



# LAND DEVELOPMENT CODE

## Chapter 1 General Provisions

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**1.00.00 TITLE:** This document shall be entitled the “Okaloosa County Land Development Code” and may be hereinafter referred to as the “Development Code” or this “Code.”

**1.01.00 AUTHORITY:** This Code is authorized and enacted pursuant to the general powers and duties granted to Boards of County Commissioners pursuant to Chapter 125, Florida Statutes and specific authority found at Section 163.3202, Florida Statutes.

**1.02.00 PURPOSE AND INTENT:** This Code has been prepared in accordance with and is intended to implement the goals, objectives, and policies of the Okaloosa County Comprehensive Plan by classifying and regulating the use and development of lands and waters in unincorporated Okaloosa County. This Code is intended to promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, landowners, and business enterprise within the County; and to protect and preserve the natural, cultural, historic, and aesthetic resources therein. The broad and general purposes of this Code are to:

Implement and promote consistency between the Comprehensive Plan and this Code;

Specify and describe responsibilities and procedures for the administration of this Code;

Provide essential requirements of law for standards and criteria relating to zoning, development orders and permits, and development regulations in order to provide clarity and certainty in the land development and growth management process;

Safeguard the public health, safety and general welfare by controlling the design, location, use, or occupancy of land, water, buildings and structures through the regulated and orderly use and development of land within the unincorporated County;

Promote the effective and efficient use of public financial resources by ensuring that land use, zoning, and development permitting is conditioned upon the adequate availability of public facilities and services; and,

Promote and fulfill the intent and requirements of Sections 163.3201 and 163.3202, Florida Statutes.

In fulfilling these purposes, this Code is intended to benefit the public as a whole and not any specific person or class of persons.

**1.03.00 SCOPE:** The provisions of this Code shall apply to the land use, development, construction, addition, alteration, moving, repair, and occupation of any building, structure, parcel of land or sign unless otherwise expressly excepted or exempted herein. All public or private development shall be permitted in accordance with this Code unless otherwise superceded by state or federal law.

Where, in any specific case, different sections of this Code specify different requirements, the more restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the more specific requirement shall be applicable. In the event of a conflict or inconsistency between the provisions of this Code and the Comprehensive Plan the Comprehensive Plan shall control to the extent of the conflict or inconsistency.



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**1.04.00 AREA OF JURISDICTION:** The requirements and provisions of this Code shall apply within the unincorporated area of Okaloosa County, or as otherwise provided in Section 163.3171, Florida Statutes

**1.05.00 GENERAL EXEMPTIONS:** The following conditions and situations shall be exempt from the provisions of this Code only to the extent described herein.

1. Family Homestead. The density requirements of this Code shall not apply to the conveyance of an individual parcel of property to be used solely as a family homestead by a child, step-child, adopted child, grandchild, sibling, adoption parent, step-parent, grand-parent, or parent of the owner of the property being conveyed. All other applicable Code requirements must be met for property conveyed in this manner. This exemption shall apply only to lots or parcels greater than one (1) acre in size when no more than four lots or parcels, including the "parent parcel", will be created from a "parent parcel."
2. Development of Regional Impact (DRI). Nothing in this Code shall modify or limit the rights of any person to complete any development that had been authorized as a DRI pursuant to Chapter 380, Florida Statutes who has been issued a final development order where development has commenced and continued in good faith consistent with the authorized development order.
3. Farm Operations. Farm operations shall be exempt from the provisions of this Code to the extent specified in s. 823.14, Florida Statutes (Right to Farm Act) and s. 163.3162, Florida Statutes (Agricultural Lands and Practices Act). Pursuant to Section 604,500), Florida Statutes (General Agricultural Laws), nonresidential farm buildings are subject to Land Development Code Sec. 3.06.00 (flood hazard areas).
4. Parcels of Record. Parcels of record recorded prior to July 10, 1990 shall be vested for the development of one dwelling unit regardless of the density or intensity of use assigned to that parcel by this Code. A "parcel of record" is a piece of property duly recorded by plat or deed in the Official Records of the Clerk of Court, and may include metes and bounds legal descriptions when such descriptions apply to individual, discreet parcels of land. All dimensional requirements specified for the zoning district involved must be met to the extent practicable, except that waterfront lots platted prior to 1990 shall have a rear setback of 25 feet.

**1.06.00 DEFINITIONS:** Unless otherwise expressly stated in a chapter or section the definitions set forth in Appendix A shall be used for the administration and enforcement of this Code. Where any word, term or phrase is not defined in Appendix A such word, term, or phrase shall have the ordinarily accepted meaning as the context implies; or definitions may be relied upon from the Florida Statutes, Florida Administrative Code, Black's Law Dictionary, or from other professionally accepted sources. The application of any particular definition to any particular case or situation shall be at the sole discretion of the County.

**1.07.00: RELATIONSHIP TO COMPREHENSIVE PLAN:** It is the intent of the Board of County Commissioners that this Code implements and be consistent with the Okaloosa County Comprehensive Plan, Ordinance 90-1, as amended (the "Plan"). This Code is intended to implement the Plan by putting into practical effect the planning concepts and goals, objectives, and policies that have regulatory effect as set forth therein. The provisions and requirements of this Code shall be consistent with the Plan when such provisions are compatible with and further the goals, objectives, and policies set forth in the Plan. The term "compatible with" means the



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provisions of this Code are not in conflict with the Plan. The term “further” means to take action in the direction of realizing and achieving the goals, objectives, and policies of the Plan.

In the event of a conflict or inconsistency between this Code and the Comprehensive Plan the provisions of the Plan shall govern. Any action to challenge the consistency of this Code with the Plan shall be governed by Section 163.3213, Florida Statutes. Any action to challenge or enforce development orders or permits issued pursuant to this Code shall be as specified in Section 163.3215, Florida Statutes.

**1.08.00 INTERPRETATION:** Guidelines for interpretation of this Code shall be as specified in this Section. In the interpretation of this Code all provisions shall be liberally construed in favor of the governmental purposes and objectives of the County, and shall not limit nor repeal any other powers granted under general law.

**1.08.01 Responsibility for interpretation:** In the event any question(s) arise regarding the administration or application of regulations, development criteria or standards, definitions, zoning district boundaries, or any other provision of this Code, the Planning Official or designee, shall be responsible for interpretation; and may rely upon the Comprehensive Plan, Florida Statutes, Florida Administrative Code, case law, or other professionally accepted source for guidance. Responsibility for interpretation shall be limited to ministerial matters that do not involve legislative actions, and shall not be construed as overriding or superceding any responsibilities, powers, or duties incumbent upon any other commission, board, official, or agency.

**1.08.02 Reserved.**

**1.08.03 Computation of time:** Unless otherwise specified, computation of time or the time in which an act is to be completed shall be determined using consecutive, 24-hour calendar days, excluding county-declared emergencies.

**1.08.04 Gender:** Words importing the masculine gender shall be construed to include the feminine and neuter.

**1.08.05 Number:** Words in the singular shall include the plural and vice-versa.

**1.08.06 Shall; May :** The word “shall” is mandatory; “may” is permissive.

**1.08.07 Written or in writing:** “Written” or “in writing” shall include any representation of words, letters, or figures in the English language, whether by printing or otherwise, and may include representations using electronic media.

**1.08.08 Year:** Year shall mean a 12-month calendar year.

**1.08.09 Day:** Day shall mean a 24-hour calendar day, unless otherwise specified.

**1.08.10 Boundaries:** Where uncertainty arises or exists as to the boundary lines for zoning districts, land use categories, or any other geographically-described areas within this Code the following criteria shall apply.

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerline.



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2. Boundaries indicated as approximately following platted lot or parcel lines shall be construed as following such lines.
3. Boundaries indicated as following incorporated city limit lines shall be construed as following such lines.
4. Boundaries indicated as following shorelines of water bodies will follow mean high water or ordinary high water, as may be applicable and, in the event of change, the shoreline shall be construed as moving with the change.
5. Boundaries indicated as following railroad lines shall be construed to the railroad right-of-way line.
6. Boundaries indicated as parallel to or extensions of features indicated in 1 through 5 above shall be so construed. Distances not specifically indicated on maps shall be determined by the scale of the map.
7. Where physical or cultural features on the ground are at variance with those shown on maps, or in other map interpretations not covered by 1 through 5 above, the Board of Adjustment shall interpret boundaries.

**1.09.00 INCONSISTENCY WITH OTHER ORDINANCES OR REGULATIONS:** The provisions of this Code shall supercede all other County ordinances or regulations relating to zoning and development regulation, or parts thereof, to the extent of the inconsistency only.

**1.10.00 DISCLAIMER OF LIABILITY:** The County does not guarantee, warrant, or represent that only those areas designated as flood hazard will be subject to periodic inundation nor that unsuitable soils, slopes, or other conditions unsuited for a particular land use as described herein are the only ones present within the area of jurisdiction. This Section asserts that there is no liability on the part of the Board of County Commissioners, or its officials or employees, for damages that may occur as a result of reliance on this Code.

**1.11.00: DUE PROCESS; PUBLIC PARTICIPATION:** It is the intent of the Board of County Commissioners that any person affected by actions taken as a result of this Code be afforded adequate due process of law and opportunity for public participation. The basic elements of due process shall include adequate notice of the action being taken and an opportunity to be heard and present facts or evidence at a formal proceeding. Public notice and proceedings requirements are as follows.

**1.11.01: Amendments or Changes to this Code.**

Action: Changes to the text, regulations, requirements, standards, or other aspects of this Code that do not involve changing the zoning designation of a parcel or parcels of property; or involve changing the actual list of permitted, conditional, or prohibited uses within a zoning district.

Authorization: Adoption of ordinance by Board of County Commissioners.

Proceeding(s): One (1) public hearing before the Planning Commission; one (1) public hearing before the Board of County Commissioners.

Character of Proceeding: Legislative.



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Presiding Body(ies): Planning Commission sitting as the officially designated Land Development Regulation Commission; Board of County Commissioners.

Public Notice: Advertisement in a newspaper of general circulation published at least ten (10) days prior to the date each hearing will be held. A copy of such notice shall be kept available for public inspection during regular business hours at the office of the Clerk of the Court. The notice shall state the time, date, and place for each hearing; the title(s) of the proposed ordinance(s); the place(s) where the ordinance may be inspected by the public, and; a general statement advising that all interested parties may appear at the meeting and be heard with respect to the proposed ordinance(s) (See s.125.66(2), Fla.Stat.).

### **1.11.02 Changes to the Official Zoning Map (Rezoning); Changes to Permitted, Conditional, or Prohibited Uses Within Zoning Districts.**

**Action:** Rezoning request initiated by **persons other than the County** or rezonings **initiated by the County** involving less than 10 contiguous acres of land.

Authorization: Adoption of ordinance by Board of County Commissioners

Proceeding(s): One (1) public hearing before the Planning Commission; one (1) public hearing before the Board of County Commissioners.

Character of Proceeding: Quasi-judicial.

Presiding Bodies: Planning Commission; Board of County Commissioners.

Public Notice: Shall be the same as for paragraph 1, and shall also include the mailing of certified, return-receipt letters to all property owners within a 300 foot radius of the property being rezoned, a certified list of said owners to be obtained from the Property Appraiser's office. In addition, a 2 foot by 3 foot sign with no less than 1 inch lettering shall be posted at the property line facing and clearly visible from the adjacent street or for multiple streets a sign facing and clearly visible from all adjacent streets. The required letters and sign(s) shall describe the action being requested; the date, time and location of the public hearing to be held, and; the name and telephone number of both the applicant for rezoning and the Department. Letters must be mailed no later than 21 days before the date the first public hearing will be held and signs must be posted no later than 15 days before the date the first public hearing will be held. The applicant must provide signed affidavits stating the letters were mailed and the sign(s) were posted as required herein, and must also provide a time-dated photograph of the sign(s) after it is posted on the property.

**Action:** Rezoning **initiated by the County** involving 10 contiguous acres or more; Changes to Permitted, Conditional, or Prohibited Uses within Zoning Districts.

Authorization: Adoption of ordinance by Board of County Commissioners.

Proceedings: One (1) public hearing before the Planning Commission; two (2) public hearings before the Board of County Commissioners in the manner prescribed by Section 125.66, Florida Statutes.

Character of Proceeding: Quasi-judicial.



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Presiding Bodies: Planning Commission; Board of County Commissioners.

Public Notice: Shall be the same as for 1.11.02, a.

**Action:** Rezoning **initiated by the County** involving more than five (5) lots, parcels, or pieces of property whether contiguous or not; comprehensive text amendment of zoning regulations which involve more than one section of the regulations.

Authorization: Adoption of ordinance by Board of County Commissioners.

Proceedings: One (1) public hearing before the Planning Commission, two (2) public hearings before the Board of County Commissioners in the manner prescribed by Section 125.66 Florida Statutes.

Character of Proceeding: Legislative.

Presiding Bodies: Planning Commission; Board of County Commissioners

Public Notice: As prescribed in Section 125.66 Florida Statutes.

### **1.11.03 Special Exceptions; Variances; Administrative Appeals**

**Action:** Grant, grant with conditions, or deny requests for special exceptions or variances.

Authorization: Majority vote of the Board of Adjustment.

Proceeding: One public hearing before the Board of Adjustment.

Character of Proceeding: Quasi-judicial.

Presiding Body: Board of Adjustment.

Public Notice: Public notice shall be provided by publication of the date, time, place, and purpose of the hearing in a newspaper of general circulation with publication to be at least 10 days prior to the date of the hearing. The notice shall include the parcel number of the property involved, the street address if available, and a map showing the street names of adjacent streets. Also, a sign shall be posted on the property in the manner prescribed in 1.11.02, and certified return-receipt letters shall be mailed to all adjacent property owners, including those across a street or alley.

### **1.11.04 Planned Unit Developments.**

**Action:** Approval or denial of Planned Unit Developments (PUD).

Authorization: Approval by majority vote.

Proceedings: One (1) public hearing before the Planning Commission; one (1) public hearing before the Board of County Commissioners.

Character of Proceeding: Quasi-judicial

Presiding Bodies: Planning Commission; Board of County Commissioners.



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Public Notice: Advertisement published in a newspaper of general circulation, and a two foot by three foot sign posted on the property involved at least 15 days prior to the dates scheduled for the public hearings.

### **1.11.05 Development Agreements** (pursuant to ss.163.3221 – 163.3243, Fla.Stat.)

Action: Approve or deny petitions for Development Agreements.

Authorization: Majority vote of the Board of County Commissioners

Proceeding: One public hearing before the Planning Commission; one public hearing before the Board of County Commissioners.

Character of Proceeding: Legislative

Presiding Body: Planning Commission; Board of County Commissioners.

Public Notice: Notice of intent to consider a development agreement shall be advertised approximately 7 days before each public hearing in a newspaper of general circulation within the county. Written notice shall be mailed to all property owners within a 300 foot radius of the property in the agreement. The date, time, and place at which the second public hearing will be held shall be announced at the first public hearing. The public notices shall specify the location of the land subject to the agreement, the development uses proposed on the property, the proposed population densities, and the proposed building intensities and height, the date, time, and place where each public hearing will be held, and shall specify a place where a copy of the proposed agreement can be obtained.

### **1.11.06 Community Development District (less than 1,000 acres in size).**

Action: Approve or deny petition for a Community Development District.

Authorization: Adoption of an ordinance by the Board of County Commissioners.

Proceeding: One (1) public hearing before the Board of County Commissioners.

Character of Proceeding: Legislative.

Presiding Body: Board of County Commissioners.

Public Notice: The petitioner shall publish an advertisement in a newspaper of general circulation within the county at least once a week for the four (4) successive weeks immediately prior to the hearing. Such notice shall give the date, time, and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information the County may require. The public notice advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear (s.190.005(1)(d), Fla. Stat.).

### **1.11.07 Development Orders.**

Action: Approve, approve with conditions, or deny applications for development orders.





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**Authorization:** Approval of development orders by the Planning Official or Board of County Commissioners, as may be applicable.

**Public Notice:** The development order applicant shall post a public notice sign on the property being developed. Said sign shall be no less than 2 feet wide by 3 feet high with contrasting letters at least 1 inch in size. The sign shall be posted at the property line of the property involved facing and clearly visible from the adjacent street or for multiple street frontages a sign at the property line facing and clearly visible from all adjacent streets. The sign shall describe the type of development activity being proposed and the place and telephone numbers where the public can obtain information about the development project. The sign shall be posted within five (5) days after the date the application is filed with the Department. The applicant must then provide the County with a signed affidavit stating that a sign has been posted as prescribed herein, and a time-dated photograph of the sign after it has been posted on the site.

### **1.11.08 Development Order Hearing.**

**Action:** Upon completion of the administrative review specified in section 1A.03.03. 4 the Planning Official shall issue a Notice of Intent to approve, approve with conditions, or deny a development order.

At this time any person, including the Planning Official, may petition for a Development Order Hearing. The petition shall be submitted to the Planning Official within seven (7) days after the date a Notice of Intent is issued. The Petition shall be submitted on forms provided by the County and shall include the name, address, telephone number, and email address (if available) of the Petitioner and a statement as to why the Petitioner is objecting to issuance of the Development Order.

No later than fourteen (14) days after the date the petition is filed the Petitioner shall submit a Memorandum of Error which 1 contains the specific Code requirements and provisions by citation the Petitioner is objecting to, the reasons why the development order is not consistent with the identified citations, and any corrective actions to remedy the objections raised. Failure to comply with this part shall render the Petition abandoned and withdrawn. At the Development Order Hearing the Petitioner's arguments shall be limited to the objections raised in the Memorandum of Error. Objections raised pursuant to this Section shall be to this Code only and not any other approval or permit that may be required from an agency other than the County. Any assertion or challenge that the Development Order is not consistent with the Comprehensive Plan shall be as specified at s.163.3215, Fla. Stat

Upon receipt of the petition the Planning Official shall schedule the hearing on the agenda of the Planning Commission for the next practical meeting date. Prior to the hearing date the Planning Official shall schedule a meeting between county staff, the applicant, and the Petitioner so as to provide an opportunity for the objections to be resolved. No development order shall be approved or denied until after the Development Order Hearing has been held. All interested persons may attend the hearing and present verbal or written statements. At the conclusion of the hearing the Planning Commission shall provide a recommendation to the Planning Official whether to approve or deny the development order application at issue, or may remand to the Planning Official for further consideration with additional conditions. In the event that the Planning Commission recommendation is contrary to the Notice of Intent the matter shall be scheduled on the



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agenda of the Board of County Commissioners (BCC) for the next practical meeting date. Prior to the BCC hearing date the Planning Official shall schedule a meeting between county staff, the applicant, and the Petitioner so as to provide an opportunity for the objections to be resolved. The BCC shall then take final action on the matter.

Character of Proceeding: Quasi-judicial

Public Notice: Public notice shall be as specified in s. 1.11.03 at the time and expense of the Petitioner.

**1.11.09 Harmless Error:** The term “harmless error” shall mean an error which does not affect a party’s substantive rights or the outcome of a proceeding. The specific intent of providing public notice is to inform potentially affected parties of the action being considered and the forum for an opportunity to be heard. In those situations where a newspaper advertisement, certified letter, sign or other required public notice contains an unintentional mistake which does not affect due notice of a pending proceeding to the extent that a potentially affected party is not made aware of an action being considered or the date, time and place at which an action will be taken, then said mistake may be considered harmless error which shall not necessitate a rescheduling of the proceeding at hand or the re-advertisement of the required public notice. In any given situation where a dispute may arise as to whether a particular error is harmless error the presiding body for the proceeding at hand shall decide by majority vote.

**1.11.10 Public Notice Costs:** All costs associated with the public notice requirements prescribed in this Section shall be at the expense of the applicant including purchase and posting of signs, mailing return-receipt letters and legal advertisements in the newspaper. To ensure that statutory requirements are met the Department of Growth Management shall place the legal advertisement in the newspaper the cost of which shall be reimbursed by the applicant(s). Failure to reimburse the Department for legal ad costs shall be grounds for withholding the requested action from the next available public hearing agenda.

### **1.11.11 Development of Regional Impact (DRI).**

Action: Approval, approval with conditions, or denial of applications for a DRI, or amendment to a previously approved DRI development order.

Authorization: Approval by majority vote.

Proceedings: The review and approval of DRI applications and any amendments to an approved DRI development order shall be as specified at Section 380.06, *Fla. Stat.*, provided however, that for any amendments to a previously approved DRI development order, there shall be one public hearing before the Planning Commission and one public hearing before the Board of County Commissioners. Nothing herein shall be construed to preclude a DRI application or amendment to a previously approved DRI development order from being heard by the Board of County Commissioners if it believes there are relevant issues that require additional information and analysis prior to taking action.

Character of proceeding: Quasi-judicial.

Presiding bodies: Planning Commission; Board of County Commissioners.

Public Notice: Advertisement in a newspaper of general circulation published at least ten days prior to the date each hearing will be held. A copy of such notice shall be kept



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available for public inspection during regular business hours at the office of the Department of Growth Management. The notice shall state the time, date, and place for each hearing; the title(s) of the proposed resolution(s); the place(s) where the resolution may be inspected by the public, and; a general statement advising that all interested parties may appear at the meeting and be heard with respect to the proposed resolution(s).

Public notice shall also include the mailing of certified, return-receipt letters to all property owners within a 300-foot radius of the property involved, a certified list of said owners to be obtained from the Property Appraiser's office. In addition, a two-foot by three-foot sign with no less than one-inch lettering shall be posted at the property line facing and clearly visible from the adjacent street or for multiple streets a sign facing and clearly visible from all adjacent streets. The required letters and sign(s) shall describe the action being requested; the date, time and location of the public hearing to be held, and; the name and telephone number of both the applicant and the Department of Growth Management. Letters must be mailed no later than 15 days before the date the first public hearing will be held and signs must be posted no later than 15 days before the date the first public hearing will be held. The applicant must provide signed affidavits stating the letters were mailed and the sign(s) were posted as required herein, and must also provide a time-dated photograph of the sign(s) after it is posted on the property.

**1.12.00 CONFLICTING PROVISIONS:** In the event a conflict or contradiction arises or is discovered between any revised chapters, sections, paragraphs, subparagraphs, or words of this Code and previously adopted portions of this Code the most recently adopted revised version shall govern and prevail.