

**ORDINANCE 2013-21**

**AN ORDINANCE OF THE CITY OF BUNNELL, FLORIDA; AMENDING THE *BUNNELL LAND DEVELOPMENT CODE*, CHAPTER 30, SUBDIVISION REGULATIONS; PROVIDING REGULATIONS, PROCESSES AND PROCEDURES PERTAINING TO SUBDIVISION APPROVALS AND PLATTING; PROVIDING FOR MINIMUM REQUIREMENTS FOR PUBLIC WORKS AND UTILITY SPECIFICATION STANDARDS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section 2, *Constitution of the State of Florida*, authorizes the City of Bunnell to exercise any power for municipal purposes except as otherwise provided by law; and

**WHEREAS**, Section 163.3202(2) (a), *Florida Statutes*, requires local governments to regulate the subdivision of land in their land development regulations; and

**WHEREAS**, the *Bunnell Land Development Code* provides for procedures for subdivision regulation; and

**WHEREAS**, said procedures are in need of revision; and

**WHEREAS**, Section 163.3174(4)(c), *Florida Statutes*, requires the local planning agency to review proposed land development regulations and amendments, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof; and

**WHEREAS**, the Planning, Zoning and Appeals Board reviewed this Ordinance at its May 14, 2013 and June 18, 2013 meetings and recommends adoption; and

**WHEREAS**, the City Commission of the City of Bunnell finds it is in the best interest and welfare of the citizens of the City to enact this Ordinance; and

**WHEREAS**, the City of Bunnell has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

**WHEREAS**, this Ordinance is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Bunnell*; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, \*\*\* shall constitute ellipses to the original text and ~~strikethrough~~ shall constitute deletions to the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BUNNELL, FLORIDA AS FOLLOWS:

**Section 1. Amendment To Chapter 30, *Land Development Code*.** Chapter 30, the *City of Bunnell Land Development Code* is hereby substantially revised and amended to read as follows (the entire text is provided even when a section is not amended in order to aid the reader):

## ARTICLE I. - IN GENERAL

### **Sec. 30-1. - Short title.**

This chapter shall be known as the "Subdivision Ordinance of the City of Bunnell, Florida."

### **Sec. 30-2. - Purpose.**

The purpose of this chapter is to establish procedures and standards for the subdivision, platting, development, and use of land in all areas within the jurisdiction of the City. ~~of the City.~~ This chapter is an effort to provide for a sound and economically stable community and the creation of a healthful living environment; The City will ensure the provision of and the installation of adequate streets, utilities, and other necessary improvements; at the developer's expense; including the efficient, adequate, and economic supply of utilities and services to new land developments. at the developer's expense. This includes the prevention of sanitation and health hazards; the prevention of traffic hazards and the establishment of efficient and convenient means for the circulation of traffic; the prevention of hazards due to flooding; the provision of public facilities; the and the ability to coordination of land development in accordance with the City's Comprehensive Plan and provide for orderly growth patterns; and to serve as one of the land use controls authorized by the state legislature for the city. In order to accomplish these purposes, the development of all land, buildings, streets, drainage, and utilities shall comply with the procedures and regulations established herein.

### **Sec. 30-3. - Intent.**

The intent of this Ordinance is to provide a mechanism for the City to promote sound development within the City to include, but not be limited to, the historic downtown and the rural areas of the City. The area within the historic City is an established small town and provides opportunities for implementing many development forms, including traditional downtown development and mixed use. In contrast, the majority of the City's land base is rural with possibilities of supporting agricultural and silvicultural uses with rural subdivisions, rural developments and clustered communities in approved locations.

### **Sec. 30-34. - Jurisdiction.**

These regulations shall be applied to all proposed subdivisions of land into three or more parcels within the City.

**Sec. 30-45. - Conformity with policy.**

(a) All subdivisions and developments shall be in conformity with the general goals ~~and~~, objectives and policies of the city commission with respect to the development of the city as reflected in the comprehensive plan, the land development code, code of ordinances, and any adopted reference documents, including the policies and plans established by the city commission with respect to water supply, water drainage, waste disposal, and other essential utilities, chapter 34 and other applicable ordinances and all amendments thereto related to the development of the land. All plats must be reviewed by a professional surveyor and mapper either employed by or under contract to the city and the costs shall be passed onto the applicant pursuant to F.S. 177.081 and all plats must be designed to meet the requirements of F.S. 177.011—177.151.

(b) Private roadways and utilities shall remain privately owned and maintained unless dedicated to and accepted by the City by formal action of the City Commission. Prior to being accepted by the City, any private roadways and utilities shall be constructed or improved to meet the standards established by this Ordinance.

(c) All proposed developments shall comply with all applicable Federal, State and local laws, rules, regulations, codes, ordinances and standards including, but not limited to, National Fire Protection Association requirements as set forth in the Life Safety Code as implemented by the City.

**Sec. 30-56. - Modifications and variances.**

(a) The city's ~~engineer's~~ minimum standards of design for public improvements may be modified by the city commission after recommendation by the planning, zoning and appeals board in the specific case of a plan or program outline for a ~~complete group~~ development, which in the judgment of the planning, zoning and appeals board as advised by the city engineer provides for adequate public spaces and improvements for the circulation, recreation, light, air, and service needs of the tract when fully developed and populated, and which also provides for such covenants or other legal provisions as will assure conformity to and achievement of the plan. This provision is intended to encourage innovations in housing types and subdivision design.

(b) The City encourages innovative, and creative, project sensitive developments; especially related to rural subdivisions, rural developments, or mixed use, infill and redevelopment projects. In an effort to fulfill the goals, objectives and policies of the Comprehensive Plan related to these types of projects the Planning, Zoning and Appeals Board and the City Commission may work with the applicant(s) through the variance and other approval processes to modify the typical subdivision plan and encourage creative developments.

(c) Where, because of topographic or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause unnecessary hardship, the planning, zoning and appeals board and city staff may recommend and the city commission authorize, a variance modifications from the City's minimum standards, if such ~~variance~~ modifications can be made without ~~destroying~~ adversely impacting the intent of this chapter or the desirable general development of the neighborhood and the community in accordance with the comprehensive plan and the chapter 34. Any modifications ~~thus granted~~ requested shall follow the standard variance and required

approval procedures and shall, when approved, be memorialized in a development order recorded in the minutes of the planning, zoning and appeals board and city commission setting forth the reason which justified the modification, and shall exclude any use variances exceptions. Final development orders shall be issued consistent with the provisions of Section 166.033, Florida Statutes.

(d) The City's encouragement of innovative, creative, and project sensitive developments; especially related to rural subdivisions, rural developments, or mixed use, infill redevelopment projects may also be implemented through scaled developments. In an effort to fulfill the goals, objectives and policies of the comprehensive plan related to these types of projects the Planning, Zoning and Appeals Board and the City Commission may work with an applicant through the standard or rural PUD processes, or an appropriate development agreement or a series of agreements, that would allow cluster developments to encourage wetlands, conservation, and agricultural land set asides in support of the Comprehensive Plan, as well as, infill and redevelopment projects unique to the downtown area. The approval of these types of developments by the adoption of specific ordinances and supporting material may include variances and modifications to this the requirements of this Ordinance depending on the specific development plan, and approvals within the specific development plan such as smaller lots, narrower streets, cluster developments, urban grid patterns, and complete streets.

#### **Sec. 30-67. - Minor subdivisions.**

(a) A minor subdivision is defined as the division of land, whether improved or unimproved, into three or more, but less than ten, contiguous lots or parcels of land meeting the minimum lot requirements of the comprehensive plan and the land development code for that designated area, and for the purpose of transfer of ownership or development.

(b) Minor subdivision plans shall be subject to review by the planning, zoning, and appeals board and approval by the city commission in a public hearings.

(c) Public Mminor subdivisions shall be reviewed and approved in accordance with the minimum lot requirements, infrastructure, and utility requirements of the land development code, and the comprehensive plan. Nothing in this article shall permit the creation of any new lots which are in violation of the land development code or the comprehensive plan-; unless private subdivision conditions are met, specific road standards are requested or variances, PUD ordinances or development agreements are approved.

(d) No sale or contract for sale of lots shall be made, no dedication of streets shall be accepted, and only one building permit meeting the zoning requirements shall be issued for construction on any parcel until a public or private minor subdivision plan has been approved and the final plat and deed has been recorded in the public records of the county.

#### **Sec. 30-78. - Major subdivisions.**

(a) A major subdivision is defined as the division of land, whether improved or unimproved, into ten or more contiguous lots or parcels of land meeting the minimum lot requirements of the comprehensive plan and the land development code for that designated area, and for the purpose of transfer of ownership or development.

(b) Major subdivision plans shall be subject to review by the planning, zoning, and appeals board and approval by the city commission in public hearings.

(c) Public Mmajor subdivisions shall be reviewed and approved in accordance with the minimum lot requirements, infrastructure, and utility requirements of the land development code, and the comprehensive plan. Nothing in this article shall permit the creation of any new lots which are in violation of the land development code, or the comprehensive plan; unless private subdivision conditions are met, specific road standards are requested or variances, PUD ordinances or development agreements are approved.

(d) No sale or contract for sale of lots shall be made, no dedication of streets shall be accepted, if applicable, and only one building permit meeting the zoning requirements shall be issued for construction on any parcel until a major subdivision plan has been approved and the final plat and deed has been recorded in the public records of the county.

**Sec. 30-9. – Rural developments.**

(a) Rural subdivisions – Subdivisions involving relatively large parcels may be granted variances from one or more of the requirements of this code by the Planning, Zoning and Appeals Board based upon sound and generally accepted planning and land development practices and principles as well as the public interest, but may, nevertheless, require that a portion of the subdivision comply with the requirements set forth in this Ordinance and that a surveyed plat for that portion of the actual major subdivision be recorded in the Land Records/Official Records of the County.

(b) Rural developments – Subdivisions shall be designed so as to conform to and take advantage of the topographic and other natural features of the land. Federal, State and local laws, rules, regulations, codes, ordinances and standards may require the conservation of existing trees, wetlands, natural water bodies, wildlife habitat, and other environmentally sensitive lands. The City encourages unique, development plans that maximize the potential benefits of rural developments or similar developments as outlined in the Comprehensive Plan.

(c) Rural subdivisions are also referred to in Section 34-190 and, if a rural subdivision is proposed, zoning, subdivision, and specific development provisions related to the development may be required depending on the proposed development.

(d) Subdivisions not requiring platting – Areas annexed into the City may establish non-platted rural subdivisions which may be considered at the time of annexation with the approval contingent upon the annexation.

(e) Within the non-platted rural subdivision area, owners of record as of November 1, 2002 and their heirs and any owners of land for 5 years or more may establish up to 4 5-acre parcels in each calendar year; provided, however, that each eligible owner may establish up to 8 5-acre parcels in the first calendar year in which the owner chooses to commence subdivision under the non-platted rural subdivision requirements. All parcels established as part of a non-platted rural subdivision must be 5 acres or larger, must have a minimum of 0.75 acre of uplands or 20,000

square feet of contiguous buildable area, and may be clustered where feasible. Every non-platted rural subdivision shall comply with the following criteria:

- (1) An access easement connecting each lot to a City, County or State maintained road must be deeded for the benefit of the public on a form approved by the City Attorney. This requirement is not applicable if the parcel has access by means of City, County or State road frontage.
- (2) Deeds conveying parcels within a non-platted rural subdivision must include the following disclaimer in bold, capital ten-point type.

**“THE PARCEL OF LAND DESCRIBED IN THIS DEED IS NOT A PART OF A PLATTED SUBDIVISION REVIEWED AND APPROVED BY THE CITY OF BUNNELL. NO GOVERNMENTAL AGENCY, INCLUDING THE CITY OF BUNNELL, SHALL EVER BE RESPONSIBLE FOR THE MAINTENANCE, UPKEEP OR IMPROVEMENT OF ANY PRIVATE DRIVES, ROADS, STREETS, EASEMENTS, OR RIGHTS-OF-WAY PROVIDING INGRESS AND EGRESS TO THE PROPERTY HEREIN CONVEYED. DUE TO THE RURAL LOCATION OF THIS PARCEL AND DEPENDING ON THE STATE OF MAINTENANCE OF ACCESSWAYS, EMERGENCY RESPONSE TIMES MAY BE ADVERSELY AFFECTED. FIRE HYDRANTS ARE NOT AVAILABLE FOR FIRE SUPPRESSION. AGRICULTURAL USES ON ADJOINING PARCELS MAY GENERATE NOISE AND ODORS CHARACTERISTIC OF A RURAL SETTING. THIS PROPERTY MAY NOT BE SUBJECT TO ANY MOSQUITO CONTROL DISTRICT AND THEREFORE MAY NOT BE SUBJECT TO MOSQUITO CONTROL BY ANY SUCH DISTRICT. THIS PROPERTY IS NOT PART OF A DEVELOPMENT WITH AN APPROVED STORMWATER MANAGEMENT SYSTEM. THIS PARCEL MAY BE SUBJECT TO FLOODING FROM TIME TO TIME AND NEITHER THE CITY NOR ANY OTHER PUBLIC AGENCY IS RESPONSIBLE FOR PROVIDING STORMWATER MANAGEMENT OR FLOOD CONTROL.”**

- (3) The location and design of all homes constructed within the non-platted rural subdivision shall conform to firewise communities standards promulgated by the Division of Forestry of the Florida Department of Agriculture and Consumer Services, as set forth in Section 34-190 and as required in all applicable zoning and land development requirements.

- (4) Subdivisions requiring platting or already platted – Areas annexed into the City may establish platted rural subdivisions. These areas must be consistent with the City Comprehensive Plan, and be designated with Agriculture and Silviculture (AG&S) land use designation, and where no new streets or access easements are planned to be dedicated and accepted by the public. Except for 5-acre splits to family members where the resulting parcel will be 5 acres or more of land assigned the Agriculture and Silviculture (AG&S) land use designation, no such

parcel shall be further exempted from these subdivision regulations. Deeds and other conveyances shall include in bold capital ten-point type the following statement:

**“NO GOVERNMENTAL AGENCY, INCLUDING THE CITY OF BUNNELL, SHALL EVER BE RESPONSIBLE FOR THE MAINTENANCE, UPKEEP OR IMPROVEMENT OF ANY PRIVATE DRIVES, ROADS, STREETS, EASEMENTS, OR RIGHTS-OF-WAY PROVIDING INGRESS AND EGRESS TO THE PROPERTY HEREIN CONVEYED. DUE TO THE RURAL LOCATION OF THIS PARCEL AND DEPENDING ON THE STATE OF MAINTENANCE OF ACCESSWAYS, EMERGENCY RESPONSE TIMES MAY BE ADVERSELY AFFECTED. FIRE HYDRANTS ARE NOT AVAILABLE FOR FIRE SUPPRESSION. AGRICULTURAL USES ON ADJOINING PARCELS MAY GENERATE NOISE AND ODORS CHARACTERISTIC OF A RURAL SETTING. THIS PROPERTY MAY NOT BE SUBJECT TO MOSQUITO CONTROL AND THEREFORE, MAY NOT BE SUBJECT TO MOSQUITO CONTROL BY ANY SUCH DISTRICT. THIS PROPERTY IS NOT PART OF A DEVELOPMENT WITH AN APPROVED STORMWATER MANAGEMENT SYSTEM. THIS PARCEL MAY BE SUBJECT TO FLOODING FROM TIME TO TIME AND NEITHER THE CITY NOR ANY OTHER PUBLIC AGENCY IS RESPONSIBLE FOR PROVIDING STORMWATER MANAGEMENT OR FLOOD CONTROL.”**

(f) Prior to issuance of a building permit, each landowner who does not have direct access to a publically maintained road, must sign a hold harmless indemnification agreement with the City acknowledging that access to said parcel is strictly a private legal matter between the land owner and the person or entity that sold said parcel and granted access to same and that the City does not assert any opinion as to the legal validity, usability or practical access to said parcel; further that the land owner shall indemnify and hold harmless the City, its City Commission, officers, officials, employees and agents from any and all legal causes of action, losses, damages or claims of any kind whatsoever arising out of the lack of access for emergency services, police protection or other public services to said parcel. This indemnification, hold harmless agreement shall be on a form approved by the City Attorney, shall be recorded in the Official Records of the County, shall run with and burden the land, and shall be binding on the landowner and all heirs, successors and assigns.

**Sec. 30-10. – Traditional downtown developments.**

(a) Mixed-use – Local circulation systems and land development patterns shall not detract from the efficiency of bordering major streets. This principle may involve control of driveway, intersection placement and full or partial control of access.

(b) Infill – Design of residential streets should clearly reflect their local function. These streets should have an appearance commensurate with their function as local streets. They should not be over-designed or over-built, i.e. higher speeds than necessary, or excessively wide. The City encourages plans that follow the established grid pattern.

(c) Redevelopment – Adequate vehicular and pedestrian access shall be provided to each parcel. The primary function of local streets is service to abutting properties. Street widths, placement of sidewalks, pattern of streets and number of intersections are related to safety and efficiency of access to abutting lands. The City encourages the incorporation of “complete streets” as redevelopment occurs.

*Secs. 30-8 11--30-30. – Reserved.*

## **ARTICLE II. – MINOR SUBDIVISION PLAT APPROVAL**

### **Sec. 30-31. - Required.**

It is prohibited and unlawful for a ~~Any~~ person, who being the owner or agent of the owner of any land located within the city or within the platting jurisdiction granted to the city, ~~to thereafter~~ transfers or sells such land, or any part thereof, by reference to a plat showing a subdivision of such land before such plat has been approved by the city commission and recorded in the office of the clerk of the circuit court ~~shall be guilty of an offense~~ and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from constituting an offense hereunder. The city, through its city attorney, ~~or other official designated by the city commission~~ may seek an injunction from a court of competent jurisdiction to prevent ~~also enjoin~~ such transfer or sale by action for injunction.

### **Sec. 30-32. - Concept plans are encouraged but not required.**

(a) *Pre-application procedure.* Prior to final plat application, the developer may submit a concept sketch plan and data to the community development department who will arrange for a pre-application meeting with City ~~the community development~~ staff \_ and the applicant. This procedure does not require a formal application or fee but is intended to provide an opportunity for the developer to avail himself of advice and assistance and to become acquainted with the requirements and procedures to be followed in obtaining approval of the final plat.

(b) *Plan elements.* The concept sketch plan for platted rural, public or private subdivisions shall show the tentative street layout, approximate right-of-way widths, lot arrangements, drainage and utility easements, existing structures, and pavements, proposed unit locations, canals and waterways, wooded areas, approximate number of acres devoted to each use, total acreage, average lot size, approximate number of lots, future land use, existing zoning, and other appropriate information to make a fair presentation of the development plan in such form as may be specified by city staff.

(c) *Consideration by city commission.* The concept plan ~~shall~~ may be forwarded to the city commission by the city clerk if requested by the applicant once the ~~staff officials~~ representatives have commented on them. The city commission shall consider the plan, and make a determination as to whether or not the proposals are in accord with the comprehensive plan, and are in the public interest. If they so decide, then the city clerk will advise the developer to proceed with the preparation of final plans. If the city commission decides against the proposals,

the city clerk will notify the developer, stating the reasons for rejection. No construction may take place on any land where the soil or other conditions, such as drainage, are deemed to be unsuitable by the city engineer unless corrective measures as required by the city engineer are taken.

**Sec. 30-33. - Final plat.**

(a) *Restrictions.* A final plat meeting all requirements of this chapter is required of every developer, except non-platted rural subdivisions, and no sale or contract for sale of lots or units shall be made and no dedication of streets accepted if applicable, and only one building permit meeting the zoning requirements shall be issued by the city for any subdivision until the final plat has been approved by the city commission, after favorable recommendations of staff and the planning, zoning and appeals board, and duly recorded as a subdivision in the records of the clerk of the circuit court.

(b) *Staff review.* ~~The Community development~~ City staff shall then hold a meeting within 15 days ~~with all departmental supervisors~~ to discuss the plans as presented. The staff recommendations ~~of the departmental supervisor~~ shall be submitted ~~by community development~~ to the planning, zoning and appeals board as a written report, listing all staff comments, ~~within 30 days or at the next scheduled~~ available meeting.

(c) *City attorney approval.* The final plat shall be submitted in ~~nine copies in~~ such form as prescribed by city staff and approved by the city attorney, and shall include a certificate of title signed by a licensed attorney at law in the state, in a form approved by the city attorney, and shall include any protective deed covenants.

(d) *Planning, zoning and appeals board approval.* The planning, zoning and appeals board shall review the final plat, construction drawings, and ~~its~~ any necessary exhibits within 30 days of approval by city staff.

(e) *City commission approval, recording.* Upon receipt of the completed plat from the planning, zoning and appeals board and city staff, the community development department shall schedule consideration by the city commission at their next available meeting, first referring the final plat as so approved to the city attorney for approval as to form. Once the final plat is approved by the city commission, the signatures of the chairman of the planning, zoning and appeals board, city attorney, city engineer, city surveyor, the mayor, the city clerk, property owner, any mortgage holder, surveyor licensed in the State of Florida, shall be affixed. The signatures certifying that the requirements of this chapter, as well as, all required approvals have been met and obtained, and that the City shall turn such plat over to the clerk of the circuit court for recording, in such form as may be required by the court. Provided the requirements of [article IV of this chapter] have been met, unless otherwise deemed exempt by the city commission, the developer is then free to begin construction of public or private improvements and apply for site plan approval meeting the requirements of chapter 22.

*Secs. 30-34—30-50. – Reserved.*

## ARTICLE III. – MAJOR SUBDIVISION PLAT APPROVAL

### Sec. 30-51. - Required.

Any person, who being the owner or agent of the owner of any land located within the city or within the platting jurisdiction granted to the city, thereafter transfers or sells such land, or any part thereof, by reference to a plat showing a subdivision of such land before such plat has been approved by the city commission and recorded in the office of the clerk of the circuit court shall be guilty of an offense and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from constituting an offense hereunder. The city, through its city attorney, ~~or other official designated by the city commission~~ may seek an injunction from a court of competent jurisdiction to prevent also enjoin such transfer or sale by action for injunction.

### Sec. 30-52. - Concept plans are encouraged but not required.

(a) *Pre-application procedure.* Prior to preliminary plat application, the developer ~~shall~~ may submit a concept sketch plan and data to City staff ~~the community development department~~ who will arrange for a pre-application meeting with City ~~the community development~~ staff and the applicant. This procedure does not require a formal application or fee but the process is strongly encouraged, and is intended to provide an opportunity for the developer to avail himself of advice and assistance and to become acquainted with the requirements and procedures to be followed in obtaining approval of the preliminary and final plat.

(b) *Plan elements.* The concept sketch plan for platted rural, public or private subdivisions shall show the tentative street layout, approximate right-of-way widths, lot arrangements, drainage and utility easements, existing structures, and pavements, proposed unit locations, canals and waterways, wooded areas, approximate number of acres devoted to each use, total acreage, average lot size, approximate number of lots, future land use, existing zoning, and other appropriate information to make a fair presentation of the development plan in such form as may be specified by city staff.

(c) *Consideration by city commission.* The concept plan ~~shall~~ may be forwarded to the city commission by the city clerk if requested by the applicant once the staff ~~officials~~ representatives have commented on them. The city commission shall consider the plan, and make a determination as to whether or not the proposals are in accord with the comprehensive plan, and are in the public interest. If they so decide, then the city clerk will advise the developer to proceed with the preparation of preliminary plans. If the city commission decides against the proposals, the city clerk will notify the developer, stating the reasons for rejection. No construction may take place on any land where the soil or other conditions, such as drainage, are deemed to be unsuitable by the city engineer unless corrective measures as required by the city engineer are taken.

### Sec. 30-53. - Preliminary plat.

(a) *Developer responsibilities.* ~~Once notified of the approval of the concept plan by the city commission, the~~ developer may proceed to prepare preliminary plans for submission to the planning, zoning and appeals board. The developer shall prepare ~~nine~~ prints of the proposed plat as required by the City and construction drawings in accordance with requirements set forth by

the city staff, together with a like number of signed statements describing the development. In addition, an impact statement on levels of service (LOS) shall be submitted as required.

(b) *Staff review.* ~~City staff Community development~~ shall then hold a meeting within 15 days ~~with all departmental supervisors~~ to discuss the preliminary plans as presented. The staff recommendations of the ~~departmental supervisor~~ shall be submitted ~~by community development~~ to the planning, zoning and appeals board as a written report, listing all staff comments, ~~within 30 days or~~ at the next scheduled available meeting.

(c) *Planning, zoning and appeals board review.* The planning, zoning and appeals board shall review the preliminary plat and exhibits, together with the written staff report, and any other reports from appropriate agencies. The planning, zoning and appeals board shall then prepare a report for approval, disapproval or modification. Staff will then inform the applicant, in writing of the planning, zoning, and appeals board decisions and recommendations. The applicant shall then submit ~~nine~~ revised prints as required by the City that respond to all staff and planning, zoning, and appeals board comments. Once any agreed upon amendments are made to the plat; and it is received by the City staff ~~community development~~ City staff will schedule the preliminary plat for consideration by the city commission within one month of receipt or the next available meeting.

(d) *City commission review.* The city commission shall review the staff reports as well as the planning, zoning and appeals board report and other appropriate agency reports, and determine that the project conforms or does not conform to the city's comprehensive plan, and that it is in the public interest. Any additional changes it proposes shall be made by the developer prior to beginning construction. Upon approval of the city commission, provided the requirements of [article IV of this chapter] have been met, the developer is then free to begin construction of public or private improvements.

### **Sec. 30-54. - Final plat.**

(a) *Restrictions.* A final plat meeting all requirements of this chapter is required of every developer, except non-platted rural subdivisions, and no sale or contract for sale of lots or units shall be made and no dedication of streets accepted, if applicable, and only one building permit meeting the zoning requirements shall be issued by the city for any subdivision until the final plat has been approved by the city commission. This approval is issued after favorable recommendations of staff and the planning, zoning and appeals board, and duly recorded as a subdivision in the records of the clerk of the circuit court.

(b) *City attorney approval.* The final plat shall be submitted ~~in nine copies~~ in such form as prescribed by the city staff and approved by the city attorney, and shall include a certificate of title signed by a licensed attorney at law in the state, in a form approved by the city attorney, and shall include any protective deed covenants.

(c) *Planning, zoning and appeals board approval.* The planning, zoning and appeals board shall review the final plat, construction drawings, and its exhibits within 30 days of approval by city staff or the next available meeting to verify that they agree with the preliminary plat previously approved by them to include correction of any deficiencies.

(d) *City commission approval, recording.* Upon receipt of the completed plat from the planning, zoning and appeals board and city staff, City staff community development shall schedule consideration by the city commission at their next available meeting, first referring the final plat as so approved to the city attorney for approval as to form. Once the final plat is approved by the city commission, the signatures of the chairman of the planning, zoning and appeals board, city attorney, city engineer, city surveyor, the mayor, the city clerk, property owner, any mortgage holder, surveyor licensed in the State of Florida, shall be affixed certifying that the requirements of this chapter as well as all required approvals have been met and obtained, and shall turn such plat over to the clerk of the circuit court for recording, in such form as may be required by controlling law ~~the court~~.

**Sec. 30-55. – Replat.**

If an approved minor or major subdivision, including platted rural subdivisions, requires a replat of its approved lot configuration the applicant must follow the Final plat requirements in Section 30-33 or Section 30-54 to amend the previously recorded plat.

*Secs. 30-55 ~~56~~—30-60. - Reserved.*

**ARTICLE IV. – ADDITIONAL REQUIREMENTS FOR MINOR AND MAJOR SUBDIVISIONS**

**Sec. 30-61. - Required bonds.**

Prior to recording the final plat for projects with public infrastructure the applicant shall record a performance bond, in a form and with a surety approved by the City, naming the city as the obligee for 100 percent of the public improvement costs. Upon the completion of all public improvements, such improvements shall be inspected by the city engineer; who shall recommend to the city commission that the public improvements performance bond be released, or who shall report on deficiencies remaining to be corrected. The applicant shall be responsible for completing such corrections. When the city engineer recommends release of the performance bond, City staff community development shall schedule the matter for the next available city commission meeting, where the city commission may direct the release of the public improvements performance bond. This inspection and release may also be for specific phases for phased projects, so that the bond remains in place as needed for future or additional phases not yet complete. At this time, the applicant will be required to record a maintenance bond in the amount of no less than ten percent, as determined by the City Commission based upon the results of such inspection or inspections as have been accomplished as of the date of determination of the bond amount, of the construction costs which shall continue for two years at which time the city commission may, upon favorable recommendation by the city engineer, release-the maintenance bond.

**Sec. 30-62. - Developer responsibilities.**

(a) The developer for projects with public infrastructure shall be responsible for obtaining city approval of all plans and specifications for the required public improvements, assuring adequate inspection of construction for compliance with the approved plans and specifications and for

receiving a certificate of completion upon the completion of the work, subject to the maintenance period provided for.

(b) The developer for projects with private infrastructure shall be responsible for obtaining city approval of all plans and specifications for the provided private improvements, assuring adequate inspection of construction for compliance with the approved plans and specifications and for receiving a certificate of completion upon the completion of the work, including appropriate deed restrictions outlining specific limitations, duties and responsibilities for the individual property owners. The deed restriction shall be in a recordable form acceptable to the City Attorney and shall specifically address the liability and responsibility of the parties to said agreement, including the City's specific provision of service responsibilities or lack thereof.

**Sec. 30-63. - Public facilities ~~and open spaces.~~**

(a) *Compliance.* Any subdivision shall conform to the city's comprehensive plan policies, the land development code, the code of ordinances, ~~and~~ other applicable codes and controlling law in all respects.

(b) *Dedication of public facilities.* Where a proposed park, playground, school, or other public use shown in the comprehensive plan is located in whole or in part in a subdivision, the city commission may require the conveyance, dedication or reservation of such area within the subdivision. However, in no event shall the developer be required to dedicate more than ten percent of the gross area of the proposed subdivision.

(c) *Dedication of other areas.* Where deemed essential by the city commission upon consideration of the particular type of development proposed in the subdivision and especially in large scale planned unit developments, rural developments or developments with development agreements not anticipated in the comprehensive plan, the city commission may ~~require~~ request the conveyance, dedication or reservation of such other areas or sites of a character, extent and location suitable to meet the needs created by such development for schools, parks, and other neighborhood purposes, as well as land involved with the rural incentive program, dedications or reservations could possibly include agricultural, environmentally sensitive, greenway corridor or recreation lands, per the Comprehensive Plan set aside program all of which requests shall comply with controlling law with regard to rational nexus and rough proportionality in accordance with controlling legal precedent. ~~However, in no event shall the developer be required to dedicate more than ten percent of the developable area of the proposed subdivision.~~

(d) All improvements shall be constructed, maintained and dedicated at the landowner/developers expense. The City will not agree to any financial obligation until and unless the agreed upon responsibilities of the developer/owner are assumed and implemented. City shall implement a policy of "fiscal neutrality" relative to proposed developments.

**Sec. 30-64. - Required improvements.**

The developer of ~~any~~ minor or major subdivisions, including platted rural subdivisions, shall provide, at the developer's ~~his~~ expense and according to the city's engineer minimum standards of design for public improvements, curbs, paved streets, water system, sanitary sewer system, stormwater, reclaim water system, drainage system, sidewalks, finished landscaping, fire

hydrants, sanitary sewer lift stations, bridges, street lights, signs and such other public improvements as applicable or proposed and/or may be reasonably required by the city commission in accordance with controlling law, unless exempted by this ordinance ~~except that the city commission may exempt sidewalks, lift stations, reclaim water systems, and bridges if not essential to the public interest.~~

**Sec. 30-65. - Dedication of streets, alleys, etc., for public use.**

~~By the developers and mortgagees having a record interest in the land subdivided, and the approval of the city commission has been secured and recorded, all streets, alleys, easements, right-of-way and public areas shown on such plat, unless otherwise stated, shall be deemed to have been dedicated to the public for uses and purposes thereon stated. Plats of subdivisions shall affirmatively state what lands, tracts, easements, areas, or other interests are dedicated to the public, the City or other entities. However, nothing herein shall be construed as creating an obligation upon the city commission to perform any act of construction or maintenance within such dedicated areas except where the obligation is voluntarily and affirmatively assumed by the city commission.~~

Secs. 30-66—30-70. - Reserved.

**ARTICLE V. – ROAD CLASSIFICATIONS**

All lots or parcels of land within a subdivided area shall have access to either a public street which has been accepted by the City Commission as shown on a recorded subdivision plat or to a public street which has otherwise received the legal status of a public street or a private street dedicated for the use of such lot or parcel, but not accepted for maintenance by the City, but for which appropriate arrangements have been made for maintenance to be accomplished by a private party or parties.

**Sec. 30-71. – Private roads**

(a) The City recognizes the possibility of all types of development including private developments with private roads. The review of a proposed subdivision or development shall include verification that the road meets the development’s needs, there are adequate provisions to maintain the road, the appropriate deed restrictions and legal rights are in place, and provisions are made for the general maintenance of the development’s roads, as per Section 30-9 except non-platted rural subdivisions.

(b) A private road is any road dedicated to an individual or entity other than the City with an ingress/egress easement or a right-of-way dedicated to a legally recognized entity. The easement holder(s) retains ownership and maintenance responsibility for access, drainage and other appurtenant responsibilities.

(c) The private road option provides the landowner/developer flexibility to determine the level of access and service provided to the lots being created. The private road option requires the landowner/developer to be responsible for the extent and quality of property access and drainage.

The landowner/developer is responsible for the establishment of standards for design, construction, and maintenance of the roadway and drainage systems and for items such as access for emergency service vehicles, school buses, mail couriers, and coordination of utilities. Note that public services are not provided by the City of Bunnell as recorded in the deed restrictions of the development lots.

(d) The private right-of-way shall be dedicated to a legally recognized or chartered entity. The private right-of-way shall not be dedicated to the public. Further, the City is neither obligated nor responsible for private right-of-way maintenance as recorded in the deed restrictions of the development lots.

(d) The developer/owner is responsible for determining the type of access to be provided for the subdivided property. The landowner/developer shall be responsible for oversight and coordination of design and construction and for obtaining required approvals or permits from appropriate agencies.

(e) The developer/owner shall be responsible for informing prospective property owners, whether solicited or unsolicited, of all conditions and responsibilities, or lack thereof, that have been placed on the property.

(f) If access or drainage connects with a City, County or State right-of-way or easement, any required permit shall be obtained prior to construction, and the connections or access points may be required to meet respective standards depending upon the jurisdiction.

(g) The landowner/developer shall determine the location of easement(s) and the type of access to be provided. The location of the easement(s) shall be clearly depicted and labeled on submitted plats or plans.

(h) If the private right-of-way is to be dedicated to a homeowners' association the landowner/developer shall determine the location and size of proposed rights-of-way to be provided. All rights-of-way shall be clearly depicted on submitted plats or plans. The landowner/developer is responsible for determining the construction suitability and the accessibility of the defined right-of-way.

(i) If the private right-of-way is to be constructed and dedicated to a homeowners' association the landowner/developer shall determine the location and size of rights-of-way to be provided and the standards for the design and construction of the roadway and drainage system. The landowner/developer shall secure the necessary licensed, professional personnel to prepare designs, obtain required approvals and permits, and oversee construction.

(j) The design professional-of-record must be currently registered to practice in the State of Florida.

(k) Roadway and/or drainage construction plans shall be submitted to the City for review prior to construction in such number of construction plan sets as required by the City together with specifications, agreements or stipulations, and a copy of all required regulatory permits. Any

subsequent revisions shall also be submitted prior to construction changes.

(l) All roadway and drainage work shall be subject to inspection by the City for compliance with the submitted plans and specifications. The inspections will be performed to provide construction documentation, and ensure compliance with plat or site plan requirements.

(m) The design professional shall provide a written certification that the right-of-way and drainage infrastructure has been constructed in accordance with the submitted plans.

**Sec. 30-72. Public Roads.**

(a) The City recognizes the possibility of all types of development including development utilizing non-standard roads. The review of a proposed subdivision or development shall include verification by the City that the roads proposed for use meet City standards, that there are adequate finances to maintain the roads, that the road lies within an area where they can be appropriately maintained, and that the roads can be deemed to be of general public benefit.

(b) The following types of roads may be permitted in specific developments based on the review by the City departments for specific subdivision or development proposals balanced by the City's planning goals, objectives and policies and the public works capabilities of the City:

(1) Rural Roads with the following characteristics:

(A) Surface: earth, shell or suitable surface, rock, or pavement.

(B) Minimal drainage with outfall (only for the roadway).

(C) Travel way minimum width of 20 feet.

(D) Lot drainage is each owner's responsibility.

(2) Second Tier Rural Road with the following characteristics:

(A) Surface: rock, or pavement.

(B) Drainage plan required for property and roadway system.

(C) Travel way minimum width of 22 feet.

(D) Open ditch drainage system.

(3) Suburban Type Road with the following characteristics:

(A). Surface: paved.

(B) Curb and gutter.

(C) Drainage plan required for property and roadway system.

(D) Travel way minimum width of 24 feet.

(E) Enclosed pipe with limited open ditch drainage system.

(4) Roadways conforming to City requirements with the following characteristics:

Roads that are to be constructed, dedicated, and accepted into the City maintenance system shall be constructed in accordance with City requirements. Streets within commercial and industrial developments shall be designed to meet the City requirements. City requirements shall include verification that the road meets City standards, there are adequate finances to maintain the road, the road lies within an area where it can be easily maintained, and that it can be deemed to be of

general public benefit.

(c) Acceptance of a road as a public road shall require specific development plan and plat approval from the City Commission.

(d) If a land development plan exceeds reasonable traffic volumes based on relevant data and analysis related to traffic volumes, capacity, maintenance costs and constraints on a roadway the City may require construction by the developer/owner to improve the roadway to a level of acceptable standards from the roadway's point of connection at an existing City, County or State public road.

Secs. 30-73—30-80. - Reserved.

## **ARTICLE VI. – WATER, WASTEWATER AND UTILITIES.**

### **Sec. 30-81. Water supply and Wastewater Disposal.**

Water supply and sewage disposal systems shall comply with all Federal, State and local laws, rules, regulations, codes, ordinances and standards. The City may require that the proposed development be serviced by common or public water supply and sewage disposal systems, or that such systems be designed so that they may eventually be connected to municipal facilities. The subdivision shall not cause any adverse impact on existing water supplies.

### **Sec. 30-82. Wastewater Disposal capacity.**

The developer/owner shall demonstrate that soil conditions on-site are adequate to accommodate the installation of a wastewater disposal system designed in accordance with Federal, State and local laws, rules, regulations, codes, ordinances and standards, and are suitable for the intended density and types of use; or that an alternative, off-site disposal location, secured through an easement or other form of legal conveyance in a form and of a nature acceptable to the City, is similarly suitable and available.

### **Sec. 30-83. Individual systems.**

Individual water and wastewater systems shall meet all local and state regulations for design, installation and maintenance.

### **Sec. 30-84. Connecting to existing system.**

Where connection to an existing water system is proposed, the developer/owner shall provide evidence as to the adequacy of the system to meet the needs of the proposed development. The developer/owner shall provide such pumping and other facilities as may be necessary. The City may also require that the developer/owner provide, or to have installed, at the expense of the developer/owner, larger lines, pumping, storage and other facilities outside of the subdivision consistent with controlling law, if required to meet the requirements of the proposed development.

**Sec. 30-85. Community systems.**

The City may require that a proposed development be serviced by private, community water and/or wastewater systems, which shall be designed and installed in accordance with all applicable Federal, State and local laws, rules, regulations, codes, ordinances and standards. Community systems shall be designed consistent with controlling law in such a way that they may eventually be connected to a public system, as required by the *Comprehensive Plan*.

**Sec. 30-86. Utilities.**

All utility systems, existing and proposed, throughout the subdivision shall be adequately depicted on the final plat, and be located as follows:

(a) All utility systems including, but not limited to, water, sewer, electric, gas, telephone, and cable television, shall be located underground throughout the subdivision, unless determined unreasonable and prohibitively expensive by the City.

(b) The developer/owner shall coordinate subdivision design with all utility companies to insure adequate and suitable areas for under or above ground installation, both for the proposed subdivision, and areas adjacent to the subdivision.

(c) Utility corridors shall be shared with other utility and/or transportation corridors, where feasible, and located to minimize site disturbance, the fragmentation of agricultural, conservation, wetland or corridors, any adverse impacts to natural, cultural or scenic resources, and to public health.

(d) Easements of sufficient width, as determined by the City, shall be deeded or dedicated in a form approved by the City to ensure that both the proposed subdivision and existing and anticipated development outside the subdivision are adequately considered and served to the extent consistent with controlling law. Such easements shall be shown on the final plan or plat.

**Sec. 30-87. Financing.**

All improvements necessary for the development of a subdivision shall be constructed, maintained and dedicated at the landowner's or developer's expense. The City shall not be responsible for any improvements required and will not accept any improvements until appropriately constructed and proven to be in good order and shall not agree to any financial obligation. It is City policy to maintain "fiscal neutrality" for proposed developments.

**ARTICLE VII. – EFFECTIVE DATE OF REQUIREMENTS.**

(a) This Ordinance shall not apply to subdivisions that have been approved by the City Commission and recorded in the Land Records/Official Records prior to **DATE**.

(b) This Ordinance shall not apply to real property located in recorded or unrecorded subdivisions that are in actual existence prior to **DATE** provided that such subdivisions meet the following criteria:

(1) There has been an actual sale or conveyance of a lot or parcel within such subdivision by the

original subdivider to another person or entity prior to **DATE**.

(2) The sale or conveyance referred to in subsection (b)(1) was a bona fide conveyance and not accomplished with the sole intent to place such subdivision within the exemption created by subsection (b).

## **Section 2. Implementing Administrative Actions.**

The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions to include, but not be limited to, the adoption of administrative forms, policies, procedures, processes and rules. All development orders shall be issued in a manner consistent with controlling law and rendered in appealable form with the City Clerk. Denials of development approvals shall be issued in accordance with controlling law to include, but not be limited to, Section 166.033, *Florida Statutes*.

## **Section 3. Savings.**

The prior actions of the City of Bunnell relating to the regulation of subdivisions and related matters are hereby ratified and affirmed.

## **Section 4. Codification.**

The provisions of this Ordinance, including its recitals, shall become and be made a part of the *Bunnell Land Development Code* and the Sections of this Ordinance may be renumbered or relettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that Sections 2, 3, 4, 5, 6 and 7 shall not be codified. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

## **Section 5. Conflicts.**

All ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

## **Section 6. Severability.**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**Section 7. Effective Date.** This Ordinance shall take effect immediately upon enactment.

Approved on First Reading, on this 12th day of August, 2013.

Adopted on Second Reading on this 26th day of August, 2013.

**CITY COMMISSION, City of Bunnell, Florida.**

\_\_\_\_\_  
Catherine D. Robinson, Mayor

Approved for form and content by:

\_\_\_\_\_  
Lonnie Groot, City Attorney

Attest:

\_\_\_\_\_  
Sandra Bolser, Interim City Clerk

Seal: