ORDINANCE NO. 2015-01

AN ORDINANCE PER THE REQUIREMENTS OF FLORIDA STATUE 163.3201 TO ADOPT LAND DEVELOPMENT REGULATIONS; AND THE REQUIREMENTS OF FLORIDA STATUE 163.3202 FOR THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH THE ADOPTED COMPREHENSIVE PLAN; PROVIDING FOR REPEAL OF ORDINANCE IN CONFLICT THEREWITH, PROVIDING FOR SEVERABLITY AND PROVIDING FOR AN EFFECTIVE DATE.

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

WHEREAS, Florida Statue 163.3167 requires each County and City to have a Comprehensive Plan, and

WHEREAS, Florida Statue 163.3201 and 163.3202 requires the County and Cities to implement Land Development Regulations that are consistent with the Comprehensive Plan, and

WHEREAS, Gulf County has an existing Land Development Regulations (LDR); and

WHEREAS, Florida Statute 125.66 (2)a specifically provides for the proper publication, notice and announcement of Gulf County's intent and consideration of any and all land use modification and ordinance adoption; and such notice has been properly published for general circulation in the county, and

WHEREAS, F.S. 163.3202 mandates provision for the review and consideration of development regulations and requests to the county; and

WHEREAS, Gulf County seeks further clarification and to memorialize the longstanding and historical precedent set by which its LDR is consistently applied by the planning department and staff and upon request of either the planning department and/or Board of Commissioners in submittal to an advisory board called the Planning Development and Review Board (PDRB) for an initial review, evaluation and recommendation to the Board of County Commissioners for its final action of any and all development orders and permits in Gulf County; and

WHEREAS, Gulf County in this effort for further clarification and procedural efficiency has further amended Article II of its Land Development Regulations as attached hereto in Exhibit "A"; and

WHEREAS, On January 5, 2015 and January 19, 2015 a Public Notice was advertised in The News Herald offering the public an opportunity to participate at two public hearings before the Board of County Commissioners (BOCC) on January 13, 2015 at 9:00 am and a second public hearing on January 27, 2015 at 5:01 p.m. for the adoption of these proposed LDR revisions; and

WHEREAS, On January 12, 2015 a Public Notice was advertised in The News Herald offering the public further opportunity to participate at a third public hearing before the PDRB on Monday, January 26, 2015 consistent with the current LDR Article 2.05.04 (C)8 requirements; and the BOCC having received

those comments and recommendations through the planning department representative from its public hearing; and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Gulf County, in the State of Florida to adopt the revised Land Development Regulations (LDR) as presented in Exhibit "A" attached as follows:

Section 1 – Adoption of the revised Land Development Regulations (LDR) Article II Amendments as presented in Exhibit "A" (attached hereto).

Section 2 - Effective Date

This Ordinance shall take effect upon final adoption and publication in accordance with the law following the proper and compliant public hearings and notice.

Section 3 – Severability

It is declared to be the intent of the Board of County Commissioners of Gulf County, Florida, that if any section, subsection, sentence, clause, or provision of this Ordinance amending the Gulf County LDR is held invalid, the remainder of the Ordinance and those amendments shall be construed as not having contained said section, subsection, sentence, clause, or provision, and shall not be affected by such holding.

Section 4 – Repealer

Any and all ordinances and prior language stated under Article II of the Gulf County Land Development Regulation that is in conflict herewith and is hereby repealed in its entirety.

Section 5 – Modification

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk to the Board.

The foregoing Ordinance was offered by Commissioner McLemore, who moved its adoption. The motion was seconded by Commissioner Yeager and, being put to vote, the vote as follows:

Commissioner McDaniel yes

Commissioner Quinn yes

Commissioner Yeager yes

Commissioner Bryan no

Commissioner McLemore yes

ADOPTED this 27th day of January, 2015.

ATTEST:

REBECCA L. NORRIS, CLERK

By: _____
County Clerk / Deputy Clerk

APPROVED AS TO FORM:

By _____
Jeremy T.M. Novak, Gulf County Attorney

BOARD OF COUNTY COMMISSIONERS
OF GULF COUNTY, FLORIDA

By: _____
Ward McDaniel, Chairman

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Article II
Development Review

2.00.00 GENERALLY

2.00.01 Purpose

This Article sets forth the application and review procedures required for obtaining development orders, and certain types of permits.

2.00.02 Withdrawal of Applications

An application for development review may be withdrawn at any time by written request.

2.00.03 Definitions

DEVELOPER: Any person who engages in or proposes to engage in a development activity either as the owner or as the agent of an owner of property.

DEVELOPMENT ORDER: An order granting, denying, or granting with conditions an application for approval of a development activity. A distinction is made between a development order and a building permit. A development order is the County authorization of a proposed development project and may be verified by written document or by the vote of the Board of County Commissioners. Such authorization must be granted by the County prior to issuance of a building permit by the County as defined for purposes of these regulations. (The development order authorizes the project, whereas, the building permit authorizes specific components of the project, such as building construction, sign installation, and the like.) For purposes of these regulations, the development plan approval or preliminary plat approval is the development order.

DEVELOPMENT PERMIT: For purposes of this LDR a development permit is that official County document which authorizes the commencement of construction of land alteration without need for further application and approval. Development permits include: all types of construction permits (plumbing, electrical, mechanical, and so forth, in addition to the building permit itself), septic tank permits, sign permits, demolition permits, etc.

LOT OF RECORD: A designated parcel, tract or area of land established in the County's Official Record Books, Miscellaneous Map File Book, by recorded plat, by unrecorded plat on file in the Gulf County HRS Public Health Unit, or as otherwise allowed by law.

MINOR REPLAT: The subdivision of a single lot or parcel of land into two (2) lots or parcels by the owner of the property deed, or the subdivision of a parcel into two or more lots solely for the purpose of increasing the area of adjacent lots or parcels of land and where the resultant lots comply with the standards of this LDR. The approval for minor replats is the responsibility for the Planning Director or Designee.

OWNER: A person who, or entity which, alone, jointly or severally with others, or in a representative capacity (including without limitation, and authorized agent, attorney, executor, personal representative or trustee) has legal or equitable title to any property in question, or a tenant, if the tenancy is chargeable under his lease for the maintenance of the property.

PARCEL or LOT: A unit of land within legal established property lines and defined interchangeably as a designated parcel, tract or area of land established in the County's Official Record Books, Miscellaneous Map File Book, by recorded plat, by unrecorded plat on file in the Gulf County HRS Public Health Unit, or as otherwise allowed by law, to be used, developed or built upon as a unit and has been assigned the proper parcel identification number by the Gulf County Property Assessor's office.

2.01.00 AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR TO UNDERTAKING ANY DEVELOPMENT ACTIVITY.

2.01.01 Generally

No development activity may be undertaken unless the activity is authorized by a development permit or is specifically exempted by Section 2.01.03.

2.01.02 Prerequisites To Issuance Of Development Permit

Except as provided in Section 2.01.03 below, a development permit may not be issued unless the proposed development activity.

A. Is authorized by a Development Order issued pursuant to this LDR; and

B. Conforms to the Technical Construction Standards adopted by reference Article I of this LDR.

2.01.03 Exemptions To Requirement Of A Development Order

A development permit may be issued for the following development activities in the absence of a development order issued pursuant to this LDR. Unless otherwise specifically provided, the development activity shall conform to this LDR, Federal and State permits, and applicable building codes.

A. Development activity necessary to implement a valid site plan or development plan on which the start of construction took place prior to the adoption of this LDR and has continued in good faith. (Nothing in this Section shall be construed as to exempt future development phases).

B. The construction or alteration of a one or two family dwelling on a lot of record prior to the adoption of this LDR, provided development complies with the minimum requirements of other permitting agencies.

C. The alteration of an existing building or structure so long as no change is made to its gross floor area, its use, or the amount of impervious surface on the site.

D. The re-surfacing of a vehicle use area that conforms to all requirements of this LDR.

E. A Minor Replat granted pursuant to the procedures in Section 2.03.00 of this Article.

F. Accessory use permits, such as those for erection of signs, construction of tennis courts, swimming pools, and similar uses.

2.01.04 Post-Permit Changes

After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original development order or permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the Building Inspector's Office.

2.02.00 PROCEDURE FOR REVIEW OF DEVELOPMENT PLANS

2.02.01 Pre-Application Conference

Prior to filing for a development order or permit, the developer shall meet with the Building and/or Planning Department personnel to discuss the development review process, to be informed of which staff members to confer with about the application, and to discuss the general concept of the proposed development. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

2.02. 02 Project Phasing

A Master Plan for the entire development site must be approved for any Major Development that is to be developed in phases. The Master Plan shall be submitted simultaneously with an application for review of the Development Plan for the first phase of the development and must be approved as a condition of approval for the Development Plan for the first phase. A Development Plan must be approved for each phase of the development. Each phase shall include a proportionate share of the proposed recreational and open space, and other site and building amenities of the entire development, except that more than a proportionate share of the total amenities may be included in the earlier phases with corresponding reductions in the later phases.

2.02.03 Required and Optional Contents Of Development Orders

A. Required Contents

A Development Order shall contain the following:

1. A specific time period during which the development order is valid and during which time development shall commence. A Development Order shall remain valid only if development commences and continues in good faith to the terms and conditions of approval.

2. Notice that a final concurrency determination will be required prior to the issuance of a Building Permit.

3. A commitment by the County to the following:

   a. The necessary facilities shall not be deferred or deleted from the Capital Improvements

Element or the adopted one-year capital budget unless the subject development order expires or is rescinded prior to the issuance of a Certificate of Occupancy.

b. Contracts shall provide that construction of necessary facilities must proceed to completion with no unreasonable delay or interruption.

B. Option Contents

A Development Order may contain:

1. A schedule of construction phasing consistent with availability of capacity of one or more services and/or facilities.

2. A schedule of services or facilities to be provided or contracted for construction by the applicant prior to the issuance of any certificate or within specified time periods.

3. An alternate service impact mitigation measure to which the applicant has committed in a recordable written instrument.

4. Sureties and guarantees as well as agreements related to maintenance of public facilities, as required by Section 2.02.10, Guarantees and Sureties.

5. Such other conditions as may be required to ensure compliance with the concurrency requirement.

2.02.04 Submittals

A. Application

Applications for development review shall be available from the Building Inspector. A completed application shall be signed by all owners or their agent, of the property subject to the proposal and notarized. Signatures by other parties will be accepted only with notarized proof of authorization by the owners. In a case of corporateownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation and embossed with the corporate seal.

B. General Development Plan Requirements

All Development Plans submitted pursuant to this Code shall conform to the following standards:

1. All site plans shall be drawn to "Engineer scale" with a scale of one (1) inch equals one hundred (100) feet preferred unless the Building or Planning Department(s) determines that a different scale is sufficient or necessary for proper review of the proposal.

2. The trim line sheet size shall be twenty-four (24) inches by thirty-six (36) inches. A three-quarter (3/4) inch margin shall be provided on all sides except for the left binding side where a two (2) inch margin shall be provided.

3. If multiple sheets are used, the sheet number and total number of sheets must be

clearly indicated on each sheet.

4. The front cover sheet of each plan shall include;

   a. A general vicinity and/or location map showing the position of the proposed development in the section(s), township and range, together with the principal roads, city limits, and/or other pertinent orientation information.

   b. A complete legal description of the property including tax reference number.

   c. The name, address and telephone number of the owner(s) of the property, the name and address of the president of the entity shall be shown.

   d. The name, business address, and telephone number of those individuals responsible for the preparation of the drawing(s).

   e. Each sheet shall contain a title block with the name of the development, a states and graphic scale, a north arrow and date.

   f. The plan shall show the boundaries of the property with a metes and bounds description reference to section, township and range, tied to a section or quarter section or subdivision name and lot number(s).

5. The following number of copies shall be submitted based on the required level of review.

   Three (3) sets for any proposed minor development activity (to be reviewed by the Building Inspector).

   Five (5) sets of any proposed Level 1 major development activity (to be reviewed by the Technical Advisory Committee (TAC).

   Seven (7) sets for any proposed Level 2 major development activity (to be reviewed by the Board of County Commissioners).

6. Unless a format is specifically called for below, the information required may be presented textually, graphically, or on a map, plan, aerial photograph, or by other means, whichever most clearly conveys the required information. It is the responsibility of the developer to submit the information in a form that allows ready determination of whether the requirements of this Code have been met.

C. Development Plan

In addition to the general development plan requirements, a Development Plan shall include or provide the following information where determined applicable by Building or Planning Departments.

1. Existing Conditions

a. A recent aerial photograph encompassing the project area and identifying the project areas and total land area. The scale shall be no smaller than one inch equals 800 feet.

b. A soils map of the site (existing US Soil Conservation service maps are acceptable).

c. A generalized map of vegetative cover including the location, height, and identity by common name of all trees. Groups of trees may be designated as "clusters" with the estimated total number height and identity noted.

d. A topographic map of the site clearly showing the location, identification, and elevation of bench marks, including at least one bench mark for each major water control structure.

e. Existing surface water bodies, wetlands, streams and canals within the proposed development site.

f. A detailed overall project area map showing existing hydrology and runoff patterns, to include drainage basins and/or watershed boundaries.

g. A depiction of the site, and all land within two hundred (200) feet of any property line of the site, showing the locations of Protected Environmentally Sensitive Zones and Wellhead Protection Zones.

h. The location of any underground or overhead utilities, culverts and drains on the property and within one hundred (100) feet of the proposed development boundary.

i. Locations, names, widths of existing and proposed streets, highways, easements, building lines, alleys, parks, and other public spaces and similar facts regarding adjacent property.

j. The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year floodplain for all parts of the proposed development.

2. Proposed Development Activities and Design

a. Generally

1) Area and percentage of total site area to be covered by an impervious surface.
2) Grading plans specifically including perimeter grading.
3) Construction phase lines.

b. Building and Other Structures

1) Building plan showing the location, dimensions, gross floor area, and proposed use of buildings.

2) Front, rear and side architectural elevations of all buildings.
3) Building, setback distances from property lines, setbacks from abutting right-of-way, and all adjacent buildings and structures.
4) Minimum floor elevations of buildings within any 100-year floodplain.
5) The location, dimensions, type, composition, and intended use of all other structures.

c. Potable Water and Wastewater Systems

1) Proposed location and sizing of potable water and wastewater facilities to serve the proposed development, including required improvements or extensions of existing off-site facilities.
2) The boundaries of proposed utility easements.
3) Location of the nearest available public water supply and wastewater disposal system and the proposed tie-in points, or an explanation of alternative systems to be used.
4) Exact locations of on-site and nearby existing and proposed fire hydrants.

d. Streets, Parking and Loading

1) All street-related submittal requirements listed in Article VIII, Subdivision Regulations.
2) A parking and loading plan showing the total number and dimensions of proposed parking spaces, spaces reserved for handicapped parking, loading areas, proposed ingress and egress (including proposed public street modifications), and projected traffic flow.
3) For developments which would generate 500 or more new trips per day, a traffic impact study which includes, at a minimum, the area of impact, the projected demand (based on Trip Generation, 8th Edition, Institute of Transportation Engineers), and the distribution of trips onto the impacted roadways.

e. Vegetated Buffer Zones

1) Location and dimensions of proposed buffer zones and vegetated areas.
2) Description of plan materials existing and to be planted in buffer zones.

f. Stormwater Management

1) An erosion and sedimentation control plan that describes the type and location of control measures, the stage of development at which they will be put into place or used, and maintenance provisions.

2) A description of the proposed stormwater management system, including:

   a) Channel, direction, flow rate and volume of stormwater that will be conveyed from the site with a comparison to natural or existing conditions.

b) Detention and retention areas, including plans for the discharge of contained waters, maintenance plans, and predictions of surface water quality changes.
c) Areas of the site to be used or reserved for percolation including an assessment of the impact on groundwater quality.
d) Location of all water bodies to be included in the surface water management system (natural and artificial) with details of hydrography, side slopes, depths, and water-surface elevations or hydrographs.
e) Linkages with existing or planned stormwater management systems.
f) On and off-site right-of-ways and easements for the system including locations and a statement of the nature of the reservation for all areas to be reserved as part of the Stormwater Management System.
g) The entity or agency responsible for the operation and maintenance of the Stormwater Management System.

3) The location of off-site water resource facilities such as works, surface water management systems, wells or well fields, that will be incorporated into or used by the proposed project, showing the names and addresses of the owners of the facilities.

4) Runoff calculations shall be in accord with standard engineering practices.

g. Environmentally Sensitive Lands

1) The exact sites and specifications for all proposed drainage, filling, grading, dredging, and vegetation removal activities, including estimated quantities of excavation or fill materials computed from cross sections, proposed within a Protected Environmentally Sensitive Zone.

2) Detailed statement or other materials showing the following:

a) The percentage of the land surface of the site that is covered with natural vegetation and the percentage of natural vegetation that will be removed by development.
b) The distances between development activities and the boundaries of the Protected Environmentally Sensitive Zones.

3) The manner in which habitats of endangered threatened species are protected.

h. Signs

1) For regulated ground signs, a plan, sketch, blueprint, blue print line or similar presentation drawn to scale which indicates clearly the location of the sign relative to property lines, right of way, streets, alleys, sidewalks, vehicular access and parking areas and other existing ground signs on the parcel.

2) For regulated building signs, a plan, sketch, blueprint, blue print line or similar presentation drawn to scale which indicates clearly:

a) The location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas, buildings and structures on the parcel.
b) The number, size, type, and location of all existing signs on the same parcel, except a single business unit in a multiple occupancy complex shall not be required to delineate the signs of the business units.

i. Subdivision

Proposed number, minimum area and location of lots, if development involves a subdivision of land. Additional submittals related to subdivisions are contained in Article VIII, Subdivision Regulations.

j. Land Use and Dedications

1) Location of all land to be dedicated or reserved for all public and private uses including right-of-way, easements, special reservations, and the like.
2) The total number, type, and density of residential units.

k. Wellfield Protection

Location of on-site wells, and wells within two hundred (200) feet of any property line, supplying water for public consumption.

1. Historic And Archaeological Sites

D. Master Plan

A Master Plan is required for a Major Development which is developed in phases. A Master Plan shall provide the following information for the entire development:

1. A Concept Plan for the entire Master Plan area.

2. A development Plan for the first phase or phases for which approval is sought.

3. A development phasing schedule including the sequence for each phase, approximate size of the area in each phase, and proposed phasing of construction of public recreation and common open space areas and facilities.

4. Total acreage in each phase and gross intensity (non-residential) and gross density (residential) of each phase.

5. Number, height and type of residential units.

6. Floor area, height and types of office, commercial, industrial and other proposed uses.

7. Total land area, and approximate location and amount of open space included in each residential, office, commercial, and industrial area.

8. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress.

9. Approximate location and acreage of any proposed public use such as parks, school sites, and similar public or semi-public uses.

10. A vicinity map of the area within one thousand (1000) feet surrounding the site showing:

    a. Land use designation and boundaries.
    b. Traffic circulation systems.
    c. Major public facilities.
    d. Municipal boundary lines.

11. Other documentation necessary to permit satisfactory review under the requirements of this Code and other applicable law as required by special circumstances in the determination of the Building Inspector.

    (NOTE: A Master Plan is required whenever a Major Development is to be implemented in phases. The required information allows the Building Department, the Technical Advisory Committee, the Planning and Development Review Board and interested citizens to review each phase independently and in the context of an overall development plan. The purpose is to assure that adequate consideration is made of all effects of the component parts on each other, the completed project and the affected community.)

2.02.09 Guarantees and Sureties

A. Applicability

1. The provisions of this section apply to all proposed developments in the County involving public improvements and/or common ownership and maintenance of facilities.

2. Nothing in this section shall be construed as relieving a developer of any requirement relating to concurrency in Article VII of this LDR.

3. This section does not modify existing agreements between a developer and the County for subdivision platted and final development orders granted prior to the effective date of this Code, providing such agreements are current as to all conditions and terms thereof.

B. Improvements Agreement Required

The approval of any development plan shall be subject to the developer providing assurance that all required improvements, including, but not limited to, storm drainage facilities, streets and highways, water and sewer lines, shall be satisfactorily constructed according to the approved development plan. The following information shall be provided.

1. Agreement that all improvements, whether required by this LDR or constructed at the developer's option, shall be constructed in accordance with the standards and provisions of this Code.

2. The term of the agreement indicating that all required improvements shall be satisfactorily completed with as built drawings before a building permit can be issued.

3. The projected total cost for each improvement. Cost for construction shall be determined by either of the following:

    a. Estimate prepared and provided by the applicant's engineer.
    b. A copy of the executed construction contract provided.

4. Specification of the public improvements to be made and dedicated together with the timetable for making improvements.

5. Agreement that upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making improvements, the County shall utilize the security provided in connection with the agreement.

6. Provision of the amount and type of security provided to ensure performance.

7. Provision of the amount and type of security may be reduced periodically, subsequent to the completion, inspection and acceptance of improvements by the County.

C. Amount And Type Of Security

1. The amount of the security listed in the improvement agreement shall be approved as adequate by the Building Inspector.

2. Security requirements may be met by, but are not limited to, the following:

    a. Cashiers check
    b. Certified check
    c. Developer/Lender/City/County Agreement
    d. Interest Bearing Certificate of Deposit
    e. Irrevocable Letters of Credit
    f. Surety Bond

3. The amount and type of security shall be established by the Board of County Commissioners. The amount of security may be reduced commensurate with the completion and final acceptance of required improvements.

D. Completion of Improvements

1. When improvements are completed, final inspection shall be conducted and corrections, if any, shall be completed before final acceptance is recommended by County Staff. A recommendation for final acceptance shall be made upon receipt of a certification of project and one (1) copy of all test results.

2. As required improvements are completed and accepted, the developer may apply for release of all or a portion of the bond consistent with the requirement in Section 2.02.10.C.3 above.

E. Maintenance of Improvements

1. A maintenance agreement and security shall be provided to assure the County that all required improvements shall be maintained by the developer according to the following requirements:

   a. The period of maintenance shall be specified in the development order.

   b. The maintenance period shall begin with the acceptance by the County of the construction of the improvements.

   c. The security amount shall be established by the Board of County Commissioners.

   d. The original agreement shall be maintained by the Building Inspector.

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

   a. When the proposed development is to be organized as a condominium under the provisions of Ch. 718, Florida Statues, common facilities and property shall be conveyed to the condominium's association pursuant to the law.

   b. When no condominium is to be organized, an owners association shall be created, and all common facilities and property shall be conveyed to that association.

   c. No development order shall be issued for a development for which an owners' association is required until the documents establishing such association have been reviewed and approved by the County Attorney.

2.03.00 PROCEDURE FOR OBTAINING A MINOR REPLAT

2.03.01 Review by Planning Department

A. Generally

The Planning Department Staff may approve a Minor Replat that conforms to the requirements of this part. The intent is to allow a developer to create two parcels out of one. The staff reserves the right to defer any application to the PDRB that appears to be out of the realm of this policy for further review, comment and recommendation to the Board of County Commission for its final determination.

B. Submittals

The Planning Department staff shall consider a proposed Minor Replat upon the submittal of the following materials:

1. An application form obtained from the Planning Department.

2. Complete the application along with the required documentation and payment of the current application fee.

C. Review Procedure

If the proposed Minor Replat meets the conditions of this section and otherwise complies with all applicable laws and ordinances, the Planning Department staff shall approve the Minor Replat by signing the application form.

D. Recordation

Upon approval of the Minor Replat, the developer shall record the replat in the Official County Records (ORB) at the developer's expense, and provide a recorded copy with parcel ID numbers to the Planning Department.

2.03.02 Standards and Restrictions

A. Standards

All Minor Replats shall conform to the following standards:

1. That owner is entitled to divide a parent parcel into two parcels only once. Each proposed lot must conform to the requirements of this LDR.

2. If any lot abuts a street right-of-way that does not conform to the design specifications provided in this Code, the owner may be required to dedicate one-half the right-of-way width necessary to meet the minimum design requirements.

3. If roadways within the confines of the minor replat fail to meet the minimum county requirements for Gulf County roadways, a statement must be placed on face of the minor replat and on each and an individual deeds that Gulf County will not accept ownership of roadways or maintain roadways until said roads conform to the latest county regulations for secondary roadways.

B. Restriction

1. No further division of an approved Minor Replat under applicant name is permitted under this section, unless a development plan (subdivision) is prepared and submitted in accordance with current subdivision regulations or meets an exception as defined herein below under 2.03.02 (B)4.

2. The staff reserves the right to defer any minor replat application to either first the Planning and Development (PDRB) requesting preliminary comment and recommendations or directly to the Board of County Commissioners (BOCC) for final review and action.

3. That no additional dividing of the original parent parcel or parcels thereof can be related to an applicant except as subdivision.

4. If applicant is a family member, partner or investor, etc., of a previous minor replat, recorded deeds must be submitted with minor replat application verifying an applicant with no legal ownership in a previous contiguous minor replat.

2.04.00 PROCEDURE FOR OBTAINING DEVELOPMENT PERMITS

2.04.01 Application

Application for a Development Permit shall be made to the office of the Building Inspector in a form provided by the Building Inspector and may be acted upon by the Building Inspector without public hearing or notice.

2.04.02 Review and Issuance by Department

The Building Inspector shall review all applications for development permits and shall issue such permits upon a determination of conformance with adopted Technical Construction Standards and any other applicable codes, and upon final concurrency determination as described in the Concurrency Management Procedures Manual.

2.05.00 DUTIES OF VARIOUS INDIVIDUAL, BOARDS AND AGENCIES ADMINISTRATION OF LAND DEVELOPMENT REGULATIONS

2.05.01 Building Official

The Building Official or his designee shall be responsible for receiving requests for concurrency determination, informing applicants of required information, and issuing a concurrency certificate.

The Building Official and County Planner shall act as Co-Chairman's of the Technical Advisory Committee, setting meetings and distributing applications for development proposals to committee members for review.

The Building Official may approve exemptions from the requirements of these regulations as deemed appropriate in emergency situations, as provided for in Section 2.05.10.

2.05.02 Planning Department

The Planning Department shall be responsible for administration and application of land development regulations as set forth herein. Responsibilities include the following:

- Determine whether a proposed development activity is consistent with the Future Land Use Map contained in the adopted Comprehensive Plan.
- Receive applications for development approval and determine whether the development activity is a minor or major development.
- Review applications for minor development and may permit issuance.
- Refer applications, which require review by the Planning and Development Review Board for review and recommendation to the BOCC..
- Receive requests for special exceptions and variances and refer these to the Planning and Development Review Board for review and recommendations to the BOCC.
- Receive requests for amendments to the land development regulations or the Comprehensive Plan and refer these to the Planning and Development Review Board for review and recommendations to the BOCC.
- Upon determination of compliance with the Land Development Regulations, the Building Official shall authorize the issuance of a building permit.
- Decisions of the Planning Department may be appealed to the Planning and Development Review Board as provided for in Section 2.06.08 of this Article. The Board of County Commissioners has final and exclusive authority to accept or deny the recommendations of the Planning and Development Review Board regarding development permit or development order decisions..

2.05.03 Technical Advisory Committee

The Technical Advisory Committee is composed of County staff knowledgeable in areas of land development, building, zoning, public works and/or planning, and is appointed by the Building Inspector. The Building Official and County Planner shall act as Co-Chairman's of the Technical Review Committee.

The Technical Advisory Committee (TAC) is responsible for development review and development order approval for all level 1 major development activity Development order approval is issued based upon a determination by the TAC that the proposed development activity conforms to the requirements of these land development regulations.

The Technical Advisory Committee acts in an advisory role for development activity which requires review by the Planning and Development Review Board and approval by the Board of County Commissioners and may be called upon to confer with the Planning and Development Review Board regarding requests for special exceptions and variances.

All minutes of the Technical Review Committee shall be filed with the Building Department.

2.05.04 Planning and Development Review Board

A. Establishment and Procedures:

A Planning and Development Review Board (PDRB) was established by motion of the Board of County Commissioners on April 13, 1993. The PDRB shall consist of five (5) members to be appointed by the Board of County Commissioners and term of service shall be based on the will of the BOCC.
Members of the Planning and Development Review Board may be removed from office by the County Commission regular board action.

B. Proceedings of the Planning and Development Review Board:

The Planning and Development Review Board shall adopt rules necessary to conduct its affairs and in keeping with the provisions of these regulations. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. A majority of the membership for the PDRB shall constitute a quorum.

The Planning and Development Review Board shall keep minutes of its proceedings showing the vote of each member upon each questions, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be public record and be filed in the office of the Building and Planning Department.

C. Powers and Duties of the Planning and Development Review Board.

The Planning and Development Review Board shall have the following review, advisory and recommendation powers and duties:

Article II
Development Review

1. Administrative Review: The PDRB is an advisory and recommendation board solely created to hear, review issues submitted to it by the Planning department staff and thereafter submit recommendations to the BOCC. The BOCC maintains its historical right and exclusive power for all final actions regarding all development permits and orders within Gulf County. The PDRB may upon submission by the planning staff where it is alleged there is error in any order, requirements, decision or determination made by any department or committee in the administration and application of these regulations review and make recommendations to the BOCC. All final decisions rendered by Board of County Commissioners shall not be appealed to the Planning and Development Review Board.

2. Special exceptions: To hear, review and recommend to the BOCC for final action such special exceptions as the Planning and Development Review Board is specifically authorized to consider by the terms of these regulations; to review such questions as are involved in determining whether special exceptions should be granted ultimately by the BOCC; and to recommend special exceptions with such conditions and safeguards as are appropriate under these regulations or to recommend denying special exceptions when not in harmony with the purpose and intent of these regulations.

3. Variances: To hear, review and recommend to the BOCC for final action upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance would result in unnecessary hardship.

4. Powers of Planning/Building Department on Appeals: In exercising the above mentioned powers, the Planning and Development Review Board may, so long as such an action is in conformity with the terms of these regulations, recommend approval or denial to the BOCC, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirement, decision or determinations as ought to be made, and to that end shall have the power of the Planning/Building Department from whom the appeal is taken.

   The concurring vote of a majority of the Planning and Development Review Board shall be necessary to recommend approval or denial to the BOCC of an order, requirement decisions, or determination of the Planning/Building Department, Technical Advisory Committee, or other administrative official; or to recommend an application on any matters upon which it is required to hear and apply the application of these regulations.

5. Review and recommend preliminary and final subdivision plats over nine (9) units for final approval by the Board of County Commissioners.

6. Review and recommend major development for final approval by the Board of County Commissioners.

7. Review and recommendations for updating and amendment of the comprehensive plan and land development regulations. The BOCC may request comment and recommendations from the PDRB for plan amendments and revised regulations prior to its final action.

2.05.05 Board of County Commissioners

For the purpose of these land development regulations, the Board of County Commissioners of Gulf County is responsible for the review and all final approvals of all preliminary and final subdivision plats, development orders and for review and final approval of all major development proposals. All advisory boards and departmental staff are subject to the final and exclusive review and approval authority of the BOCC.

2.05.06 SPECIAL EXCEPTIONS - Requirements and Procedures:

A special exception may be heard, reviewed and recommended by the Planning and Development Review Board only after the following requirements and procedures are met:

A. A written for a special exception is submitted indicating the section of these regulations under which the special exception is sought and stating the grounds on which it is required.

B. Notice shall be given at least 15 days in advance of the public hearing. The owner of the property for which special exception is sought or his agent and the owners of abutting spot on the property for which special exception is sought or his agent and the owners of abutting spot on the property for which special exception is sought, at the Gulf County Courthouse and in one other public place at least fifteen (15) days prior to the public hearing. Required fees set forth in Section 2.05.10 of the Article shall be deposited with the County Clerk to cover the cost of posting notices and notification by mail.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Planning and Development Review Board may hear, review and may recommend to the BOCC for final action under the section of these regulations described in the application for the BOCC to grant the special exception, and provided that the granting of the special exception will not adversely affect the public interest. The Planning and Development Review Board shall confer with appropriate representatives of boards and/or committee having development review responsibility or specific knowledge regarding the special exception.

E. Before any special exception shall be recommended to the BOCC for final action , the Planning and Development Review Board shall make written findings certifying the compliance with the specific rules governing individual special exceptions and that satisfactory provision and arrangement has been made concerning the following where applicable.
    1. Ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and to convenience, traffic flow and control, and access in case of fire or catastrophe;

2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;

3. Refuse and service areas, with particular reference to the items in (1) and (2) above;

4. Utilities, with reference to location, availability and compatibility;

5. Screening and buffering with reference to type, dimensions, and character;

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;

7. Required yards and other open space;

8. General compatibility with adjacent properties and other property in the district.

F. Any restrictions imposed as a condition of granting the special exception, such as limitations on size or square footage, including future expansions, shall be specified at the time the special exception is granted.

2.05.07 VARIANCES - Requirements and Procedures:

A variance from the terms of these regulations shall be heard, reviewed and recommendations submitted by the Planning and Development Review Board to the BOCC for final action after the following requirements and procedures are met:

A. A written application for a variance (hardship relief) is submitted to the Planning/Building Department demonstrating that a hardship exists based on one of the following conditions:

1. The special conditions and circumstances exist which are peculiar to the land, structure or buildings involved and which are not applicable to other lands, structures or buildings in the same district; or
2. The literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of these regulations; or
3. That the special conditions and circumstances do not result from the actions of the applicant; or
4. That granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, structures or buildings in the same district.

No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given in accordance with the provisions specified under "Special Exceptions" and a public hearing shall be held. Any party may appear in person, or by agent or by attorney.

C. The Planning and Development Review Board may recommend a finding that the requirements regarding hardship relief have been met by the applicant for a variance, that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.

D. The Planning and Development Review Board may recommend to the BOCC for final action a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

E. In hearing, reviewing any variance, the Planning and Development Review Board may recommend to the BOCC appropriate conditions and safeguards in conformity with this Code. 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 these regulations and punishable under Section 2.05.09.

F. The Planning and Development Review Board may recommend to the BOCC for final action a reasonable time limit within the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the prescribed time limit shall render the variance null and void.

G. Under no circumstances shall the Planning and Development Review Board recommend to the BOCC a variance to allow a use not permissible under the terms of these regulations in the district involved, or any use expressly or by implication prohibited by the terms of these regulations in said district; however, as provided for in these regulations, The Planning and Development Review Board may make a "substantially similar use" determination upon request by the development approval authority.

2.05.08 APPEALS - Appeals to Planning and Development Review Board

A. Appeals to the Planning Department concerning the interpretation or administration of these regulations may be taken by any person aggrieved or by any officer or bureau of the governing body of Gulf County affected by any decision of the Building Department, Technical Advisory Committee, or Planning Department. (Decisions rendered by County Commission shall not be appealed to the Planning and Development Review Board). Appeals shall be taken within a reasonable time period, not to exceed 30 days, by filing with the Building Department a notice of appeal specifying the grounds thereof. The Building Department shall forthwith transmit to the Planning Department and the Board of County Commissioners all papers constituting the record upon which the action appealed from was taken.

The Planning Department shall fix a time, not to exceed 30 days (unless planning department is unable to assemble a quorum of the PDRB and submits to applicant in writing confirming the date scheduled within 15 days thereafter) from the date the appeal was filed, for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and state their recommendations at the hearing. At the hearing, any party may appear in person or by agent or attorney.

An appeal stays all proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken, certifies to the Planning and Development Review Board, after notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. Such case proceedings shall not be stayed other than by restraining order which may be recommended by the PDRB and thereafter granted by the BOCC or by injunction granted by the circuit court on notice to the official from whom the appeal is taken and on due cause shown.

B. Judicial Review of Decisions

Any taxpayer, or any officer, department, board or bureau of the governing body, or any person or persons, jointly or severally, having standing to do so, may seek review of a final quasi-judicial decision of the County Commission by Petition for Writ of Common-law Certiorari to the Circuit Court in and for Gulf County, pursuant to Florida law.

2.06.00 GULF COUNTY COMPREHENSIVE PLAN GUIDELINES FOR VESTING DETERMINATIONS

The Comprehensive Plan was officially adopted on July 10, 1990. As of that date, densities and land uses were regulated for the first time in Gulf County. From that date forward, all subdivisions of land, including through metes and bounds, are required to be consistent with the densities established in the Comprehensive Plan (i.e., number of units allowed per acre).

Although certain emergency actions were taken by Gulf County to repeal the Plan for a period of time, such action has since been revoked, and is assumed to have no effect on the issue of vesting in Gulf County. In the event that a question arises regarding this issue, it is recommended that County Staff seek a legal opinion from the County Attorney.

Enforceable means of determining whether a property is "vested" at a density not consistent with the adopted plan, is be verifying through the County's Official Records Books; plats recorded in the property appraiser' office; or metes and bounds plats on file with the HRS Gulf County Public Health Unit, that a lot, parcel or subdivision of specific dimensions existed as of a given date prior to July 10, 1990. The County Building Official will determine such vesting. In the event that such lot or parcel is established as vested, such lot or parcel would be considered non-conforming as to lot size. It is not necessary to obtain a Comprehensive Plan Amendment for a vested development which is non-conforming as to land use density. It should be noted that although a non-conforming lot size is vested, all other Comprehensive Plan requirements must be met.

It is recognizable that prior to Comprehensive Plan Adoption in 1990, land development in Gulf County often occurred without plats being officially recorded. Because of this, a procedure by which a landowner can appeal a vesting determination by the Building Official is recommended. The appeal should be heard by the Board of County Commissioners, who should consider and act upon the appeal based on evidence submitted by the landowner pursuant to Florida Statutes regarding common law vesting. For example, the landowner must establish that a plan of development was in effect for this subject property and proceeded in good faith prior to Comprehensive Plan adoption. It is recommended that the Board of County Commissioners obtain a legal opinion regarding such appeals.

It should be noted that specific vesting provisions were included in the Stipulated Settlement Agreement with the Department of Community Affairs, regarding densities and setbacks in the coastal area. Coastal area densities from July 10, 1990, to January 14, 1992, are required to conform to the Plan as adopted in July, 1990. Any issues related to previously noted emergency repeal of the Comprehensive Plan should be referred for a legal opinion. Densities and setbacks approved after January 14, 1992, must conform to the Settlement Agreement Provisions. Again, the Building Official will rely on evidence contained in the Official Record Books, property appraisers recorded plat maps, and the HRS Public Health Unit records regarding subdivisions of land to make a vesting determination. Appeals should be addressed to the Board of County Commissioners, with evidence submitted and legal opinion provided as previously discussed.

A. Concurrency

The Comprehensive Plan was developed and all data and analyses reflect that no properties in Gulf County are vested for purposes of concurrency. In other words, prior to issuing a development order or building permit for any proposed development, an evaluation must be conducted to determine that adequate public facilities will be available at the time of development impact, to serve the development without degrading levels of service below adopted standards. Specific comprehensive plan requirements must be met for the evaluation, as indicated in the Concurrency Management Procedures Manual. The concurrency requirement must be met regardless of whether a property is vested for consistency with the Future Land Use Map. (See Article VII, Land Development Regulations).

2.06.01 ENFORCEMENT AND PENALTIES - Administration and Enforcement

The Code Enforcement Officer of Gulf County shall enforce these regulations. If he finds that any of the provisions of these regulations are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of violating and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to ensure compliance with or to prevent violation of its provisions.

Expiration of Permit

If the work described in any building permit has not begun within six months from the date of issuance thereof, said permit shall expire, and written notice thereof shall be given to the persons affected. Request for extensions shall be acted upon by the Building Inspector.

Construction and Use to be as provided in Applications, Plans, Permits
Building permits issued on the basis of plans and applications approved by the development approval authority authorize only the use, arrangement and construction set forth in such approved plans and applications, and not other use, arrangement and construction. Use, arrangement or construction at variance with that authorized shall be deemed a violation of these regulations, and shall be punishable as provided below.

Code Enforcement Board
The Code Enforcement Board of Gulf County functions to hear alleged Code violations, issue findings of fact, based on evidence of record and conclusions of law, and issue orders affording proper relief. The Board is authorized to impose fines for non-compliance with these regulations and to impose liens against real property.

Penalties
In case any building or structure is erected, constructed, reconstructed, altered, repaired or maintained, or any building, structure, land or water issued in violation of these regulations or any ordinance, the property local authorities in Gulf County, in addition to other remedies, may institute any appropriate action or proceeding in civil action in the Circuit Court to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, and to restrain, correct, or abate such violation, to prevent the occupancy of said building, land, structure, or water, and to prevent any illegal act, conduct or business, or use in and about such premises.

Any violation of these regulations is declared to be unlawful and whenever these regulations require the doing of any act, failure to do the act is declared to be unlawful. Violations shall be punishable by a fine not exceeding $500, or imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment. Each day any violation of any provision of these regulations shall continue shall constitute a separate offense.

2.06.02 EMERGENCY EXEMPTIONS

These regulations shall not be construed to prevent any act necessary to prevent material harm to or destruction of real or personal property as a result of a present emergency, including but not limited to fire, or hazards resulting from violent storms or hurricanes or when the property is in imminent peril and the necessity of obtaining a permit is impractical and would cause undue hardship in the protection of life or property.

A report of any such emergency action shall be made to the Building Inspector or Administrative Assistant by the owner or person in control of the property upon which the emergency action was taken as soon as practicable, but no later than ten days following such action. Remedial action may be required by the Building Inspector subject to appeal to the County Commission in the event of dispute.

2.06.03 PROJECTS REQUIRING AN AMENDMENT TO THE COUNTY,S COMPREHENSIVE PLAN

Applications for Development Approval (ADA) may only be considered if the proposed development is consistent with the adopted comprehensive plan. There is a presumption of general consistency with the comprehensive a plan if the requirements of these regulations are met.

Upon receipt of ADA, the Planning/Building Department shall make a determination of consistency of the proposed development activity with the adopted Future Land Use Map of the Comprehensive Plan. Applicants for the proposed development which are not consistent with the adopted Plan may apply to the County Chief Administrator to consider a proposed plan amendment, which if approved must be reviewed by the Florida Department of Community Affairs in accordance with 163.3187 F.S.

2.06.04 SCHEDULE OF FEES, CHARGES AND EXPENSES

The County Commission shall establish by resolution of a schedule of fees, charges and expenses for development review, review of technical construction plans, issuance of building permits, appeals, variances, special exceptions, and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the Building Department, and may be altered or amended only by resolution adopted by the County Commission. Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on application or appeal. A collection procedure shall be established by the Building Department.