Protection of Structures and Uses with Historical or Cultural Value

For those nonconforming structures or uses that are found to have exceptional value to the community, the PDRB may grant a waiver to the limitations to alteration or expansion of such use. Such structures or uses may include, but are not limited to: houses of worship, commercial marinas or fisheries, and historical structures. An application for a waiver shall be filed with the Director of the Community Development Division. Requests concerning structures or sites considered to have historical significance shall be referred to the Citrus County Historical Society for its recommendation prior to review and determination by the PDRB. Before granting such a waiver, the board shall find that all of the following conditions are met:

- A. The use is an historical or cultural asset to the community.
- B. The proposed alteration, reconstruction, or expansion will result in a substantial improvement in the appearance and structural integrity of the premises.

- C. The proposed alteration will not increase the external impacts of the use on traffic conditions or public utilities, including wastewater and potable water systems, beyond the adopted level of service.
- D. The proposed alteration will not significantly increase external impacts on the natural environment.
- E. The proposed alteration will not negate the historical/archaeological integrity of the building or site.

3180. Protection of Commercial Structures

It is the intent of this section to provide protection for commercial structures lawfully existing on or before April 18, 1989 (Comprehensive Plan Adoption Date). For those nonconforming structures that are found to constitute a substantial investment in a commercial property under the specific criteria contained within this section, a commercial use may be reestablished within the commercial structure(s) and such commercial use shall be subject to the provisions contained herein.

It is further the intent of this section that the recognition of commercial structures under these provisions shall **not** be considered grounds for justification towards an amendment to the Generalized Future Land Use Map (GFLUM) or the Atlas of this LDC.

- A. An applicant's right to reestablish a commercial use is permissible if the applicant can demonstrate all of the following:
 - 1. Commercial improvements to the property were legally permitted and constructed prior to April 18, 1989.
 - 2. The current value of commercial improvements must establish that development expectations are investment backed to a substantial degree and shall be based upon the following:
 - a. The current value of commercial improvements must exceed the current land value based on a non commercial land valuation; or
 - b. The current value of commercial improvements must exceed the projected cost of demolition and removal of commercial improvements or adaptive reuse of commercial structure(s) for residential use (or other allowable use).
- B. If commercial use of an existing structure is found to be permissible under the criteria provided by this section, commercial use shall be limited to the type of use that last occupied the structure(s) or a less intensive use. The commercial use shall not be expanded beyond the square footage of the recognized structure. No outdoor commercial activities shall be considered under the provisions of this section.
- C. The relief granted under this section shall be the minimum relief necessary to provide the applicant with a reasonable use of his/her property given development expectations that are investment backed in the form of commercial improvements to the property only. Improvements may include but shall not be limited to parking facilities, potable water and wastewater systems meeting public/commercial standards, and onsite structures complying with commercial construction standards. Other related expenditures may not be considered under the provisions of this section.
- D. A determination of lawful use under the provisions of this section shall expire and be null and void unless the commercial use is reestablished within one year of the date the determination is made. These provisions are intended to provide a reasonable opportunity to utilize legally permitted commercial structures that are nonconforming under the current Comprehensive Plan.
- E. Modifications and upgrades to the recognized structure(s) that do not constitute an expansion of the facility, as described above, shall be reviewed in accordance with the provisions of Section 2020. of this LDC.

3190. Properties Affected By Eminent Domain Proceedings

3191. Purpose and Intent

- A. The purpose and intent of this Section of the Land Development Code (LDC) is to allow certain nonconformities caused by eminent domain proceedings or negotiations, pursuant to Chapters 73 and 74, Florida Statutes, to become conforming to the LDC and to provide authority, guidelines, criteria, and procedures for a designated staff member to review and grant administrative variances to certain provisions of the LDC in connection with eminent domain proceedings or negotiations.
- B. At times, it is necessary for condemning authorities to acquire properties in whole, or in part, from landowners through eminent domain proceedings or negotiations. Properties acquired in part result in remainder parcels that, in some cases, become nonconforming with respect to certain provisions of the LDC. The creation of new nonconformities, or increases in the degree of nonconformity of existing legal nonconformities, can impose hardships on landowners and to remainder parcels. It is deemed a valid public purpose to recognize as conforming, pursuant to the provisions of this Section, certain nonconformities created by eminent domain proceedings or negotiations.
- C. It is found to be in the public interest to encourage the submittal of a Site Redesign Plan for the purpose of establishing conforming properties to the greatest extent possible after an eminent domain action. The submittal of a Site Redesign Plan shall meet all applicable codes wherever possible. In cases where the property cannot meet LDC requirements, certain variances may be granted administratively as set forth in this Section.
- D. Nothing contained in this section shall be construed or interpreted to permit the existence or continuance of LDC violations that are determined to be an immediate threat to the public health, safety, or welfare.

3192. Eminent Domain Impacts Relative to Certain Code Requirements

- A. Where an eminent domain action causes the creation of nonconformities, and/or increases in the degree of nonconformity of existing legal nonconformities, such nonconformities shall be considered legal and conforming subject to the provisions of this Section. Nonconformities created by eminent domain actions that are declared conforming pursuant to this Section shall not be subject to the provisions of Section 3100. through 3150. of this LDC.
- B. Where, because of an eminent domain proceeding or negotiation, either a nonconformity or an increase in the degree of a legal nonconformity is created, the structures, land uses, and characteristics of uses may continue to exist in the configuration remaining after the condemnation.
- C. As provided in this Section, certain nonconformities that are created or increased in nonconformity by eminent domain proceedings are deemed to be conforming to this Code, and shall also be subject to the development standards set forth below.
 - 1. Lot Area, Width and Depth
 - a. Any lot which is reduced in lot area, width, or depth relative to the minimum required by the land use district shall be deemed to be a conforming lot for the purposes of continuing an existing use, redevelopment of the property, or new development.
 - 2. Setbacks
 - a. Where any lot has existing improvements, any reduction in setback dimensions and/or lot coverage areas below the minimum required by the applicable land use district shall be

deemed to be conforming. Any new construction, other than an addition to an existing improvement, shall meet setback and lot coverage standards of the applicable land use district and other requirements of this Code, not exempted by this Section.

- b. New additions to existing improvements may be measured from the property line existing prior to the date of deposit. Otherwise, the addition must meet setback requirements pursuant to the applicable land use district and this Code.
- c. After the date of deposit for any property subject to eminent domain proceedings, any nonconforming improvements that exist on the remainder property of the original eminent domain parent tract property that are partially or totally destroyed by natural forces or other Acts of God may be reconstructed to their post-taking condition setback, size, and height.

3. Open Space and Impervious Surface Ratio

- a. Any reduction in open space or increase in impervious surface ratio relative to the land use district requirement shall be deemed to be conforming to Code requirements.

4. Landscaping

- a. Any reduction in perimeter landscape buffers, buffers along rights-of-way and interior parking lot landscaping requirements shall be deemed to be conforming to Code requirements.

5. Signage

- a. Sign setbacks, after an eminent domain proceeding or negotiation, shall be based on the pre-take lot line. Any reduction in a conforming setback will be deemed to be conforming to Code requirements.
- b. An existing legal nonconforming sign (as to setbacks, height, or sign area) that is affected by eminent domain proceedings may be relocated on the remainder property provided it meets required Code setback.
- c. If more than one sign is located within the part of the parent tract subject to taking, the maximum number of signs permitted on the remainder property after eminent domain proceedings shall meet Code requirements as to the number of permitted signs. The permitted number of sign may be relocated on the remainder provided setback and minimum separation distance requirements are met.
- d. The landowner of a property subject to condemnation actions or a condemning authority representative may request, from the designated staff member, a written certification of nonconformities recognized as conforming pursuant to the provisions of this Section. Requests shall be submitted on forms provided by the County and the Director of the Community Development Division shall respond in writing, to the applicant, within 30 calendar day following receipt of the request.

3193. Site Redesign Plan

- A. In certain cases, the impacts of an eminent domain action may be mitigated, either wholly or in part, through the submittal and approval of a Site Redesign Plan either by voluntary action on the part of the property owner or the condemning authority's representative. Certain variances, as enumerated in this section, may be granted administratively by the designated staff member. Administrative variances may also be granted for nonconformities that are created or increased but are found justifiable to implement a proposed Site Redesign Plan.

- B. The following Site Redesign Plan standards and administrative variance approvals shall be authorized subject to this Section:
1. Perimeter Landscaping
 - a. Landscape buffer width and planting requirements shall be replaced or upgraded to LDC requirements to the maximum extent possible.
 - b. An administrative variance may be granted for up to twenty-five (25) percent of the required landscape buffer width and up to twenty-five (25) percent of the landscape planting requirements.
 2. Interior Parking Lot Landscaping
 - a. An administrative variance may be granted for up to fifteen (15) percent of the required interior landscape area and up to fifteen (15) percent of the required minimum landscape island area and dimensional requirements.
 3. Parking Spaces
 - a. An administrative variance may be granted for up to fifteen (15) percent of the minimum parking space requirement.
 - b. An administrative variance may be granted to parking standards to permit an increase in the percentage of compact parking spaces relative to standard spaces and to reduce drive aisle width dimensions.
 4. Other LDC Provisions (Excluding Sign Requirements)
 - a. An administrative variance may be granted for up to fifteen (15) percent of the requirement for all other LDC standards, excluding those standards dealing with signs.
- C. Site Redesign Plan submittal requirements are as follows:
1. Post-taking survey of the property subject to the eminent domain proceedings or negotiations.
 2. A scaled site plan showing proposed modifications with dimensions relative to, but not limited to, the following: building and sign setbacks, number of parking spaces, typical parking space dimensions, landscape buffer width, sign area, and height.
 3. A table that compares pre-take, post-take (without proposed Site Redesign Plan modifications) and proposed site modifications relative to the following, where applicable: lot area and width; building square footage, coverage, and floor area ratios; impervious surface ratio and percent of open space; sign face area and setback; number of signs; number of parking spaces and typical parking space and drive aisle dimensions; and landscape buffer width and percent of interior parking lot landscaping.
 4. Landscape planting plan or narrative description, if applicable.

3194. Administrative Variances Review Criteria and Appeals

- A. The Director the Community Development Division has the authority to approve administrative variances to the LDC pursuant to this Section and shall have authority to approve Site Redesign Plans. In granting such administrative variances to LDC requirements, the Director shall make written findings and reach affirmative conclusions as to the following criteria:
 - 1. That the requested variances do not adversely affect the health, safety, and welfare of the public.
 - 2. That the requested variances are the minimum necessary for the reasonable use of land and improvements.
 - 3. That the reasons for the requested variances are a result of a hardship imposed by eminent domain proceedings or negotiations.
- B. The designated staff member may deny, approve, or approve with conditions any Site Redesign Plan or variance request submitted pursuant to this Section.
- C. The granting of administrative variances and approval of the Site Redesign Plan is valid for one year and may be extended for two additional years.
- D. The property owner or condemning authority may appeal the decision of the Director to the Planning and Development Review Board.

3195. Variances That Shall Not be Granted Administratively

- A. Requests for variances that exceed the thresholds set forth in this Section shall not be approved administratively. Such requests shall be reviewed and processed pursuant to applicable provisions contained elsewhere in this LDC.

3196. Properties Subject to Approved Site Plan

- A. Where development of a property is subject to a planned development land use district or subject to the terms of a detailed site plan approved by the County, and said approval is currently valid (unexpired), a Site Redesign Plan, may be submitted and approved as a substitute pursuant to this Section. However, specific conditions of the original planned development detailed site plan approval shall only be modified by the original approving authority.

3200. PREVIOUSLY APPROVED DEVELOPMENTS

3210. Purpose and Intent

At the time of enactment of this LDC there may be established developments, including those approved under the previous Planned Development zoning category, that have one or more vacant lots available for construction of new structures. In addition, there may be developments that are not under construction which have an approved site plan or an approved final subdivision plat. It is the intent of this section to provide for compatibility in construction of new units in areas approved for development prior to enactment of this LDC. Construction on vacant lots within such established or approved developments is referred to as infill development. This section is provided for the purpose of describing standards for the approval of construction in infill situations.

3220. Development Standards

This section ensures that criteria applied to infill development describe minimum design and development standards to be met in order to obtain approval for proposed construction on vacant lots and to assure compatibility of construction between new units and existing development in the area.

- A. For a structure in a development with final approval, an application for building and/or other necessary permits shall be filed pursuant to the provisions of Chapter Two of this LDC. However, if a request requires platting, replatting, or any deviation from the provisions of Section 3220.B. of this LDC, an application for a development order must be made pursuant to the provisions of Chapter Two of this LDC.
- B. Proposed structures shall conform to those standards or regulations in force at the time of development approval for the lot and its surrounding area.
 1. Determination of standards in effect at the time of approval shall include, but may not be limited to, the following:
 - a. Recorded subdivision plats.
 - b. Approved master plans or site plans, which have received a final development order from the governing board.
 - c. Unrecorded subdivision plats lawfully established prior to March 4, 1983, through survey by a Registered Surveyor and on file with the Department of Development Services prior to December 30, 1987.
 - d. The Citrus County Zoning Ordinance or any amendment thereto that was in effect at the time of development approval may be used to specify appropriate standards.
 - e. Unrecorded subdivision plats lawfully established pursuant to Ordinance 83-01 prior to adoption of this LDC.
 2. An approved development shall, in addition to meeting one or more of the criteria of Section 3220.B.1. of this LDC, be at least 10 percent developed in order to qualify for infill standards. However, those Developments of Regional Impact (DRIs) approved by Citrus County pursuant to Chapter 380. F.S., shall be exempt from changes in the originally approved density requirements. DRIs shall be exempt from concurrency standards as required in Section 4700. of this LDC.
 3. Applicable development standards include those imposed upon the initial development except standards for development in a floodplain and standards for stormwater management. Infill standards shall include, but may not be limited to, the following:
 - a. Minimum lot dimensions and area.
 - b. Minimum building size (gross floor area and building height).
 - c. Minimum yard setbacks on all sides.
 - d. Accessory uses, such as storage buildings or swimming pools.
 - e. Off-street parking requirements.
 - f. Dwelling unit type (single family, duplex, manufactured home, etc.).
 - g. Dedication or reservation of easements, rights-of-way, or park land.
 - h. Landscaping and sight barriers.

i. Sidewalks.

C. Where no documentation is available concerning standards in effect at the time of initial development the following procedures shall be used:

1. The six closest developed lots of similar use (i.e. residential, commercial, etc.) to the lot proposed for development shall be considered in determining standards for development. For corner lots the six closest developed lots fronting the same street for which averaging is requested.
2. Actual setbacks, lot dimensions, building heights, etc. (see list in Section 3220.B.3. of this LDC) shall be determined for purposes of calculating an average (mean) for each standard imposed.
3. These average standards represent the minimum standards required for proposed development.
4. Where there is any uncertainty on an applicable standard, the decision shall be in favor of the stricter standard.

3221. Development Standards for Previously Approved Planned Developments

A. At the time of approval of some previously approved Planned Developments (PD), some development standards such as setbacks, impervious surface coverage limitations, and floor area ratios were not included within the recorded plat or development order. These PDs utilized the standards established within the Zoning Ordinance in effect at the time. To ensure consistent development the following standards are applicable to previously approved PDs, which do not have specified standards contained within the recorded plat or development order.

1980 ZONING ORDINANCE*

ZONE	FRONT	SIDE	SIDE (CORNER)	REAR
R-1	25 feet	7.5 feet	15 feet	15 feet
R-2	25 feet	7.5 feet	15 feet	15 feet
R-3	25 feet	10 feet	25 feet	25 feet

The 1980 Zoning Ordinance did not include waterfront setbacks or impervious surface ratio.

* If a project was approved as a Planned Development, under Articles 270-285 or Section 5478 of Ordinance 80-05 as amended, those specified standards apply rather than those cited in the table above.

1986 ZONING ORDINANCE**

ZONE	FRONT	SDIE	REAR	WATERFRONT***	ISR %
RE	50 feet	20 feet	30 feet	50 feet	20
RR-1	35 feet	20 feet	20 feet	50 feet	20
RS-1	25 feet	10 feet (combined yards not less than 25)	20 feet	50 feet	25
RS-3	25 feet	5 feet (combined yards not less than 15)	15 feet	50 feet	35
RG-1	25 feet	5 feet	15 feet	50 feet	40
RG-2(SF)	25 feet	5 feet (combined yards not less than 15)	15 feet	50 feet	40

RG-2(MF)	25 feet	10 feet	15 feet	50 feet	40
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** If a project was approved or designated as a Planned Development, under Ordinance 86-12, Section 3001.C.1 standards for impervious surface ratio apply rather than those cited in the table above. The following applies instead:

	<u>Nonresidential</u>	<u>Residential</u>
Areas of Special Flood Hazard	40 percent	25 percent
Remainder of County	80 percent	50 percent

*** The 1986 zoning ordinance stated that there shall be a 50-foot setback from all natural bodies of water. Permits were issued using 50 feet from all natural bodies of water and 15 feet from manmade canals. A determination from the county legal staff at that time stated that the 50 feet should be from all bodies of water (natural or manmade).

On May 09, 1989, under Ordinance #89-A37, the County allowed the 35-foot setback from the water with a berm/swale method of retaining runoff into the waterways.

- B. Unless land use categories (commercial, business, residential, etc.) are specifically defined within the controlling Development Order, development activity shall be controlled by this Land Development Code. When a proposed use is in question, clarification shall be determined pursuant to Section 1410. C. of this Code.

3300. VARIANCES

The PDRB may grant a variance from strict application of any provision of this LDC, except as provided in Section 2130., if the following procedures are followed and findings made.

3310. Procedure

Any person desiring to undertake a development activity not in conformance with the standards and requirements of this LDC may apply for a variance in conjunction with an application for development approval. Uses, which do not comply with this LDC and the Citrus County Comprehensive Plan, shall not be eligible for variance. A plan amendment is required for any change of use except as specified under supplemental standards requirements of Chapters Four and Five of this LDC. A development approval that might otherwise require approval by the Technical Review Team (TRT) shall require approval by the PDRB if a variance is sought. The variance shall be granted or denied in conjunction with the application for development approval.

3320. Limitations on Granting Variances

3321. Initial Determination

The PDRB shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the PDRB shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that request for similar variances are likely to be received, the board shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

3322. Required Findings

- A. The PDRB shall not vary the requirements of any provisions of this LDC unless it makes a positive finding based on substantial competent evidence on each of the following:
 - 1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same district.
 - 2. Special conditions and circumstances do not result from action of the applicant.
 - 3. Granting the variance request will not confer upon the applicant any special privilege that is denied by this LDC to other lands, buildings, or structures in the same district.
 - 4. Literal interpretation of the provisions of this LDC would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this LDC and would work unnecessary and undue hardship on the applicant.
 - 5. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - 6. Granting the variance shall serve to protect valuable natural resources including ecologically significant wildlife habitat for species listed in Section 4175., of this LDC, or protected tree(s) valued at six tree credits or greater as defined in Section 4344.C. of this LDC.
 - 7. Granting the variance will be in harmony with the general intent and purpose of this LDC and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- B. In granting any variance, the PDRB may prescribe appropriate conditions and safeguards in conformity with the provisions of this LDC. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this LDC.
- C. The PDRB may prescribe a reasonable time limit within which action for which the variance is required shall be begun or completed or both.
- D. Under no circumstances, except as permitted above, shall the board grant a variance to permit a use not generally permitted in the district involved or any use expressly or by implication prohibited by the terms of this LDC in the district. No nonconforming use of neighboring lands, structures, or buildings in the same district and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for authorization of a variance.

3323. Execution of Permit Authorized

Any permission granted under Section 3300. of this LDC shall become null and void if the permission as granted is not executed within the time fixed by the Board, but not to exceed one year from the date of granting of the permission.

3324. Rehearing of Application for Variance

In the event of denial of an application for a variance by the PDRB, said board shall not be required to hear the same (or essentially the same) application again within a period of 12 months, unless said board shall find that a material change in the situation justifies a rehearing.

- A. In the event that any such application is again made or desired to be made within a period of one year from the date of such denial, the applicant shall state expressly in writing the material change that has occurred to justify rehearing of such application.
- B. In the event that the board agrees to rehear such application, the applicant shall make a new application and pay all fees required as though the application had never before been heard.

- C. A change of ownership of property or any interests therein shall not be deemed a material change in the situation for the purpose of this section.

3330. Special Provisions Where Variance Is Sought to Requirements to Flood Damage Regulations

3331. Additional Findings

- A. In addition to the findings required in Section 3322. of this LDC, the PDRB shall find that the requested variance will not result in additional threats to public safety, additional public expense, creation of nuisances, fraud or victimization of the public, or conflict with other local ordinances.

- B. Before granting a variance, the PDRB shall consider the following:

1. The danger that materials may be swept from the site onto other lands.
2. Danger to life and property from flooding or erosion.
3. The potential of the proposed facility and its contents to cause flood damage and the effect of that damage on the owner and the public.
4. The importance of services provided by the proposed facility to the surrounding community and whether it is a functionally dependent facility.
5. Availability of alternative locations, not subject to flooding or erosion, for the proposed use.
6. Compatibility of the proposed use with existing and anticipated neighboring development.
7. The relationship of the proposed use to the Comprehensive Plan and the County's floodplain management program.
8. Safe vehicular access to the property in times of flood.
9. Expected heights, velocity, duration, rate of rise, sediment transport by the flood waters, and effects of wave action, if applicable, at the site.
10. Costs of providing governmental services during and after floods including maintenance and repair of public utilities and facilities.

- C. All variances shall:

1. Specify the differences between flood protection elevation and the elevation to which the structure is to be built.
2. State that the variance will result in increased premium rates for flood insurance.
3. State that construction below the flood protection level increases risks to life and property.

- D. The Director of the Community Development Division shall maintain a record of all variances including justification for their issuance and a copy of the notice of the variance. The Director shall report all variances in the annual or biennial report to the County Administrator.

3335 Special Provisions for Variances from Waterfront Setback Regulations

- A. In addition to the findings required in Section 3322 of this LDC, the PDRB shall find that the requested variance will not result in additional threats to public safety, additional public expense, creation of nuisances, fraud or victimization of the public, or conflict with other local ordinances.
- B. As part of the variance application packet, the applicant shall provide the following additional information:
 - 1. A sealed survey no more than one year old depicting the property boundaries, wetland delineation lines, mean high water line, all onsite structures and improvements.
 - 2. Engineer certified plans depicting the proposed improvements, including boundaries of any fill inclusive of drainfields, both pre and post elevations, stormwater management systems, stormwater conveyance swales, lines, culverts or pumps, and all other site modification to address stormwater and/or wastewater management;
 - 3. A topographic analysis by a Florida Registered Engineer regarding historic stormwater flow within 500 feet or the adjacent properties, whichever is greater, and the impact of the proposed development on that flow if the variance is approved; and
 - 4. Analysis of capacity and ability to accept all generated stormwater resulting from the proposed development if the community has a common stormwater management system.
- C. Before granting a variance, the PDRB shall consider the following:
 - 1. The danger that materials or stormwater may be conveyed from the site onto other lands;
 - 2. Danger to life and property from flooding or erosion;
 - 3. The potential of the proposed facility and its contents to cause flood damage and the effect of that damage on the owner and the public;
 - 4. The importance of services provided by the proposed facility to the surrounding community and whether it is a functionally dependent facility, if the proposed facility is non-residential;
 - 5. Availability of alternative locations or materials onsite for the proposed use;
 - 6. Compatibility of the proposed use and lot coverage with existing and anticipated neighboring development;
 - 7. The relationship of the proposed use to the Comprehensive Plan and the County's floodplain management program;
 - 8. Safe vehicular access to the property in times of flood;
 - 9. Expected heights, velocity, duration, rate of rise, sediment transport by the flood waters, and effects of wave action, if applicable, at the site; and
 - 10. Costs of providing governmental services during and after floods, including maintenance and repair of public utilities and facilities.
- D. All variances shall:
 - 1. Require a pre-construction survey, complete with onsite markers depicting fill limitation boundaries and heights, and wetland jurisdictional boundary lines prior to site work commencement;

2. An in-progress survey confirming all fill and slab are located in accordance with the approved variance within 21 days of the foundation inspection;
 3. A post-construction survey confirming full compliance with the variance approval and conditions prior to issuance of a Certificate of Occupancy;
 4. The final development order shall be recorded within the public record that the owner and all successor owners are required to properly maintain all improvements required by the variance. Proof of recording shall be filed with the Director of the Community Development Division within 30 days after the issuance of the Certificate of Occupancy. An extension may be requested from the Community Development Division Director if circumstances prevent compliance within the assigned time period. Failure to submit shall result in a \$100 per day fine assessed by lien against the property that was granted the variance.
- E. The Director of the Community Development Division shall maintain a record of all variances, including justification for their issuance, and a copy of the notice of the variance. The Director shall report all variances in the annual or biennial report to the County Administrator.

3337 Special Provisions for an Impervious Surface Variance within a floodplain

- A. In addition to the findings required in Section 3322 of this LDC, the PDRB shall find that the requested variance will not result in additional threats to public safety, additional public expense, creation of nuisances, fraud or victimization of the public, or conflict with other local ordinances.
- B. As part of the variance application packet, the applicant shall provide the following additional information:
1. A sealed survey no more than one year old depicting the property boundaries, wetland delineation lines, mean high water line,
 2. Florida Registered Engineer certified plans depicting both pre and post elevations, all onsite structures and improvements, the proposed improvements, including boundaries of any fill inclusive of drainfields, stormwater management systems, stormwater conveyance swales, lines culverts or pumps, and all other site modification to address stormwater and/or wastewater management;
 3. A topographic analysis by a Florida Registered Engineer regarding historic stormwater flow within 500 feet or the adjacent properties, whichever is greater, and the impact of the proposed development on that flow if the variance is approved; and
 4. Analysis of capacity and ability to accept all generated stormwater resulting from the proposed development if the community has a common stormwater management system.
- C. Before granting a variance, the PDRB shall consider the following:
1. The danger that materials or stormwater may be conveyed from the site onto other lands;
 2. Danger to life and property from flooding or erosion;
 3. The potential of the proposed facility and its contents to cause flood damage and the effect of that damage on the owner and the public;
 4. The importance of services provided by the proposed facility to the surrounding community and whether it is a functionally dependent facility if the proposed facility is non-residential;

5. Availability of alternative locations or materials onsite for the proposed use;
 6. Compatibility of the proposed use and lot coverage with existing and anticipated neighboring development;
 7. The relationship of the proposed use to the Comprehensive Plan and the County's floodplain management program;
 8. Safe vehicular access to the property in times of flood;
 9. Expected heights, velocity, duration, rate of rise, sediment transport by the flood waters, and effects of wave action, if applicable, at the site; and
 10. Costs of providing governmental services during and after floods, including maintenance and repair of public utilities and facilities.
- D. All variances shall:
1. Require a pre-construction survey, complete with onsite markers depicting fill limitation boundaries and heights, and wetland jurisdictional boundary lines prior to site work commencement;
 2. A post-construction survey confirming full compliance with the variance approval and conditions prior to issuance of a Certificate of Occupancy;
 3. The final development order shall be recorded within the public record that the owner and all successor owners are required to properly maintain all improvements required by the variance. Proof of recording shall be filed with the Director of the Community Development Division within 30 days after the issuance of the Certificate of Occupancy. An extension may be requested from the Community Development Division Director if circumstances prevent compliance within the assigned time period. Failure to submit shall result in a \$100 per day fine assessed by lien against the property that was granted the variance.
- E. The Director of the Community Development Division shall maintain a record of all variances, including justification for their issuance, and a copy of the notice of the variance. The Director shall report all variances in the annual or biennial report to the County Administrator.

3340. Historic Properties

Notwithstanding the foregoing requirements, special variances may be granted for reconstruction, rehabilitation, or restoration of structures listed in or classified as contributing to a district listed in the National Register of Historic Places, the Local Register of Historic Places, or the State Inventory of Historic Places. The special variance shall be the minimum necessary to protect the historic character and design of the structure. No special variance shall be granted if the proposed construction, rehabilitation, or restoration will cause the structure to lose its historical designation.