

## CHAPTER X

### ADMINISTRATION AND ENFORCEMENT

- 10.00.00           GENERALLY
- 10.00.01           PURPOSE
- 10.00.02           WITHDRAWAL OF APPLICATIONS
- 10.01.00           AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR  
TO UNDERTAKING ANY DEVELOPMENT ACTIVITY
- 10.01.01           GENERALLY
- 10.01.02           PREREQUISITES TO ISSUANCE OF DEVELOPMENT PERMIT
- 10.01.03           EXEMPTIONS TO REQUIREMENT OF A FINAL DEVELOPMENT  
ORDER
- 10.01.04           POST-PERMIT CHANGES
- 10.02.00           PROCEDURE FOR REVIEW OF SITE DEVELOPMENT PLANS
- 10.02.01           PRE-APPLICATION CONFERENCE
- 10.02.02           DESIGNATION OF PLANS AS MAJOR OR MINOR DEVELOPMENTS
- 10.02.03           APPLICATION AND SUBMITTAL REQUIREMENTS
- 10.02.04           REVIEW OF MAJOR DEVELOPMENTS
- 10.02.05           REVIEW OF MINOR DEVELOPMENTS
- 10.02.06           INTERGOVERNMENTAL REVIEW
- 10.02.07           PROJECT PHASING
- 10.02.08           NOTICE REQUIREMENTS
- 10.02.09           PUBLIC HEARINGS
- 10.02.10           REQUIRED CONTENT OF DEVELOPMENT ORDER
- 10.02.11           GUARANTEES AND SURETIES
- 10.03.00           ADDITIONAL REQUIREMENTS FOR SUBDIVISIONS
- 10.03.01           GENERALLY
- 10.03.02           FILING WITH THE CITY OF BONIFAY

10.03.03 REVIEW BY THE CITY OF BONIFAY

10.03.04 REVIEW BY THE CITY COUNCIL

10.04.00 DEDICATION AND OTHER DISPOSITION OF RIGHT-OF-WAY AND COMMON LANDS

10.04.01 ACCEPTANCE BY CITY COUNCIL

10.05.00 MINOR REPLAT

10.05.01 REVIEW BY THE CITY OF BONIFAY

10.05.02 STANDARDS AND RESTRICTIONS

10.06.00 RIGHT-OF-WAY ABANDONMENT AND PLAT VACATION

10.06.01 AUTHORITY AND APPLICABILITY

10.06.02 PETITIONERS

10.06.03 ACCESS TO WATER

10.06.04 NOTICE OF INTENT TO FILE A VACATE A PLAT

10.06.05 PETITION APPLICATION PROCEDURES

10.06.06 REVIEW OF PETITION

10.06.07 PUBLIC HEARING OF PETITIONS FOR ABANDONMENT OF CITY RIGHT-OF-WAY AND PUBLIC EASEMENTS FOR DRAINAGE OF CITY RIGHTS-OF-WAY

10.06.08 RECORDATION OF RESOLUTION

10.06.09 EFFECT OF RECORDING RESOLUTION OF ABANDONMENT

10.07.00 DEVELOPMENT PERMITS

10.07.01 APPLICATION

10.07.02 BUILDING, SITE CLEARING AND SIGN PERMITS

10.07.03 DRIVEWAY PERMITS

10.07.04 TEMPORARY USE PERMITS

10.07.05 RIGHT-OF-WAY PERMITS

10.07.06 TREE REMOVAL PERMITS

10.08.00 EXEMPTIONS AND VESTED RIGHTS

10.08.01           TYPES OF VESTED RIGHTS  
 10.08.02           VESTED RIGHTS RESIDENTIAL USE PERMIT  
 10.08.03           VESTED RIGHTS SPECIAL USE PERMIT  
 10.08.04           LIMITATIONS  
 10.08.05           SUBSTANTIAL DEVIATIONS  
 10.08.06           LEGAL STATUS OF VESTED RIGHTS  
 10.09.00           COMPREHENSIVE PLAN AMENDMENTS  
 10.09.01           STATE LAW CONTROLLING  
 10.09.02           APPLICATION  
 10.09.03           STANDARDS FOR REVIEW  
 10.09.04           REVIEW BY THE CITY OF BONIFAY  
 10.09.05           ACTION BY PLANNING COUNCIL  
 10.09.06           ACTION BY CITY COUNCIL  
 10.09.07           TIME LIMITATION  
 10.10.00           LAND DEVELOPMENT CODE AMENDMENTS  
 10.10.01           STATE LAW CONTROLLING  
 10.10.02           APPLICATION  
 10.10.03           STANDARDS FOR REVIEW  
 10.10.04           REVIEW BY THE CITY OF BONIFAY  
 10.10.05           ACTION BY PLANNING COUNCIL  
 10.10.06           ACTION BY CITY COUNCIL  
 10.10.07           TIME LIMITATIONS  
 10.11.00           APPEALS  
 10.11.01           APPEALS FROM DECISIONS OF THE CITY OF BONIFAY  
 10.11.02           APPEALS FROM DECISIONS OF THE PLANNING COUNCIL  
 10.11.03           RECORD

10.11.04 EFFECT OF FILING AN APPEAL  
10.11.05 PROCEDURE  
10.11.06 APPEALS TO CIRCUIT COURT  
10.12.00 FEES  
10.13.00 ENFORCEMENT OF DEVELOPMENT ORDERS AND PERMITS  
10.13.01 MAJOR AND MINOR DEVIATIONS  
10.13.02 ON-GOING INSPECTIONS  
10.13.03 APPLICATION FOR CERTIFICATES OF OCCUPANCY  
10.14.00 CODES ENFORCEMENT  
10.14.01 GENERALLY  
10.14.02 ENFORCEMENT PROCEDURES  
10.15.00 OTHER PENALTIES AND REMEDIES

## CHAPTER X

### ADMINISTRATION AND ENFORCEMENT

#### 10.00.00           GENERALLY

##### 10.00.01           Purpose

This Chapter sets forth the application and review procedures required for obtaining development orders and certain types of permits. This Chapter also specifies the procedures for appealing decisions and enforcing provisions of this Code.

##### 10.00.02           Withdrawal of Applications

An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing. An application for any type of development review may be withdrawn at any time with the consent of the board responsible for reviewing the application.

#### 10.01.00           AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR TO UNDERTAKING ANY DEVELOPMENT ACTIVITY

##### 10.01.01           Generally

No development may be undertaken unless the activity is authorized by a development permit.

##### 10.01.02           Prerequisites to Issuance of Development Permit

Except as provided in Section 10.01.03 below, a development permit may not be issued unless the proposed development activity is authorized by a Final Development Order issued pursuant to this Code.

##### 10.01.03           Exceptions to Requirement of a Final Development Order

A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this Code. Unless otherwise specifically provided, the development activity shall conform to this Code.

A. Development activity necessary to implement a valid development plan on which the start of construction took place prior to the adoption of this Code and has continued in good faith. Compliance with the development standards in this Code is not required if in conflict with the previously approved plan.

B. The construction or alteration of a one-, two-, three- or four-family dwelling on a lot of record, or in a valid recorded

subdivision, which is not part of a larger development. Compliance with the development standards in this Code is not required if in conflict with the previously approved plat.

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 erection of a sign or the removal of protected trees on a previously developed site and independent of any other development activity on the site.

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

F. A Minor Replat granted pursuant to the procedures in Section 10.05.00.

G. Temporary uses or structures except as provided in Section 10.07.04.

H. Right-of-Way Use Permits.

I. Construction of non-residential structures less than 10,000SF.

10.01.04 Post-Permit Changes

After a Preliminary Development Order or Final Development Order has been issued, it shall be unlawful to change, modify, alter or otherwise deviate from the terms or conditions of the Preliminary or Final Development Order without first obtaining a modification of the Preliminary or Final Development Order. A modification may be applied for in the same manner as the original Preliminary Development Order or Final Development Order. A written record of the modification shall be entered upon the original Preliminary Development Order or Final Development Order and maintained in the files of the City of Bonifay.

10.02.00 PROCEDURE FOR REVIEW OF SITE DEVELOPMENT PLANS

10.02.01 Pre-Application Conference

Prior to filing for development plan review, the developer shall meet with the City to discuss the development review process. With the consent of the applicant the Planning Council may waive the pre-application conference requirement if, in the Council's opinion, the conference is unnecessary. 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.

10.02.02 Designation of Plans as Major or Minor Developments

A. Generally

For purposes of these review procedures, all development plans shall be designated by the City as either minor or major developments according to the criteria below. Before submitting a development plan for review, the developer shall provide the City with sufficient information to make this determination. The City's determination shall be supported by written findings.

B. Minor Development

A plan shall be designated as a minor development if it is:

1. Any division of land into more than two (2) parcels but less than twenty-five (25) parcels.
2. Any multi-family residential development of less than ten(10) units, that does not involve platting, except the construction of a single two-, three-, or four-family structure.
3. Any non-residential use, including additions to existing structures greater than ten thousand (10,000) square feet, but less than 25,000 square feet, excluding those minor deviations within the limits described in Section 10.13.01.

C. Major Development

A plan shall be designated as a major development if it is:

1. Any division of land into twenty-five (25) or more parcels.
2. Any multi-family residential development of ten (10) or more dwelling units.
3. More than twenty-five thousand (25,000) square feet of non-residential floor space.
4. Any development that, in the estimation of the City, should be more thoroughly considered and reviewed because of its location or potential for impact on public facilities, nature resources and public safety.

10.02.03 Application and Submittal Requirements

A. Application

Applications for development review shall be available at the City of Bonifay. 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 corporate ownership, the authorized signature shall be accompanied by a notation of the signer's office in the corporation, and embossed with the corporate seal.

B. Submittal Requirements Based on Development Plan Designation

A tiered approach shall be used in determining the information which must be submitted at the time of application. The greater the intensity of a project, based upon its designation as either minor or major, pursuant to the criteria in Section 10.02.02, the greater the amount of information required. The following list describes the applicable submittal requirements for specific development plan:

1. General Plan Requirements.  
These shall be mandatory for all development plans.
2. Minor Review Requirements.  
These shall be mandatory for major and minor development plans.
3. Major Review Requirements.  
These shall be mandatory only for major development plans.
4. Optional Review Requirements.  
These may be required for the review of any development plan on a case-by-case basis at the discretion of the City when additional data is needed.
5. Environmentally Sensitive Area Requirements.  
These shall be required for all developments which contain environmentally sensitive areas as identified in Article V, or at the discretion of the City.

C. General Plan Requirements

1. All plans shall be drawn to a scale of one (1) inch equals one hundred (100) feet, unless the City determines that a different scale is sufficient or necessary for proper review of the proposal.
2. The plans shall be twenty-four (24) inches by thirty-six (36) inches in size. 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 unless the City determines that a different size is sufficient or necessary for proper review of the proposal.



3. If multiple sheets are used, the sheet number and total number of sheets must be clearly indicated on each.
4. The front cover sheet of each plan shall include:
  - a. A general vicinity or location map drawn to scale (both stated and graphic) showing the position of the proposed development in the section(s), Cityship and range, together with the principal roads, city limits and/or other pertinent orientation information.
  - b. A complete legal description of the property.
  - c. The name, address and telephone number of the owner(s) of the property. Where a corporation or company is the owner of the property, the name and address of the president and secretary of the entity shall be shown.
  - d. 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, stated 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).
  - g. The area of the property shown in square feet and acres.
5. 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.
6. The total number and type of residential units categorized according to number of bedrooms. The total number of residential units per acre (gross density) and also Floor Area Ratio (FAR) calculations shall be given.
7. Restrictions pertaining to the type and use of existing or proposed improvements, waterways, open spaces, building lines, buffer strips and walls, and other restrictions of similar nature, shall require the establishment of restrictive covenants and such covenants shall be submitted with the Final Development Plan for recordation.

8. Documentation pursuant to Section 3.03.02 related to the review for concurrency.
9. 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 City.

D. Minor Review Requirements

1. A map of vegetative cover indicating the location and identity by common or scientific name of all protected trees. Groups of protected trees may be designated as "clusters" with the estimated total number of trees noted. This information shall be summarized in tabular form on the plan.
2. Location, names and widths of existing and proposed streets, highways, easements, buildings lines, alleys, parks and other public spaces and similar facts regarding adjacent property.
3. 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. Buildings and Other Structures
    - (1) Building plan showing the location, dimensions, gross floor area and proposed use of buildings.
    - (2) Architectural or engineering elevations of all sides of all buildings larger than a one or two-family dwelling unit.
    - (3) Building setback distances from property lines, abutting right-of-way center lines, and all adjacent buildings and structures.
    - (4) Minimum flood elevations of buildings within any 100-year floodplain.
  - c. 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.

d. Streets, parking and loading

- (1) The layout of all streets, bike paths and driveways with paving and drainage plans and profiles showing existing and proposed elevations and grades of all public and private paved areas.
- (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 on-site traffic flow.
- (3) The location of all exterior lighting.
- (4) The location and specifications of any proposed garbage dumpsters.
- (5) Cross sections and specifications of all proposed pavement in conformance with Section 5.04.04.
- (6) Typical and special roadway and drainage sections and summary of quantities.

e. Tree removal and protection

- (1) All protected trees to be removed and a statement of why they are to be removed.
- (2) Proposed changes in the natural grade and any other development activities directly affecting trees to be retained.
- (3) A statement of the measures to be taken to protect the trees to be retained.
- (4) A statement of tree relocations and replacements proposed.

f. Landscaping

- (1) Location and dimensions of proposed buffer zones and landscaped areas.
- (2) Description of plant materials existing and to be planted in buffer zones and landscaped areas.

4. Signs

- a. Three blueprints or ink drawings of the plans and specifications of regulated signs and method of their

construction and attachment to the building or ground, except those plans for standard signs that have been placed on file with the City. The plans shall show all pertinent structural details, wind pressure requirements, and display materials in accordance with the requirements of this Code and the building and electrical codes adopted by the City of Bonifay. The plans shall clearly illustrate the type of sign or sign structure as defined in this Code; the design of the sign, including dimensions, colors and materials; the aggregate sign area; dollar value of the sign; maximum and minimum heights of the sign; and sources of illumination.

- b. For regulated ground signs, a plan, sketch, blueprint, blue line print or similar presentation drawn to scale which indicates clearly:
  - (1) The location of the sign relative to property lines, rights of way, streets, alleys, sidewalks, vehicular access and parking areas and other existing ground signs on the parcel.
  - (2) All protected trees that will be damaged or removed for the construction and display of the sign.
- c. For regulated building signs, a plan, sketch, blueprint blue line print or similar presentation drawn to scale which indicates clearly:
  - (1) 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.
  - (2) 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 other business units.
  - (3) A building elevation or other documentation indicating the building dimensions.
- 5. Location of all land to be dedicated or reserved for all public and private uses including rights-of-way, easements, special reservations and the like.
- 6. Location of on-site wells and wells within one-thousand (1,000) feet of any property line, exceeding one-hundred thousand (100,000) gallons per day.

7. Total acreage in each phase and gross intensity (non-residential) and gross density (residential) of each phase.
8. Number, height and type of residential units.
9. Floor area, height and types of office, commercial, industrial and other proposed uses.

E. Major Review Requirements

1. Every development shall be given a name by which it shall be legally known. The name shall not be the same as any other name appearing on any recorded plat except when the proposed development includes a subdivision that is subdivided as any additional unit or section by the same developer or his successors in title. Every subdivision name shall have legible lettering of the same size and type including the words "section," "unit," "replat," "amended" and the like. The name of the development shall be indicated on every page.
2. A Master Plan is required for a Major Development which is to be developed in phases. A Master Plan shall provide the following information for the entire development:
  - a. A development plan for the first phase or phases for which approval is sought.
  - b. 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.
  - c. Total land area and approximate location and amount of open space included in each residential, office, commercial and industrial area.
  - d. Approximate location of proposed and existing streets and pedestrian and bicycle routes, including points of ingress and egress.
  - e. Approximate location and acreage of any proposed public uses such as parks, school sites and similar public or semi-public uses.
  - f. A vicinity map of the area within three hundred (300) feet surrounding the site showing:
    - (1) Land use designations and boundaries.
    - (2) Traffic circulation systems.
    - (3) Major public facilities.

(4) Municipal boundary lines.

g. Base flood elevations for all lots.

F. Optional Review Requirements

1. A soils map of the site (existing U.S. Soil Conservation Service maps are acceptable).
2. 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.
3. A detailed overall project area map showing existing hydrography and runoff patterns and the size, location, topography and land use of any off-site areas that drain onto, through or from the project area.
4. Existing surface water bodies, wetlands, streams and canals within the proposed development site, including seasonably high water-table elevations and attendant drainage areas for each.
5. A map showing the locations of any soil borings or percolation tests.
6. A depiction of the site and all land within four hundred (400) feet of any property line of the site, showing the locations of environmentally sensitive areas.
7. 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.
8. The 100-year flood elevation, minimum required floor elevation and boundaries of the 100-year flood plain for all parts of the proposed development.
9. Drainage basin or watershed boundaries identifying locations of the routes of off-site waters onto, through or around the project.
10. An erosion and sedimentation control plan that describes the type and location of control measures, the stage of the development at which they will be put into place or used, and maintenance provisions.
11. 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 rights-of-ways and easements for the system including locations and a statement of the nature of the reservation of 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.
12. 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.
13. Runoff calculations.
14. Amount of each area devoted to all existing and proposed land uses, including schools, open space, churches, residential and commercial, as well as the location thereof.

G. Environmentally Sensitive Area Requirements

- 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 gross sections, proposed within an environmentally sensitive area.
- 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 environmentally sensitive area.
- c. The manner in which habitats of endangered and threatened species are protected.

#### 10.02.04 Review of Major Developments

##### A. Procedure

1. The applicant shall submit the major development plan and supporting documentation, pursuant to Section 10.02.03, to the City of Bonifay.
2. After receipt of the above, the City of Bonifay shall have thirty (30) days to:
  - a. Determine that the application is complete and proceed with the review; or
  - b. Determine that the application is incomplete and inform the applicant by certified mail, return receipt requested, of the deficiencies. The applicant must submit a revised application, correcting the deficiencies within forty-five (45) days of receipt of the letter of incompleteness, to proceed with the review.
3. The City of Bonifay shall then route the application to members of the Planning Council and any applicable agencies within five (5) days, and review the minor development plan for compliance with this Code and other applicable rules and regulations within thirty (30) days.
4. Within three (3) days of the completion of the review, the Chairman of the Planning Council shall convene a meeting of the Planning Council to review the application. The results of the Planning Council meeting shall be transmitted to the applicant, in writing, certified receipt requested. The applicant shall have forty-five (45) days from the receipt of the Planning Council comments to respond to them.
5. Within forty-five (45) days of the receipt of any revisions to the application pursuant to the Planning Council's comments, the Council shall have an additional thirty (30) days to review the revised application and issue a recommendation approving, approving with conditions or denying the application based upon the requirements of this Code.



6. The City of Bonifay shall consider the application at a regularly scheduled public hearing which has been noticed pursuant to the requirements of Section 10.02.09. In reviewing the application, the Council shall consider the recommendation of the Planning Council and shall determine whether the proposed development specified in the application meets the provisions of this Code. The City of Bonifay shall approve, approve with conditions or deny the application. The decision on the application shall be forwarded to the City Council for final action.
7. The City Council shall consider the application at a regularly scheduled public hearing which has been noticed pursuant to the requirements in Section 10.02.08. In reviewing the application, the Board shall consider the recommendations of the Planning Council and shall determine whether the proposed development specified in the application meets the provisions of this Code. The City Council shall approve, approve with conditions or deny the application.
8. Notification of the City Council's decision shall be mailed to the applicant and filed with the City of Bonifay.

B. Expiration

A development permit for a major development shall be valid for a period of one (1) year and may be renewed for a cumulative period not to exceed one (1) year subject to the provisions of Section 3.01.03, Expiration of Certificate of Concurrence.

10.02.05 Review of Minor Developments

A. Procedure

1. The applicant shall submit the minor development plan and supporting documentation pursuant to Section 10.02.03 to the City of Bonifay.
2. After receipt of the above, the City of Bonifay shall have thirty (30) working days to:
  - a. Determine that the application is complete and proceed with the review; or
  - b. Determine that the application is incomplete and inform the applicant by certified mail, return receipt requested, of the deficiencies. The applicant must submit a revised application, correcting the deficiencies within forty-five (45) days of receipt of the letter of incompleteness, to proceed with the review.

3. The City of Bonifay shall then route the application to the Planning Council and any outside review agencies within five (5) days, and review the major development plan for compliance with this Code within thirty (30) days.
4. Within three (3) days of the completion of the review, the Chairman of the Planning Council shall convene a meeting of the Planning Council to review the application. The results of the Planning Council meeting shall be transmitted to the applicant in writing, certified receipt requested. The applicant shall have forty-five (45) days from the receipt of the Planning Council comments to respond to them.
5. Within three (3) days of the completion of the review, the Planning Council shall issue a finding approving, approving with conditions or denying the application based upon the comments of the Planning Council and the requirements of this Code.
6. Notification of the Planning Council's decision shall be mailed to the applicant and filed with the City of Bonifay.
7. For any division of land into 10-24 parcels; or any multi-family residential development of 4-10 units that does not involve platting; or any non-residential use, including additions to existing structures of at least 5,000 square feet, but less than 10,000 square feet, excluding those minor deviations within the limits described in Section 10.13.01, the procedures of Section 10.01.04 A.6. shall be followed, except that the decision of the City shall be the final action subject to the appeal provisions of this Chapter.
8. Notification of the City's decision shall be mailed to the applicant and filed with the City.

#### B. Expiration

A development permit for a minor development shall be valid for a period of one (1) year and may be renewed only once for a period not to exceed one (1) year subject to the provisions of Section 3.01.03, Expiration of Certificate of Concurrence.

#### 10.02.06 Intergovernmental Review

Should a proposed development impact adjacent jurisdictions, as determined by the Planning Council, the impacted jurisdictions will be notified in writing of the proposed development and given an opportunity to identify specific issues of concern. Such correspondence shall be submitted, along with the Planning Council's recommendation, to the City Council.

10.02.07

Project Phasing

A Master Plan for the entire development site must be approved for a major development that is to be developed in phases. The master plan shall be submitted simultaneously with an application for review of the site development plan for the first phase of the development and must be approved prior to approval of the site development plan for the first phase. A site development plan must be approved for each phase of the development under the procedures for development review prescribed above. 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.

10.02.08

Notice Requirements

Notice of all public hearings which are required by a provision of this Code shall be given as follows, unless expressly stated otherwise:

A. Content of Notice

Every required notice shall include: the date, time and place of the hearing; a description of the substance of the subject matter that will be discussed at the hearing; a legal description of the properties directly affected including the street address when available; a statement of the body conducting the hearing; a brief statement of what action the body conducting the hearing may be authorized to take; and a statement that the hearing may be continued from time to time as may be necessary. Notices for public hearings before the City Council on amendments to the Future Land Use Map shall also contain a geographic location map which clearly indicates the area covered by the proposed amendment. The map shall include major street names as a means of identification of the area.

B. Publication

Publication of the notice shall be as follows:

1. Generally

Except as provided in paragraphs 2 and 3 below, notice of all public hearings and appeals from a decision, order, requirement or determination of an administrative officer or board of the City shall be properly advertised in a newspaper of general circulation not more than thirty (30) days nor less than fifteen (15) days before the date of the hearing, excluding Sundays and legal holidays.

2. Amendments to the Bonifay Comprehensive Plan

Notice pursuant to the adoption of amendments to the Bonifay Comprehensive Plan shall be given pursuant to Chapter 163.3184 through 163.3187, F.S

3. Amendments to the Text of this Code

Any amendment to the text of this Code shall require public hearing and publication of notice as follows:

- a. The City Council shall hold two advertised public hearings on the proposed ordinance or resolution. Both hearings shall be held after 5 PM on a weekday, and the first shall be held approximately seven (7) days after the day that the first advertisement is published. The second hearing shall be held approximately two (2) weeks after the first hearing and shall be advertised approximately five (5) days prior to the public hearing. The date, time and place at which the second public hearing will be held shall be announced at the first public hearing.

C. Public Inspection

A copy of the notice of public hearing shall be available in the Bonifay City Hall during regular business hours.

D. Mail

Mailing notice shall be made to specific real property owners within five hundred (500) feet of the property directly affected by the proposed action and whose address is known by reference to the latest approved ad valorem tax roll.

E. Posting of Notice

After an application has been filed, the City shall cause a sign or signs to be posted on the property concerned. The sign or signs shall be located where, in the judgment of the City, the sign or signs would be in the most conspicuous place to the passing public. Each sign shall contain the following information:

1. Present land use classification;
2. Date, Time and Place of the scheduled hearing;
3. Proposed action; and
4. Any other pertinent information.

10.02.09            Public Hearings

A.     *Setting the Hearing*

When the City determines that an application for an amendment to the list of applications requiring public hearing to be provided, the City shall notify the appropriate decision making body so a public hearing may be set and notice given in accordance with the provisions of this Code.

B.     *Examination and Copying of Application and Other Documents*

Any time after the provision of notice, as required by this Code in Section 10.02.08, any person may examine the application or petition in question, and the material submitted in support or opposition to the application or petition in the City of Bonifay during regular business hours. Any person shall be entitled to obtain copies of the application or petition and other materials upon reasonable request and payment of a fee to cover the actual costs of providing such copies.

C.     *Conduct of the Hearing*

Public Hearings shall be conducted in the following manner:

1. Any person may appear at a public hearing, or may be represented by counsel or agent, and may submit documents, materials and other written or oral testimony either individually or as a representative of an organization. Each person who appears at a public hearing shall identify himself, his address and state the name and mailing address of any organization he represents. The body conducting the public hearing may place reasonable time restrictions on the presentation of testimony and the submission of documents and other materials.
2. The body conducting the hearing may continue the hearing to a fixed date, time and place.

D.     *Record of the Hearing*

1. The transcript of testimony, when and if available, the minutes of the Secretary, all applications, exhibits, documents, materials and papers submitted in any proceeding before the decision-making body, the report of the Planning Council and the decision and report of the decision-making body shall constitute the record.
2. The body conducting the hearing shall record the proceedings by any appropriate means; upon request of any person to the Clerk and payment of a fee to cover the cost of transcription, the record may be transcribed and a copy provided to that

person. If a sound recording is made, any person shall be entitled to listen to the recording at any reasonable time, or make copies at his own expense, at the City of Bonifay.

3. Any person shall be entitled to examine the record, at a reasonable time, or make copies at his own expense, at the City of Bonifay.

E. Action by Decision-Making Body

The decision making body shall render its decision within forty-five (45) days, unless state otherwise in this Code.

F. Notification

Notification of the final decision on an application shall be mailed to all parties. A copy of the final decision shall be filed in the City of Bonifay.

10.02.10 Required Contents of Development Orders

A. Preliminary Development Order

A preliminary development order shall contain the following:

1. An approved preliminary development order (may be subject to conditions and modifications) with findings and conclusions.
2. A listing of conditions that must be met, and modifications to the preliminary development plan that must be made, in order for a final development order to be issued. The modifications shall be described in sufficient detail and exactness to permit a developer to amend the proposal accordingly.
3. A listing of federal, state and regional permits that must be obtained in order for a final development order to be issued.
4. With regard to the concurrency management requirements in Chapter III:
  1. The determination of concurrency.
  2. The time period for which the preliminary order is valid.

B. Final Development Order

A final development order shall contain the following:

- a. A determination that, where one was required, a valid preliminary development order exists for the requested development.

2. An approved final development plan with findings and conclusions.
3. A determination that all conditions of the preliminary development order have been met.
4. If modifications must be made to the development plan before a final development order may be issued, a listing of those modifications and the time limit for submitting a modified plan.
5. A specific time period during which the development order is valid and during which time development shall commence. A final development order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval.

#### 10.02.11 Guarantees and Sureties

##### A. Applicability

1. The provisions of this Section apply to all proposed developments in the City of Bonifay, including private road subdivisions.
2. Nothing in this Section shall be construed as relieving a developer of any requirement relating to concurrency in Chapter III of this Code.
3. This Section does not modify existing agreements between a developer and the City for subdivisions platted and final development orders granted prior to April 1, 1991, providing such agreements are current as to all conditions and terms thereof.

##### B. Improvements Agreements 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 and replacement trees 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 Code 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 constructed within the period stipulated. The term shall not exceed five (5) years

from the recording of the plat or thirty percent (30%) occupancy of the development, whichever comes first.

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 the required improvements (or to cause them to be made) according to the schedule for making those improvements, the City shall utilize the security provided in connection with the agreement.
  6. Provision of the amount and type of security provided to ensure performance.
  7. Provision that the amount of the security may be reduced periodically, but not more than two (2) times during each year, subsequent to the completion, inspection and acceptance of improvements by the City.
- C. Amount and Type of Security
1. Security requirements may be met but are not limited to the following:
    - a. Cashiers check
    - b. Certified check
    - c. Developer/Lender/City Agreement
    - d. Interest Bearing Certificate of Deposit
    - e. Irrevocable Letters of Credit
    - f. Surety Bond
  2. The amount of security shall be one hundred and ten (110) percent of the total construction costs for the required developer-installed improvements. The amount of security may be reduced by the City commensurate with the completion and final acceptance of required improvements. In no case, however, shall the amount of the bond be less than one hundred



and ten (110) percent of the cost of completing the remaining required improvements.

3. Standard forms are available from the City Clerk's office and approved by the City Council.

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 the City. A recommendation for final acceptance shall be made upon receipt of a certification of project completion 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 10.02.11(C.)(2.) above.

E. *Maintenance of Improvements*

1. A maintenance agreement and security shall be provided to assure the City of Bonifay that all required improvements shall be maintained by the developer according to the following requirements:
  - a. The period of maintenance shall be a minimum of three (3) years.
  - b. The maintenance period shall begin with the acceptance by the City of the construction of the improvements.
  - c. The security shall be in the amount of fifteen (15) percent of the construction cost of the improvements.
  - d. The original agreement shall be maintained by the City.
2. Whenever a proposed development provides for the creation of facilities or improvements which are not proposed for dedication to the City a legal entity shall be created to be responsible for the ownership and maintenance of such facilities and/or improvements.
  - a. When the proposed development is to be organized as a condominium under the provisions of Chapter 718, F.S., common facilities and property shall be conveyed to the condominium's association pursuant to that law.
  - b. When no condominium is so 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 City Attorney.
3. An organization established for the purpose of owning and maintaining common facilities not proposed for dedication to the City of Bonifay shall be created by covenants running with the land. Such covenants shall be included with the final plat. Such organization shall not be dissolved nor shall it dispose of any common facilities or open space by sale or otherwise without first offering to dedicate the same to the City.

10.03.00            ADDITIONAL REQUIREMENTS FOR SUBDIVISIONS

10.03.01            Generally

Where proposed minor or major development includes the subdivision of land, the final approval of the development plan by the City of Bonifay shall be made contingent upon approval by the City Council of a plat conforming to the development plan and the provisions of this Section.

10.03.02            Filing with the City of Bonifay

After receiving plat-contingent final development plan approval, the developer shall submit to the City of Bonifay a plat conforming to the development plan and the requirements of Chapter 177, F.S. Alternatively, the developer may submit a plat at any point in the development review process.

10.03.03            Review by the City of Bonifay

The City of Bonifay shall, within thirty (30) days of receiving the plat, determine whether the plat conforms to the approved development plan and the requirements of Chapter 177, F.S. If the City determines that the plat so conforms, it shall place the plat on the next available agenda of the City Council allowing for required notice pursuant to Section 10.02.08. If it does not conform, the City of Bonifay shall explain the deficiency in the plat to the developer and inform him that a corrected plat may be resubmitted for approval.

10.03.04            Review by City Council

Review of the plat by the City Council shall be strictly limited to whether the plat conforms to the requirements of Chapter 177, F.S. A conforming plat shall be approved and the City shall forthwith issue the development order allowing development to proceed. The City Council shall return the nonconforming plats to

the developer with an explanation of deficiencies and a notice that a correct plat may be resubmitted for approval.

10.04.00 DEDICATION AND OTHER DISPOSITION OF RIGHT-OF-WAY AND COMMON LANDS

10.04.01 Acceptance by City Council

Approval of subdivision plans and plats by the City or the City of Bonifay shall not constitute or effect an acceptance of the dedication of any street or any other ground shown upon the plat. The authority to accept dedications of land for whatsoever purpose shall be exercised exclusively by the City Council.

10.05.00 MINOR REPLATS AND LOT SPLITS

10.05.01 Review by the City of Bonifay

A. Generally

The City of Bonifay may approve a minor replat that conforms to the requirements of this Section. Division of land among family members shall be excluded from the submittal and recordation requirements of this Section.

B. Submittals

The City of Bonifay shall consider a proposed minor replat upon the submittal of the following materials:

1. An application form provided by the City of Bonifay;
2. Three (3) paper copies of the proposed minor replat;
3. A statement indicating whether water and/or sanitary sewer service is available to the property; and
4. Land descriptions and acreage or square footage of the original and proposed lots and a scaled drawing showing the intended division shall be prepared by a professional land surveyor registered in the State of Florida. In the event a lot contains any principal or accessory structures, a survey showing the structures on the lot shall accompany the application.

C. Review Procedure

1. The City of Bonifay shall transmit a copy of the proposed minor replat to any other appropriate departments of the City for review and comments.

2. If the proposed minor replat meets the conditions of this Section and otherwise complies with all applicable laws and ordinances, the City shall approve the minor replat by signing the application form.

D. Recordation

Upon approval of the minor replat, the City of Bonifay shall record the replat on the appropriate maps and documents, and shall, at the developer's expense, record the replat in the Official Records of the City of Bonifay.

10.05.02 Standards and Restrictions

A. Standards

All minor replats shall conform to the following standards:

1. Each proposed lot must conform to the requirements of this Code.
2. Each lot shall abut a public or private street (except as hereinafter provided) for the required minimum lot dimensions for the land use district where the lots are located.
3. If any lot abuts a street right-of-way that does not conform to the design specification provided in, or adopted by reference in, this Code, the owner may be required to dedicate one-half (1/2) the required right-of-way width necessary to meet the minimum design standards.

B. Restriction

No further division of an approved minor replat is permitted under this Section, unless a development plan is prepared and submitted in accordance with this Chapter.

10.06.00 RIGHT-OF-WAY ABANDONMENT AND PLAT VACATION

10.06.01 Authority and Applicability

A. Any dedication or conveyance of real property for the purpose of streets, rights-of-way, access, ingress and egress, utilities and drainage which has been made on or by a plat, easement, deed, or other instrument of any kind which instruments have been approved by the City Council for filing of record in the Official Records of the City of Bonifay or which instruments conveys any interest in real property to the City Council is hereby deemed to be under the jurisdiction and control of the City Council for the purposes of the vacation, annulment, and/or abandonment of plats, or portions thereof, rights-of-way and easements for utility and drainage purposes.

B. The provisions of this Section shall apply to all plats, rights-of-way and easements under the jurisdiction and control of the City Council.

C. The procedures set forth in this Section shall apply to applications pursuant to Section 177.101(1) and (2), F.S., and to all applications for vacating plats, or any portions thereof, including public easements, pursuant to Section 177.101(3), F.S. Any petition to vacate a plat, or portion thereof, which plat, or portion thereof, contains private rights-of-way shall not require a public hearing; provided, however, that a public hearing shall be required if the petition site includes a City right-of-way or public easement for drainage purposes which services a City right-of-way.

#### 10.06.02            Petitioners

##### A.    Petitioners for Abandonment of Plats

Any person, government entity or business entity desiring to abandon a plat, or any portion thereof, including public easements, shall be required to make application to the City of Bonifay pursuant to Section 177.101, F.S., and the provisions of this Section. The application shall be on a petition form prescribed by the City of Bonifay and the information contained therein shall be verified by the petitioner under oath. Unless initiated by the City, the petition shall be signed by all owners of any portion of the petition site.

##### B.    Petitions for Abandonment of Rights-of-Way

Any person, governmental entity or business entity desiring to abandon the public's interest in and to any right-of-way shall be required to make application to the City of Bonifay pursuant to this Section. The application shall be on the petition form prescribed by the City of Bonifay and the information contained therein shall be verified by the petitioner under oath. Unless initiated by the City, any petition for abandonment of rights-of-way shall be signed by all owners of abutting property.

##### C.    Application Fee

The application fee shall be determined in accordance with Section 10.12.00.

#### 10.06.03            Access to Water

No right-of-way, road, street or public accessway giving access to any publicly accessible waters in the City, shall be closed, vacated or abandoned except in those instances wherein the petitioner(s) offers to trade or give to the City comparable land or lands for a right-of-way, road, street or public accessway to

give access to the same body of water, such access to be of such condition as not to work a hardship to the users thereof, the reasonableness of the distance and comparable land being left to the discretion of the City Council.

10.06.04 Notice of Intent to File Petition to Vacate a Plat

Immediately prior to filing the petition to vacate a plat with the City of Bonifay, the petitioner shall cause to be published a notice of intent in a newspaper of general circulation in the City once weekly for two (2) consecutive weeks. Such notice of intent shall state the intent of the petitioner to file a petition pursuant to this Section and in Chapter 177, F.S.

10.06.05 Petition Application Procedures

In addition to any other information, the petition shall contain the following:

A. Legal Description of Petition Site

A complete and accurate legal description of the petition site.

B. Type of Petition

A statement identifying the type of petition, the source of the City's or public's interest, together with a reference to the recording information for the petition site. The type of petition may be for abandonment of:

1. A plat;
2. A portion of a plat;
3. A City right-of-way;
4. The public's interest in a private right-of-way; or
5. A public easement.

C. Location Map

A drawing measuring not less than eight (8) inches by fourteen (14) inches and not larger than eleven (11) inches by seventeen (17) inches which clearly and legibly identifies the location of the petition site in relation to the nearest public right-of-way, excluding the petition site, and all affected properties. The location map may be located on the survey in a separate block.

D. Access to Affected Property

The petition shall contain a statement that to the best of the petitioner's knowledge, the granting of the petition would not affect the ownership or right of convenient access of persons owning other parts of the subdivision.

E. Federal or State Highway Statement

The petitioner shall certify that the petition site, or any portion thereof, is not a part of any state or federal highway and was not acquired or dedicated for state or federal highway purposes.

F. Evidence of Title

The petition shall state the source of petitioner's ownership or interest in and to the petition site, and a reference to the recording information for same. A copy of the source instrument shall be certified by the City and attached to the petition.

G. Evidence of Taxes Paid

The petition shall state that all state, municipal and City taxes on the petition site have been paid. The certificate(s) of the Tax Collector's Office showing payment of same (as payment is defined in Section 177.101.4, F.S.) shall be attached to the petition. If the petition site or any portion thereof is tax-exempt, the petition shall so state and a copy of the tax roll from the Tax Collector's Office which shows such exemption shall be attached to the petition.

H. Municipal Resolution

The petition shall state whether the petition site lies within the corporate limits of a municipality, within the incorporated area, or both. If any portion of the petition site lies within the corporate limits of a municipality, the municipality shall first abandon its interest in the petition site by appropriate resolution, and a certified copy of the municipal resolution shall be attached to the petition.

I. Fees

The petition shall state whether the petition site is subject to the application fee per Section 10.12.00, the amount of the fee, and that the fee is submitted herewith.

J. Justification

The petition shall detail the relevant reasons in support of the request and granting of the petition.

10.06.06            Review of Petition

A.    Review and Notification

Each petition shall be reviewed by the City, and any governmental agency. Upon receipt, the City shall distribute the petition to the Planning Council and the City Council. Within twenty (20) days of receipt of the petition, the Planning Council and the City Council shall submit a written report containing its findings and recommendations to the City. Upon receipt of all written reports, the City shall review the petition and reports and shall notify the petitioner in writing of any reasonable conditions to be performed prior to forwarding the petition and reports pursuant to paragraph (B) below. Within sixty (60) days of receipt of the City's notification, the petitioner shall either comply with, agree and commit in writing to the conditions, or disagree in writing to the conditions. Failure to respond to the City's notification may result in a recommendation to deny the petition by the City.

B.    Review by City Council

After expiration of the sixty-day period above or sooner, if conditions are not imposed, or, if imposed, are responded to by the petitioner in the manner set forth above, the City shall forward the petition together with the written reports and recommendations of same to the City Council for their review in accordance with this Section. The City shall set the petition for public hearing in accordance with Section 10.02.09 unless the petition is not subject to a public hearing. If a public hearing is not required, upon its review, the Council shall adopt a resolution either approving or denying the petition. The Council may reject a petition if a petition covering the same lands had been considered at any time within six (6) months of the date the later petition is submitted.

10.06.07            Public Hearing of Petitions for Abandonment of City Rights-of-Way and Public Easements for Drainage of City Rights-of-Way

A.    Generally

Pursuant to Section 336.10, F.S., a public hearing shall be held for any petition for abandonment which affects City right-of-way and public easements for drainage which service a City right-of-way.

B.    Time and Place of Hearing

The City Council hereby exercises their authority, as set forth in Florida Statutes Section 336.03, by authorizing and directing the City Clerk to establish a definite time and place to hold the



public hearing required by Section 336.10, F.S. and this Section and to publish the notice of the hearing.

C. Publication of Notice of Public Hearing

Advertisement of such public hearing shall be as set forth in Section 10.02.08.

D. Posting of Notice of Public Hearing

The City Clerk shall notify the petitioner of the date and time of the public hearing and shall direct the petitioner to post the property with a notice of petition to vacate. The petitioner shall place the notice in a conspicuous and easily visible location, abutting a public thoroughfare when possible, on the subject property at least ten (10) days prior to the public hearing.

E. Mailing of Notice of Public Hearing

The City Clerk shall mail a copy of the notice of public hearing to all affected property owners as described in Section 10.02.08.

F. Notice of Adoption of Resolution

If the City Council shall, by resolution, grant the petition, notice thereof shall be published one (1) time within thirty (3) days following the date of adoption of such resolution in a newspaper of general circulation published in the City. The proof of publication of the notice of the adoption of the resolution, and a copy of the resolution shall be recorded in the Public/Official Records.

10.06.08 Effect of Recording Resolution of Abandonment

A. For City rights-of-way, upon the recordation of the proof of publication of notice of public hearing, proof of publication of the notice of adoption of the resolution, and a copy of the resolution in the Public Records, the interest of the right-of-way so closed shall be vested in accordance with provisions of Section 336.12, F.S.

B. For plats, or portions thereof, recordation in the Public Records of resolutions approving abandonment of a plat or a portion thereof shall have the effect of vacating all streets and alleys in accordance with Section 177.101(5), F.S., and shall either return the vacated property to the status of unplatted acreage or shall vacate the first plat in accordance with Section 177.101(1) or (2), F.S., as applicable.

10.07.00 DEVELOPMENT PERMITS

10.07.01 Application

Application for a development permit shall be made to the City of Bonifay on a form provided by the City and may be acted upon by the City without public hearing or notice. No portion of permit fees will be refunded if the permit becomes void.

10.07.02 Building, Site Clearing and Sign Permits

A. Generally

The erection, alteration or reconstruction of any building or structure, including signs, shall not be commenced without obtaining a Building Permit from the City. No Building Permit shall be issued for development without written certification that plans submitted conform to applicable regulations. A Site Clearing Permit may only be obtained prior to the issuance of a Building Permit upon the posting of a bond equal to or greater than one hundred and ten (110) percent of the estimated cost of site restoration. The erection, alteration, reconstruction or conversion of any sign shall not be commenced without obtaining a Sign Permit where applicable.

B. Time Limitation

1. Building and Site Clearing Permits shall expire and become null and void if work authorized by such permits is not commenced, having called for and received a satisfactory inspection, within six (6) months from the date of issuance of the permit, or if the work is not completed within one year from the date of issuance of the Building Permit, except that the time may be extended by the City, subject to compliance with the provisions of Section 3.01.03, if any of the following occur:

- a. A time schedule has been submitted and approved by the City, predicated upon customary time for construction of similar buildings, prior to the issuance of the Building Permit, indicating completion of construction in excess of one year; or
- b. The developer furnishes the City satisfactory evidence in writing that the delay is due to the unavailability of construction supplies or materials, and every effort has been made to obtain substitute materials equal to those called for in specifications; or
- c. The delay is due to delay in delivery of construction supplies or materials; or

- d. The delay is due to fire, weather conditions, civil commotion or strike.

Increased costs of building materials or supplies or financial hardship shall not be considered by the City as cause for continuation of the Building Permit. Subject to the provisions of Section 3.01.03, Expiration of Certificate of Concurrency, the time may be extended by the City.

2. In order to continue construction once a Building or Site Clearing Permit becomes null and void or expires, the permittee shall reapply and obtain a new Building Permit covering the proposed construction before proceeding with construction. The permittee shall comply with all regulations in existence at the time application is made for a new Building or Site Clearing Permit.
3. Any Building or Site Clearing Permit issued prior to the effective date of this Code shall expire and become null and void eighteen (18) months from the date of issuance thereof unless construction is delayed for reasons enumerated in Section 10.07.02 A., and the contractor so notifies the City in writing in accordance with Section 10.07.02 A. provided; a schedule may be submitted for approval within thirty (30) days from the effective date of this Code for any construction presently underway requiring in excess of eighteen (18) months to complete.
4. Signs must be placed within six (6) months of obtaining the permit or the permit is voided and a new permit must be issued unless the permit is extended by the City. Final inspection must be called for by the applicant within the six (6) month time period, or the permit is voided. Identification numbers issued with Sign Permits must be displayed on the sign itself. Sign permits need not be renewed as long as the sign exists in its approved form in the same location.
5. Licensed real estate brokers or contractors may obtain multiple permits for signs with each sign requiring a permit.

#### 10.07.03 Driveway Permits

##### A. Generally

Any person seeking to construct or reconstruct any curb cut or driveway on any City maintained public road in the incorporated areas of the City shall submit a permit application to the City of Bonifay which may be issued by the City.

## B. Contents

The original and two (2) copies of the permit application shall be submitted to the City of Bonifay and include the following information:

1. Name and address of the owner of the property on which the driveway is proposed to be located.
2. Except for one- and two-family residences, a set of detailed plans for the proposed driveway or curb cut (including the site development plan if applicable).
3. Except for one- and two-family residences, estimate cost of the alteration.
4. Approval from the Florida Department of Transportation if applicable.
5. Payment of the applicable fee.
6. All other information deemed necessary by the City for the reasonable review of the proposed driveway connection.

## C. Procedure for Review of Driveway Permit Applications

Within forty-five (45) days after the application has been submitted, the City shall review the application and determine if it is complete. If the City determines that the application is incomplete, it shall send the applicant a written statement specifying the deficiencies, and shall take no further action unless the deficiencies have been remedied. Within forty-five (45) days after the City has determined an application complete, the City shall approve with conditions or deny the application based upon the standards in Section 6.01.06. Notification of the decision shall be mailed to the applicant and filed in the office of the City.

## 10.07.04 Temporary Use Permits

### A. Generally

Temporary uses and structures are permitted subject to the standards hereinafter established provided that a permit for such use or structure is obtained from the City of Bonifay. Temporary real estate sales offices and construction trailers located on the same parcel as the development may be approved as part of a Building Permit application. Temporary sales offices in new subdivisions must comply with the Standard Building Code and the parking area must comply with the trailers and may only be permitted for a specified period of time provided they are located off the public right-of-way. Construction trailers are not

required to comply with the Building Code requirements. However, the building must provide reasonable safety for the intended use and additional permits for electrical or plumbing shall be obtained as necessary to serve the temporary building.

B. *Permissible Temporary Uses and Structures*

Permissible temporary uses and structures requiring a Temporary Use Permit include the following:

1. Indoor and outdoor art and craft shows, bazaars, carnivals, revivals, circuses, sports events and exhibits provided that no more than six (6) events of a maximum of five (5) days each are conducted on the same property during any calendar year.
2. Christmas tree sales provided that no such use shall exceed sixty (60) days.
3. Other temporary uses and structures which are, in the opinion of the City, consistent with the Comprehensive Plan and the provisions of this Code.

10.07.05 Right-of-Way Use Permit

A. *Generally*

City Right-of-Way Use Permits are required for the use of City right-of-way or easements for the construction, installation or maintenance of any public or private utility, roadway or any other facility, structure, driveway, culvert, drainage system, pavement, easements or object in the right-of-way approved by the City Council other than those constructed or maintained by the City of Bonifay.

B. *Exemptions*

No permit shall be required for the following:

1. Construction of water, sewer, power, telephone or gas utilities in subdivisions in accordance with engineering drawings approved by the City where such construction will be completed prior to acceptance of road right-of-way by the City.
2. Repairs of previously permitted utilities in the right-of-way; provided, however, such repairs do not require cutting of any pavement, including curbs and driveways or excavation requiring restoration involving seeding or mulching and/or sodding.

C. Prohibitions

The following shall be prohibited within City right-of-way:

1. Construction of masonry or other substantial structures other than for permitted utilities.
2. Private signs.

D. Application Procedures

Applications for a permit, accompanied by the appropriate fee, shall be submitted to the City. The application shall be on a form approved and designated by the City and in accordance with the procedure established by the City. The City, or his designee, shall, upon request for a permit application, provide to the applicant a copy of the current right-of-way utilization application procedures. All right-of-way use permits shall meet the specifications and guidelines set forth in this Code.

E. Compliance Requirements

Applicants for Right-of-Way Use Permits shall comply with the following requirements:

1. Submittals

The following information shall be provided by applicants for all City permits under this Article: the name, local address and phone number of applicant, the date, the precise description of the work proposed, including three (3) copies of drawing of the intended construction, the location of the work, any special conditions, a maintenance traffic plan and any other submittals and information as may be required by the City to reasonably exercise his authority hereunder.

2. Insurance

Unless specifically required by the City Council, the permit shall not be effective for any purpose whatsoever until the applicant, or his designated representative, delivers to the City of Bonifay a certificate of liability insurance evidencing bodily injury and property damage coverage equal to or in excess of the following limits: ONE HUNDRED THOUSAND and NO/100 DOLLARS (\$100,000.00) per person; THREE HUNDRED THOUSAND and NO/100 DOLLARS (\$300,000.00) per occurrence; and FIFTY THOUSAND and NO/100 DOLLARS (\$50,000.00) property damage. Said certificate of insurance shall name the City of Bonifay as an additional insured, shall be effective for all period of work covered by this use permit, and shall be in a form and issued by an insurance company acceptable to the City of Bonifay.

F. Approving Authority

The City shall have the authority to approve, approve with conditions or deny applications.

G. Time Limit

The permit shall be considered valid for sixty (60) days beginning on the date of issuance. If work does not commence by the sixtieth (60th) day, the permit shall be considered void and reapplication will be necessary. Work must be completed by the completion date indicated on the application. Work not completed by the completion date will be subject to stop work order, re-application, additional fee or other remedy as may be required by the City Council.

H. Restoration

No person shall use City right-of-way or easement for any purpose for which a permit is required by this section without first obtaining a permit therefor. In the event City rights-of-way or easements are used and/or construction takes place without a permit, upon written notice by the approving authority, the person shall remove any constructed facility, restore the area to its original condition and cease any non-permitted use.

I. Utilities

Notwithstanding any other provisions of this Code, the City reserves the right to require utility lines of all kinds to be constructed and installed beneath the surface of the ground as a condition on the issuance of a right-of-way utilization permit. Provided that no bulk electric power supply lines, including, but not limited to, transmission lines and primary distribution feeder lines shall be required to be placed underground unless directed by the City Council.

10.07.06 Tree Removal Permits

A. Generally

Unless otherwise provided in this Code, no person shall remove any protected tree from any lot or parcel of land or portion thereof within the corporate limits of the City of Bonifay without first obtaining a tree removal permit from the City unless exempt pursuant to Section 5.03.04 of this Code.

B. Permit Application and Other Administrative Requirements

Any person desiring a tree removal permit shall make written application to the City upon forms provided by the Clerk.

1. The application form shall be accurately completed, signed and notarized by the land owner or his agent. If the application is submitted by an agent, it shall include a notarized agency agreement clearly indicating that the land owner has delegated full authority to apply for the permit and to accept the terms of any special conditions which may be imposed by the City in accordance with this Chapter. The application shall include the name, address and telephone number of the land owner and his agent.
2. Each application for a tree removal permit shall be accompanied by a generalized tree inventory which shall consist of a survey based upon the most current available information. The survey shall show the approximate location, extent and type of protected trees upon the site, including common or scientific names of the major groups of trees. The survey shall indicate which protected trees are intended for removal and/or grubbing and which will be left undisturbed. For non-residential and multifamily development, the survey may be in the form of an aerial or a field survey, and shall be accompanied by photographs illustrating areas of trees. For individual single family or duplex developments, the survey may be in the form of hand drawn sketches accompanied by photographs of existing conditions. If site development plans have been prepared, the survey shall be prepared to the same scale or in some other manner which clearly illustrates the relationships between areas of protected trees and proposed site improvements. If site development plans are available, the survey shall be prepared to a convenient scale which clearly reveals the extent of protected trees upon the site. The requirements of Section 10.02.03 D.3.e. shall be met for those applications not requiring a site development plan.
3. The City may require that the application include such additional information which is reasonable and necessary for adequate administration of this Section.
4. The application and accompanying documents shall be submitted in copies sufficient to administer this Section.
5. The completed application shall be accompanied by an application fee.
6. The filing of an application shall be deemed to extend permission to the City to inspect the subject site if necessary for purpose of evaluating the application.
7. For those applications which are not being processed concurrently with a site development plan, the City shall review each complete application and shall render a decision within thirty (30) days of acceptance. If no decision is made



within the indicated time period, the permit shall be deemed to have been granted in accordance with the information on the application. If the permit is not issued, the Clerk shall state in writing the reasons for denial and advise the applicant of any appeal remedies available. For good cause, the City of Bonifay may request one extension from the applicant of an additional thirty (30) days in which to make a determination, provided the extension is requested prior to expiration of the initial thirty-day period.

8. Any permit issued hereunder shall remain valid for a term of six (6) months and may be renewable for a second six-month period upon request to the City provided such request occurs prior to the expiration date of the initial permit. The Clerk may require reapplication and full review in those renewal cases where site conditions have changed significantly from the date of issuance of the initial permit as a result of natural growth of trees and vegetation, or high winds, hurricane, tornado, flooding, fire or other act of nature. If a permit required by this Section has been issued concurrently with a bona fide site development plan, then such permit shall run concurrently with the bona fide site development plan and shall be renewed together therewith.
9. Tree removal permits shall automatically expire and become void if the work authorized by such permit is not commenced within six (6) months after the date of the permit.
10. Tree removal permits shall expire and become void if authorized removal work, once commenced, is suspended, discontinued or abandoned for a period equal to or greater than six (6) months.
11. If a tree removal permit expires or becomes void after work has commenced, a new permit shall be obtained before work is resumed.
12. A permit shall be prominently displayed upon the site.

C. Enforcement and Penalties

1. Enforcement, penalties, appeals and remedy of matters related to this Section shall be the responsibility of the City of Bonifay.
2. Each person who commits, attempts to commit, conspires to commit or aids and abets in the commission of any act declared herein to be in violation of this Section whether individually or in connection with one (1) or more persons, or as a principal, agent or accessory, shall be guilty of such offense and every person who falsely, fraudulently, forcibly or willfully entices, causes, coerces, requires, permits or

directs another to violate any provision of this Section is likewise guilty of such offense.

3. Each individual protected tree unlawfully removed or grubbed under the provisions of this Code shall constitute a separate offense.
4. Each day that a violation of this Section is continued or permitted to exist without compliance shall constitute a separate offense.
5. No preliminary development orders, final development orders or development permits shall be issued to any violator of this Section until the violation(s) have been properly abated to the satisfaction of the City.
6. In any enforcement proceeding, the adjudicating body may consider mitigating measures voluntarily undertaken by the alleged violator such as replacement or relocation of protected trees or other landscaping improvements, in fashioning its remedy, in addition to or in lieu of other penalties provided by law. Such body may also require such restorative measures in addition to or in lieu of other penalties provided by law.

10.08.00 EXEMPTIONS AND VESTED RIGHTS

10.08.01 Types of Vested Rights

A. Generally

There shall be two types of vested rights under the City of Bonifay Comprehensive Plan which shall entitle the holder of such vested rights to develop the property which is the subject of such vested rights as was allowed pursuant to the laws and regulations in existence on May 31, 1991, and those provisions of the City of Bonifay Comprehensive Plan that merely restate such law and regulation, including both compliance with the City of Bonifay Comprehensive Plan and satisfaction of concurrency requirements, except that concurrency requirements shall not be vested as to sewer and roads, unless the Council finds that such development would constitute a peril to the public health, safety or general welfare of the residents of the City.

B. Types of Vested Rights

1. Those vested rights acquired pursuant to a Residential Use Permit as defined in Section 10.08.02 and;
2. Those vested rights acquired pursuant to a Special Use Permit as defined in Section 10.08.03.

C. Conditions

All such vested rights permits shall be subject to the various provisions of this Chapter.

10.08.02 Vested Rights Residential Use Permit

A Vested Rights Residential Use Permit shall be issued by the Council to the owner of a duly recorded, as of May 1, 1991, parcel of record entitling such owner to develop a single family dwelling unit on such parcel subject only to the requirements of the prior regulations. The applicant for a Vested Rights Residential Use Permit shall submit to the City that the Council may from time to time designate, at the time of application for a building permit for a single family dwelling unit, a copy of a subdivision plat, deed, agreement, map, survey or other drawing which was recorded in the public records of the City of Bonifay, Florida, on or before May 31, 1991, which demonstrates the existence of an individual parcel of property owned by the applicant, and such submission shall entitle the applicant to a Vested Rights Residential Use Permit.

10.08.03 Vested Rights Special Use Permit

A vested Rights Special Use Permit may be issued by the City Clerk (or his designee) with the concurrence of the City Council, or such employee as the Council may designate from time to time, if the applicant meets the criteria as follows:

1. Presentation of a sufficient showing that the applicant has been issued a Final Development Order and development has commenced and is continuing in good faith; or
2. A satisfactory showing that the property owner has relied to his detriment by making a material change in his position in good faith on a commitment by or omission of the City.

B. Relevant Factors

In making this determination, all relevant factors shall be considered, including but not limited to the following:

1. Whether construction has commenced;
2. Whether the planned development is part of a phased development, a portion of which has been commenced with the reasonable expectation that the proposed development would be included in the overall development;
3. Whether the expense or obligation incurred is unique to the development;

4. Whether the expense or obligation incurred is not reasonably usable for development permitted by the Comprehensive Plan;
  5. Whether the development satisfied all prior regulations.
- G. *Factors Not Considered Development Expenditures or Obligations*

Without more, the following are not considered to be development expenditures or obligations in and of themselves:

1. Expenditures for legal or other professional services that are not related to the design or construction of improvements;
2. Payment of taxes;
3. Expenditures for initial acquisition of land.

D. *Time Limits*

On or before May 31, 1992, an application for a Vested Rights Special Use Permit may be submitted to the City on such forms as may be provided from time to time. The Vested Rights Special Use Permit will be granted or denied within ninety (90) days of the filing of the application thereof.

10.08.04            *Limitations*

Vested Rights Residential Use Permits and Vested Rights Special Use Permits shall be issued with the following limitations:

1. There shall be no vesting as to satisfying the concurrency requirements of the Comprehensive Plan as to sewer and roads;
2. Upon the expiration of five (5) years from the date of issuance of a Vested Rights Residential Use Permit, the development subject to such permits shall no longer be vested as to satisfying any concurrency requirements of the Comprehensive Plan and shall be subject to the requirements for the determination of capacity of public facilities and the availability of such public facilities as required by the Comprehensive Plan. Notwithstanding the foregoing, Vested Rights granted pursuant to this Chapter may be extended by the Council upon finding that such extension is reasonable and necessary in light of the development approved; and
3. All development subject to a Vested Rights Special Use Permit or a Vested Rights Residential Use Permit must be consistent with the terms of the development approvals upon which such permit was based. Any substantial deviation from a prior development approval shall be subject to the Comprehensive Plan.

10.08.05 Substantial Deviations

The Planning Council shall determine whether a proposed change in a development subject to a Vested Rights Special Use Permit or a Vested Rights Residential Use Permit is a substantial deviation. The following shall be considered substantial deviations:

1. An increase in the intensity of use of more than five (5) percent of the usable floor area of a non-residential development;
2. Any change in use from a specifically approved use;
3. Any increase in traffic generated by the proposed development of more than ten (10) percent;
4. A decrease in the area set aside in the proposed development for open space of more than ten (10) percent;
5. Any change in height of any structure included within the proposed development of more than fifteen (15) feet; or
6. A combination of increases in a multi-use development where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds one hundred (100) percent.

10.08.06 Legal Status of Vested Rights

Vested Rights established pursuant to this Chapter shall apply to the land and therefore may be transferred from owner to owner. Subject to the limitations set forth in this Chapter, a Vested Rights Special Use Permit or a Vested Rights Residential Use Permit vests the development approved under such permit with respect to the Comprehensive Plan, this Code and the requirements for the determination for the capacity of public facilities and the availability of public facilities except as to sewer and roads.

10.09.00 COMPREHENSIVE PLAN AMENDMENTS

10.09.01 State Law Controlling

The procedures in this part shall be followed in amending the Comprehensive Plan. This part supplements the mandatory requirements of state law, which must be adhered to in all respects.

10.09.02            Application

A.    Generally

Any person, board or agency may apply to the City of Bonifay to amend the Comprehensive Plan in compliance with procedures, not inconsistent with State law, prescribed by the City of Bonifay.

B.    Submittals

1.    Generally

The application shall include the following information:

- a.    The applicant's name and address;
- b.    If the application requests an amendment to the text of this /code, the precise wording of any proposed amendments to the text of this Code shall be provided;
- c.    A statement describing any changed conditions that would justify an amendment;
- d.    A statement describing why there is a need for the proposed amendment;
- e.    A statement describing whether and how the proposed amendment is consistent with the City of Bonifay Comprehensive Plan;
- f.    A statement outlining the extent to which the proposed amendment:
  - (1) is compatible with existing land uses;
  - (2) affects the capacities of public facilities and services;
  - (3) affects the natural environment;
  - (4) will result in an orderly and logical development pattern.
- g.    If the application requests an amendment to the Future Land Use Map, the applicant shall include:
  - (1) the street address and legal description of the property proposed to be reclassified;
  - (2) the applicant's interest in the subject property;

- (3) the owner's name and address, if different than the applicant;
  - (4) the current land use district classification and existing land use activities of the property proposed to be reclassified;
  - (5) the area of the property proposed to be reclassified, stated in square feet or acres;
- h. Such other information or documentation as the City may deem necessary or appropriate to a full and proper consideration and disposition of the particular application.

10.09.03 Standards for Review

In reviewing the application of a proposed amendment to the City of Bonifay Comprehensive Plan, the City Council and the Planning Council shall consider:

A. Whether the proposed amendment is in conflict with any applicable provisions of this Code;

B. Whether the proposed amendment is consistent with all elements of the City of Bonifay Comprehensive Plan;

C. Whether and the extent to which the proposed amendment is inconsistent with existing and proposed land uses;

D. Whether there have been changed conditions that required an amendment;

E. Whether and the extent to which the proposed amendment would result in demands on public facilities, and whether or to the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities;

F. Whether and the extent to which the proposed amendment would result in significant adverse impacts on the natural environment;

G. Whether and the extent to which the proposed amendment would adversely affect the property values in the area;

H. Whether and the extent to which the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern;

I. Whether the proposed amendment would be in conflict with the public interest, and in harmony with the purpose and interest of this Code; and

J. Any other matters that may be deemed appropriate by the Planning Council or the City Council, in review and consideration of the proposed amendment.

#### 10.09.04 Review by the City of Bonifay

##### A: Submission and Completeness

Within thirty (30) days after an application for an amendment to the text of this Code or an application for an amendment to the City of Bonifay Comprehensive Plan is submitted, the City shall determine whether the application is complete. If the application is not complete, he or she shall send a written statement specifying the application's deficiencies to the applicant by certified mail return receipt requested. The City shall take no further action on the application unless the deficiencies are remedied.

##### B. Review

When the City determines an application for an amendment to the City of Bonifay Comprehensive Plan is complete, he or she shall notify the Planning Council who shall review the application and make a recommendation to the City Council.

#### 10.09.05 Action by Planning Council

##### A. Public Hearing

Upon notification of the completed application for an amendment to the City of Bonifay Comprehensive Plan, the Planning Council shall place it on the agenda of a regular or special meeting for a public hearing in accordance with the requirements of Section 10.02.08. The public hearing held on the application shall be in accordance with Section 10.02.08. In recommending the application to the City Council, the Planning Council shall consider the standards in Section 10.09.03.

##### B. Action by City Council

Within forty-five (45) days of the conclusion of the public hearing, the Planning Council shall make a recommendation to grant or deny the application for amendment to the City Council. Such recommendation shall:

1. Identify any provisions of the Code, Comprehensive Plan or other law relating to the proposed change and describe how the proposal relates to them.



2. State factual and policy considerations pertaining to the recommendation.
3. In the case of proposed amendments to this Code, include the written comments, if any, received from the City of Bonifay.

10.09.06 Action by City Council

A. Upon receipt of the recommendation of the Planning Council, the City Council shall place the application on the agenda of a regular meeting of the City Council for a public hearing in accordance with the requirements of Section 10.02.08.

B. In making a decision on the application, the City Council shall consider the recommendation of the Planning Council and the standards in Section 10.10.03.

C. Within a reasonable time of the conclusion of the public hearing, the City Council shall either grant or deny the application for a proposed amendment.

D. Notification of the City Council's decision shall be mailed to all parties, and the decision shall be filed in the City of Bonifay in accordance with Section 10.02.09.

10.09.07 Time Limitation

A. After a decision or recommendation denying a proposed amendment to the text of this Code or a proposed amendment to the City of Bonifay Comprehensive Plan, the City Council and the Planning Council shall not consider an application for the same amendment for a period of two (2) years from the date of the action.

B. The time limits of this Section may be waived by the affirmative vote of four (4) members of the City Council when such action is deemed necessary to prevent injustice or facilitate the proper development of the City.

10.10.00 LAND DEVELOPMENT CODE AMENDMENTS

10.10.01 State Law Controlling

The procedures in this part shall be followed in amending this Code. This part supplements the mandatory requirements of state law, which must be adhered to in all respects.

10.10.02 Application

A. Generally

Any person, board or agency may apply to the City of Bonifay to amend this Code of the Comprehensive Plan in compliance with procedures, not inconsistent with State law, prescribed by the City of Bonifay.

B. Submittals

1. Generally

The application shall include the following information:

- a. The applicant's name and address;
- b. A statement describing any changed conditions that would justify an amendment;
- c. A statement describing why there is a need for the proposed amendment;
- d. A statement describing whether and how the proposed amendment is consistent with the City of Bonifay Comprehensive Plan;
- e. A statement outlining the extent to which the proposed amendment:
  - (1) is compatible with existing land uses;
  - (2) affects the capacities of public facilities and services;
  - (3) affects the natural environment;
  - (4) will result in an orderly and logical development pattern.
- f. Such other information or documentation as the City may deem necessary or appropriate to a full and proper consideration and disposition of the particular application

10.10.03 Standards for Review

In reviewing the application of a proposed amendment to the text of this Code, the City Council, the City and the Planning Council shall consider:

- A. Whether the proposed amendment is in conflict with any applicable provisions of this Code;
- B. Whether the proposed amendment is consistent with all elements of the City of Bonifay Comprehensive Plan;
- C. Whether and the extent to which the proposed amendment is inconsistent with existing and proposed land uses;
- D. Whether there have been changed conditions that require an amendment;
- E. Whether and the extent to which the proposed amendment would result in demands on public facilities, and whether or to the extent to which the proposed amendment would exceed the capacity of such public facilities, including, but not limited to roads, sewage facilities, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities;
- F. Whether and to the extent to which the proposed amendment would result in significant adverse impacts on the natural environment;
- G. Whether and the extent to which the proposed amendment would adversely affect the property values in the area;
- H. Whether and the extent to which the proposed amendment would result in an orderly and logical development pattern, specifically identifying any negative effects on such pattern;
- I. Whether the proposed amendment would be in conflict with the public interest, and in harmony with the purpose and interest of this Code; and
- J. Any other matters that may be deemed appropriate by the Planning Council or the City Council, in review and consideration of the proposed amendment.

10.10.04            Review by the City of Bonifay

A.    Submission and Completeness

Within thirty (30) days after an application for an amendment to the text of this Code or an application for an amendment to the City of Bonifay Comprehensive Plan is submitted, the City shall determine whether the application is complete. If the application is not complete, he shall send a written statement specifying the application's deficiencies to the applicant by certified mail return receipt requested. The City shall take no further action on the application unless the deficiencies are remedied.

B. Review

When the City determines an application for an amendment to the Land Development Code is complete, he shall notify the Planning Council and the City of Bonifay, review the application and make a recommendation to the City of Bonifay, who shall forward their recommendation to the Planning Council.

10.10.05 Action by Planning Council

A. Public Hearing

Upon notification of the completed application for an amendment to the text of this Code, the Planning Council shall place it on the agenda of a regular or special meeting for a public hearing in accordance with the requirements of Section 10.02.08. The public hearing held on the application shall be in accordance with Section 10.02.09. In recommending the application to the City Council, the Planning Council shall consider the standards in Section 10.10.03.

B. Action by Planning Council

Within forth-five (45) days of the conclusion of the public hearing, the Planning Council shall make a recommendation to grant or deny the application for amendment to the City Council. Such recommendation shall:

1. Identify any provisions of the Code, Comprehensive Plan or other law relating to the proposed change and describe how the proposal relates to them.
2. State factual and policy considerations pertaining to the recommendation.
3. In the case of proposed amendments to this Code, include the written comments, if any, received from the City of Bonifay and the City.

10.10.06 Action by City Council

A. Upon receipt of the recommendation of the Planning Council, the City Council shall place the application on the agenda of a regular meeting of the City Council for a public hearing in accordance with the requirements of Section 10.02.09.

B. In making a decision on the application, the City Council shall consider the recommendation of the Planning Council and the standards in Section 10.10.03.

C. Within a reasonable time of the conclusion of the public hearing, the City Council shall either grant or deny the application for a proposed amendment.

D. Notification of the City Council's decision shall be mailed to all parties, and the decision shall be filed in the City of Bonifay in accordance with Section 10.02.09.

10.10.07 Time Limitation

A. After a decision or recommendation denying a proposed amendment to the text of this Code or a proposed amendment to the City of Bonifay Comprehensive Plan, the City Council and the Planning Council shall not consider an application for the same amendment for a period of two (2) years from the date of the action.

B. The time limits of this Section may be waived by the affirmative vote of four (4) members of the City Council when such action is deemed necessary to prevent injustice or facilitate the proper development of the City.

10.11.00 APPEALS

10.11.01 Appeals from Decisions of the City of Bonifay

A developer or any adversely affected person may appeal an order, decision, determination or interpretation of the Comprehensive Plan by the City of Bonifay subject to an appeal, specifying the grounds for the appeal. Appeals are made to the Planning Council by filing a notice of appeal with the City of Bonifay within thirty (30) days of the decision. Other appeals, including to an order, decision, determination or interpretation of the City of Bonifay Land Development Code by the City of Bonifay are made to the City of Bonifay in the same manner.

10.11.02 Appeals from Decisions of the Planning Council or City of Bonifay

A developer, an adversely affected party, or any person who appeared orally or in writing before the Planning Council or City of Bonifay and asserted a position on the merits in a capacity other than as a disinterested witness, may appeal the decision of the Planning Council or City of Bonifay to the City Council.

10.11.03 Record

The record to be considered on appeal shall be all written materials considered during the initial decision, any additional written material submitted by the appellant to the City, and any testimony considered on the hearing of the appeal.

10.11.04 Effect of Filing an Appeal

The filing of a notice of appeal shall stay any proceedings in furtherance of the action appealed from unless the City certifies

to the Planning Council or City of Bonifay that by reason of certain facts, a stay would impose an imminent peril to life or property; in such case the appeal will not stay any further proceedings except by a restraining order.

#### 10.11.05 Procedure

A. The Appellate Board (City of Bonifay Planning Council or City Council, whichever the case may be) shall hold a hearing on the appeal within a reasonable time after a notice of appeal is filed. The appellant shall be notified by the City of the time, date and place of the public hearing by certified mail, return receipt requested. The Appellate Board shall reverse the order, decision, determination or interpretation only if there is substantial competent evidence in the record that an error was made in the decision being appealed from that fails to comply with the requirements of this Code. In so modifying such decision, the Appellate Board shall be deemed to have all powers of the officer or board from whom the appeal is taken, including the power to impose reasonable conditions to be complied with by the applicant.

B. The decision of the Appellate Board shall be mailed to all parties by the City.

#### 10.11.06 Appeals to Circuit Court

Any person, firm, organization or agency claiming to be injured or aggrieved by any final action of the City, City of Bonifay, Planning Council or City Council arising from the decision-making or administration of this Code may present to the Circuit Court of the City of Bonifay a petition for a writ or certiorari to review such final action as provided by the Florida Appellate Rules. Such action shall not be taken until the litigant has exhausted all the remedies available in this Code. Such petition shall be presented to the Court within thirty (30) days after the date the litigant has exhausted all such Code remedies.

#### 10.12.00 FEES

A schedule of fees may be established by resolution of the City Council in order to cover the costs of technical and administrative activities required pursuant to this Code. Unless specifically exempted by the provisions of this Code, an applicant for any development that is subject to the rules and regulations set out in this Code shall bear the costs stipulated within such fee schedule.

10.13.00 ENFORCEMENT OF DEVELOPMENT ORDERS AND PERMITS

10.13.01 Major and Minor Deviations

A. Minor Deviations

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

1. Alteration of the location of any road, walkway, landscaping or structure by not more than five (5) feet.
2. Reduction of the total amount of open space by not more than five (5) percent, or a reduction of the yard area or open space associated with any single structure by not more than five (5) percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.

B. Major Deviations

A major deviation is a deviation other than a minor deviation, from the final development plan.

10.13.02 On-Going Inspections

A. Inspection

The City of Bonifay shall utilize the Holmes County Building Inspection Office for periodic inspection of development work in progress to ensure compliance with the development permit which authorized the activity.

B. Minor Deviations

If the work is found to have one or more minor deviations, the City of Bonifay shall amend the development order to conform to actual development. The City of Bonifay may, however, refer any minor deviation that significantly affects the development's compliance with the purposes of this Code to the City of Bonifay for treatment as a major deviation.

C. Major Deviations

1. If the work is found to have one or more major deviations the City of Bonifay shall:

- a. Place the matter on the next agenda of the City of Bonifay allowing for adequate notice, and recommend appropriate action for the City of Bonifay to take.
  - b. Issue a stop work order or other legal action available to remedy the deviation and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the City of Bonifay determines that work or occupancy may proceed pursuant to the decision of the City of Bonifay.
  - c. Refer the matter to the Code Inspector, if it appears that the developer has committed violations within the jurisdiction of the Codes Enforcement Board.
2. The City of Bonifay shall hold a public hearing on the matter and shall take one of the following actions:
- a. Order the developer to bring the development into substantial compliance (i.e. having no or only minor deviations) within a reasonable period of time specified by the Council. The development order or permit may be revoked if this order is not complied with.
  - b. Amend the development order or permit to accommodate adjustments to the development made necessary by technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Amendments shall be the minimum necessary to overcome the difficulty, and shall be consistent with the intent and purpose of the development approval given and the requirements of this Code.
  - c. Revoke the relevant development order or permit based on a determination that the development cannot be brought into substantial compliance and that the development order or permit should not be amended to accommodate the deviations.

D. Action of Developer After Revocation of Development Order

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

10.13.03 Application for Certificate of Occupancy

Upon completion of work authorized by a development order or permit, and before the development is occupied, the developer shall apply to the City. The City shall have the work inspected and



issue the certificate if found to be in conformity with the permit or order.

10.14.00 CODES ENFORCEMENT

10.14.01 Generally

The City of Bonifay City Council shall enforce this Code according to the procedures set forth below.

10.14.02 Enforcement Procedures

A. When the City of Bonifay has reason to believe that the provisions of this Code are being violated, it shall initiate enforcement proceedings. No member of the City Council may initiate enforcement proceedings.

B. The City shall notify the alleged violator of the nature of the violations and provide a reasonable period of time to eliminate them. If the violations are not eliminated within the time specified, the City of Bonifay shall notify the City Council and request a hearing. If a violation presents a serious threat to the public health, safety and welfare, the City of Bonifay shall immediately take the case before the City Council, even if the violator has not been notified.

C. Written notice of the Request for Hearing and of the date, time and place of the hearing shall be sent to the alleged violator by certified mail, return receipt requested, or by personal service.

D. After a case is set for hearing, the Chairman of the City Council shall issue subpoenas as requested by the City of Bonifay and the alleged violator. Subpoenas may be served by the Chief of Police of the City of Bonifay. The City shall pay all costs of issuing and serving up to and including four (4) subpoenas requested by any party. Should a party request more than four (4) subpoenas, that party shall pay all costs incurred in issuing and serving those in excess of four.

E. Hearings before the City Council shall be conducted as follows:

1. The Chairman shall read the Statement of Violations and Request for Hearing.
2. The alleged violator shall be asked if he wishes to contest the charges.
3. The City shall present its case and alleged violator shall present his case. The City's case shall be presented by an attorney representing the City of by a member of the

administrative staff of the City. The alleged violator's case may be presented by an attorney, or other representative chosen by the alleged violator.

4. Both parties may call witnesses and all witnesses shall be sworn. All testimony shall be under oath and shall be recorded.
5. Formal rules of evidence shall not apply, but fundamental due process shall be observed.
6. Both parties may cross-examine witnesses and present rebuttal evidence.
7. The Council and its attorneys may call or question any witness.
8. After all evidence has been submitted, the Chair shall close presentation of evidence.
9. The Council shall immediately deliberate and make a decision in open session. If a decision cannot be reached in the initial meeting, the Council shall adjourn and reconsider the matter as soon as possible at a time and date certain.
10. A decision of the Council must be approved by at least four (4) members of the Council. The decision shall contain findings of fact and conclusions of law and shall state the affirmative relief granted by the Council.
11. The decision shall not be announced as an oral order of the Council and shall be reduced in writing within ten (10) days and mailed by certified mail, return receipt requested to the parties.
12. The Council may, at any hearing, order the reappearance of a party at a future hearing.

F. The City Council, upon finding a violation, shall issue an Order to Comply, setting a date certain for compliance, and a fine to be levied if the deadline for compliance is not met. The fine shall not exceed \$250.00 for each day the violation continues past the specified compliance date.

G. After an order has been issued by the City Council and a date for compliance has been set, the City or other designated City official shall make a reinspection to determine compliance or noncompliance with the order.

H. The inspector shall file an affidavit of compliance or noncompliance with the President of the City Council, and a copy shall be sent to the violator by certified mail, return receipt requested.

I. If the City files an affidavit of compliance, the Chairman of the City Council shall close the file and so report to the Council.

J. If the City files an affidavit of noncompliance with the President of the City Council, the Council may order the violator to pay the fine as specified in the Council's order.

K. A copy of the order imposing the fine shall be mailed to the violator by certified mail, return receipt requested, or personally served upon the violator.

L. If a fine remains unpaid for a period of fourteen (14) days, a certified copy of the order imposing the fine shall be recorded in the Official Records of the City of Bonifay, which shall thereafter constitute a lien against the land on which the violations exists, or if the violator does not own the land, upon any other real or same manner as a court judgment by the sheriffs of this State, including levy against personal property. If the fine remains unpaid for a period of one (1) year following the date the lien was file, the Council may authorize the City Attorney to foreclose on the lien.

M. In addition to the penalties prescribed above, the City Council shall:

1. Direct the City not to issue any subsequent development orders for the development until the violation has been corrected.
2. Inform the violator that no further work under an existing approval may proceed until the violation has been corrected.

#### 10.15.00 OTHER PENALTIES AND REMEDIES

##### A. Generally

If the City of Bonifay determines that the codes enforcement process delineated above would be an inadequate response to a given violation, it may pursue the following penalties and remedies, as provided by law.

##### B. Lot Sales Limited to Approved Subdivision

It shall be unlawful for anyone who is the owner or agent of the owner of any land to transfer, sell, agree to sell or negotiate to sell such land by reference to or exhibition of or by other use of a plat or subdivision of such land without having submitted a plan and plat of such subdivision for approval as required by these regulations and recorded the approved subdivision plat as required. If such unlawful use be made of a plat before it is properly approved and recorded, the owner or agent of the owner of such land

shall be deemed guilty of a misdemeanor and shall be punishable as provided in this Section.

C. False Representation as to Maintenance Responsibility

Any owner or agent of the owner who falsely represents to a prospective purchaser of real estate that any facilities and services such as roads and streets, sewers, water systems of drainage facilities will be built, constructed or maintained by the City of Bonifay shall be deemed guilty of a misdemeanor and shall be punishable as provided by law.

D. Violation of Section 10.07.06, Tree Removal Permits

Violation of Section 10.07.06 is a misdemeanor and shall be prosecuted in the name of the State in a Court having jurisdiction of misdemeanors by the prosecuting attorney thereof and upon conviction shall be punished by a fine not to exceed \$500 or by imprisonment in the City detention facilities not to exceed sixty (60) days or both such fine and imprisonment. If any violation be continuing, each day's violation shall be deemed a separate violation. However, imposition of such fine or jail sentences statutory or civil penalties, would include, but are not limited to, prohibiting the further generation of hazardous waste. Fines assessed pursuant to this Section shall go into the general revenue fund to the City to be used for enforcement of this Section.

E. Civil Remedies

If any building or structure is erected, constructed, altered, repaired or maintained or any building, structure, land or water is used in violation of this Code, the City, through the City Attorney, may institute any appropriate civil action or proceedings in any court to prevent, correct or abate the violation.

F. Criminal Penalties

Any person who violates any provision of this Code shall be deemed guilty of a misdemeanor and shall be subject to fine and imprisonment as provided by law.